



EDUCATIONAL MASTER SERVICES AGREEMENT

This Educational Services Agreement (this "Agreement") is made effective December 1, 2017 (the "Effective Date") between Kaplan Inc., acting through its Kaplan Test Prep Division ("Kaplan") and University of North Dakota ("School"), each a "Party" and collectively, the "Parties".

For good and valuable consideration, the receipt of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. Program Delivery.

- a. Kaplan shall provide the products and services (collectively, "Programs") in accordance with a statement of work made pursuant to this Agreement ("SOW").
- b. A "Designated Student" is a current student or recent graduate of School that School designates for participation in a Program in an applicable SOW and that meets any eligibility requirements set forth in the applicable SOW, except as otherwise noted in the applicable SOW ("Eligibility Requirements"). Any deadline for Designated Students to begin or end Programs shall be identified in the SOW ("Program Deadlines"). Programs may have access periods during which Students shall have access to a Program's digital or other assets ("Access Period").
- c. "Class" means the delivery of a Program by Kaplan to a single cohort of students and usually has a start date and schedule. Programs shall be delivered to Designated Students. "Help" refers to Kaplan's Help Suite academic support products.
- d. School shall provide a "Roster" with first name, last name, email address and class year for each Designated Student, as well as any other information that Kaplan may reasonably require, ("Student Information"). Rosters for Classes with live instruction ("Live Classes Rosters") must include the relevant Class Codes from Kaplan's website. Rosters for asynchronous Classes and other products that are not Live Classes, ("General Rosters") shall indicate the requested start of the Access Period of the Program (where applicable). "Standard" Rosters are used for enrolling Designated Students in Kaplan's regularly scheduled and advertised, retail Classes and Programs, including Help Suite Programs, ("Standard Programs"). "Custom" Rosters are used to enroll Designated Students in a Class that will take place at School or is otherwise not available on kaptest.com (a "Custom Program"). If applicable, upon receipt of a Custom Roster that includes or exceeds the "Class Minimum" specified in the applicable SOW, Kaplan shall schedule a Class of that Program. Kaplan shall work with School to accommodate School's "Requested Start Date & Schedule," however all scheduling decisions shall be made by Kaplan based on teacher availability and other reasonable considerations. Kaplan shall have sole discretion to postpone or cancel delivery of a Class subject to Kaplan's refund policies. Where the Custom Program is to be delivered at School, School shall provide reasonable, safe, well maintained and appropriate facilities for the Custom Program at no cost to Kaplan. School shall be solely responsible for the security,

- management and safety of the facility.
- e. Rosters shall be provided by the date(s) indicated in the applicable SOW ("Roster Deadline"), at which point a Roster becomes a "Final Roster." The Class and/or Access Period (as applicable) on the Roster must start within It is within Kaplan's sole discretion whether to add or delete Designated Students to or from a Final Roster when School makes designations after the Roster Deadline.
 - f. Kaplan reserves the right to make changes to and/or discontinue Programs in its discretion at any time. If Kaplan discontinues a Program after submission of a Roster, Kaplan shall refund School any Program Fees paid pursuant to that Roster for the discontinued Program.
 - g. Kaplan shall deliver Programs in a professional and workmanlike manner. Staffing of Classes is within Kaplan's sole discretion. SOWs may not be amended except in a writing signed by both Parties. Any conflict between this Agreement and any SOW shall be resolved in favor of the applicable SOW, except as expressly provided herein.
2. **Program Fees & Invoices.** "Program Fees," including the fee per Designated Student ("Tuition") and any applicable "Guarantee," shall be set forth in the applicable SOW. Except as provided in the applicable SOW, Kaplan shall invoice on the basis of Final Rosters, and School shall pay all invoiced amounts. School shall pay all Program Fees and School shall make full payment in US dollars to Kaplan within 30 days from the date of invoice. Program Fees are non-refundable, except for discontinued Programs and cancelled Classes.
3. **Term & Termination:** The term of this Agreement shall begin on the Effective Date and shall continue for three years or until terminated by either Party upon 30 days written notice. Such termination shall only become effective when the Parties have performed all of their obligations under any SOW under this Agreement. Either Party may also terminate this Agreement and any SOW if thirty (30) days after giving the other Party written notice of a material breach of this Agreement the breaching Party fails to cure the breach. If School terminates an SOW in the absence of a material breach by Kaplan of this Agreement or of that SOW, School shall remain obligated to pay Tuition for Designated Students identified in any Roster and School shall be obligated to pay any Guarantee under that SOW. Kaplan shall cease all services as of the effective date of termination.

4. **Indemnification.** Each Party shall be responsible for its own acts and omissions. The tort liability of School shall be determined solely in accordance with Chapter 32-12.2 of the North Dakota Century Code, and subject to the conditions and limitations set forth therein.
5. **Intellectual Property.**
 - a. "Kaplan IP" means the Programs and all books, questions, answers, explanations, videos, animations, simulations, handouts, audio and video recordings (including of lectures), curricula, teacher's guides and other content and materials, and all derivative works thereof, used in the Program or to which School or Students have access to by virtue of this Agreement or any SOW thereto, (collectively, "Content"); all technology, and software used in the delivery of Programs; all know how, methods and processes incorporated in Programs; and all Kaplan trademarks and logos. All Kaplan IP is and shall remain the sole and exclusive property of Kaplan and its licensors. School acknowledges that this Agreement does not confer upon School any interest in or right to use any Kaplan IP other than as expressly provided in this Agreement or in any applicable SOW. Kaplan IP may be accessed or delivered online or through mobile applications ("Digital Assets").
 - b. Each Designated Student receives a personal, non-exclusive, non-assignable, non-sublicenseable license to access Digital Assets during the Program. It is prohibited for Designated Students to share their access credentials (e.g., username and password) to Digital Assets ("Access Credentials") or share other Content.
 - c. Subject to the terms and conditions of this Agreement, Kaplan grants School a limited, non-exclusive, royalty-free, worldwide right to use the Kaplan's service marks, trade names, logos or other commercial or product designations ("KAPLAN Marks") solely to promote the Programs to School's students, recent graduates, and prospective academic and non-credit students, ***and specifically approved by Kaplan in writing in advance prior to use in each case.***
6. **Reps & Warranties.** Kaplan represents and warrants that (a) it has the authority to enter into this Agreement and to deliver Programs and (b) Programs shall not violate the intellectual property of any third parties. School represents and warrants that it has obtained any necessary consents to share Student Information with Kaplan and for Kaplan to use such Personal Information solely in the performance of this Agreement. Kaplan shall not use Student Information, or sell or lend the same to any third party, for any other purpose, including marketing of other Kaplan or third-party goods and services, without a student's affirmative permission. In no event shall Kaplan use Student Information in violation of applicable state or federal privacy laws, including but not limited to the Family Educational Rights and Privacy Act (FERPA).
7. EXCEPT AS OTHERWISE PROVIDED HEREIN, PROGRAMS ARE PROVIDED "AS IS" AND KAPLAN DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN NO EVENT SHALL KAPLAN BE LIABLE TO SCHOOL FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES, EVEN IF KAPLAN HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT IS KAPLAN LIABLE TO SCHOOL FOR DAMAGES IN EXCESS OF THE AMOUNT OF FEES PAID BY SCHOOL TO KAPLAN. THE FOREGOING LIMITATIONS OF LIABILITY SHALL BE VALID ONLY TO THE EXTENT PERMITTED UNDER APPLICABLE LAW.

8. **Force Majeure.** Neither party is liable to the other for any delay or failure to perform an obligation under this Agreement if the delay or failure to perform is due to causes beyond the control of that party, including, but not limited to, acts of nature; acts of the public enemy; acts of the United States of America, or any state, territory or political division of the United States of America, or of the District of Columbia; fires; riots; Internet infrastructure failures; hacker attacks; floods; epidemics; quarantine restrictions; strikes or any other labor disputes; and freight embargoes.
9. **Governing Law & Forum Selection.** This Agreement and any SOW shall be governed by North Dakota law. All disputes arising from or related to this Agreement shall be exclusively litigated in the State courts located in Grand Forks, North Dakota.
10. **Counterparts.** This Agreement may be executed in any number of counterparts.
11. **Independent Contractor Status.** The relationship between Kaplan and School is as independent contractors. Neither Party shall have the right to obligate or bind the other Party in any manner whatsoever.
12. **Assignment & Modification.** Neither Party may assign any rights or obligations under this Agreement unless approved in writing by the other Party. Any modification of this Agreement will be effective only if it is in writing signed by both Parties.
13. **Invalidity.** Any provision of this Agreement found to be invalid, unenforceable, or prohibited by law will be ineffective only to the extent of such invalidity, unenforceability, or prohibition without invalidating the rest of this Agreement.
14. **Entire Agreement & No Waiver.** This Agreement and its SOWs set forth the entire understanding of the Parties with respect to the subject matter herein. No waiver of any breach or default will be deemed a waiver of any preceding or subsequent breach or default whether of a similar or dissimilar nature.

AGREED:

University of North Dakota

By: Debbie Storrs Date: 12/14/2017

Name: Debbie Storrs Title: Dean, College of Arts & Sciences

Kaplan, Inc.

By: Jonathan H. Zeitlin Date: 12 / 06 / 2017

Name: Jonathan H. Zeitlin Title: Sr. VP, Kaplan Test Prep

SOW # 1

This Statement of Work Number One ("SOW #1") is made pursuant to and is incorporated into the Educational Services Agreement (the "Agreement") between Kaplan, Inc. and University of North Dakota ("School") on or about December 1, 2017. This SOW #1 shall be effective when signed by both Parties ("SOW Effective Date"). Terms that are defined in the Agreement shall have the same meaning in this SOW#1 unless otherwise stated herein. The Parties agree as follows:

1. Programs:

- a. Standard Programs: Live Online GRE, GMAT, LSAT, MCAT, DAT, OAT & PCAT Courses.
- b. General Programs: Self-Paced GRE, GMAT, LSAT, MCAT, DAT, OAT, PCAT & Praxis PLUS Courses.

2. Program Fees

- a. Tuition per Designated Student shall be:

Live Online GRE Course	\$849
Self-Paced GRE Course	\$499
Live Online GMAT Course	\$849
Self-Paced GMAT Course	\$499
Live Online LSAT Course	\$779
Self-Paced LSAT Course	\$549
Live Online MCAT Course	\$1,599
Self-Paced MCAT Course	\$1,599
Live Online DAT Course	\$975
Self-Paced DAT Course	\$899
Live Online OAT Course	\$975
Self-Paced OAT Course	\$899
Live Online PCAT Course	\$975
Self-Paced PCAT Course	\$749
Self-Paced Praxis PLUS Course	\$349

3. Roster Deadlines:

- a. At least 2 weeks prior to any class start date(s) listed on all Custom, Standard and General Rosters submitted to Kaplan for processing.
- b. School may submit multiple Rosters, but all Rosters must be received by the Roster Deadline.

4. Rosters should be submitted to: Carl Lamb ([REDACTED])

University of North Dakota

By: Debbie Storrs Date: 12/14/2017

Name: Debbie Storrs Title: Dean, College of Arts & Sciences

Kaplan, Inc.

By: Jonathan H. Zeitlin Date: 12 / 06 / 2017

Name: Jonathan H. Zeitlin Title: Sr. VP, Kaplan Test Prep

SAMPLE STANDARD ROSTER FOR LIVE CLASSES

This Roster is submitted pursuant to SOW#1 to the Educational Services Agreement between Kaplan, Inc. and University of North Dakota.

Program	First Name of Designated Student	Last Name of Designated Student	Email Address	Class Year	Course	Class Code

University of North Dakota

By: *Debbie Storrs* Date: 12/14/2017

Name: Debbie Storrs Title: Dean, College of Arts & Sciences

SAMPLE GENERAL ROSTER

This Roster is submitted pursuant to SOW#1 to the Educational Services Agreement between Kaplan, Inc. and University of North Dakota.

Program	First Name of Designated Student	Last Name of Designated Student	Email Address	Class Year	Beginning of Access Period

University of North Dakota

By: *Debbie Storrs* Date: 12/14/2017

Name: Debbie Storrs Title: Dean, College of Arts & Sciences

EXHIBIT A PROGRAMS

Standard & General:

- GRE Courses (Live Online & Self-Paced)
 - 7 sessions + a complete GRE Student Kit
 - Access to 7 full-length computer adaptive tests practice tests and over 5,000 practice items with customizable quizzes
 - *The GRE Channel*
 - More than 180 hours of additional online instruction/practice and Kaplan's mobile GRE flashcards

- GMAT Courses (Live Online & Self-Paced)
 - 6 sessions + a complete GMAT Student Kit
 - Access to 9 full-length computer adaptive tests practice tests and the *Official Test Day Experience*
 - *The GMAT Channel*
 - Over 5,000 practice items with customizable quizzes and Kaplan's mobile GMAT flashcards

- LSAT Courses (Live Online & Self-Paced)
 - 7 sessions + a complete LSAT Student Kit
 - 3 full-length in-class proctored practice LSATs; plus 75+ more available with self-proctoring tools
 - *The LSAT Channel*
 - Over 7,500 released LSAT questions, including *QuizBank* to create customizable quizzes

- MCAT Courses (Live Online & Self-Paced)
 - 12 sessions + a complete MCAT Student Kit
 - 10,000+ MCAT 2015 practice items, including 14 full-length practice tests
 - *The MCAT Channel*, MCAT Qbank and Kaplan's mobile MCAT flashcards

- DAT Courses (Live Online & Self-Paced)

- 14 sessions, including 4 online sessions covering PAT and Organic Chemistry, using 3D modeling and animation
- Full-length practice tests in CBT format + section tests and Science Challenge quizzes
- Complete DAT Student Kit

- OAT Courses (Live Online & Self-Paced)
 - 12 sessions, including 4 online sessions covering Physics and Organic Chemistry
 - Full-length practice tests in CBT format + section tests and Science Challenge quizzes
 - Complete OAT Student Kit

- PCAT Courses (Live Online & Self-Paced)
 - 12 sessions, including 3 online sessions
 - 2,500+ practice items, including 5 full-length practice tests in CBT format
 - Complete PCAT Student Kit

- Self-Paced Praxis Prep PLUS Course
 - Video instruction modules with more than 2,000 practice questions for all three of the Praxis Core exams: Math, Reading and Writing, plus several of the most popular Praxis Subject Tests: Principles of Learning & Teaching (K-6, 5-9 and 7-12), Elementary Education: Content Knowledge & Elementary Education: Curriculum, Instruction & Assessment.
 - Two full-length computer-based practice exams for each test
 - Question pools for subject exams in Math, English & Language Arts, Science and Social Studies
 - Kaplan's NEW Praxis Prep companion book
 - Math Foundations - additional instruction and practice for students who need to brush up on the basics of Algebra, Arithmetic and Geometry