

AGREEMENT AND GENERAL RELEASE

This AGREEMENT AND GENERAL RELEASE ("Agreement") is made and entered into by and between TPR Education, LLC (d/b/a Princeton Review), on the one hand ("TPR"), and the National Association of the Deaf ("NAD"), NAD member Russell Kane ("Kane"), and Disability Rights Education & Defense Fund ("DREDF"), on the other hand (NAD, DREDF, and Kane may be referred to collectively as "NAD/DREDF"). TPR and NAD/DREDF may hereinafter be referred to as the "Parties" or individually as "Party."

WHEREAS, on or about February 8, 2021, NAD/DREDF notified TPR of methods in which TPR's test preparation programs and materials could be improved to better comply with Title III of the Americans with Disabilities Act ("ADA") so as to ensure full and equal access to TPR Test Preparation Programs by applicants and students who cannot receive equally effective participation without the provision of auxiliary aids and services, including captioning, American Sign Language ("ASL") interpretation, and written transcripts ("February 8, 2021 Letter");

WHEREAS, TPR and NAD/DREDF have worked collaboratively to identify areas where accessibility can be improved in TPR's test preparation programs and materials for individuals who are deaf or hard of hearing, resulting in this Agreement through which TPR will make certain improvements to its test preparation programs to increase accessibility and NAD/DREDF will continue to provide monitoring;

NOW THEREFORE, in consideration of and exchange for the promises, covenants, and releases contained herein, the Parties mutually agree as follows:

1. **Effective Date.** This Agreement shall be effective upon execution by all Parties. The date on which this Agreement has been executed by all Parties shall be the Effective Date of this Agreement. If the Parties execute this Agreement on different dates, the Effective Date shall be the date of execution by the last Party to execute this Agreement.

2. **No Admission of Liability and Acknowledgment of Collective Efforts.** This Agreement and compliance with it shall not be construed as an admission by the Parties of any liability whatsoever or as an admission by the Parties of any wrongdoing, including but not limited to, any violation of common law, statute, or contract. Rather, it is understood and agreed by the Parties that this Agreement is a result of TPR desiring to increase the accessibility of its test preparation programs and services and working with NAD/DREDF to identify and improve accessibility in its test preparation programs and services.

3. **Definitions.** In this Agreement:

- A. "Captioning" or "Caption" is defined as the use of closed captions and closed captioning (pre-recorded and real-time) for the visual display of the audio portion of video programming that is consistent with the standards set forth in the Federal Communications Commission (FCC) regulations at 47 CFR 79.1(j)(2) for completeness, accuracy, synchronicity, and placement. Captions shall be placed in a manner that allows visibility of all pertinent on-screen material, including diagrams, charts, notes, or other visual methods of communication.
- B. "Test Preparation Program" or "Program" is defined as any course of study, program of studies, packages of materials, or services provided by

TPR for the purpose of test preparation. Test Preparation Programs or Programs, includes, but is not limited to, tutoring services, self-directed test preparation programs, structured test preparation programs, and services designed for prospective students.

- C. A “Component” is defined as a part of a TPR Test Preparation Program. Components of a test preparations program or program can include, but are not limited to, asynchronous Components, such as pre-recorded videos, and synchronous Components, whether held virtually or in-person, such as tutoring sessions; other synchronous consultation sessions; and live classes.
- D. “Student” is defined as an individual enrolled in a TPR Test Preparation Program or who is otherwise authorized by TPR to use a Program Component for the purpose of test preparation.

4. Implementation of Accessibility Procedures.

- A. **Captioning and ASL Interpretation.** Within three (3) months of the Effective Date, TPR will take steps to ensure its Test Preparation Programs, materials, services and other Components are accessible to individuals who are deaf or hard of hearing, which are set forth below:
 - i. TPR will provide Captioning in any informational or marketing videos on its website or that TPR has placed on any third-party websites.
 - ii. TPR will Caption all pre-recorded video Components of any of its Test Preparation Programs. TPR will provide Students who are deaf or hard of hearing with access to the full Captioning transcript for any pre-recorded video Components of any of its Test Preparation Programs if access to Captioning transcripts is requested upon enrolling in such Test Preparation Program. If a Student does not indicate the need for access to Captioning transcripts for pre-recorded videos at the time of enrollment, TPR will begin providing such access for the remainder of the course within four (4) business days after receiving a Student’s request for access to Captioning transcripts for pre-recorded videos.
 - iii. For any synchronous Components, upon four (4) business days’ notice by a deaf or hard of hearing Student, TPR will provide, as requested by the Student, an ASL interpreter, or real-time Captioning with access to the full Captioning transcript. If enrollment is less than four (4) business days before the first synchronous Component, or if a request for a synchronous Component made pursuant to Section 4(A)(iii) is made less than four (4) business days before such optional synchronous Component is held, TPR will take all commercially reasonable steps to provide the above services for the synchronous Component. If

TPR is unable to do so, TPR may provide the student with the cure options set forth in section 4(E)(b).

- iv.** If real-time Captions are provided for a synchronous Component that is conducted virtually, real-time Captions shall be also provided within the same window as the Component if it is feasible to do so while maintaining visibility of all pertinent on-screen material. If placement within the same window is not feasible, Captions may be provided in a separate window accessible on the same monitor screen, or through some other equally effective method that would maintain visibility of all pertinent on-screen material. If a timely request has been made for real-time Captioning, access to the full Captioning transcript will be provided through the captioning provider within 24 hours after the synchronous Component was held, or at least 12 hours before the Student's next scheduled synchronous Component, whichever comes later.
- v.** In addition to the other accessibility options described in Section 4(A), upon request reasonably made by a Student, TPR will provide Students who are deaf or hard of hearing the opportunity to conduct tutoring sessions or other synchronous one-on-one consultation sessions via a synchronous text-based communication format or through the Telecommunications Relay Service described in 47 CFR § 64 Subpart F to individuals who are deaf or hard of hearing.
- vi.** TPR will ensure that all ASL interpreters or Captioning service providers have received any training or supplemental materials reasonably necessary to ensure the proper interpretation or Captioning of any specialized language used in TPR coursework, including any TPR-specific or exam-related terminology for the relevant Program.
- vii.** TPR will provide a mechanism through which Students shall notify TPR at the time of enrollment in any Test Preparation Program of the need for any of the accessibility features specified in this agreement. At the time of enrollment, TPR shall also inform Students of the method(s) for requesting the accessibility features specified in this Agreement. TPR shall also include a notice within each of its Test Preparation-related mobile applications directing users to the program accessibility webpage. As part of the enrollment process, TPR must link to the program accessibility webpage and inform Students and prospective Students that "TPR provides ASL interpreting, captioning and other adaptations to maintain access for deaf and hard of hearing students."
- viii.** If a Student's need for ASL interpretation and/or Captioning arises after enrollment in a program, or if a Student does not indicate the need for ASL interpretation and/or Captioning at the time of enrollment, TPR will begin providing ASL interpretation and/or Captioning in accordance with Section 4(A) within four (4) business

days after receiving a Student's request for ASL interpretation and/or Captioning.

ix. A student who has made a request for the accessibility features provided by Section 4(A) for an entire Program does not need to make a separate request for each individual Component within the program, other than optional Components for which the Student will need to notify TPR the Student's intent to attend as specified in Section 4(A)(iii). Once a student has made a request pursuant to Section 4(A) for a particular Component of a program, such request will be effective for all subsequent non-optional Components in that program for which the Student has enrolled to attend.

B. **Transcript Errors.** TPR will provide a telephone number, email address, or other equally effective method for Students who have requested real-time Captions to contact TPR regarding questions about the material covered in a Component that arise from errors in a real-time Captioning transcript. TPR will provide Students who use the contact method(s) described in the previous sentence with access to a person or persons with sufficient knowledge to answer reasonable questions about the educational material in question. If the above contact method does not resolve an issue caused by an error in the transcript, and if the transcript deviates significantly from the real-time Captions that were provided for the synchronous Component, then a Student may seek to cure the transcript error pursuant to Section 4(E). If the Component has been recorded by TPR, TPR will also provide Students who have requested ASL or real-time Captioning access to the recording of the Component within 24 hours after a synchronous Component was held.

C. **Notice of Program Accessibility Features.** Within three (3) months of the Effective Date, TPR will include on its website a page that shall state in simple, easy to understand language: the accessibility features available and outlined in Sections 4(A) and 4(B); the method(s) through which requests pursuant to Sections 4(A) and 4(B) can be made; the deadlines for making such requests; the timeframe in which TPR will provide services requested pursuant to Sections 4(A) and 4(B); the circumstances in which TPR will offer make-up Components as a Cure; as well as a method through which anyone can notify TPR of any issues or complaints regarding the features outlined in Sections 4(A) and 4(B). If this information is contained in multiple webpages, TPR will ensure there is a footer on each page that directs the student to the accessibility procedures."

D. **Fees and Costs.** As part of the collaboration of this Agreement and NAD and DREDF's continued involvement in providing advice and monitoring throughout the duration of this Agreement, as well as for consideration for the releases contained herein, TPR shall pay NAD/DREDF the amount of Sixty Thousand Dollars and Zero Cents (\$60,000.00). The payment shall be made within thirty (30) days of the Effective Date of this Agreement. The payment to be made to NAD/DREDF shall be paid by check made payable to The Disability Rights Education and Defense Fund (DREDF). NAD/DREDF agree to provide a Form W9 for the above-listed payee. The

check shall be delivered to Disability Rights Education & Defense Fund
3075 Adeline Street, Suite 210 Berkeley, CA 94703.

- E. Cure Process.** Within three (3) months of the Effective Date, TPR will establish, implement, and make available to the public a process (the "Cure Process") by which any current or potential Student and any representative of a current or potential Student may inform TPR in writing of any non-compliance with Section 4(A), 4(B), or 4(C) including, but not limited to: that any Captioning, Captioning transcript, ASL interpretation, Captioned video, or synchronous text or written chat communication required under Section 4(A) has not been provided; that any Captioning required under this Agreement contains material errors or improper placement; that any Captioning transcript contains material errors; that there are any other technical problems with Captioning, Captioning transcripts, ASL interpretation, Captioned videos, or synchronous text/written chat that impede access for students who are deaf or hard of hearing; and that any TPR website or mobile application does not include a link to a page that satisfies the requirements of Section 4(C).
- i. Right to Cure.** TPR will not be in violation of this Agreement if it resolves an issue subject to the cure process in a timely manner for the student or prospective student. A resolution is timely if TPR cures any deficiency in time for the deaf or hard of hearing student to have equally effective access as students who are not deaf or hard of hearing to the program that such person wishes to enroll in or has enrolled in, as set forth below in the Methods to Cure
- ii. Methods to Cure.**
- a.** A lack of accurate Captioning in a pre-recorded video may be resolved by Captioning or correcting errors in the Captioning text.
 - b.** Improperly placed Captions in a pre-recorded video may be resolved by correcting errors in the placement of the Captions.
 - c.** If a Student makes any complaints to TPR regarding transcript accuracy, correctness, or completion for a pre-recorded video or a captioned video of a synchronous Component, TPR will not be in breach of this Agreement if it provides a corrected transcript within 72 hours of when the complaint was made.
 - d.** If a complaint is made to TPR regarding its failure to satisfy a requirement under Section 4(A) or Section 4(C), if such complaint indicates that the failure negatively impacted the student's ability to fully access and benefit from synchronous Components, and if such complaint is made no later than 72 hours after the completion of an impacted synchronous Component, then, in addition to any other cures, TPR will offer the student the opportunity to retake the impacted, and any subsequently impacted, Components with a substitute

Component or Components held within a reasonable timeframe, which all parties agree will constitute equally effective access to the Component. Such substitute Component(s) must satisfy the requirements of Section 4(A). In the event there are no similar synchronous Components being offered within a reasonable time of the impacted Components, and if the impacted and/or any subsequently impacted Components are live classes, TPR may cure the lack of access of the impacted Components by offering the following, to be selected by the student:

1. If the live class has been recorded, providing the student with Captioned recorded videos of the impacted Components, access to the captioning transcripts, and the opportunity to receive TPR tutoring free of charge for the impacted Component;
 2. The opportunity to receive TPR tutoring free of charge for the missed Component; or
 3. Removal from the course and full refund of the Program fee.
- e. TPR may also provide different or additional cures to address Student concerns and increase accessibility, subject to the requirements of 4(E)(ii)(d).

F. Dispute Resolution. Before any Party files any claim, cause of action, litigation, lawsuit, action or proceeding against any Party related to this Agreement or the accessibility of TPR's Programs, courses, services, and/or material by persons who are deaf or hard of hearing, the Parties shall first engage in and complete the Dispute Resolution Process set forth in this paragraph.

- i. NAD/DREDF agree to provide written notice to TPR through its counsel (Nathan V. Okelberry, Fisher & Phillips LLP, 444 S. Flower Street, Suite 1500, Los Angeles, California 90071; facsimile: (213) 330-4501; email: nokelberry@fisherphillips.com) of any potential non-compliance with this Agreement or the ADA prior to initiating any claim, cause of action, litigation, lawsuit, demand for relief, action or proceeding against TPR related to the accessibility of its programs, courses, services, and/or material. TPR shall cure any deficiency in time for the deaf or hard of hearing student as set forth in section 4(E). If TPR fails to cure within that time period (or a time period agreed between the Parties), then, and only then, may NAD/DREDF bring an action alleging any non-compliance with this Agreement or the ADA. NAD/DREDF further agree that said written notice to TPR is a condition precedent to initiation or institution of any claim, cause of action, litigation, lawsuit, demand for relief, action or proceeding against TPR, and agrees that failure to provide said notice and reasonable opportunity to cure or remediate the alleged non-compliance shall operate as a bar and/or

complete and total defense to any purported claim, cause of action, litigation, lawsuit, demand for relief, action or proceeding NAD/DREDF may claim to have against TPR regarding the provision of captions.

- ii. If the Parties are unable to resolve the dispute through the Cure Process, then the Parties shall meet and confer in good faith to resolve any dispute relating to the interpretation or implementation of this Agreement.
- iii. **Resolution by Legal Action.** If, after completing the steps in the Dispute Resolution Process in Section 4 (F) (i)-(ii) either Party believes that a dispute still exists relating to material performance or interpretation of this Agreement, either Party may seek further relief by filing a claim, cause of action, litigation, lawsuit, action or proceeding. Plaintiffs may elect to enforce this agreement in a California state court or file a complaint under applicable disability rights laws in State or Federal court. Should any matter proceed to the filing of a claim, cause of action, litigation, lawsuit, action or proceeding under this Section, attorneys' fees and costs shall be awarded in accordance with 42 U.S.C.12205, including the fee-shifting standards in *Christiansburg Garment Co. v. Equal Employment Opportunity Comm 'n*, 434 U.S. 412, 422 (1978). In the event that litigation is sought, the Parties consent to the personal jurisdiction of California state courts and Federal Courts within the state of California.

G. Recordkeeping and Reporting. TPR will maintain records of all requests it receives through the mechanism(s) for requests identified on the Website Accessibility Webpage or complaints received through the Cure Process, and will document the steps it takes to respond to those requests or complaints, including the Component at issue, the steps taken to cure, and the dates on which: (1) the request or complaint was received; (2) Captioning or other measures were taken; (3) a response provided to the individual making the request or complaint and (4) a confirmation from the enrollee or student that the complaint issue has been cured. Every 120 days, TPR will provide NAD/DRED with a spreadsheet containing the above-listed information. Upon request, TPR will also provide copies of the underlying records of any complaints and responses, subject to the identities and any private information concerning the Students being redacted. If the student does not agree with TPRs resolution of the complaint, TPR will provide the student with DREDF's contact information.

H. Notice and Party Counsel. Notice under this agreement shall be effective when delivered by mail or email to:

For TPR: Party Counsel Nathan V. Okelberry, Fisher & Phillips LLP, 444 S. Flower Street, Suite 1500, Los Angeles, California 90071; facsimile: (213) 330-4501; email: nokelberry@fisherphillips.com with copy to legal@review.com.

For NAD/DRED: Party Counsel Ayesha Elaine Lewis, Disability Rights Education & Defense Fund 3075 Adeline Street, Suite 210

5. Modification. This agreement may be modified by written agreement of all parties. If circumstances beyond TPR's control make it impracticable or unduly burdensome to fulfil its obligations under the agreement, upon request, the parties will meet and confer in good faith regarding the matter. If technological advances or other material changes occurring after the effective date of this agreement create new methods for achieving accessibility for deaf and hard of hearing students, upon request, the parties will meet and confer in good faith regarding the matter. If TPR requests that the parties meet and confer regarding potential modification under this paragraph, TPR will pay reasonable attorney fees.

6. Releases.

- A. General Release.** In further consideration for TPR's commitments herein, , NAD/DREDF, on their own individual behalf and on behalf of their respective predecessors, heirs, successors and assigns, hereby releases and forever discharge TPR, and each of its employees (former and present), shareholders, officers, directors, managers, agents, attorneys, insurance carriers, parents, subsidiaries, divisions or affiliated organizations or corporations whether previously or hereafter affiliated in any manner, and the respective predecessors, successors and assigns of all of the foregoing (collectively referred to hereinafter as "Releasees"), from any and all claims, demands, causes of action, obligations, charges, damages, liabilities, attorneys' fees, and costs of any nature whatsoever, contingent, or non-contingent, matured or unmatured, liquidated or unliquidated, whether or not known, suspected or claimed, which NAD/DREDF had, now has or may claim to have had as of the Effective Date of this agreement against the Releasees (whether directly or indirectly) or any of them, by reason of any act or omission whatsoever, occurring up until the Effective Date of this Agreement related to or arising out of any claims or allegations made in the February 8, 2021 Letter or otherwise concerning whether TPR's test preparation programs and materials are inaccessible to individuals who are deaf or hard of hearing because they lack proper captioning or ASL interpretation, including, without limiting the generality of the foregoing, any claims, demands, causes of action, obligations, charges, damages, liabilities, attorneys' fees and costs relating to or arising out of any alleged violation of any contracts, express or implied, any covenant of good faith and fair dealing, express or implied, or a tort, or any federal, state, municipal or other governmental statute, public policy, regulation or ordinance.
- B. Non-Releasable Claims.** Notwithstanding the foregoing, the above release does not release any claims that cannot lawfully be waived.
- C. Waiver of Section 1542.** The Parties hereby state that it is their intention in executing this Agreement that the same shall be effective as a bar to each and every claim, demand, cause of action, obligation, damage, liability, charge, attorney fees and costs herein above released. Accordingly, the Parties hereby expressly waive and relinquish all rights

and benefits, if any, arising under the provisions of Section 1542 of the Civil Code of the State of California which provides:

"Section 1542. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

7. **Publicity.** The Parties agree that they may speak with the media about the settlement of this matter. The Parties and their respective counsel may report on websites and through other public communications about the Agreement and why they believe the terms of the Agreement are fair and reasonable and in the best interests of the Parties. Public communications by the Parties will recognize the cooperation of NAD/DREDF and TPR in this settlement and will not make any misrepresentations of facts. The Parties agree to issue a joint press release, which is attached hereto as Exhibit A.

8. **Representations.** NAD/DREDF represent that they have no lawsuits, claims or actions pending in their name, or on behalf of any other person or entity, against TPR or Releasees. NAD/DREDF further represent that they have not made and do not intend to make any complaints or grievances to any government agencies. NAD/DREDF also represent that they do not intend to bring any new or different claims on their own behalf or on behalf of any other person or entity against TPR or Releasees with respect to this matter so long as this Agreement remains in effect.

9. **Entire Agreement.** The Parties acknowledge that this document, including Exhibit A, sets forth the entire agreement among them. This Agreement is contractual and not a mere recital; any representations or promises not specifically detailed in this document will not be valid or binding on the Parties to this Agreement. Any modification to the terms of this Agreement must be made in writing and signed by all Parties to this Agreement.

10. **Costs and Attorney's Fees.** The Parties agree that in the event any Party breaches any provision of this Agreement or fails to fulfill its obligations, the breaching party shall pay all costs and reasonable attorney's fees incurred in conjunction with enforcement of this Agreement by any Party who seeks to enforce the terms herein, to the extent permitted by law.

11. **Governing Law.** This Agreement shall be interpreted under the laws of the State of California, both as to interpretation and performance.

12. **Voluntary.** This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties hereto. The Parties acknowledge that they have had ample opportunity to have this Agreement reviewed by the counsel of their choice.

13. **Standing.** The Parties to this Agreement and no one else shall have standing to seek enforcement of this Agreement.

14. **Expiration Date.** This Agreement shall expire two (2) years from the Effective Date.

15. **General Terms and Conditions.**

- A. The section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- B. This Agreement may be executed in counterparts and via facsimile or email, each of which shall be deemed an original, all of which together shall constitute one and the same instrument.
- C. Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected. This Agreement shall not be construed in favor of one party or against the other.
- D. The failure to insist upon compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.
- E. This Agreement, and all the terms and provisions contained herein, shall bind the heirs, personal representatives, successors and assigns of each party, and inure to the benefit of each party, its agents, directors, officers, employees, servants, successors, and assigns.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

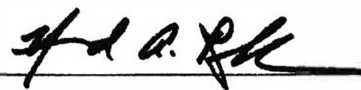
Dated: August 21, 2023

By: TPR EDUCATION, LLC



Dated: August 9, 2023

By: NATIONAL ASSOCIATION OF THE DEAF



Dated: August 16, 2023

By: DISABILITY RIGHTS EDUCATION & DEFENSE FUND



Dated: 7/28/23, 2023

By: RUSSELL KANE