



## Teacher-2-Teacher Course Agreement

This agreement (hereafter referred to as “Agreement”) is entered into between Ector County Independent School District (“Organization”) and TPR Education, LLC d/b/a The Princeton Review (“TPR”). TPR agrees to provide services to the students and/or teachers of Organization in accordance with the modified following terms and conditions:

Term: 5/12/2014 to 6/30/2015 (the “Term”).

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### Course Name: SAT T2T Student Materials:

	Price:	Amount Needed:
SAT Student Materials	\$150 each	175

SAT Student Materials Include:  
*SAT Student Manual*  
*11 Practice Tests for the SAT*  
Up to 4 SAT diagnostic practice tests

**Total contract fee:** **\$26,250**

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All Classes and materials will be provided subject to the attached “Modified Terms and Conditions – Teacher-2-Teacher Course Agreement.”

## Organization Billing Information

Organization agrees to provide payment to TPR for services delivered to the students and/or teachers of Organization in accordance with the following provisions:

Is a Purchase Order  
Required? (circle "yes" or  
"no")

Yes\*  
No

If yes, what is the Purchase Order Number? \_\_\_\_\_

**\*Purchase Order must be received by TPR no later than 5 days prior to the scheduled class start date to avoid delay of start of program.**

**Billing Terms**[check  
applicable terms]:

☐ Net 30 from Date Contract Signed

☐ Net 30 from Start of Course

☐ Customized Payment Terms different from above must be approved by TPR and Organization and set out below:

\_\_\_\_\_

Ector County Independent School District  
Attn: Omega Loera  
802 N. Sam Houston  
Odessa, TX 79761

\_\_\_\_\_  
TPR Education, LLC  
Name:  
Title:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ector County Independent School District  
Name:  
Title:  
Address:  
Telephone No.:

\_\_\_\_\_  
Date

• **Signed agreement should be returned to:**

**Jennifer Blevins at [jblevins@review.com](mailto:jblevins@review.com)**

• **Failure to return signed Agreement promptly may result in delay of delivery of services and/or materials**

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## MODIFIED TERMS AND CONDITIONS – TEACHER-2-TEACHER COURSE AGREEMENT

1. **Intentionally Left Blank**
2. **Fees; Payment Terms; Collection Fees:** Per student billing will be calculated based on the Final Roster; withdrawal of a student from a Course after delivery of the Final Roster will not result in a reduction of the calculated fee or a refund. TPR shall invoice the Organization on a periodic basis no more frequently than monthly in accordance with the Billing Terms indicated in the TPR-Led Classroom Course Agreement to which these Terms and Conditions are attached and into which they hereby are incorporated (the "Agreement"). The Organization shall make payment to TPR within thirty (30) days of invoice receipt. Prices set forth in the Agreement do not include sales tax. Sales tax, if applicable, will be included in the invoice sent by TPR to Organization, unless Organization provides evidence of tax exemption. Time is of the essence for all payments under this Agreement, and in the event any overdue payment is sent by TPR to a collection agency or an attorney for collection in accordance with TPR's standard collection procedures, Organization agrees to pay all costs of collection, including without limitation all court costs and reasonable attorneys' fees.
3. **Reporting Requirements:** TPR shall provide the Organization with final reports concerning the program after completion of all classes of a Course. The Organization shall provide TPR with periodic reports and information concerning the Courses as reasonably requested by TPR, including requests for information in electronic format where available. To the extent that individual student data is shared with TPR, as an agent of the Organization, TPR shall keep such information confidential and only use it to the extent necessary to provide educational and other services within the Organization. The Organization shall maintain such books and records as are necessary to substantiate amounts paid to TPR pursuant to this Agreement, which shall be made available to TPR for examination on request.
4. **Intellectual Property:** (a) The Organization acknowledges and agrees that (i) all right, title and interest in and to TPR written materials including without limitation written and electronic materials and software programs, access to which is provided hereunder and materials available through TPR's online resources, as well as all updates, upgrades, enhancements and modifications thereto, including any and all patents, copyrights, trade secret rights, trademarks, trade names, and other proprietary rights embodied therein or associated therewith (collectively, the "TPR Intellectual Property"), are and will remain TPR's, and this Agreement in no way conveys any right, title or interest in the TPR Intellectual Property other than the limited licenses set forth below, (ii) the Organization will not modify or alter the TPR Intellectual Property without the prior written consent of TPR, which consent may be withheld within TPR's sole discretion and (iii) the TPR Intellectual Property embodies valuable confidential and secret information of TPR, the development of which required the expenditure of considerable time and money. (b) Upon the expiration or termination of this Agreement for any reason, the Organization shall deliver to TPR any and all TPR-owned equipment and supplies and all TPR Intellectual Property, or copies thereof, in electronic format or otherwise, in the Organization's possession or under its control. Within ten (10) business days of a request by TPR, the Organization shall deliver to TPR an affidavit stating that to the best of its knowledge and information all TPR Intellectual Property required to be delivered under this Agreement have been delivered and copies that have not been delivered have been deleted or destroyed.
5. **Confidentiality:** (a) The Organization acknowledges that it has been informed that the TPR Intellectual Property and its instructional methods, including its strategies and methodologies, are confidential (except such TPR Intellectual Property as are published and generally made available to the public by or on behalf of TPR) (the "Confidential Information"). The Organization (i) shall not divulge, and will prevent each of its employees, teachers and agents from divulging, directly or indirectly, any Confidential Information and (ii) shall not use or authorize anyone to use, and will prevent each of its employees, teachers and agents from using or authorizing anyone to use, any Confidential Information, except to teach a TPR – approved course for which the Organization pays a fee to TPR either for TPR to lead the course or for the course materials for Organization's TPR-trained instructor(s) to lead the course. TPR may revoke the certification of any Teacher: (i) who fails to maintain the confidentiality of the Confidential Information or (ii) who uses the Confidential Information, except to teach a TPR class for which TPR receives a fee. (b) The Organization agrees that any breach or threatened breach by it of this Section and any other provision related to protection of the Confidential Information will, because of the unique and proprietary nature of this information entrusted as aforesaid, cause irreparable harm to TPR and shall entitle TPR, in addition to any other legal remedies available to it, to apply to any court of competent jurisdiction to enjoin such breach or threatened breach.
6. **Limited License:** TPR hereby grants to the Organization a nonexclusive, non-transferable license (the "License") to use its TPR Intellectual Property solely in connection with the services provided under this Agreement. The grant of the License is conditioned upon the following: (i) the Organization shall not copy, modify, alter, or excerpt, and shall prevent others from copying, modifying, altering, or excerpting the TPR Intellectual Property; (ii) the Organization shall not use, and shall prevent others from using, the TPR Intellectual Property and other Confidential Information to teach any class or course or for any other purpose, except for TPR-approved classes or courses for which the Organization pays a fee to TPR either for TPR to lead the course or for the course materials for Organization's TPR-trained instructor(s) to lead the course.

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## MODIFIED TERMS AND CONDITIONS – TEACHER-2-TEACHER COURSE AGREEMENT (CONT.)

7. **Privacy:** The Organization acknowledges and agrees that for all student records containing personally identifiable information provided to or otherwise made available to TPR hereunder, the Organization is solely responsible for obtaining, and it has obtained, all of the necessary rights, permissions and consents (including, for example, parental consents if necessary), in accordance with all applicable laws, rules and regulations (including, without limitation, the Family Educational Rights and Privacy Act and the regulations thereunder) to provide the student records containing personally identifiable information to TPR, and for TPR to use such information for the purposes of providing services to the Organization under this Agreement. TPR agrees to exercise reasonable care to preserve the confidentiality of any and all student records containing personally identifiable information and shall not use or disclose such information except and to the extent such use or disclosure is reasonably necessary in connection with its performance of its obligations under this Agreement. As used herein, "personally identifiable information" shall mean any information regarding or that identifies (or that could be used to identify) any individual, including, for example and without limitation, any individual student or parent name, address, personal identifiers such as Social Security numbers or school- or district-issued student identification numbers, and any other information or combination of information that would make the identity of the student or parent easily traceable.
8. **Student Data:** Student data collected by TPR in delivering services to the Organization under this Agreement will be the property of the Organization. Organization grants TPR a limited license to use such student data, including diagnostic and practice test scores and score improvements, (i) in connection with the performance by TPR of its obligations to Organization, (ii) to help TPR analyze the efficacy of its programs and (iii) for use in the marketing and promotion of TPR's programs; provided, that TPR will not disclose confidential information contained in such data at the individual student level and will otherwise use such data in compliance with TPR's confidentiality obligation set forth in Section 7 above.

In addition, to the extent permitted by law, the Organization will cooperate with TPR to provide TPR with actual test scores of students for the tests prepared for under the Agreement solely for use by TPR in accordance with the immediately foregoing sentence.

9. **Disclaimer; Limitation of Liability:** (a) Except as explicitly set forth in this Agreement, TPR hereby disclaims all warranties, representations and guaranties, express or implied, including, without limitation, any representation of results for students, such as any improvement in test scores. Such results are dependent on factors outside of TPR's control. (b) TPR shall not be liable to the Organization or to any other person for any indirect, consequential, punitive or special damages, of any character, whether in an action in contract, tort or otherwise, arising out of or in connection with this Agreement, even if TPR has been advised of the possibility of such damages. TPR's total aggregate liability arising from or related to this Agreement will not exceed the aggregate amount received by TPR from the Organization under this Agreement during the twelve (12) month period preceding a claim.
10. **Indemnification:** Except to the extent prohibited by the laws of the State in which the Organization is located, the Organization shall indemnify and defend TPR, and its directors, officers, employees and agents, from and against any costs, fees, expenses (including reasonable attorneys' fees whether arising out of a third-party claim or in enforcing this indemnification), claims, liabilities, losses, judgments, settlements and damages (including all damages awarded to third parties payable by TPR, but in all cases only TPR's direct damages) arising out of, or related to: (i) the Organization's breach of any provision of this Agreement, (ii) any negligent act or omission or willful misconduct of the Organization or any of its officers, employees or agents, or (iii) TPR's receipt of, access to or use of any student records containing personally identifiable information hereunder, provided that TPR uses such personally identifiable information only in accordance with this Agreement.  
  
TPR shall indemnify and defend the Organization, and its directors, officers, employees and agents, from and against any costs, fees, expenses (including reasonable attorneys' fees whether arising out of a third-party claim or in enforcing this indemnification), claims, liabilities, losses, judgments, settlements and damages (including all damages awarded to third parties payable by the Organization, but in all cases only the Organization's direct damages) arising out of, or related to: (i) TPR's breach of any provision of this Agreement, or (ii) any negligent act or omission or willful misconduct of TPR or any of its officers, employees or agents..
11. **Termination:** This Agreement (including any licenses) may be terminated on immediate notice thirty (30) days after the delivery by a party of a notice containing a description of a material breach of this Agreement by the other party, provided such breach is not cured within such thirty (30) days of notification of such breach.
12. **Under-enrollment:** TPR reserves the right to cancel any Course where fewer than the minimum number of students enrolls. In the event of a cancellation because of under-enrollment, TPR will not be deemed to have breached the terms of this Agreement and the Organization will in no way penalize TPR for such class cancellation. For purposes of this section, the term "enroll" means an eligible student on the student roster for the Course as of, and in attendance (unless reported as absent from school for the day) at, the first class of the Course; provided, that the TPR-provided teacher for the Course will remain in the classroom with the students for such first class notwithstanding that the Course may be under-enrolled.
13. **Force Majeure:** Neither party hereto shall be deemed to be in default for failure to comply with any provision hereof, if such failure results from acts or events beyond the reasonable control of such party, other than payment of money.
14. **Entire Agreement; Amendments; Order of Precedence:** This Agreement contains the entire understanding between the parties and supersedes any prior agreement between such parties, whether written or oral, and may only be amended or waived in a writing signed by both parties. To the extent that the terms of this Agreement conflict with the terms of any purchase order or other agreement submitted by the Organization, the terms of this Agreement shall take precedence.
15. **Successors and Assigns:** This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto, provided that the Organization may not assign this Agreement, the License or the right to use the TPR Intellectual Property or any part thereof. The License shall not be assigned or made assignable, or become an asset of licensee in bankruptcy, whether by operation of law or any bankruptcy, insolvency or similar proceedings or otherwise.
16. **Waiver of Jury Trial:** Each party waives to the fullest extent permitted by law any right to trial by jury in any action, suit or proceeding brought to enforce, defend or interpret any rights or remedies arising under, relating to or in connection with this Agreement.

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## MODIFIED TERMS AND CONDITIONS – TEACHER-2-TEACHER COURSE AGREEMENT (CONT.)

17. **Designations and Notices:** Any notices or other communications hereunder, except as may otherwise be provided in this Agreement, will be deemed given and delivered when delivered personally, or on the date signed for, or rejected by, addressee if mailed by certified mail, return receipt requested, postage prepaid, or the next business day if sent by nationally recognized courier service providing for a signature on delivery, in each case, delivery prepaid, addressed to the Organization to the address provided on the execution page of this Agreement and to TPR to the attention of Legal Department at 24 Prime Parkway, Suite 201, Natick, MA 01760 or via fax to (508) 663-5115 or to such other address as either party shall designate by notice to the other, effective ten (10) days after such notice.
18. **Survival:** The rights and obligations arising relating to protection of TPR's Intellectual Property and other Confidential Information, and any other provisions of this Agreement that by their nature should survive, shall survive termination or expiration of this Agreement.
19. **Severability:** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. In such a case, the parties shall replace the invalid provision with a legally admissible arrangement, which comes nearest to the intended purpose of the invalid provision.
20. **Headings:** The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
21. **Counterparts, Electronic Transmissions and Facsimiles:** This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. Delivery of an executed page by facsimile or email transmission will constitute effective and binding execution and delivery and such signatures shall be considered original signatures.
22. **Authorized Signature:** Each party hereto hereby certifies that the individual signing this Agreement on its behalf has the authority to execute, deliver, and cause such party to perform its obligations under this Agreement.

23. **Instructor Agreement:** Any Organization teacher to be certified to teach the TPR program must sign the standard TPR Teacher-to-Teacher Instructor Agreement.
24. **TPR-Certified Instructors:** The Organization agrees that only teachers who have been certified by TPR to teach TPR's program will teach any TPR course being led by the Organization's teachers. TPR may revoke the certification of any Organizations teacher: (i) who fails to maintain the confidentiality of the Confidential Information, or (ii) who uses the Confidential Information except to teach a TPR approved class or course specifically for which the Organization has purchased course materials from TPR.
25. **Termination of Certification:** Upon expiration or termination of the certification of any Organization teacher, including if such teacher leaves the employ of the Organization, the Organization will collect from such teacher and deliver to TPR all Confidential Information and other property of TPR, whether in tangible or electronic format and including such teacher's notes and summaries of such Confidential Information.
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