

KAPLAN INTERNATIONAL TOOLS FOR ENGLISH TERMS AND CONDITIONS

Last updated: 13 January 2023

PART A – INTRODUCTION

1. Definitions

1.1 Candidate has the meaning set out in paragraph 2.5;

1.2 Candidate Representative has the meaning set out in paragraph 2.5;

1.3 Contract means the contract in place between Kaplan and a Candidate pursuant to paragraph 3.4 or between the Kaplan and a Candidate Representative pursuant to paragraph 5.5 in respect of the purchase of an Assessment.

1.4 Improper Conduct means any disruptive activity carried out by a candidate before, during or after any Assessment (whether or not done intentionally);

1.5 Kaplan has the meaning set out in paragraph 2.2;

1.6 Kaplan Team means the Kaplan Team as described at paragraph 2.4; and

1.7 Malpractice refers to any activity carried out by a Candidate (whether or not done intentionally) which could result in either the Candidate or another Candidate obtaining an unfair and/or undue advantage in connection with the Assessment.

2 Information about Kaplan International Tools for English

2.1 The Kaplan International Tools for English (the “**Assessment**”) is an English language proficiency assessment system designed to measure English language ability and track learning progress over time (“**Kaplan Platform**”). These Terms and Conditions apply to all assessments taken on the Kaplan Platform.

2.2 The Assessments are provided by Kaplan International Colleges UK Limited, a company registered in England and Wales (registration number 05268303) whose registered office is at Palace House, 3 Cathedral Street, London SE1 9DE United Kingdom (“**Kaplan**”).

2.3 Kaplan subcontract to Verificent Technologies Inc. who provide Proctortrack an automated online remote proctoring solution to verify the identity of Candidates undertaking the Assessment and conduct remote invigilation to ensure test integrity. Verificent Technologies Inc. is a company registered in Delaware, USA with its registered office at 1250 Broadway, 26th Floor, New York, NY 10001 USA (“**Verificent**”).

2.4 The Kaplan Team is responsible for organising and managing the Assessments, including the payment process and general queries in relation to Assessments, reasonable adjustments, appeals and complaints.

2.5 Assessments can be purchased by an individual intending to sit an Assessment (a “**Candidate**”) or by a training provider, employer, agent or other person or entity paying on behalf of a Candidate or Candidates (a “**Candidate Representative**”).

2.6 If you are a Candidate, please ensure that you read the following sections of these Terms and Conditions: Part A – Introduction, Part B – Terms and conditions which apply to Candidates, Part D – Fees and Cancellation and Part E – General Terms. If you are a Candidate Representative, please ensure that you read these Terms and Conditions in full.

PART B - TERMS AND CONDITIONS WHICH APPLY TO CANDIDATES

3 Purchasing an Assessment

3.1 If you are purchasing an Assessment as a Candidate, the terms and conditions set out in this Part B apply.

3.2 A Candidate may purchase an Assessment by submitting an online registration form (“**Registration Form**”) on either (i) the Assessment website (www.kaplanenglishtest.com); (ii) a university website with a link to the Registration Form; or (iii) by contacting the Kaplan Team englishtest@kaplan.com who will email a link to the Registration Form. A Candidate Representative may complete and submit the Registration Form on behalf of the Candidate.

3.3 Once the Candidate or Candidate Representative has submitted the Registration Form, the Kaplan Team will send the Candidate an email with a link to the payment portal where the Candidate can pay for the Assessment, and a copy of these Terms and Conditions and the Privacy Policy.

3.4 By submitting the Registration Form and paying for the Assessment, the Candidate is agreeing to these Terms and Conditions. When the Candidate receives the payment confirmation email, a contract based on these Terms and Conditions comes into existence between the Candidate and Kaplan.

3.5 After Kaplan receives payment from the Candidate for the Assessment, an email will be sent to the Candidate to confirm that the Assessment has been purchased, along with the Candidate’s login details for the Kaplan Platform. A copy of these Terms and Conditions will be included in the purchase confirmation email.

3.6 A Candidate will have fifteen (15) days from the date the Assessment is set up on the Kaplan Platform to take the Assessment. If the Candidate does not take the Assessment within this timeframe, the Assessment expires. If more time is required to take the Assessment, more time can be purchased in accordance with paragraph 10.1.

3.7 Assessment certificates are valid for two (2) years after the date the Candidate takes the Assessment.

4 Data protection

4.1 Kaplan is the “data controller” responsible for the safe and appropriate use of the data provided by the Candidate.

4.2 Kaplan collects and processes the Candidate’s personal data submitted in connection with the Assessment so that Kaplan can process the Candidate’s application, payment and provide examination and assessment services.

4.3 Kaplan may share your personal data, Assessment status (i.e. whether you have taken the Assessment), Assessment results and certificates with third parties such as educational institutions or organisations that recognise the Assessment, or affiliates, subsidiaries and other members of the Kaplan group of companies, including companies located outside of the UK and EEA.

4.4 A Candidate has certain data subject rights, such as the right to rectification, right to erasure, right to object or to restrict processing and the right of access. For a full explanation of how Kaplan handles a Candidate's personal data and how a Candidate can exercise data subject rights please see the [Privacy Notice](#).

PART C - TERMS AND CONDITIONS WHICH APPLY TO CANDIDATE REPRESENTATIVES

5 Purchasing an Assessment

5.1 If you are purchasing an Assessment on behalf of a Candidate(s) as a Candidate Representative, the

terms and conditions set out in this Part C apply.

5.2 A Candidate Representative may purchase an Assessment for a Candidate(s) by submitting a Registration Form on either (i) the Assessment website (www.kaplanenglishtest.com); (ii) a university website with a link to the Registration Form; (iii) or by contacting the Kaplan Team at englishtest@kaplan.com who will email a link to the Registration Form. If the Candidate Representative is paying for the Kaplan Assessment on behalf of the Candidate, they must make a note in the Registration Form, and if there is no provision within the Registration Form to notify regarding payment, the Candidate Representative must email the Kaplan Team at englishtest@kaplan.com.

5.3 Where a Candidate Representative submits a Registration Form on behalf of Candidate(s), the Candidate Representative agrees that it will inform each Candidate (on whose behalf it is purchasing an Assessment) about the requirements of Candidates set out in these Terms and Conditions and the Candidate Representative must provide a copy of these Terms and Conditions to each Candidate (on whose behalf it is purchasing an Assessment) prior to submitting the Registration Form and paying for the Assessment where applicable. The Candidate Representative must obtain confirmation from each Candidate that they have read and agree to the terms and conditions which apply to Candidates under these Terms and Conditions. Please refer to paragraph 2.6 which outlines the Terms and Conditions which apply to Candidates.

5.4 If the Candidate Representative is paying for the Assessment on behalf of the Candidate, the point at which the Candidate Representative submits payment for the Assessment, both the Candidate Representative and the Candidate(s) (on whose behalf the Candidate Representative has made the purchase) are agreeing to these Terms and Conditions. Once the Candidate Representative and the relevant Candidate(s) have received confirmation in writing that the fee for the Assessment has been made, a contract based on these Terms and Conditions comes into existence between the Candidate Representative, the Candidate(s) and Kaplan. A separate payment confirmation email will be sent to the Candidate Representative confirming the fee paid by the Candidate Representative for the Assessment.

5.5 After Kaplan receives payment from the Candidate Representative for the Assessment, an email will be sent to the Candidate Representative and the relevant Candidate(s) to confirm the purchase of the Assessment. The purchase confirmation email to the Candidate will include the Candidate's login details for the Kaplan Platform. The purchase confirmation email to the Candidate Representative will confirm the number of Assessments purchased. A copy of these Terms and Conditions will be included in the purchase confirmation emails.

5.6 A Candidate will have fifteen (15) days from the date the Assessment is set up on the Kaplan Platform to take the Assessment. If the Candidate does not take the Assessment within this timeframe, the Assessment expires. If more time is required to take the Assessment, more time can be purchased in accordance with paragraph 10.1.

6 Data protection

6.1 The parties acknowledge that the Candidate Representative is a "controller" of any Candidate personal data it discloses to Kaplan, and that Kaplan will process the Candidate personal data as a "processor" for the purposes of performing the services under the Contract.

6.2 The Candidate Representative will ensure that it has the correct legal basis to share personal data with Kaplan and that the Candidate receives a copy of, or is made aware of, the Candidate Representative's Privacy Policy. The Candidate Representative will also ensure the Candidate receives a copy of, or is made aware of, Kaplan's [Privacy Policy](#).

PART D - FEES AND CANCELLATION

7 Assessment fees

7.1 The fees payable for the Assessment and other charges will be detailed on the website that the Registration Form is located (e.g. the Kaplan website (www.kaplanenglishtest.com) or the university website as applicable). All Assessment fees are payable to Kaplan.

7.2 All fees must be paid in Pounds Sterling (£) at the time of purchase. An Assessment is secured only when payment has been received in full and all conditions of payment have been complied with.

7.3 In the event a booking is made for a Candidate to re-sit any Assessment, the fees payable are those applicable for that Assessment will be provided by the Kaplan Team prior to the time of booking the re-sit. Fees may differ from the amount paid for the original Assessment and is at the sole discretion of Kaplan.

7.4 Assessment fees are non-refundable, whether in full or in part, except under the circumstances specified in paragraphs 8, 9 and 12 below. This applies irrespective of whether the Candidate undertakes the Assessment.

8 Cancellation within 14 days of payment: the "cooling off" period

8.1 Candidates and Candidate Representatives have fourteen (14) days after the date of the payment confirmation email to cancel the relevant Assessment and receive a full refund. If a Candidate has started the Assessment during the cooling off period, the Candidate may not claim a full refund as the services have already been provided. In order to exercise the cancellation right, Candidates or Candidate Representatives can either:

(a) use the Model Cancellation Form (a copy of which is attached to these Terms and Conditions at the Schedule 1 below); or

(b) contact the Kaplan Team in writing using the contact details found at paragraph 17.1, and providing the following information:

(i) purchase reference ;

(ii) the name and email address of the Candidate Representative or Candidate who purchased the Assessment (and if the Assessment purchase was made by a Candidate Representative, the names of the Candidate(s) whose Assessment is being cancelled); and

(iii) setting out that the Candidate Representative or Candidate is exercising its right to cancel **during** the 14 day "cooling-off period".

For the avoidance of doubt, where an Assessment is purchased by a Candidate, the Candidate can only cancel and Assessments purchased by Candidate Representatives may be cancelled by Candidate Representatives or Candidates.

8.2 Where a Candidate or Candidate Representative is exercising its "cooling off" right to cancel under paragraph 8.1 above, Kaplan will make the refund within twenty-eight (28) days of the Candidate or Candidate Representative informing Kaplan in accordance with paragraph 8.1 above. Refunds will be made to the original payor using the same means of payment as initially used to pay Kaplan (unless this is not possible, in which case Kaplan will use a suitable alternate means).

9 Other cancellation rights and cancellation charges: after the "cooling off" period

9.1 Candidates or Candidate Representatives who wish to cancel an Assessment **after** the end of the 14 day "cooling-off period" referred to in paragraph 8 above, by using the Model Cancellation Form (a copy of which is attached to these Terms and Conditions at the Schedule 1) or by notifying the Kaplan Team in

writing using details at paragraph 17.1, including:

- (a) purchase reference;
- (b) the name and email address of the Candidate Representative or Candidate who made the purchase (and if the purchase was made by a Candidate Representative, the names of the Candidates whose Assessment is being cancelled); and
- (c) setting out that the Candidate Representative or Candidate is exercising its right to cancel **after** the 14 day "cooling-off period".

For the avoidance of doubt, if the Candidate has taken the Assessment, the Candidate may not claim a refund as the services have already been provided. Purchases by Candidates may only be cancelled by Candidates and purchases made by Candidate Representatives may be cancelled by Candidate Representatives or Candidates. In the event that a Candidate cancels an Assessment purchased by a Candidate Representative, the Candidate Representative is liable for the cancellation charges set out in paragraph 9.5.

9.2 If the cancellation is made in accordance with paragraph 9.1 above, a refund of the fees paid less the cancellation charges set out in paragraph 9.5, will be issued to the Candidate or Candidate Representative within twenty-eight (28) days. Refunds will be made to the original payor using the same means of payment as initially used to pay Kaplan (unless this is not possible, in which case Kaplan will use a suitable alternate means).

9.3 In the event that Kaplan cancels the Contract for any reason (except as specified in paragraph 15.1), through no fault of the Candidate or Candidate Representative, the Candidate or Candidate Representative (whoever made the payment) shall be entitled to receive a full refund of the Assessment fees paid by the Candidate or Candidate Representative (as relevant).

9.4 The cancellation charges set out in paragraph 9.5 will not apply where a cancellation has been made in light of mitigating circumstance and dealt with in accordance with the procedure set out in paragraph 13 (Mitigating circumstances and non-attendance on medical grounds).

9.5 Cancellation Charges. Where the Candidate or Candidate Representative as applicable, cancel the Assessment after the end of the 14 day "cooling-off period", a cancellation charge of £10 will apply.

10 Assessment Time Extension

10.1 If a Candidate is not able to take the Assessment within fifteen (15) days from the date the Assessment is set up on the Kaplan Platform, the Candidate or Candidate Representative may purchase an extension of fifteen (15) days for £20 per Assessment. Extensions and details on payment processes can be requested by contacting: englishtest@kaplan.com.

PART E - GENERAL TERMS

11 Reasonable adjustments

11.1 If a Candidate believes that they are entitled to any reasonable adjustments in connection with an Assessment, the Candidate must contact the Kaplan Team by email at englishtest@kaplan.com together with the Candidate's name, email address, payment reference (if the payment for the Assessment has been made) and supporting evidence no less than five (5) business days prior to the relevant Assessment.

11.2 The application for reasonable adjustments must include relevant information which is sufficiently detailed to identify:

- (a) the nature of the disability or condition;

(b) the effect of the disability or condition on the Candidate's ability to perform the Assessment; and

(c) requested reasonable adjustments for the Candidate and how these adjustments will address the Candidate's needs.

11.3 The Kaplan Team will only accept applications for reasonable adjustments from Candidates directly and will not discuss such applications with Candidate Representatives. Where a Candidate Representative has purchased an Assessment on behalf of a Candidate, the relevant Candidate will have to submit the application for reasonable adjustment to the Kaplan Team.

11.4 Kaplan reserves the right to reject an application made in accordance with this paragraph 11, notwithstanding reasonable adjustments, if in the opinion of Kaplan the Student's disability or condition makes the Student unable or unlikely to complete the Assessment successfully.

12 Appeals, Regrades and Medical Grounds

12.1 Any Candidate wishing to appeal an Assessment due to mitigating circumstances or otherwise, must follow the [Appeals Policy](#).

12.2 Any Candidate wishing to request a regrade of their Assessment, must follow the [Regrade Request Policy](#).

12.3 Any Candidate wishing to make a claim for mitigating circumstances for medical grounds should notify the Kaplan Team without undue delay in writing using details at paragraph 17.1, including

12.4 purchase reference;

12.5 the name and email address of the Candidate; and

12.6 explanation of medical grounds for non-attendance and appropriate medical evidence.

12.7 Full Assessment fees remain payable in respect of a Candidate who is unable to attend an Assessment on medical grounds unless they are able to provide appropriate medical evidence. Medical evidence must be provided prior to any refund being made and should be sent to the contact details stated below at paragraph 17.1.

13 Intellectual Property

13.1 The Candidate grants Kaplan an irrevocable, perpetual, non-exclusive, worldwide, royalty-free, sub-licensable right to reproduce, adapt, modify, communicate and publish all content submitted or input by the Candidate on the Kaplan Platform.

13.2 Subject to paragraph 13.1, Kaplan own all intellectual property rights (including copyright) in the Kaplan Platform including results from Assessments. Kaplan may use generic, aggregated and de-identified data (including but not limited to, any data submitted by the Candidate through the Kaplan Platform and any data contained in the Candidate's Assessment results) for any purpose, including Kaplan's own research purposes or in collaboration with any partners or professionals engaged by Kaplan.

14 Candidate Behaviour and Conduct

14.1 The Candidate acknowledges and agrees that they must not:

(a) use the Kaplan Platform or any content and or services for any other purpose except as permitted by these Terms and Conditions;

(b) share the password to the Candidate's user account on the Kaplan Platform. The Candidate must notify the Kaplan Team immediately if the Candidate discovers that their user account on

the Kaplan Platform is being used by an unauthorised third party or that the Candidate has shared their password;

(c) remove or tamper with any copyright notices on the Kaplan Platform;

(d) disassemble, decompile, reverse engineer, or create derivative works or functionally equivalent to software from the Kaplan Platform;

(e) copy or download, in a systematic manner, any text, graphics, information, designs, data or other content from the Kaplan Platform, or communicate or otherwise distribute such systematically obtained text, graphics, information, designs, data or other content; or

(f) breach or circumvent or attempt to breach or circumvent the security of the Kaplan Platform (including by hacking) or engage in any other malicious, illegal or damaging behaviour in relation to Kaplan Platform;

(g) directly or indirectly, introduce or permit the introduction of any virus, worm, trojan or other malicious code into the Kaplan Platform, or in any other manner whatsoever corrupt, degrade or disrupt the Kaplan Platform; and

(h) permit or permit a third party to upload or submit any data or information to or via the Kaplan Platform (or provide Kaplan with any data or information in connection with the Kaplan Platform) nor otherwise use the Kaplan Platform:

(i) to engage in any activity which breaches any law, infringes a third party's intellectual property rights, or in manner which interferes with the rights of any other person;

(ii) to infringe the intellectual property rights (including trademarks and copyright) or Kaplan or any third party;

(iii) in any way that is defamatory, obscene, misleading or deceptive, fraudulent or otherwise illegal; or

(iv) in any way that constitutes misuse, or resale or other commercial use, of the Kaplan Platform (or any content and/or services provided or made available through the Kaplan Platform).

14.2 In the event that a Candidate breaches its obligations under paragraph 14.1, Kaplan reserves the right to determine how to respond and Kaplan shall not be responsible for the impact its decision may have on the Candidate's use of the Kaplan Platform.

14.3 The Candidate agrees to not undertake in any activity which would amount to Malpractice and/or Improper Conduct before, during or after taking any Assessment. The following is a non-exhaustive list of Malpractice and/or Improper Conduct:

(a) impersonation or any other deliberate attempt to deceive;

(b) using materials or aids which are not permitted by this Contract or Kaplan;

(c) providing and/or disseminating information about any element of the Assessment with a view to assist current or prospective Candidates;

(d) breaching any of the Assessment or proctoring rules which is supplied to the Candidate prior to taking the Assessment; or

(e) providing false information and/or making a fraudulent claim at any time.

14.4 Where there is any suspicion or allegation of Malpractice and/or Improper Conduct or the Candidate

has been found to have breached the Assessment or proctoring rules, Kaplan will mark the Assessment as invalid and inform the Candidate.

14.5 If a Candidate wishes to submit a complaint regarding Kaplan's decision under paragraph 14.4, the Candidate must follow the procedure set out in the [Appeals Policy](#).

15 Events beyond the control of Kaplan

15.1 Kaplan will not be liable in cases where Kaplan or the Kaplan Team are unable to fulfil any services in connection with an Assessment due to fire, natural disaster, act of government, terrorist attack, failure of utility service or any other reason which is beyond its reasonable control, save that, the Candidate or Candidate Representative (whoever made the Assessment payment) shall be entitled to select an alternate Assessment date or opt to receive a full refund of the Assessment fees paid by the Candidate or Candidate Representative (as relevant).

15.2 Candidates will be notified of any cancellation by Kaplan in accordance with paragraph 15.1 above, by email.

16 Liability and performance issues

16.1 Kaplan does not exclude or limit in any way its liability to either Candidates or Candidate Representatives where it would be unlawful to do so. This includes liability for death or personal injury caused by Kaplan's negligence or the negligence of its employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

16.2 Subject to paragraphs 16.3 and 16.4, where Kaplan fails to comply with any of these Terms and Conditions, save where paragraph 15.1 applies, Kaplan is responsible for loss or damage the Candidate or Candidate Representative suffers that is a foreseeable result of Kaplan's breach or failure to use reasonable care and skill in providing the services. Kaplan is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Contract was made, both Kaplan and the Candidate or Candidate Representative (as the case may be) knew it might happen.

16.3 Subject to paragraph 16.4 and except where paragraph 9.3 above applies, Kaplan's liability under these Terms and Conditions is limited to the amount of fees paid by the Candidate or Candidate Representative (as the case may be) for the relevant assessment and Kaplan is not liable to Candidates or Candidate Representatives for any indirect, special or consequential losses.

16.4 Kaplan excludes liability to the fullest extent permitted by law in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms and Conditions.

17 Miscellaneous

17.1 A Candidate or Candidate Representative may contact the Kaplan Team regarding general queries in writing to by email to englishtest@kaplan.com or by post to Kaplan International Tools for English Team, Kaplan International Colleges UK Limited, Palace House, 3 Cathedral Street, London SE1 9DE United Kingdom.

17.2 If a Candidate wishes to make an appeal concerning the outcome of an assessment or a Candidate or Candidate Representative wish to make a complaint about the services, they should contact the Kaplan Team at the details specified in paragraph 17.1.

17.3 When the word "in writing" is used in these Terms and Conditions, this includes by email.

17.4 No other person shall have any rights to enforce any of these Terms and Conditions.

17.5 If a court finds part of this Contract illegal, the rest of the contract will continue in force. Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

17.6 If Kaplan delays enforcing this Contract against a Candidate or Candidate Representative, it can still enforce it later.

17.7 These Terms and Conditions are governed by English law and the courts of England and Wales have exclusive jurisdiction in respect of any proceedings.

18 Free Kaplan International Tools for English Assessment

18.1 Where a Candidate is offered a free Assessment, Part A, Part B – paragraph 4, and Part E of the Terms and Conditions will apply. To cancel an Assessment, the Candidate can email the Kaplan Team at englishtest@kaplan.com with the applicable details specified in the Model Cancellation Form in Schedule 1.

18.2 The free Assessment is non-exchangeable, non-transferable, and non-negotiable. No cash alternative or other substitution shall be permitted.

SCHEDULE 1

MODEL CANCELLATION FORM

(Complete and return this form only if you wish to withdraw from the contract)

To the Kaplan International Tools for English Team c/o englishtest@kaplan.com or Kaplan International English Tools for English Team, Kaplan International Colleges UK Limited, Palace House, 3 Cathedral Street, London SE1 9DE

I/We [*] hereby give notice that I/We [*] cancel my/our [*] contract for the supply of the following service – Assessment on [INSERT DATE & PAYMENT REFERENCE],

Ordered on [*],

Name of Candidate / Candidate Representative,

E-mail Address of Candidate / Candidate Representative

Signature of Candidate / Candidate Representative

Date

[*] Delete as appropriate