



## Memorandum of Understanding

This Memorandum of Understanding (the "Agreement") is made on January, 12<sup>th</sup> 2021 between **University of North Dakota** (herein after "Partner") located at 221 Centennial Dr Stop 9021, Grand Forks, ND 58202-9021, and ProTrain, LLC, a North Carolina limited liability company, with its principal office at 2621 Bradford Grove Place, Raleigh, NC 27606 (hereinafter "The Company" or "Company").

**Services to Partner:** The Company shall provide Online, and Live Online Instructor Led Synchronous selected programs for educational courses/certificates/certifications, applicable course material, course instructors/mentors, learner access/support, course hosting/evaluation, and marketing support to Partner to offer continuing education training to its community. The Company will assign a Training Assessment Manager (TAM) for the Partner. Written notification in changes to personnel should be made by both parties in an expeditious manner.

Should the Partner deem appropriate, the Company would assist with market research, scheduling, supplying instructors and materials for delivery of In Classroom and Live Online Instructor Led Synchronous offerings of certificate and certification programs.

**Selection of Courses:** The Partner shall market selected programs in a prominent location on its website and in catalogs. The Partner will select courses from the Company's list of courses/programs using the Company-provided Partner Data Worksheet (PDW). On the PDW the Partner can select all the programs they wish to activate/offer for enrollment. The parties acknowledge that the Partner's failure to select courses in this manner may delay delivery to registered learners; in which the Partner assumes responsibility for all consequences of such delay. The Partner will also identify a lead and alternate Point of Contact (POC). Written notification in changes to personnel should be made by both parties in an expeditious manner.

**No Minimum Enrollment:** There shall be no minimum enrollment for any online self-paced courses offered by the Company. However, if the Partner fails to make reasonable efforts to promote the Company's online programs or fails to demonstrate reasonable growth, the Company retains the right to terminate this agreement after the Partner has been given a reasonable time to demonstrate improvement.

**Pricing & Material Confidentiality:** The cost of each course offered by The Company for the online current pricing and cost to the Partner can be found in the attached **Exhibit A Open Enrollment** which is our Online Self-Paced programs. Partner will notify the Company if they wish to participate in the My Career Advancement Account (MyCAA) Military Spouse Program. All pricing for courses under the MyCAA Spouse Program is attached as **Exhibit B – MyCAA** which is our Online MyCAA and Live Online Instructor Led Synchronous programs. The pricing for sample In Classroom courses is found in **Exhibit C – Sample In Classroom** and Live Online Instructor Led Synchronous samples are listed in **Exhibit D – Live Online Synch**. Any **In Classroom and/or Live Online Instructor Led Synchronous** programs will be jointly agreed upon before offering. **Exhibit E – Loan Program** - discusses programs that ProTrain can provide to leads thru our loan assistance program should the Partner wish the Company to handle for those leads/students to gain access to financial assistance. The Company and the Partner agree that all internal pricing and course material information will remain confidential and will not be disclosed to anyone not a party to this MOU during the term of this Agreement and for a period of two years after termination of this Agreement.

**In Classroom and Live Online Instructor Led Synchronous Pricing:** The Company will, in coordination with the Partner, provide instructor led course instruction at a competitive price. Typical In Classroom and **Live Online Instructor Led Synchronous** courses demand a minimum of 7 learners depending upon course, duration, textbook costs, instructor costs and cost to learner.





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Maximums also depend upon the type of course; whether it is a seminar, hands on with a computer or a lecture only course.

Typical maximum number of learners for intense hands-on learning with exercises cap out at about 20-25 learners, while more theory-based classes such as Project Management Exam Prep can go as high as 30 learners.

Factors such as classroom size, location, etc. will also play a part in pricing. If the same or similar classroom is used, then a definite price to learner can be determined as this is when Partner and the Company can analyze like courses in service area, and make sure that a competitive price is being offered. Should a public schedule be made with dedicated classrooms and timeframes, a schedule can be easily developed based on a matrix of room availability with consistent dates and times.

**Price Changes:** Prices are subject to change with 120 days written notice to the Partner.

**Payment and Collection:** Partner will coordinate with the Company regarding who will collect tuition.

- **If the Company collects** - The Company collects the tuition and fees from learners and pays the Partner. The Company can also offer an e-commerce process to speed and simplify tuition and fee payments. If the Company collects in an e-commerce business relationship, the Company will send a check to the Partner on a net 30 days' basis from date of enrollment.
- Any change in the collection process must be agreed to by Partner and Company in writing.

### **Refund /Extension Policies:**

**Self-Paced Online Courses** - The Company's refund policy for online courses is fair and consistent with all of its partners. A learner has 3 business days from the enrollment date to request a refund in writing via email, given that all shipped course materials (books, study guides, CDs, Self-Study Kits, Videos, etc.) are returned, unopened/unused at the learner's own expense if the learner accepts the delivery of the package. However, if the online course material has been accessed, and the reference materials have been opened, the Company will be unable to get relief from various well-known publication distributors and there will be no refund granted.

The Company's Training Assessment Manager (TAM) will make sure that every learner who enrolls for an online course has been briefed on this refund policy, and signs a Registration Form acknowledging the refund policy, that is kept on file with the Company.

The refund policy is additionally stated on the Welcome Letter sent out on behalf of the Partner with every online enrollment.

If a learner does not complete their course by the end-date on their welcome letter, there will be additional fees for extended access. Extensions must be requested within thirty (30) days after the original end date of the program. Extension requests made past this date cannot be honored.

**In Classroom & Live Online Instructor Led Synchronous Courses** - There can be no refund for the course, once the first class has been concluded; or if any course material, including the eBook, has been accessed. If extenuating circumstances exist, case by case situations will be reviewed by





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The Company. If a refund is issued, the refunded amount (minus a \$25 processing fee deduction) will be dependent upon books being returned in excellent condition (i.e. no writing, missing pages; ripped or damage to pages and/or binding).

**Waiver of Fee:** The Company agrees to waive or reimburse its fee for any learner who drops a Company online course after enrollment but before completion, and gives a valid/reasonable explanation in writing of his or her dissatisfaction with the course. The learner dropping the online course shall do so in compliance with the Partner's stated add/drop policies. Failure of the learner to drop the Company's online course in compliance with these policies shall nullify the Company's waiver of its fee as set forth by this paragraph. The Partner agrees to provide the Company with a copy of its stated add/drop and refund policies. In no event shall a learner request a drop/refund from either the Partner or the Company if the Company certifies or provides proof of the learner's successful completion of the online course.

### **Learner Payment Plan Options:**

**In Classroom and Live Online Instructor Led Synchronous Programs:** The Company will offer the Partner a payment plan option with 60% of retail price in down payment that allows learners the ability to spread payments over a pre-set period of time, as opposed to paying the full amount up-front. The Company is providing this payment plan to learners to help make their training goals more affordable and attainable. This payment plan will allow the Partner's learner to make affordable payments for In Classroom programs prior to enrolling in class and full payment prior to the class ending date. Should the Partner wish to allow the Company to provide payment plans, the Company will pay the Partner upon final payment, Net 30 days. If the learner defaults and is removed from class, the Company and the Partner will work on a case by case basis to share in tuition received to date. It is the Company and the Partner's desire to receive full payment prior to the start of the class if possible.

**Online Self-Paced:** The Company will offer the Partner a payment plan option with 40% of retail price in down payment that allows learners the ability to spread payments over a pre-set period of time, as opposed to paying the full amount up-front. The Company is providing this plan to learners to help make their training goals more affordable and attainable. This payment plan will allow the Partner's learner to make affordable payments for Online Self-Paced programs prior to being enrolled in the course. Should the Partner wish to allow the Company to provide payment plans, the Company will pay Partner upon final payment, Net 30 days.

Should the Partner use a 3<sup>rd</sup> Party registration system and the Partner wants to utilize the payment plan options for their online self-paced learners, then the Partner will need to use the ProTrain Registration System (PRS) at no charge for those students for proper tracking of the learners.

**Payment Plan Refund Policy:** Learners may withdraw from their learning program for any reason up to 1 week prior to the start of program. In this case, the learner's payment plan agreement shall be rescinded. If the payment plan has begun, a non-refundable administrative fee of \$25.00 will be assessed and remaining funds will be returned to payer in check form by mail. The Partner will receive no money in this case as none was received by the Company.

**Course Changes:** The Company will notify the Partner of any changes to their online course offerings (added/deleted) to include the new course offering price information. If the Partner has a learner enrolled in the course named for deletion, the learner will be given the choice to stay/complete that course, ask for a refund, or be placed in a similar or updated course. Any refund in this instance would be made within 30 days of a course cancellation. The Company will continue





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to offer "best of breed" courses and will continually work with content providers to offer the best/current learning content. Please be advised that upgrades and new versions periodically occur for most content. The Partner may offer all or any portion of the total online courses the Company offers. Should Partner house the Company course outlines on their own website or registration system other than ones that support the Company course content, the Partner is responsible for updating course outlines upon notification of course changes via company newsletter and communications with the Partners assigned TAM and Company Business Development Manager. The Company cannot be held responsible for outdated material housed by the Partner.

**Ownership of Intellectual Property and License:** The parties agree that all intellectual property which comprise a part of all programs to include all copyrightable material, marks, logos and trade names used by the Company and provided to Partner under this agreement shall be deemed a "work for hire" as defined by the Copyright Act, 17 U.S.C. § 101, and all copyrights thereto shall be owned by the Company. Programs or any portion thereof cannot be reproduced, duplicated, copied, sold, resold, or otherwise exploited for any commercial purpose without prior written consent of the Company.

### **Registration Process:**

- The Company will create an internal website for the Partner:  
<https://schoolname.theknowledgebase.org/> to track Online and Live Online Instructor Led Synchronous and In Classroom learner enrollments from the Partner. Through the customized and branded Partner website, Partner administrators will have access to the Company's ProTrain Registration System (PRS). This website (PRS) can be made private or public with the Partner's approval. The Company can support third party registration systems should the Partner require.
- The functionality allows Partner administrators, with appropriate privileges, the ability to log into the Partner management portal and generate their learners' and course enrollment information themselves for the courses the Company offers. The Company will provide learner progress reports on a monthly basis. Company checks learners' progress monthly against certain key trigger points for the learners' success. Progress Reports (PRs) are sent to the Partner, to the learner and any other designated official monthly. Should the learner be falling behind in their studies, they are sent an email inquiring why and motivating them. The Company registrar calls any month that the learner is falling behind.
- Alternatively, learners and Partner administrators could also request that a learner progress report be generated for them by the Student Services team ( [REDACTED] ) and provided to them as needed. The estimated turn-around for such request is normally twenty-four to forty-eight business hours or less.
- The Company TAM will answer any questions the Partner's potential learner might have before registration. Partner may have the option for Company not to contact their learner leads.
- The Company will provide learner enrollment / course access within 24 - 48 business hours or less in most cases. In each enrollment process, the Company will verify the method of payment/ tuition assistance/ payment voucher prior to enrollment and Welcome Letter being sent to learner.
- The Company TAM will brief the prospective learner on the Refund Policy and have learner acknowledge/ sign the School/Partner Registration Form. Please note, School/Partner





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Registration form can be customized to meet the Partner's requirements of additional needed data such as date of birth (DOB) and other such necessary items that need to be added or deleted. It is crucial for the Company and Partner to have a signed acknowledgement and commitment from the learner to avoid any potential future misunderstandings of policy. This form ensures that the Partner supports, and that learner fully understands and agrees to the policy.

**Marketing:** The Company will provide the Partner with program descriptions and marketing collateral to use in social media, catalogs and flyers. The Company has already designed several marketing flyers, brochures and ads for the Partner's use. These marketing materials include several editable flyers and ads that can reduce marketing costs. The Company can provide the marketing materials in the Partner PRS website, provided by the Company, and be found at an Admin tab area, so that the Partner's authorized personnel can access these editable files, add contact info, update, and publish. The Company grants the Partner permission, if the Partner chooses to use the Company's name, qualifications, and course descriptions in its advertising or promotion of Online Self-Paced, In Classroom, or Live Online Instructor Led Synchronous courses that the Partner has chosen to offer their learners.

The Partner agrees to dedicate at least one-half page or more for an ad dedicated to the Company's programs in their catalog or similar publication each quarter or semester. The Company will assist the effort by providing templates if the Partner requires help. If the Partner does not use a catalog or publication as part of the Partner's normal marketing procedures, the Partner agrees to ensure that the Company's programs are listed in a prominent place on their website.

The Company Business Development Manager and TAM will work with Partner to assist with ways to help gain approval and market tuition assistance (TA) programs like the Workforce Investment Opportunity Act (WIOA) for unemployed, MyCAA for military spouses, various means of TA for military and corporate, as well as, Veterans benefits (VA), etc. for courses offered.

If the Partner wants to market programs with the MyCAA program, the Partner will be required to identify the Point of Contact (POC). The POC would act as the Universal Account Controller (UAC) for administrative coordination with the DoD AI Portal. The Partner can retain the UAC rights or can delegate those administrative rights to the Company. Administrative rights that the UAC has responsibility for include: getting approval for the Partner to be in the MyCAA program; adding courses to be offered into the AI Portal; keeping the UAC password updated in the AI Portal; billing DoD for courses approved for Military Spouses; and posting final course grades in the AI Portal when the spouse completes a course.

**Certificates of Completion:** The parties of this MOU agree and understand that any learner that successfully completes a program (Online, In Classroom or Live Online Instructor Led Synchronous) is to receive a Certificate of Completion issued by the Partner or the Company if desired by the Partner. The Partner will decide if the Company will use only the Partners certificate or a co-branded Certificate of Completion. The Partner and/or Company will deliver a Certificate of Completion to any learner completing a program in a timely manner via a PDF in an email.

**Remedies:** In the event that the Partner does not perform any of its obligations under this Agreement properly or in a timely manner, the Company shall have any remedy available at law or equity.

**Independent Contractor:** The parties shall at all times be independent contractors and shall so represent themselves to all third parties. Nothing in this Agreement or the parties' performance





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hereunder shall be deemed to establish an employment relationship or joint venture or partnership relationship between the Partner and the Company or employees of the Company.

**Terms of Confidentiality and Non-Competition:** The Partner understands, supports and fully acknowledges that all of the Company's Employees have agreed that they shall not, during the term of their Employment Agreement and for a one-year period subsequent to termination of their Employment Agreement regardless of the party that terminates,

(i) compete with the Company in the rendering of adult continued educational courses (ii) shall not solicit any then current or former customer of the Company with respect to contracts and services of the same nature as those performed by the Company for such customer, or (iii) attempt to directly or indirectly disrupt, divert or interfere with any of the Company's business relationships with its current or former customers, or with any potential customer to whom the Company has submitted a proposal to perform services within the twelve-month period preceding the termination of their Employment Agreement.

Furthermore, during the term of the Employment Agreement and for the one-year period following termination of the Employment Agreement, the Company Employee shall refrain from inducing, encouraging or supporting any employer or agent of the Company to terminate employment or their relationship with the Company or to violate or fail to honor any of the terms of such employee's employment relationship with the Company.

Company and Partner both acknowledge that by the nature of this Agreement, confidential information will be shared between them, including but not limited to, the products, and all related materials and instructions, as well as information related to the content providers, that are the intellectual property and confidential business information of Company. In consideration of the nature of these shared confidences, Company and Partner agree that neither shall use nor attempt to use any of the confidential business information of the other without the express written consent of the other party. Partner understands that the overall intent of this confidential business information is safeguarded in order to prevent any current content provider of the Company from going directly to the Partner, in a manner which is clearly meant to bypass the original Company – Partner business arrangement for continuing education course material except for any existing content providers.

Company and Partner further agree that Company and the Partner could be irreparably harmed by any breach of these provisions and that damages alone will be an inadequate remedy for any such breach and that Company and Partner shall be entitled to injunctive relief in addition to any other available remedies for a breach hereof.

**Representations/Counterparts:** Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly authorized to do so, on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder.

**Entire Agreement-Survival:** This Agreement, including any Exhibits, states the entire Agreement between the parties and supersedes all previous contracts respecting the subject matter hereof. This Agreement may only be amended by an agreement in writing executed by the parties hereto.

**Term and Termination:** This Agreement shall commence upon the Effective Date and shall remain in place unless terminated by either party upon sixty (60) days written notice of such intent delivered to the other party. Upon the termination of this Agreement, Partner shall immediately cease using any materials generated or produced by the Company. The termination of this Contract shall not affect any amounts owed by Partner to the Company or by the Company to



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Partner pursuant to this Agreement. The Company will continue to ensure all responsibilities to the learners under active enrollment are fully supported through the entire learning period of the course to include technical support, progress reports, certificate upon completion and exam coordination (in part of that learner's course package).

In witness thereof, the parties hereto have executed this Agreement as of the day and year first written, as demonstrated by the signatures and date below.

**[Partner Name]:** University of North Dakota

**By: Printed Name** Lynette Krenelka

**Signature:**

DocuSigned by:  
A handwritten signature in black ink that reads 'Lynette Krenelka'.

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Executive Director, TTaDA

**Title:**

**Date:**

1/21/2021

**By: Printed Name** Jeffrey Holm

**Signature:**

DocuSigned by:  
A handwritten signature in black ink that reads 'Jeffrey Holm'.

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Vice Provost

**Title:**

**Date:**

1/21/2021

**[Company]** ProTrain, LLC

**By:** Betty L. Gardner

**Signature:**

A handwritten signature in black ink that reads 'Betty L. Gardner'.

**Title:**

Chief Executive Officer

**Date:**

12 January 2021