

## **APPENDIX C-1: TESTING ON A COMPUTER- Terms, Conditions and Release of Liability for Laptop Testing at an In-Person Examination**

By completing an application for admission by examination to Tennessee, an applicant taking an in-person examination agrees to test by laptop computer unless the applicant elects to HANDWRITE the exam. The Software limits access to anything other than the word processing function provided by the Software, and facilitates essential administrative functions.

To test by laptop, you must register for and download the secure examination testing Software on your laptop computer. All applicants will be sent an email from the Software provider to register for laptop testing. An applicant wishing to opt for handwriting the examination will not register or download the Software.

Taking the examination on a laptop requires a software license fee of \$100, payable directly to the Software Provider at the time of online registration and prior to download of the Software. The Software registration fee is a NON-REFUNDABLE fee. You must apply for laptop testing and pay the registration fee each time you take the exam. The license is a one-time test license; previously installed versions will not work for the current bar examination.

In order to test by laptop, you must:

- Review items A. Terms, Conditions for Use of Laptop, below, for the UBE in Tennessee;
- Review and agree to the terms in B. Release of Liability, below; and
- Download the required Software during the open registration dates and pay the required fee.

### **A. Terms and Conditions for Use of Laptop**

By downloading the Software, you certify that you have read, understand, and agree to the following:

- (1) You must pay the fee and install the Software during the specified dates. If you fail to download and pay for the Software during the registration period, you will be required to handwrite the exam.
- (2) If you withdraw from the examination after downloading the Software, you will not receive a refund of the fees. If you wish to write the examination but registered for testing by laptop, you must notify the TBLE in writing no later than the 15<sup>th</sup> day of the month of the examination (February 15 or July 15).
- (3) If you are requesting non-standard testing, you are required to complete the laptop registration and download the Software unless you elect to handwrite the exam.
- (4) Your laptop must meet the System Requirements. Please see the ExamSoft website at <https://bar.examsoft.com/system-requirements/>.
- (5) You must test the Software by following the vendor's instructions for taking a mock or practice examination to test the Software's compatibility with your computer, to make sure

your computer passes the security check, and to familiarize yourself with the Software and keyboard functions.

- (6) Limited technical support will be provided at the bar examination test site and your Software must be downloaded prior to entering the testing area.
- (7) You are NOT allowed to use an iPad or other tablet-type device, external keyboard or external mouse, whether wired or wireless. If you are found with these items during the exam, you will be dismissed from the exam.
- (8) If you do not own the laptop you intend to use, you must verify that there are no restrictions in place for that laptop which will prevent you from downloading and running the Software for the UBE in Tennessee. You must verify that you will have access to the laptop after the examination has concluded and that you will not delete the Software until grades are released.
- (9) You are not permitted to take the bar examination using your laptop battery, although it must be fully charged on the day of the exam; electrical hookups will be provided in the laptop testing area.
- (10) You will use your laptop only for the MPT and MEE portions of the UBE in Tennessee.
- (11) Should your laptop malfunction on the day of the examination, you will be required to handwrite your examination answers in answer booklets for the remainder of the exam. In the event of a laptop malfunction, every effort will be made to retrieve your essay answers from the laptop to the point of malfunction. Such attempts are usually successful; however, in the case of a catastrophic failure of the laptop, you understand that your answers may not be recovered and this information might not be available until a week or more following the examination after all options for recovery are exhausted.
- (12) You are required to be experienced working with your laptop computer, including the process of saving a file to a USB drive or uploading a file via the internet. You will need to find access to an internet connection after the examination in order to upload answers to the TBLE as internet connections at the examination locations may be insufficient to handle the volume of uploads after the exam.
- (13) You understand that, for standard and time and one-half testing, the deadline for uploading answers is 9:00 p.m. local prevailing time based on your examination testing location (Knoxville – Eastern time; Nashville and Knoxville – Central time) on the last day of standard or time and one-half testing (Wednesday). For double-time testing, the deadline is 6:00 p.m. local prevailing time on the last day of double-time testing.
- (14) You understand that for any answer not uploaded by the deadline you will receive a score of zero on the missing answer(s).
- (15) You must follow the instructions and type or write within the designated tabs or books. All editing will be done on your computer screen. The TBLE will not search for your answers or make changes to incorrectly formatted or numbered MPT or MEE answers resulting from failure to follow the laptop testing instructions (examples of failures include, without limitation, typing an answer in the wrong space or deleting, adding, editing or renumbering the preloaded dividers).

(16) Your answers will be uploaded to a USB drive provided by the Software vendor or uploaded to a website, printed, and provided to the TBLE for grading.

(17) Your uploaded MPT and MEE answers will be printed out after the examination and will be given to the grader assigned to grade the question indicated on the cover sheet of the answer. If your answer does not match the question or is blank, you will receive a zero. You acknowledge that you will not receive a printed or digital copy of your essay answers.

(18) You must remove your laptop from any computer bag, case, backpack, sleeve, hard case cover or other carrying case (collectively, "laptop case") prior to the entering the examination room and store the laptop case at the designated bag drop area. Laptop cases may not be accessed during any testing session.

(19) You understand that laptops MUST be left in the testing room during the lunch break. The testing room will be staffed or locked.

(20) You understand and agree that the TBLE does not assume responsibility for any computer equipment.

#### **B. Release of Liability**

By downloading the Software, Applicant requests permission from the Tennessee Board of Bar Examiners ("TBLE") to take the MPT and MEE portions of the UBE in Tennessee by laptop computer ("computer") in lieu of handwriting my answers and acknowledges that the use of Applicant's computer is subject to the following terms, conditions, and warnings, which Applicant accepts:

- (1) Applicant certifies that Applicant has carefully read the Terms and Conditions for Use of Laptop ("Terms and Conditions") above and that Applicant fully understands and accepts the contents.
- (2) Applicant understands and accepts that the TBLE has exclusive authority to determine Applicant's eligibility to use a computer to answer the examination and that download of the Software does not constitute authorization from the TBLE to use a computer during the examination and that, at any point, the TBLE can require that Applicant handwrite the examination.
- (3) Applicant certifies that Applicant is aware that the TBLE offers the alternative of taking the essay portion of the examination by computer or by handwriting, and that Applicant has voluntarily chosen to use a computer.
- (4) Applicant understands and accepts that the authorization to use a computer during the examination implies that Applicant will have to use a computer provided by Applicant, and Applicant certifies that it will be available before, during, and after the administration of the bar examination. Further, Applicant authorizes the TBLE staff to inspect the provided computer before, during, and after the examination.
- (5) Applicant certifies that the provided computer meets the requirements and the specifications set forth in the Laptop Instructions and on the website at <http://www.examssoft.com/tnbar>.
- (6) Applicant agrees to install the testing Software ("Software") on the provided computer. Applicant understands and accepts that the TBLE does not guarantee the Software, its use or its proper functioning. Applicant agrees to install the testing Software ("Software") on the provided computer. Applicant understands and accepts that the TBLE does not guarantee the

Software, its use or its proper functioning. If Applicant does not own the laptop to be used for the exam, Applicant understands that there can be no restrictions in place for the laptop which will prevent Applicant from downloading and running the Software for the UBE in Tennessee. Applicant certifies that Applicant will have access to the laptop after the examination has concluded and will not delete the Software until grades are released.

- (7) Applicant understands and accepts that the authorization to use the laptop computer during the examination entails a Software license fee that will pay to the Software provider at the time and in the manner established by that company. Applicant acknowledges and accepts that said fee is nonrefundable and that it is separate from and in addition to the bar examination application fee required by the TBLE.
- (8) Applicant understands that anti-virus software that is not on the list of acceptable [anti-virus programs](#) must be disabled during the examination for the Software to run. Further, Applicant assumes the obligation to keep the Software installed on the provided computer until after the results of the bar examination have been released.
- (9) Applicant assumes the obligation to ensure that the laptop computer to be used on the day of the examination is in good working order.
- (10) Applicant warrants that Applicant has sufficient experience and practice using the computer. Applicant agrees to have sufficient experience and practice with the Software before taking the exam, including taking the mock exam.
- (11) Applicant understands that the TBLE will not search for answers or make changes to incorrectly formatted or numbered answers to the MPT or MEE questions resulting from failure to follow the laptop testing instructions, including typing an answer in the wrong space or deleting, adding, editing or renumbering the preloaded dividers. The answer, as printed after the examination, will be given to the grader assigned to grade the question indicated on the cover sheet of the answer. If the answer does not match the question or is blank, Applicant will receive a zero.
- (12) Applicant agrees to use the Software according to the instructions and under the terms and conditions imposed by the Software provider and in accordance with the instructions provided in the Laptop Instructions.
- (13) Applicant acknowledges that the use of the computer carries with it certain technological risks, including but not limited to computer or Software malfunction or power failure. Applicant accepts that by requesting to use a computer to answer the exam, Applicant is assuming all these risks.
- (14) Applicant agrees not to delay and/or prevent commencement of the examination because of any problem or difficulty arising from Applicant's lack of skill or preparedness or from technical problems resulting from computer or Software malfunction.
- (15) Applicant accepts that if there is a problem of any kind that would make it difficult or prevent use of the computer to answer the exam, at the request of the TBLE staff, Applicant will begin and/or continue to handwrite answers in the answer books to be provided by said staff, and that Applicant will remain in the same seat. Applicant understands and accepts that the decision to handwrite the answers is final.

- (16) Should Applicant experience any problem with the use of the computer, Applicant is required to immediately notify the TBLE staff and to assist them in every way in an attempt to retrieve Applicant's answers, including placing the computer used at their disposal. Applicant understands and accepts that there is no guarantee that such answers will be totally or partially recovered and understands and accepts that in the event that any or all of Applicant's answers are lost or irretrievable, only those portions retrieved, if any, will be graded. Applicant understands and accepts that there is a risk that answers may be totally or partially lost and/or irretrievable due to problems related to the use of the computer. However, Applicant has decided that the convenience of typing answers on the computer outweighs these risks, which Applicant accepts without reservation of any kind.
- (17) Applicant understands and accepts that should Applicant experience any problems related to the use of the computer, Applicant is not entitled to receive additional time or any other accommodation or consideration for that reason.
- (18) In case Applicant does not achieve a score sufficient for admission to Tennessee on the UBE, Applicant understands and accepts that Applicant is not entitled to request or be granted any reconsideration or modification of results due to problems related to the use of the computer to answer the examination and that the only recourse available for a score that does not meet the minimum required score in Tennessee is re-examination.
- (19) Applicant understands and accepts that the computer must remain at Applicant's seat during the entire MPT and MEE portions of the examination, including the lunch break, until the last MEE session is finished, even if Applicant has to handwrite my answers. Applicant understands and accepts that Applicant may not unplug the computer at any time, even if finished with the examination before time is called by the TBLE, unless authorized to do so by authorized TBLE staff. Applicant understands and accepts that if Applicant unplugs, turns off, and/or removes the computer from the testing area before the end of MPT or MEE testing without being authorized by the TBLE staff, Applicant's answers to the MPT and MEE questions will not be graded and, consequently, will be treated as blank answer books.
- (20) Applicant understands and accepts that the Software provider and its representatives do not represent the TBLE in matters related to TBLE procedures and policies.
- (21) Applicant understands and accepts that Applicant has an obligation to be in the pre-assigned seat at the time noted in Applicant's Seating Assignment for the morning session and at 1:15 p.m. for the afternoon session for the purpose of making the necessary arrangements to use the computer and the Software. Applicant understands that if late, Applicant may not be allowed to use the computer, and, if not allowed to use the computer, must handwrite the answers and remain in the same pre-assigned seat.
- (22) Applicant understands and accepts that after Applicant finishes the exam, Applicant will follow the instructions of the authorized staff in order to upload the answers to a web address. Applicant understands and accepts that if Applicant fails to upload answers by the deadline, the answers will not be graded.
- (23) Applicant understands and accepts that Applicant is not authorized to make any copy of the answers or to use any data storage device to record questions or answers. If Applicant is found to have copied or stored questions or answers, none of Applicant's answers to the MPT or MEE questions will be graded and, if discovered during the examination, Applicant will not be allowed to continue the examination.

- (24) Applicant understands and accepts that once Applicant enters the testing area that accessing the Internet and/or opening or examining any program, file or document other than the Software is a violation testing protocol and could result in the Applicant being required to appear before the Board. Further,
- (a) If Applicant is caught by a Proctor or TBLE Staff in any program other than the Software after entering the testing area, Applicant will be dismissed from the exam.
  - (b) Additionally, upon suspicion that Applicant has examined any unauthorized material in the testing area before or during the exam, the computer will be immediately confiscated and Applicant will be required to handwrite answers. Applicant understands and accepts that the computer will not be returned until after the TBLE has examined it, and under no circumstances will it be returned during the exam.
  - (c) If Applicant is found to have examined any unauthorized material during the exam, Applicant's examination will not be graded and Applicant will have to appear before the Board.
- (25) Applicant understands and accepts that the Tennessee Supreme Court of Tennessee and the TBLE, its members, representatives, agents, proctors, employees and staff, in their official and personal capacities, assume no liability for the difficulties, mishaps and/or problems that may arise from the use of a computer to take the bar examination.
- (26) Applicant hereby releases, discharges, and exonerates the Tennessee Supreme Court and the TBLE, its members, representatives, agents, proctors, employees and staff, in their official and personal capacity, from any and all contractual and/or noncontractual [tort] liabilities of every nature and kind arising from Applicant's decision to use a computer to take the bar examination, including, without being limited to, any damage caused to the computer by the installation and/or use of the Software;**
- (27) Applicant understands and accepts that Applicant has no right to sue and/or file a claim and that Applicant will not sue or file any claim against the Tennessee Supreme Court, the TBLE, its members, representatives, agents, proctors, employees and staff, in their official and personal capacity, for any difficulty, problem or event arising from Applicant's decision to use a computer during the exam, and that download of the Software constitutes acceptance of the terms and sufficient grounds for summarily dismissing with prejudice any claim that Applicant may file in connection with Applicant's decision to use a computer to take the bar exam; and**
- (28) Applicant agrees to indemnify the Tennessee Supreme Court, the TBLE, its members, representatives, agents, proctors, employees and staff for the costs, expenses, and attorney's fees, and for the damage resulting from any claim Applicant may file against them in connection with Applicant's decision to use a computer to take the bar exam.**
- (29) Applicant understands and accepts that Applicant will be dismissed from the examination for any violation of these terms, including using an external mouse or keyboard, whether wired or wireless, using an iPad or tablet, or having a computer case, sleeve or other bag at the examination table.**