

# Complete Terms of Service Agreement

Please agree to the following Terms of Service before gaining access to EPC.

## Terms of Service:

Last Updated October 19, 2017

## EPC ACCESS AGREEMENT

This EPC Access Agreement ("Agreement") applies to the E-rate Productivity Center and all E-rate Productivity Center-related systems and networks (collectively "EPC") provided by the Universal Service Administrative Company ("USAC"). Appian Corporation's ("Appian") business process management software suite and associated documentation (collectively the "Software") is a part of EPC. EPC was created in support of the federal Universal Service Schools and Libraries Support Mechanism (also known as the "E-rate Program") that helps entities such as eligible schools and libraries obtain telecommunications at affordable rates.

USAC allows four types of subscribers to access and use EPC, each of which is a "Subscriber" for purposes of this Agreement: (1) applicants ("Applicants"), (2) service providers ("Service Providers"), (3) consultants ("Consultants"), and (4) United States government agencies ("Agency" or "Agencies"), excluding the Federal Communications Commission. This Agreement defines the relationships between both USAC and (i) the Subscriber, and (ii) each person who accesses EPC as authorized by and on behalf of the Subscriber. Both Subscriber and each person who accesses EPC as authorized by and on behalf of the Subscriber are referred to as "you" (and variations such as "your") in this Agreement.

BY ACCESSING OR USING OR REGISTERING FOR ACCESS TO EPC AS A REPRESENTATIVE OR EMPLOYEE OF A SUBSCRIBER, YOU CONFIRM THAT: (1) YOU ARE AT LEAST 18 YEARS OLD; (2) YOU WILL BE ACCESSING AND USING EPC ONLY WITHIN THE UNITED STATES, INCLUDING ITS VARIOUS STATES AND TERRITORIES (COLLECTIVELY REFERRED TO AS "UNITED STATES"); (3) YOU HAVE READ THIS AGREEMENT; AND (4) BOTH YOU AND THE COMPANY, ORGANIZATION OR ENTITY ON WHOSE BEHALF YOU ARE ACCEPTING THIS AGREEMENT AND/OR ACCESSING OR USING EPC, ACCEPT THIS AGREEMENT. **IF YOU CANNOT CONFIRM EACH OF (1) THROUGH (4) ABOVE, THEN PLEASE CLICK "DECLINE" BELOW, AND YOU MUST NOT ACCEPT THIS AGREEMENT AND YOU MAY NOT ACCESS OR USE EPC.**

USAC may amend this Agreement at any time, with or without notice to you, by posting revised terms at <http://usac.org/sl/tools/apply-to-erate/epc.aspx>. You can determine when this Agreement was last revised by referring to the "last updated" legend at the top of this Agreement. Your continued access to or use of EPC after USAC has posted revised terms signifies your acceptance of such revised terms. No other amendment to or modification of this Agreement will be binding unless in writing and signed by USAC's duly authorized representative or posted to the site by USAC's duly authorized representative.

### 1. Access and Use; Restrictions and Rights.

1.1 Right to Access and Use. Subject to the terms and conditions of this Agreement, USAC will make EPC available to you for access within the United States solely for the Authorized Purpose, defined below.

(a) "Authorized Purpose" means use of EPC by your Authorized Users (defined in Section 1.2) to electronically enter data and certify forms, edit forms, revise forms, update forms, respond to inquiries from USAC, request assistance, file appeals, request changes, check the status of requests, retrieve historical information, upload documents, and submit customer service cases, in each case solely for administering the Subscribers' participation in the E-rate Program in accordance with 47 C.F.R. Part 54, Subpart F. Subscribers that are Applicants or Service Providers may also designate Consultant Authorized Users' (defined in Section 1.2) account functions in EPC to act on behalf of the Applicant or Service Provider.

(b) You may be presented with warning notices when you take certain action such as accessing EPC or electronically signing a form. The contents of the notices are a part of this Agreement and are incorporated herein by reference as if included in their entirety. You must accept and comply with the terms and conditions of the notices. You acknowledge that USAC may modify EPC and/or the form or content of notices at any time and for any reason or no reason with or without notice to you. USAC is not responsible for any costs or expenses you may incur as a result of any modifications to EPC or notices.

### 1.2 User Accounts.

(a) Agency users must establish a unique EPC account for each employee of the agency seeking to access EPC in furtherance of the Authorized Purpose each of whom shall be, for purposes of this Agreement, an "Authorized User" of the Agency.

(b) The "Administrator" is authorized by the Applicant, Service Provider or Consultant to have administrative rights for the Applicant's, Service Provider's or Consultant's access to EPC in furtherance of the Authorized Purpose. The Administrator may in turn authorize employees and independent contractors of its organization having a need to access EPC in support of the Applicant's, Service Provider's or Consultant's performance of the Authorized Purpose, to access EPC for the Authorized Purpose. Each such person is an "Authorized User" of the Applicant, Service Provider or Consultant (and the Administrator is also an "Authorized User" of the Applicant, Service Provider or Consultant). The Administrator shall register Authorized Users by name, and will designate each Authorized User for a particular account function (e.g., full, partial or view only) as permitted within EPC. The Administrator may change Authorized Users' registrations and designations from time to time. If an Applicant, Service Provider or Consultant appoints a replacement Administrator, either the original Administrator must promptly, but in no event more than one business day, update EPC, or the Applicant, Service Provider or Consultant must contact USAC's Client Service Bureau at (888) 203-8100 to transfer administrator rights to a new administrator or deactivate the original Administrator and create an account for the new Administrator (requests to create a new Administrator account may be required to be in writing).

(c) USAC will assign each Authorized User a user name and password, and no one else may use this information to access EPC. You represent and warrant that all information you submit when you create a user account is accurate, current and complete, and that you will keep your account information, accurate, current and complete. You may not disclose your user name and password to any other party. You are solely responsible for (1) maintaining the

confidentiality of the information you hold for your account, including passwords, (2) for any and all activity that occurs under your account, and (3) restricting access to your computers. You may not use another person's user name and password at any time, and you shall notify USAC's Client Service Bureau immediately at (888) 203-8100 if you suspect any unauthorized use of a user name or password. If you suspect any unauthorized use of your user name or password, in addition to notifying USAC, you must also (1) notify the Administrator to deactivate your user name and password or (2) change your password. Authorized Users may access and use EPC solely in furtherance of their respective Subscriber's performance of the Authorized Purpose. The Subscriber and Administrator are responsible for the management of Authorized Users.

(d) Commencing upon the date you receive an initial user name and password from USAC and are able to access EPC through a connection to the Internet, USAC grants you a non-transferable, non-sublicenseable, nonexclusive license, to access EPC via a password over the Internet within the United States of America.

(e) For Authorized Users with appropriate rights in EPC, your user name and password enables you to electronically sign online forms. By logging in to EPC with your user name and password, and clicking the "Certify" button at the end of a completed online form and the "Yes" button at the end of the warning notice concerning electronic signatures, you are electronically signing and certifying that form. It is your responsibility to submit forms timely and accurately and to ensure that USAC has received your form. False statements on forms may result in civil liability and/or criminal prosecution.

1.3 Data and Privacy. Certain features of EPC may allow you to post, submit, store and manage information ("E-rate Program Data"). By submitting E-rate Program Data to EPC, you represent and warrant to USAC that you have all necessary rights, permissions, licenses and/or consents to do so. You acknowledge that your access to, and use of, EPC depends on applicable federal, state and local laws, rules and regulations and that the laws, rules and regulations can and will change over time. You acknowledge that USAC will monitor and track your activity with respect to EPC, and you consent to such monitoring and tracking, and USAC will treat such information, along with E-rate Program Data, all in accordance with USAC's privacy policy on USAC's website and applicable federal laws, rules and regulations. Additionally, in compliance with USAC's privacy policy, USAC may provide information to the appropriate law enforcement officials. You waive any claim you may have against USAC relating to its use of the information identified in this section 1.3, except to the extent such claim is caused by USAC's willful misconduct.

**You must notify USAC immediately at 1-888-203-8100 if you know or have reason to believe that any person or entity has accessed or used EPC without authorization, has used EPC other than for the Authorized Purpose, or has violated any applicable laws with respect to the person or entity's use of EPC. Additionally, you must report to USAC immediately, and use reasonable efforts to stop immediately, any copying or distribution of the Software in violation of this Agreement that you are aware of or suspect.** Subscribers and Administrators shall immediately terminate an Authorized User's access to EPC if such Subscriber and/or Administrator, as applicable, knows or has reason to believe that such Authorized User has breached this Agreement or violated any applicable laws with respect to its use of EPC. If a security incident occurs with respect to EPC, you shall cooperate with USAC in its investigation of such incident and provide USAC with all relevant information.

1.4 Restrictions. You may not use, or allow, assist or permit others to use, EPC in any manner other than as expressly allowed in this Agreement. You may not: (i) reverse engineer, decompile, disassemble, re-engineer or otherwise create or attempt to create or permit, allow, or assist others to access, determine or create the source code of EPC (except as and only to the extent any of the foregoing restrictions may be permitted by the licensing terms governing use of any open sourced components included in the Software); (ii) copy, modify or reproduce, in whole or in part, or create any derivative works of EPC (except with respect to E-rate Program Data); (iii) attempt to gain unauthorized access to EPC; (iv) re-distribute or sublicense the Software, or any part thereof, to any other party, (v) create Internet "links" to EPC, (vi) operate the Software on a service bureau basis, or (vii) use EPC in whole or in part for any purpose except as expressly allowed under this Agreement (including without limitation allowing any distribution or sublicense of EPC or other access to EPC by any person or entity that is not an Authorized User in furtherance of the Authorized Purpose). In using EPC, you may not: (a) falsely state or otherwise misrepresent information; (b) use or provide any fraudulent, misleading or inaccurate information; (c) defame, abuse, harass, or violate the rights of others, including without limitation others' privacy rights or rights of publicity; (d) access or use (or attempt to access or use) another user's account; (e) transmit any viruses, worms, trojan horses, malware, or other items of a destructive nature; (f) "frame" or "mirror" any portion of EPC; (g) use any robot, spider, site search/retrieval application or other manual or automatic device or process to retrieve, index, "data mine" or in any way reproduce or circumvent the navigational structure or presentation of EPC; (h) use EPC for illegal activity; or (i) probe, scan or test the vulnerability of EPC, breach the security or authentication measures on EPC, or take any action that imposes an unreasonable or disproportionately large load on the infrastructure of EPC. If you are located in a jurisdiction that permits limited reverse engineering as a matter of law, and despite accepting contract terms to the contrary, you may perform limited reverse engineering, provided you first notify USAC's Client Service Bureau at 1-888-203-8100 of your intent to reverse engineer the Software, and provided the reverse engineering is limited to the extent permitted by the applicable law.

1.5 Reservation of Rights. As between the parties, USAC and its licensors will at all times solely and exclusively own all rights, title, and interest in and to EPC and all content in the foregoing, and all intellectual property or other rights in the foregoing, including but not limited to any and all modifications and derivative works. No licenses are granted by implication or estoppel, and all rights not expressly granted by USAC herein are expressly reserved by USAC. As set forth in this Agreement, EPC is licensed to you, not sold. The Software is a commercial service product pursuant to DFAR Sections 227.7202-1(a), 227.7202-3(a) and 252.227-7013(c) and FAR Sections 12.212 and 52.227-19.

1.6 Links to Other Sites. EPC may contain links to independent third-party web sites ("Linked Sites"). Linked Sites are provided solely as a convenience to you. You acknowledge that Linked Sites are not under USAC's control, and USAC is not responsible for and does not endorse the content of Linked Sites, including any products, information or materials contained therein. You must exercise independent judgment regarding your interaction with Linked Sites. You should review applicable terms and policies, including privacy and data gathering practices, of Linked Sites.

**2. Term and Termination.** The term of this Agreement commences upon your acceptance of this Agreement and terminates upon termination by either party as provided herein. USAC may terminate this Agreement and/or suspend or terminate your use of or access to EPC at any time, for any reason or no reason, with or without notice to you. A Subscriber may terminate this Agreement or any Authorized User account at any time in accordance with EPC's processes. Upon termination of this Agreement: (i) all licenses granted by USAC to you are terminated; (ii) USAC will cease providing you with access to EPC; (iii) you shall make no further use of EPC; and (iv) the user name and password issued to you will be deactivated. Sections 1.5, 5 and 7 as well as any other provisions that must survive in order to give proper effect to the intent of the provision, shall survive termination of this Agreement.

**3. Communications Protocols.** You must deliver and receive data to and from EPC via protocols and standards determined by USAC. You are responsible for procuring, installing, and maintaining all applications, equipment, telephone lines, communications interfaces, software (including web browser) and other hardware and software necessary to access EPC, and USAC is not responsible for any costs or expenses incurred by you in any such activities. You will comply with all laws, rules and regulations applicable to your use of EPC. Except as allowed by your Authorized Purpose, you will keep all information disclosed or made available by USAC to you hereunder, including information received from EPC, in strict confidence, and shall not disclose, transmit, inform or make available such information to any entity or person, except to Authorized Users. You may use such information only in furtherance of the Authorized Purpose.

You agree that USAC may provide you with any Communications in electronic format including by electronic mail (i.e., email) or by posting online in EPC and that USAC may discontinue sending Communications it has formerly sent in paper format by First Class mail. "Communications" mean any written correspondence, notice, disclosure, document or other information that USAC provides to you, or that you sign or submit or agree to. "Communications" include, but are not limited to, Commitment Adjustment Letters, Recovery of Improperly Disbursed Funds Letters and Demand Payment Letters. The date of an electronic Communication for the purpose of determining any deadline by which you must respond is the later of the date on which the Communication

was posted in EPC or the date it was emailed to you. You agree to provide USAC with an accurate and complete e-mail address, administrator information and all other contact information related to your User Account and to update this information as soon as it changes. You may request that USAC provide you with a duplicate paper copy of a specific electronic Communication by contacting Customer Service Bureau (CSB) at (888) 203-8100. If there is a response deadline associated with this Communication, the response deadline will be calculated from the date it was posted in EPC or emailed to you. USAC reserves the right, but assumes no obligation, to provide a paper (instead of electronic) copy of any Communication. In that event, if there is a response deadline associated with this Communication, the deadline will be calculated from the date that appears on the Communication (i.e., letter date).

**4. Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, BY ACCEPTING THIS AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT EPC IS PROVIDED "AS IS" and "AS AVAILABLE" WITH NO WARRANTIES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. USAC DOES NOT WARRANT EPC WILL BE ERROR-FREE, OR PROVIDED OR AVAILABLE WITHOUT INTERRUPTION OR WITH CONTINUOUS ACCESS, OR SECURE, OR THAT ERRORS OR DEFECTS CAN OR WILL BE FIXED, AND USAC ASSUMES NO LIABILITY WHATSOEVER FOR EPC, ITS CONTENTS OR YOUR USE OF EPC. THE FOREGOING DISCLAIMERS ALSO APPLY TO USAC'S SUPPLIERS AND LICENSORS OF PRODUCTS AND SERVICES. USAC has no obligation to provide updates, support and/or maintenance with respect to EPC. USAC makes no representations or warranties as to the accuracy or completeness of EPC, and you accept responsibility for, and acknowledge that you exercise your own independent judgment in, your use of EPC and any results obtained therefrom.

ADDITIONALLY, THE SOFTWARE CONTAINS SOFTWARE LICENSED TO USAC FROM CERTAIN THIRD PARTY LICENSORS ("THIRD PARTY LICENSORS"). THE SOFTWARE IS LICENSED "AS IS" AND USAC AND THE THIRD PARTY LICENSORS MAKE NO WARRANTY TO YOU IN CONNECTION WITH THE SOFTWARE. USAC AND THE THIRD PARTY LICENSORS EXPRESSLY DISCLAIM ANY EXPRESS, IMPLIED OR STATUTORY WARRANTIES IN CONNECTION WITH THE SOFTWARE, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. USAC AND THE THIRD PARTY LICENSORS ARE NOT LIABLE FOR ANY DAMAGES OF ANY KIND RESULTING FROM YOUR USE OF THE SOFTWARE, INCLUDING WITHOUT LIMITATION, DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, AND SPECIAL DAMAGES. THE THIRD PARTY LICENSORS ARE INTENDED THIRD PARTY BENEFICIARIES OF THE PROVISIONS OF THIS AGREEMENT RELATING TO THE THIRD PARTY LICENSOR'S SOFTWARE INCORPORATED INTO THE SOFTWARE.

**5. Limitations of Liability.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL USAC OR ITS SUPPLIERS OR LICENSORS BE LIABLE FOR LOSS OR DAMAGE OF LOST PROFITS OR REVENUES OR SIMILAR ECONOMIC LOSS, OR FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, COST OF SUBSTITUTE GOODS OR SERVICES, INDIRECT OR PUNITIVE DAMAGES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT OR EPC, EVEN IF USAC HAS BEEN ADVISED OF SUCH CLAIM. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, USAC'S TOTAL AGGREGATE LIABILITY FOR ANY CLAIMS ARISING UNDER THIS AGREEMENT OR OTHERWISE ARISING FROM THE TRANSACTIONS CONTEMPLATED HEREIN REGARDLESS OF THE FORM OF ACTION (INCLUDING, BUT NOT LIMITED TO, ACTIONS FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, RESCISSION AND BREACH OF WARRANTY) SHALL NOT EXCEED \$100 IN THE AGGREGATE.

#### **6. Confidentiality of the Software**

(a) General. As between the parties, the Software and associated data base contains confidential and proprietary information of USAC and its licensors. You agree not to use the Software except as expressly set forth herein and to maintain reasonable procedures to prohibit the unauthorized disclosure, duplication, misuse or removal of the Software. You agree not to disclose the Software to any third party. Without limiting the foregoing, you agree to use the same procedures and degree of care to avoid unauthorized disclosure or use of the Software as you use to protect your own similar information, but in no event using less than a reasonable degree of care.

(b) Exceptions. The foregoing restrictions will not apply to information that (i) is known to you at the time of communication from USAC or its licensors, (ii) has become publicly known through no wrongful act of you, (iii) has been rightfully received by you from a third party authorized to make such communication without restriction, (iv) has been independently developed by you as evidenced by your written records, or (v) is required to be disclosed pursuant to a subpoena or other validly issued administrative or judicial process, provided that you must give USAC sufficient notice of such disclosure to allow USAC and its licensors a reasonable opportunity to object to and take necessary legal action to prevent such disclosure. Notice must be provided to USAC's Client Service Bureau at 1-888-203-8100.

**7. Miscellaneous.** Each party is an independent contractor and nothing herein will be deemed to constitute the parties as partners, agents or joint ventures. Any disputes or claims that you may bring against USAC under or related to this Agreement must be brought consistent with the requirements of 47 C.F.R Part 54, Subpart I. This Agreement (including without limitation notices and any other USAC documentation referenced herein) embodies the entire agreement between the parties and supersedes all previous and contemporaneous agreements, understandings and arrangements, with respect to the subject matter hereof.