

EDUCATION FINANCE COUNCIL

TERMS OF USE

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PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING THIS SITE. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS OF USE, PLEASE DO NOT ACCESS THIS SITE, USE THE SITE, OR INDICATE ACCEPTANCE OF THESE TERMS.

These Terms of Use (“**Terms**” or “**Terms of Use**”) constitute an agreement between you (“**you**” or the “**user**”) and Education Finance Council, Inc., and its affiliates, subsidiaries or assigns (collectively, “**EFC**,” “**we**,” “**us**” or “**our**”). This website www.efc.org (the “**Site**”) is owned and operated by EFC. Access and use of this Site and our services provided through the Site and offline (together, the “**Services**”) are provided by EFC to you on condition that you accept these Terms of Use. By accessing or using the Services, you signify that you have read, understand, and agree to be bound by these Terms of Use. If you do not agree to accept these Terms of Use, you may not access or use the Services.

ARBITRATION NOTICE: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE “ARBITRATION PROVISION AND CLASS ACTION WAIVER” SECTION BELOW, AND UNLESS YOU OPT-OUT AS SET FORTH IN THAT SAME SECTION, YOU AGREE THAT DISPUTES BETWEEN YOU AND EFC OR OTHER PARTIES DESCRIBED HEREIN WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AT THE ELECTION OF EITHER PARTY, AND YOU WAIVE YOUR RIGHT TO A JURY TRIAL AND YOUR RIGHT TO BRING OR RESOLVE ANY DISPUTE AS OR TO PARTICIPATE IN A CLASS, PRIVATE ATTORNEY GENERAL, REPRESENTATIVE, OR COLLECTIVE ACTION IN COURT OR IN ARBITRATION.

We reserve the right at any time to change: (i) the terms and conditions of these Terms of Use; (ii) the Services, including terminating, eliminating, supplementing, modifying, adding or discontinuing any content or feature or data or service on or available through the Services or the hours that they are available; (iii) any fees or charges, if any, related to the use of the Services; and (iv) the equipment, hardware or software required to use and access the Services.

Any changes we make to these Terms of Use will be effective immediately upon posting on this Site. Please return to this Site periodically to ensure you are familiar with the most current version of these Terms of Use.

1. YOU AGREE TO OUR PRIVACY POLICY

EFC has made a commitment to protecting the privacy of those who use the Services. Please review our Privacy Policy, which is incorporated by reference in these Terms of Use. By using the Services, you are consenting to and agreeing to be bound by the Privacy Policy.

When you use the Services, you consent to receive communications from us electronically via the Services, email, or otherwise. You agree to provide accurate, current, and complete information about yourself when you use the Services and to update such information while you continue to use the Services.

To the extent permitted by law, EFC reserves the right to automatically process your personal information using technologies that use machine learning and/or artificial intelligence. You further acknowledge that by using certain aspects of the Services, you may be interacting with functions that involve the use of machine learning or artificial intelligence.

2. **USE OF THIS SITE**

If you access this Site from outside of the United States, you do so at your own risk and are responsible for compliance with local, national, or international laws. In particular, you understand that this Site, the Services, or both may not be available in all countries and that you are responsible for ensuring that it is lawful for you to use this Site and receive the Services in your location.

Some countries may have laws that forbid participating in the activities we offer on the Site or Services. These restrictions might include a minimum age for using the Internet or entering into contracts like these Terms of Use. You are responsible for making sure you can use this Site and the Services in the location you reside in. Continuing to use the Site represents and warrants to us that you have verified that you are permitted to use the Site and Services in your jurisdiction.

3. **ELIGIBILITY**

You represent and warrant that you: (a) are above the legal age of majority in your jurisdiction of residence; (b) have not previously been suspended or removed from the Site or our Services; and (c) have full power and authority to enter into these Terms, and in doing so will not violate any other agreement to which you are a party.

4. **SERVICES AND YOUR ACCOUNT**

In order to access and use certain Services available on this Site, you may need to sign up for, open and maintain an account (your “**Account**”) with us. Prior to completing the signup process for your Account, you may be required to confirm your acceptance of all of the terms and conditions of these Terms of Use. If you do not agree to these Terms of Use, you may not sign up for an Account and you shall not have the right to use such Services.

You represent and warrant that at all times you will: (i) provide accurate, current and complete information about yourself as prompted by our registration form or otherwise; and (ii) maintain and promptly update your information (including your e-mail address) to keep it accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or if we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, we shall have the right to suspend or terminate

your Account and any or all privileges on the Services and to refuse any and all current or future use of the Services.

During the registration process, you may be required to choose a username and enter your email address. You acknowledge and agree that EFC may rely on this email address or username to identify you. You shall be responsible for protecting the confidentiality of your username(s), identification number(s), and/or password(s), if any. You are responsible for all use of your Account, regardless of whether you authorized such access or use, and for ensuring that all use of your Account complies fully with the provisions of these Terms of Use. You must not choose a username that infringes the rights of any third party, or which is offensive, racist, obscene, hurtful, unlawful, or otherwise inappropriate. You agree not to transfer your right to use or access this Site or the Services via your username or password to any third person.

WE HEREBY DISCLAIM ANY AND ALL LIABILITY FOR ANY UNAUTHORIZED USE OF YOUR ACCOUNT FOR WHICH WE ARE NOT RESPONSIBLE.

Any conduct that in our sole discretion restricts or inhibits anyone else from using or enjoying the Services will not be permitted. We reserve the right in our sole discretion to remove or edit any content and to terminate your Account for any reason.

If you wish to delete your Account or terminate your subscription, you can do so at any time. In the event of termination, you will still be bound by your obligations under these Terms.

5. MOBILE DEVICES

If you use a mobile device to access the Services optimized for mobile viewing the following additional terms and conditions also apply.

You understand that wireless service through Wi-Fi or a participating mobile service provider may not be available in all areas at all times and may be affected by product, software, coverage, or other service changes made by your mobile service provider or otherwise. You agree that you are solely responsible for all message and data charges that apply to use of your mobile device to access the Site. All such charges are billed by and payable to your mobile service provider. Please contact your participating mobile service provider for pricing plans, participation status and details.

6. ELECTRONIC MESSAGES

By accessing our Site, signing up for Services, creating an Account with us, or typing your name into any of our electronic forms and indicating your acceptance or submission of information by clicking a box, you consent to (i) us communicating with you electronically; (ii) receiving all applications, notices, disclosures, and authorizations from us (collectively, “**Records**”) electronically; and (iii) entering into agreements and transactions using electronic Records and signatures. Please note that federal law treats electronic signatures as having the same legal force and effect as if they were signed on paper by hand, and online contracts have the same legal force as signing an equivalent paper contract in ink. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically

will satisfy any legal communication requirements, including that such communications be in writing. You must have a computer or other web-enabled device, an internet connection, an active email account, and the ability to receive and read PDF files to conduct business with us electronically. You agree to be responsible for keeping your own Records. If you require assistance with your Records or if you wish to receive Records in paper format or to withdraw your consent to receiving electronic Records from us, please contact us at info@efc.org. Agreements and transactions executed prior to this request will remain valid and enforceable.

7. OUR MATERIALS

EFC may make certain digital reproductions of materials, information, content, software, or other materials (including but not limited to intellectual property, database rights, graphics, videos, text, and logos) available to you from this Site from time to time (collectively, the “**EFC Materials**”). This Site (including its organization, presentation and EFC Materials) is the property of EFC and its licensors and may be protected by intellectual property laws including laws relating to copyrights, trademarks, trade names, internet domain names and other similar rights. EFC or its licensors own all related trademarks and logos, and you agree not to copy or use them in any manner except as permitted.

By using the Services, we grant you a non-exclusive, non-transferrable, non-sublicensable right and license to use the EFC Materials for your personal use only. If you download, access or use any EFC Materials, you agree that such materials: (i) may only be used for your personal use; (ii) may not be modified, used to create a derivative work, incorporated into any other work or otherwise exploited without EFC’s prior written permission; (iii) shall not be submitted to, processed by, or otherwise fed into any artificial intelligence or automated processing software; and (iv) shall only be used in compliance with any additional license terms accompanying such materials.

8. USER CONTENT

You are solely responsible for the content and information (collectively referred to as “**User Content**”) that you post or upload on the Services including feedback or questions. By submitting User Content to the Services, you automatically grant EFC the royalty-free, perpetual, worldwide, irrevocable, non-exclusive right and license, but not the obligation, to use, publish, reproduce, modify, adapt, edit, translate, create derivative works from, incorporate into other works, distribute, sub-license and otherwise exploit such User Content (in whole or in part) worldwide in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such User Content, without payment to you or to any third parties. You acknowledge and agree that this license includes the right to reproduce User Content, including any personal information or your likeness, for marketing and advertising purposes.

User Content uploaded or otherwise communicated on the Services shall comply with all applicable law and regulations and any applicable third-party agreements, which you are responsible for knowing and understanding. You are prohibited from posting or otherwise communicating to us, or any other user of the Services:

- (a) any offensive, inaccurate, incomplete, abusive, obscene, profane, threatening, defamatory, intimidating, harassing, racially offensive, or illegal material, or any material that infringes or violates another person's rights (including intellectual property rights, and rights of privacy and publicity);
- (b) any violent, vulgar, obscene, pornographic, or otherwise sexually explicit User Content;
- (c) User Content that harms or reasonably can be expected to harm any person or entity; infringes on any right of a third party including (i) copyright, patent, trademark, trade secret or other proprietary or contractual rights, (ii) rights of privacy (specifically, you must not distribute another person's personal information of any kind without their express permission), personality, or publicity; or (iii) any confidentiality obligation;
- (d) User Content that is illegal or encourages or advocates illegal activity or the discussion of illegal activities with the intent to commit them, including a submission that is, or represents an attempt to engage in, child pornography, stalking, sexual assault, fraud, trafficking in obscene or stolen material, harassment, theft, or conspiracy to commit any criminal activity;
- (e) anything that (i) does not generally pertain to the designated topic or theme of the Site or the Services; (ii) violates any specific restrictions applicable to the Site or the Services, including age restrictions and procedures; or (iii) is antisocial, disruptive, or destructive, including anything that can be construed as "spamming," "flooding," or "trolling," as those terms are commonly understood and used on the Internet; or
- (f) anything that: (i) expresses or implies that any statements you make or actions you take are endorsed by us; (ii) impersonates another person (including celebrities); (iii) indicates that you are a EFC employee, representative of EFC; or (iv) attempts to mislead users by indicating that you represent EFC or any of EFC's partners or affiliates.

You understand and agree that we, without any obligation to do so, may monitor or review any User Content you post, upload or otherwise communicate through the Services. We reserve the right to remove any such User Content, in whole or in part, at our sole discretion, that violates these Terms, is likely to harm our reputation, is deemed inappropriate or otherwise poses a risk of harm to any other person. We reserve the right to deactivate your Account or otherwise prevent your use of and/or participation in Services at any time and for any reason.

You agree that we may access, preserve and disclose your Account and any User Content posted, uploaded, received or otherwise communicated if required to do so by law or with the good faith belief that such access, preservation or disclosure is reasonably necessary to: (i) comply with an enforceable subpoena or other legal process; (ii) enforce these Terms; (iii) respond to claims that any information violates the rights of third parties; (iv) respond to your requests for customer service or allow you to use the Services in the future; or (v) protect the

rights, property or personal safety of EFC or its members, employees, agents, affiliates, partners, communities or any other person.

If it is determined that you retain moral rights (including rights of attribution or integrity) in the User Content, you hereby declare that (a) you do not require that any personal data, personal information, personally identifying information, or equivalent term be used in connection with the User Content, or any derivative works of or upgrades or updates thereto; (b) you have no objection to the publication, use, modification, deletion and exploitation of the User Content by EFC or its licensees, successors and assigns; (c) you forever waive and agree not to claim or assert any entitlement to any and all moral rights of an author in any of the User Content; and (d) you forever release EFC, and its licensees, successors and assigns, from any claims that you could otherwise assert against EFC, or any of its assigns or affiliates, by virtue of any such moral rights. You also permit any other user to access, view, store, or reproduce the User Content for that user's personal use.

User Content submitted by you will be considered non-confidential and EFC is under no obligation to treat such User Content as proprietary information. Without limiting the foregoing, we reserve the right to use any User Content as it deems appropriate, including, without limitation, deleting, editing, modifying, rejecting, or refusing to post it. EFC is under no obligation to edit, delete or otherwise modify User Content once it has been submitted to us. We shall have no duty to attribute authorship of User Content to you and shall not be obligated to enforce any form of attribution by third parties.

Please note that we do not make any representations, warranties or guarantees that: (i) the Site, the Services, or any portion thereof, will be monitored (e.g., for accuracy or unacceptable use); (ii) apparent statements of fact will be authenticated; or (iii) we will take any specific action (or any action at all) in the event of a challenge or dispute regarding compliance or non-compliance with these Terms of Use. We generally do not pre-screen any communications, content or other materials before it is posted, uploaded, transmitted, sent or otherwise made available on the Site or through the Services by users, so you may be exposed to certain communications, content or other materials that is opinionated, offensive, inappropriate, and/or violates these Terms of Use.

9. INTELLECTUAL PROPERTY

The Services, the content, any materials or information downloaded, and all intellectual property pertaining to or contained on the Services (including but not limited to copyrights, patents, database rights, graphics, designs, text, logos, trade dress, trademarks, and service marks) are owned by EFC or third parties; all rights, title, and interest will remain the property of EFC and/or such third-party owner, as applicable. All content is protected by trade dress, copyright, patent, and trademark laws, as well as various other intellectual property and unfair competition laws.

You are authorized to view and retain a copy of pages of the Services only for your own personal, non-commercial use. You may also view and make copies of relevant documents, pages, images, or other materials on the Services for the purpose of transacting business with us. You may not tokenize copies of the pages of the Services or any other content on the Services. You agree that you will not duplicate, publish, modify, create derivative works

from, participate in the transfer of, or in any way distribute or exploit the Services, or any portion of the Services, for any public or commercial use, without our prior express written consent. Additionally, you agree that you: (a) will not remove or alter any author, trademark, other proprietary notice, or legend displayed on the Services (or printed pages produced from the Services), and (b) will not make any other modifications to any documents obtained from the Services other than in connection with completing information required to transact business with EFC.

10. INTELLECTUAL PROPERTY INFRINGEMENT

EFC respects the intellectual property rights of others, and we ask you to do the same. EFC may, in appropriate circumstances and at our discretion, terminate service and/or access to this Site to users who infringe the intellectual property rights of others. If you believe that your work is the subject of copyright infringement and/or trademark infringement and appears on the Site and/or in the Services, please provide EFC's designated agent the following information:

- (a) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- (b) Identification of the copyrighted and/or trademarked work claimed to have been infringed, or if multiple works at a single online location are covered by a single notification, a representative list of such works at that location.
- (c) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled at the Site, and information reasonably sufficient to permit EFC to locate the material.
- (d) Information reasonably sufficient to permit EFC to contact you as the complaining party, such as an address, telephone number, and, if available, an e-mail address at which you may be contacted.
- (e) A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright and/or trademark owner, its agent, or the law.
- (f) A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

EFC's agent for notice of claims of copyright or trademark infringement can be reached at info@efc.org.

Please also note that for copyright infringements under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.

Submitting a DMCA Counter-Notification

We will notify you that we have removed or disabled access to copyright-protected material that you provided if such removal is pursuant to a valid Digital Millennium Copyright Act, 17 USC Section 512 *et seq.* (“DMCA”) take-down notice that we have received. If you receive such notice from us, you may provide us with a counter-notification, in writing, to EFC’s designated agent that includes all of the following information:

- (a) Your physical or electronic signature;
- (b) Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
- (c) A statement from you, under penalty of perjury, that you have a good-faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
- (d) Your name, physical address, and telephone number, and a statement that you consent to the jurisdiction of a court for the judicial district in which your physical address is located, or if your physical address is outside of the United States, for any judicial district in which EFC may be located, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

Termination of Infringers

EFC reserves the right, at its sole discretion, to terminate the Account or access of any user of the Site who is the subject of DMCA or other infringement notifications.

11. AVAILABILITY

We cannot and do not promise that the Site or the Services will be uninterrupted, secure, or error-free. We reserve the right to interrupt/suspend this Site or the Services, or any part thereof, with or without prior notice for any reason.

12. ACCESS TO THE INTERNET

You are solely responsible for obtaining and maintaining all internet, computer hardware and other equipment needed to access and use this Site and the Services, and you shall be solely responsible for all charges and fees related thereto.

Please note that the Internet is not a fully secure medium and any communication may be lost, intercepted or altered. EFC is not liable for any damages related to communications to, or from, this Site or the Services.

13. CURRENCY OF SITE

EFC cannot and does not guarantee or accept any responsibility or liability for the accuracy, currency or completeness of the information on this Site and the Services. We have the right, but not the obligation, to correct any errors, inaccuracies or omissions and to change or update this Site (including the EFC Materials) and the Services at any time, without prior notice to you.

14. LINKS TO OTHER SITES AND SERVICES

This Site or the Services may contain links to outside services and resources, the availability and content of which EFC does not control. The inclusion of these links does not imply that EFC monitors or endorses these sites. We are not responsible for examining or evaluating, and we do not warrant the offering of these services and resources or the content of these websites. We do not assume any responsibility or liability for the actions, products, and content of these and any other websites. Any concerns regarding any such services or resources should be directed to the service or resource.

15. SECURITY

EFC makes no warranty whatsoever to you, express or implied, regarding the security of the Site, including with respect to the ability of unauthorized persons to intercept or access information transmitted by you through the Site. EFC is not responsible for any losses resulting from the loss or theft of your device, the loss or theft of your information transmitted from or stored on your devices, or any losses arising from the use of your device by someone whom you have given access. You are required to notify us of any unauthorized use of the Site by using the contact information in the “**Contact Information**” section below.

Due to technical difficulties with the Internet, internet software or transmission problems could produce inaccurate or incomplete copies of information contained on this Site or the Services. Due to the ability to share certain content and materials, computer viruses or other destructive programs may also be inadvertently downloaded from this Site or the Services. EFC recommends that you install appropriate anti-virus or other protective software.

EFC SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY SOFTWARE, COMPUTER VIRUSES OR OTHER DESTRUCTIVE, HARMFUL OR DISRUPTIVE FILES OR PROGRAMS THAT MAY INFECT OR OTHERWISE IMPACT YOUR USE OF YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY ON ACCOUNT OF YOUR ACCESS TO, USE OF, OR BROWSING ON THE SITE OR THE SERVICES OR YOUR DOWNLOADING OF ANY USER MATERIALS OR OTHER CONTENT FROM THIS WEBSITE.

16. SEVERABILITY/NO WAIVER

If any provision of these Terms of Use is found to be unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions. EFC's failure to enforce the strict performance of any provision of these Terms or the additional terms and conditions for any Service will not

constitute a waiver of our right to subsequently enforce such provision or any other provisions of these Terms or the additional terms and conditions.

Sections 15 (Security), 17 (Disclaimers: Site and Services and Materials Provided “As-Is”), 18 (Limitation of Liability), 19 (Indemnification), 20 (Term and Termination), and 21 (Arbitration Provision and Class Action Waiver) will survive any termination or expiry of these Terms of Use.

17. DISCLAIMERS: SITE, SERVICES AND MATERIALS PROVIDED “AS-IS”

THIS SITE, THE SERVICES AND THE EFC MATERIALS ARE PROVIDED “AS IS,” “WHERE IS,” AND “WITH ALL FAULTS,” WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. EFC DOES NOT REPRESENT OR WARRANT THAT THIS SITE, THE SERVICES, OR THE EFC MATERIALS WILL MEET YOUR REQUIREMENTS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM EFC, OR THROUGH THE SITE SHALL CREATE ANY WARRANTY REGARDING THE SERVICES NOT EXPRESSLY STATED IN THESE TERMS. YOU UNDERSTAND AND ACKNOWLEDGE THAT ADDITIONAL DISCLAIMERS, LIMITATIONS, AND NOTICES REGARDING THE SERVICES AND ITS CONTENT AND DATA MAY BE PROVIDED BY EFC FROM TIME TO TIME WITHIN THE SERVICES.

These Terms were written in English (US). Any translated version is provided solely for your convenience using third party translation services such as Google Translate. You understand and agree that EFC in no way controls or is responsible for any third-party product or service accessed through the Site.

YOUR USE OF THE SERVICES IS SOLELY AT YOUR OWN RISK. THE SITE IS INTENDED FOR GENERAL INFORMATIONAL PURPOSES ONLY. WE MAKE NO REPRESENTATION OR WARRANTY REGARDING THE ACCURACY OF TRANSLATIONS OF THE SERVICES. PLEASE SEEK INDEPENDENT TRANSLATION SERVICES TO VERIFY ANY INFORMATION ON WHICH YOU RELY. NOTHING STATED, POSTED, OR AVAILABLE THROUGH ANY SERVICES IS INTENDED TO BE, AND MUST NOT BE TAKEN TO BE, AN OFFICIAL AND VERIFIED TRANSLATION OF THE SERVICES.

WE DO NOT WARRANT THAT THE WEBSITE AND ITS SERVERS ARE FREE OF COMPUTER VIRUSES OR OTHER HARMFUL CONTENT. IF YOUR USE OF THE SERVICES, THE MATERIAL, OR THE SOFTWARE RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT OR DATA, WE ARE NOT RESPONSIBLE FOR THOSE COSTS.

Please note that some jurisdictions do not allow the disclaimer of certain representations or warranties, so the disclaimer in this Section 17 will apply to you to the extent permitted by applicable law.

18. LIMITATION OF LIABILITY

YOU AGREE THAT NONE OF THE PROTECTED PARTIES (AS DEFINED BELOW) SHALL HAVE ANY LIABILITY TO YOU UNDER ANY THEORY OF LIABILITY OR INDEMNITY IN CONNECTION WITH YOUR USE OF THE SITE AND/OR SERVICES. YOU HEREBY RELEASE AND FOREVER WAIVE ANY AND ALL CLAIMS YOU MAY HAVE AGAINST THE PROTECTED PARTIES (INCLUDING BUT NOT LIMITED TO CLAIMS BASED UPON THE NEGLIGENCE OF ANY OF THE PROTECTED PARTIES) FOR LOSSES OR DAMAGES YOU SUSTAIN IN CONNECTION WITH YOUR USE OF THE SITE AND/OR SERVICES.

NOTWITHSTANDING THE FOREGOING PARAGRAPH AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF THE PROTECTED PARTIES, FOR ANY CLAIM, COST, DAMAGE, OR LOSS ARISING OUT OF OR RELATING TO THE SERVICES, INCLUDING FOR ANY WARRANTIES THAT MAY NOT BE EXCLUDED, SHALL NOT EXCEED THE LESSER OF THE AMOUNT YOU PAID TO US DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY OR \$10.00 (TEN DOLLARS) (USD) (THE “**LIABILITY CAP**”). EFC AND YOU AGREE THAT THE LIABILITY CAP SHALL INCLUDE ALL FORMS OF DAMAGES.

Some jurisdictions do not allow the exclusion or limitation of liability for certain types of damages. In such jurisdictions, our liability is limited to the greatest extent permitted by law.

19. INDEMNIFICATION

You will defend, indemnify, and hold EFC, each third-party service provider, their respective affiliates, subsidiaries, and parent companies, and their respective officers, directors, employees, agents, information providers, and partners (collectively, the “**Protected Parties**”) harmless from and against any actual or threatened suit, actions, proceedings (at law or in equity), claims, damages, payments, deficiencies, fines, judgments, settlements, liabilities, losses, costs, and expenses (including reasonable attorneys’ fees, costs, penalties, interest, and disbursements) arising from or related to (a) your conduct with respect to the Services and/or (b) violation (or alleged violation) of these Terms by you or any other person accessing the Site or Services on your behalf. Under no circumstance will EFC be liable for damages of any kind that result from your use of, or the inability to use, the Services.

Please note that some jurisdictions limit the extent to which a party may indemnify another. As such, this provision will apply to you to the extent permitted by applicable law.

20. TERM & TERMINATION

EFC may, from time to time, but is in no way obligated to, permit you to access and use this Site and the Services in accordance with these Terms of Use and in the manner more particularly set out herein. You acknowledge and agree (i) that access to this Site and the Services may not be available from time to time, may be amended, revised, replaced, suspended or terminated in whole or in part at any time and without notice, and (ii) that EFC shall not, in any event, be responsible to you in any way should you be unable to access this

Site and the Services at any time or from time to time. We may terminate these Terms of Use for convenience with no notice to you.

Upon termination of these Terms of Use, you shall immediately cease and desist from all use of this Site and the Services.

21. ARBITRATION PROVISION AND CLASS ACTION WAIVER

THIS ARBITRATION PROVISION AFFECTS YOUR RIGHTS; PLEASE READ CAREFULLY BEFORE AGREEING TO THESE TERMS OF USE.

Agreement to Arbitrate. Except as otherwise explicitly provided in this Arbitration Provision, EFC, together with its parent companies, wholly or majority-owned subsidiaries, affiliates, commonly-owned companies, successors, assigns, and any of these entities' employees, officers, directors, and agents and their successors, assigns, affiliates, and service providers (collectively, the "**Transaction Parties**") and you can elect to resolve any past, present, or future dispute or claim ("**Dispute**") arising from or relating in any way to (i) the use of the Services, (ii) these Terms of Use, or (iii) the relationship between you and any Transaction Party in connection with any of the foregoing that cannot be resolved directly between you and a Transaction Party, by binding arbitration under the Consumer Arbitration Rules ("**the Consumer Rules**") of the American Arbitration Association ("**AAA**"), rather than in court. (Solely for purposes of this Arbitration Provision, the term Transaction Parties also includes any third party providing any goods and/or services in connection with the use of the Site and the Services or any of the foregoing on behalf of a Transaction Party, if that third party is named as a defendant along with a Transaction Party in the same proceeding or a related proceeding.)

"Dispute" Defined. Except as otherwise explicitly provided in this Arbitration Provision, "**Dispute**" broadly includes, without limitation: any claims based in contract, statute, constitution, ordinance, tort, fraud, consumer rights, misrepresentation, equity, or any other legal theory; initial claims, counterclaims, cross-claims, and third-party claims; federal, state, and local claims; and claims which arose before the date of your use of the Services, including, but not limited to, any dispute or claim arising before the date you accessed the Site or the Services or agreed to these Terms of Use and any dispute or claim relating to (by way of example and not limitation): (i) the use, denial, or termination of the Services and/or the events leading up thereto; (ii) any disclosure, advertisement, application, solicitation, promotion, or oral or written statement, warranty, or representation made by or on behalf of a Transaction Party; (iii) any product or service provided by or through a Transaction Party or third parties in connection with the use of the Services or the relationship between you and a Transaction Party and any associated fees; (iv) a Transaction Party's use or failure to protect any personal information you give a Transaction Party in connection with the use of the Services or your relationship with the Transaction Party; (v) enforcement of any and all of the obligations a party may have to another party in connection with the use of the Services or agreement governing the same; or (viii) compliance with applicable laws and/or regulations.

Exceptions to “Dispute.” Notwithstanding any of the foregoing: (i) disputes or controversies about the validity, enforceability, coverage, or scope of this Arbitration Provision or any part thereof are for a court and not an arbitrator to decide; however, disputes or controversies about these Terms of Use or your agreements governing the use of the Services or with Transaction Parties as a whole are for an arbitrator and not a court to decide; (ii) any Disputes seeking to enforce or protect, or concerning the validity of intellectual property rights, will not be subject to binding arbitration under this Arbitration Provision; and (iii) any party may proceed with their individual claims in small claims court (or an equivalent court) if that option is available in the applicable jurisdiction and the amount in controversy falls within the small claims court’s (or the equivalent court’s) jurisdictional limits; but if that action is transferred, removed, or appealed to a different court, arbitration can be elected. Moreover, this Arbitration Provision will not apply to any Dispute that was already pending in court before this Arbitration Provision took effect.

Governing Law. The Federal Arbitration Act (“**FAA**”), 9 U.S.C. 1 *et seq.*, and federal arbitration law apply to this Arbitration Provision. There is no judge or jury in arbitration and court review of an arbitration award is limited, but an arbitrator can award an individual the same damages and relief as a court in an individual case and must apply and follow applicable substantive law, consistent with the FAA, and the terms of these Terms of Use and any agreement governing the use of the Site and the Services. The arbitrator shall apply applicable statutes of limitations and honor privilege rules. Any judgment on the award rendered by the arbitrator will be final, subject to any appeal rights under the FAA, and may be entered in any court of competent jurisdiction. No arbitration award involving the parties will have any preclusive effect as to issues or claims in any dispute involving anyone who is not a party to the arbitration, nor will an arbitration award in prior disputes involving other parties have preclusive effect in an arbitration between the parties to this Arbitration Provision.

JURY TRIAL WAIVER. YOU UNDERSTAND THAT ABSENT YOUR CONSENT TO ARBITRATION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A TRIAL BY JURY.

Arbitration Procedures. Either you or a Transaction Party can initiate arbitration through the AAA or by filing a motion to compel arbitration of claims filed in court. Regardless of who elected arbitration or how arbitration was elected, the party asserting the claim (i.e., the party seeking money damages or other relief from a court or an arbitrator) is responsible for starting the arbitration proceeding. If the AAA cannot serve and we cannot agree on a substitute, a court with jurisdiction shall select the arbitrator, who will apply the AAA rules and the procedures specified in this Arbitration Provision. Any arbitrator must be a practicing attorney with ten or more years of experience practicing law or a retired judge. Any arbitration will be governed by the then-current Consumer Rules, and its Procedures for the Resolution of Disputes through Document Submission (“**Document Submission Procedures**”). For more information about the AAA and its rules, you may contact the AAA at American Arbitration Association, 120 Broadway, Floor 21, New York, N.Y. 10271, 1-800-778-7879, www.adr.org. The Document Submission Procedures are included in the Consumer Rules. The parties shall pay filing, administrative and arbitrator fees in accordance with the Consumer Rules. If you cannot afford to pay your share of the fees and cannot obtain a waiver from the AAA, you can make a written good faith request for a Transaction Party to pay or advance such fees.

Each party will bear the expense of its own attorneys, experts and witnesses, regardless of which party prevails, unless applicable law, these Terms of Use or an applicable agreement gives a party the right to recover such expenses from the other party. If the arbitrator determines that any party's claim or defense is frivolous or wrongfully intended to oppress or harass the other party, the arbitrator may award sanctions in the form of fees and expenses reasonably incurred by the other party if such sanctions could be imposed under Rule 11 of the Federal Rules of Civil Procedure. The arbitration will be conducted by a single arbitrator solely based on written submissions and will not require any personal appearance by the parties or witnesses unless the arbitrator determines that a telephonic or in-person conference or hearing is necessary based on the request of one or more of the parties. If an in-person hearing is necessary, it will be held in the federal judicial district in which you reside or at another location that is reasonably convenient to all parties.

CLASS ACTION WAIVER. You and the Transaction Parties each agree that if arbitration of a Dispute is elected, the Dispute will be resolved in arbitration (not in court) only on an individual basis and not as a class, collective or other representative action. To the fullest extent permitted under the FAA: (a) no arbitration will be joined or consolidated with any other unless all parties otherwise agree in writing; (b) there is no right or authority for any Dispute to be arbitrated on a class-action, collective action or private attorney general basis or to utilize class action procedures; and (c) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. No arbitrator shall have the authority to issue any relief that applies to any person or entity other than Transaction Parties and/or you individually.

Miscellaneous; Conflicts. Even if all parties have opted to litigate a Dispute in court, a party may elect arbitration with respect to any claim made by a new party or any claim later asserted by a party in that or any related or unrelated lawsuit (including a claim initially asserted on an individual basis but modified to be asserted on a class, representative, or multi-party basis). Nothing in that litigation shall constitute a waiver of any rights under this Arbitration Provision. If any portion of this Arbitration Provision is inconsistent with the Consumer Rules, with these Terms of Use, or your agreements governing the use of the Services, or with an arbitration provision in any agreement with a Transaction Party, this Arbitration Provision shall govern.

Survival; Severance. This Arbitration Provision shall survive termination of the Site and the Services or these Terms of Use or of any agreement into which you enter with a Transaction Party; and, further, you understand and agree that this Arbitration Provision applies not only to these Terms of Use but also to any subsequent agreement (including without limitation any agreement governing the use of Site or Services) into which you enter with a Transaction Party. If any portion of this Arbitration Provision is deemed invalid or unenforceable, it shall not invalidate the remaining portions of this Arbitration Provision, except that: (a) if the Class Action Waiver is limited, voided or found unenforceable with respect to a Dispute that does not seek public injunctive relief and that determination becomes final after all appeals have been exhausted, then this Arbitration Provision (except for this sentence) shall be null and void with respect to such proceeding. The parties acknowledge and agree that under no circumstances will a class action be arbitrated; and (b) if a claim is brought seeking public injunctive relief and a court determines that the restrictions in the Class Action Waiver or elsewhere in this Arbitration Provision prohibiting the arbitrator from awarding relief on behalf

of third parties are unenforceable with respect to such claim and that determination becomes final after all appeals have been exhausted, the claim for public injunctive relief will be determined in court and any individual claims seeking monetary relief will be arbitrated. In such a case the parties will request that the court stay the claim for public injunctive relief until the arbitration award pertaining to individual relief has been entered in court. In no event will a claim for public injunctive relief be arbitrated.

RIGHT TO OPT OUT: If you do not want this Arbitration Provision to apply, you must send us a signed notice within thirty (30) calendar days of the date on which you electronically submit an application for a product or service offered by a Transaction Party through the Site or Services. You must send the notice in writing (and not electronically) to Education Finance Council, Inc., 853 New Jersey Avenue SE, Suite 200, Washington, DC 20003. You must provide your name, address, telephone number, and state that you “opt out” of the Arbitration Provision. Opting out will not affect the other provisions of these Terms of Use or any other agreement governing the Site or with a Transaction Party. If you do not opt out, you will be bound by this Arbitration Provision in these Terms of Use and any other agreement governing a Service or with a Transaction Party. Please note that if you enter an agreement with a Transaction Party that contains a different arbitration provision with a right to opt out, opting out of this Arbitration Provision is not a rejection of the arbitration provision in the other agreement. You will need to separately opt out of the arbitration provision in the other agreement if you do not want it to apply.

22. CHANGES

You are responsible for reviewing these Terms regularly. EFC reserves the right, at any time, without notice to you, and in its sole discretion, to modify or discontinue the Services, these Terms, or any of our policies related to use of the Services. We will not amend the Arbitration Provision or Class Action Waiver, described below, in a manner that adversely affects your rights or responsibilities in a material manner unless we give you a right to reject the amendment and/or the Arbitration Provision and Class Action Waiver in its entirety. Revisions to these Terms or our policies may be provided through the Services, including by posting the revisions on the Services and updating the “Last Updated” date. Such revisions will go into immediate effect once posted to the Services. Continued use of the Services following such modifications to the Services, these Terms, additional terms and conditions for any service, or our other policies will constitute your acceptance of such modifications and revisions.

23. MISCELLANEOUS

These Terms constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all previous written or oral agreements between the parties with respect to such subject matter. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used in these Terms shall not be given any legal import.

These Terms of Use shall be governed by and construed in accordance with the laws of the State of Delaware (without regard to provisions relating to conflicts of law), except as to

copyright and trademark matters, which are covered by American federal laws. You agree that any legal action or proceeding between EFC and you for any purpose concerning these Terms or the parties' obligations hereunder shall be resolved individually, without resort to any form of class action, exclusively in the United States District Court for Delaware, or, if there is not subject matter jurisdiction, in the courts of the State of Delaware, and you agree to submit to the jurisdiction of these courts. You waive any venue, personal jurisdiction, and inconvenient forum objections or defenses to such courts.

These Terms of Use are not assignable, transferable, or sublicensable by you except with EFC's prior written consent.

EFC may assign its rights and duties under these Terms of Use at any time without notice to you.

No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default.

24. CONTACT INFORMATION

If you need to contact us regarding this Site, the Services or these Terms of Use, please reach out to us at info@efc.org.