

AARP FOUNDATION
EXPERIENCE CORPS PROGRAM
AFFILIATE AGREEMENT

This Affiliate Agreement (“Agreement”) is entered into by and between AARP Foundation, a nonprofit, 501(c)(3) organization, located at 601 E Street, NW, Washington, D.C. 20049 and the City of Tempe(“Affiliate”), located at 715 West 5th Street, Tempe, AZ 85281 effective as of September 1, 2016.

WHEREAS, AARP Foundation is an organization focused on winning back opportunity for struggling Americans 50+ by being a force for change on the most serious issues they face today: housing, hunger, income and isolation; and

WHEREAS, AARP Foundation runs the AARP Foundation Experience Corps program (the “Experience Corp Program” or “Program”); and

WHEREAS, the Program engages and challenges adults aged 50 and older (referred to as “Volunteer Members”) as tutors and mentors to students in grades K-3 to produce improved literacy results; and

WHEREAS, AARP Foundation sets the framework for establishing and operating the Program and its strategic direction, including defining the Program standards and performance metrics; and

WHEREAS, AARP Foundation selects and licenses Program-related intellectual property to local non-profit organizations to conduct the Program in designated areas;

NOW THEREFORE, in consideration of the mutual promises herein, AARP Foundation and Affiliate do hereby agree to the following terms:

TERMS

1. Affiliate Obligations

Affiliate shall conduct the Program in accordance with the standards and specifications of *Exhibit A*, AARP Foundation Experience Corps Standards. AARP Foundation retains the right to modify *Exhibit A* to reflect evolving Program goals and structures. Any modification shall require advance notification to Affiliate, sufficient to allow Affiliate to address and implement the changes. No fundamental changes will be made to the core Program features during any given school year.

In addition:

- a. Affiliate is solely responsible for the organization, operation, publicity, fundraising, legal affairs and all other aspects of its local Program, including selection, training and supervision of Volunteer Members and carrying out the Program in a proper manner.
- b. Affiliate shall notify AARP Foundation if and when Affiliate is involved in any legal action or labor dispute which may in any way involve the AARP Foundation, Program and/or brand.
- c. Affiliate shall notify AARP Foundation if and when affiliate is not in compliance with required financial and legal filings and/or is not in sound financial condition and/or has received a going concern opinion from an auditor.
- d. Affiliate shall also notify AARP Foundation, with as much advance notification as is practical, if the affiliate determines it will no longer host the Experience Corps program due to funding insufficiency or other management decision.
- e. Affiliate is responsible for hiring and managing its employees and for overseeing its own staffing structure.
- f. Affiliate will implement a tutoring strategy that subscribes to the guidelines as outlined in *Exhibit B*, Tutoring Strategy Guidelines, as well as the standards as detailed in *Exhibit A*, AARP Foundation Experience Corps Standards.
- g. Affiliate will participate in the quality assurance system, outlined in *Exhibit C*, Experience Corps Quality Assurance System Overall Framework/Policies.
- h. Affiliate will send appropriate representative(s) to national conferences or training sessions as requested by AARP Foundation.
- i. Affiliate will name primary and alternative points of contact for each critical function associated with the Program.
- j. No later than August 31, 2016, and prior to the beginning of each subsequent school year, Affiliate shall complete and return to AARP Foundation the Financial Management Survey set forth in *Exhibit D*.
- k. Affiliate will comply with all laws and regulations.
- l. Affiliate maintains the following insurance policies: (i) real and personal property coverage, (ii) comprehensive general liability coverage of no less than one million dollars (\$1,000,000)

combined single limit per occurrence, and two million dollars (\$2,000,000) aggregate, and (iii) directors and officers liability coverage.

- m. Affiliate will name AARP Foundation, its affiliated entities, directors, officers, employees and agents, including but not limited to volunteers, as additional insureds under the Affiliate's comprehensive general liability insurance policy as well as any other policies of liability insurance, including any umbrella liability insurance policies. Affiliate shall provide AARP Foundation with evidence of insurance on an annual basis, no later than September 1 of each year and again within 30 days of any new coverage period.
- n. Affiliate will follow the prescribed background check policy as it pertains to staff and volunteers, outlined in *Exhibit E*.
- o. Affiliate will comply with all policies and procedures in the attached exhibits, even those not explicitly listed in body of agreement.

2. AARP Foundation Obligations

AARP Foundation shall support the Affiliate in its work to provide the Program services, as described herein and in the attached Exhibits.

Including:

- a. AARP Foundation will make reasonable efforts to provide information, both proactively and on request that will enhance the Affiliate's capacity to meet Program goals.
- b. AARP Foundation will, where it deems appropriate, include Affiliate in national and regional press and public relations efforts and will develop and manage a website and project intranet to benefit the Program.
- c. AARP Foundation will provide or sponsor national conferences or training sessions around the Program.
- d. AARP Foundation will include Affiliate in its communications network, which provides opportunities for Affiliate staff members to share information and engage in peer learning.
- e. AARP Foundation will provide appropriate methods for collecting requisite data via various online platforms. Such portals and data collection methods may be updated periodically and are detailed in *Exhibit F*.

3. Permission to Use AARP Foundation Experience Corps Name and Other Trademarks

- a. Scope/Grant of License

AARP Foundation grants to Affiliate and Affiliate accepts a sublicense to use the name "AARP Foundation Experience Corps" in the form "AARP Foundation Experience Corps Tempe" and the logo described in *Exhibit G* (collectively the "Licensed Marks"), solely in connection with administering the Program. The territory in which Affiliate may use the Licensed Marks is: Tempe, AZ (the "Licensed Territory").

This license is exclusive within the Licensed Territory. It can be revoked by AARP Foundation as provided in this Agreement or upon expiration or termination of the Agreement. Affiliate may not transfer or sublicense this license.

Affiliate may not use the Licensed Marks on or in connection with any products or activities other than the Program or outside the Licensed Territory without prior written approval of AARP Foundation.

b. Form of Use

Affiliate shall use the Licensed Marks only in accordance with the guidelines set out in the Branding Standards Guidelines, which are attached as *Exhibit G*, Program Branding Standards and Guidelines. *Exhibit G* may be amended by AARP Foundation from time to time with reasonable notice to Affiliate.

c. Quality Control

The nature and quality of services rendered by Affiliate in connection with each of the Licensed Marks must conform to the standards set by AARP Foundation in *Exhibit A*, AARP Foundation Experience Corps Standards, as well as any reasonable additional standards set by AARP Foundation from time to time. AARP Foundation shall have the right to make a reasonable number of site visits to monitor the quality of the administration of Program provided by Affiliate. Affiliate will provide AARP Foundation staff with reasonable access to Affiliate's premises and other service locations at reasonable hours to review the quality of the administration of the Program, and will otherwise reasonably cooperate with AARP Foundation to allow monitoring Affiliate's running of the Program. AARP Foundation will be responsible for travel and other costs it incurs in connection with quality control activities.

d. Ownership of Marks

AARP, a District of Columbia nonprofit corporation, is the sole and exclusive owner of all right, title and interest in the Licensed Marks. It has granted AARP Foundation a license to use the Licensed Marks, including for purposes of carrying out the Program. In furtherance of that permitted use, AARP Foundation sublicenses the Licensed Marks to Affiliate as set forth herein. Affiliate acknowledges that it has no interest in, or claim to, the Licensed Marks other than the right to use them as granted under this Agreement. Any and all goodwill that may develop from Affiliate's use of the Licensed Marks will inure exclusively to AARP. Affiliate shall not do anything to compromise AARP's rights in the Licensed Marks, such as by filing trademark applications for the Licensed Marks, by asserting in any way Affiliate's ownership of the Licensed Marks, or by diluting in any way the value of the Licensed Marks.

4. Permission to Use AARP Foundation Materials and Software

- a. Materials: AARP Foundation will provide certain materials it owns to Affiliate. These materials include but are not limited to: training videos, mentoring toolkits, and general content ("Materials"). AARP Foundation grants Affiliate a license to use and reproduce Materials and to make, use and reproduce derivative works of the Materials for use solely in implementing the Program, unless prior written approval is obtained. This license shall be irrevocable, non-exclusive, and perpetual. Any and all goodwill that may develop from Affiliate's use of the Materials will inure exclusively to AARP Foundation. Affiliate shall not do anything to compromise AARP Foundation's rights in the Materials, such as by filing

copyright applications for the Materials, by asserting in any way Affiliate's ownership of the Materials, or by diluting in any way the value of the Materials.

b. Volunteer Portals and Software

i. *AARP Foundation Impact System*. Affiliate staff and Volunteer Members will have access to and use the AARP Foundation Impact System (FIS). FIS is used to track Program activities to help measure Program impact. Affiliate staff and Volunteer Members must execute the FIS User Agreement attached as *Exhibit H-1*.

ii. *AARP Volunteer Portal*. Affiliate staff and Volunteer Members will have access to and use the AARP Volunteer Portal (AVP). Affiliate staff and Volunteer Members use AVP to receive Program assignment information from AARP Foundation, receive and share relevant content and communicate with other Program volunteers. Affiliate staff and Volunteer Members must execute the AVP User Agreement attached as *Exhibit H-2*.

5. Affiliate Materials

All materials developed by Affiliate in running the Program shall be the sole property of Affiliate; provided, however, if Affiliate shares any such materials with AARP Foundation or other Program affiliates in written or digital form, Affiliate thereby grants to AARP Foundation and its designees, and to other Program affiliates a license to use and reproduce such materials and to make, use and reproduce derivative works of the materials for use solely in implementing the Program. This license shall be irrevocable, non-exclusive, and perpetual. Any use of Affiliate's materials under this license will require appropriate acknowledgment of Affiliate's ownership of the materials, and AARP Foundation will notify other Program affiliates of a duty to acknowledge Affiliate's ownership. This license to use materials will apply only if materials are shared as part of a sharing of "best practices" among different groups running the Program, and will not apply if materials are shared with AARP Foundation solely for the purpose of obtaining approval as required by the brand guidelines set out in *Exhibit G* or for purposes of allowing AARP Foundation to monitor Affiliate's program and compliance with Program standards.

6. Affiliate's Representations

Affiliate represents and warrants to AARP Foundation that:

- a. Affiliate has full power and authority to execute, deliver and perform its obligations set forth in this Agreement;
- b. It is a program of a 501(c)(3) tax-exempt, nonprofit corporation; a stand-alone 501(c)(3) tax-exempt, nonprofit corporation; a government unit or instrumentality; or other form of federally tax-exempt organization;
- c. It is in sound financial condition and current with all necessary financial and legal filings and required audits;
- d. It does not discriminate on the basis of race, religion, ethnic or national origin, gender, disability, age or sexual orientation, or any other legally protected status, either in the people it serves or the volunteers and staff who serve it;

7. Term/Termination

- a. This Agreement will be effective from the Effective Date until August 31, 2018 or until terminated in accordance with the provisions of this Agreement.
- b. If either party should breach any material provision of this Agreement, the other party may terminate this Agreement if the breaching party fails to cure such breach within ten (10) days after written notice.
- c. Notwithstanding any other term of this Agreement or any exhibit to this Agreement, if Affiliate takes any action or acts in a way that does or may materially reflect negatively on AARP Foundation or materially adversely affects AARP Foundation's ability to advance its charitable mission or goals, AARP Foundation may terminate this agreement within ten (10) days after written notice.
- d. Failure to meet any deadline set out in this Agreement shall be considered a material breach thirty days after the deadline has passed, or sooner if an earlier window for compliance is explicitly stated in this Agreement. No additional written notice of such breach shall be required and no extended period to cure the breach shall apply unless the non-breaching party agrees to extend the cure period.
- e. In the event of any termination or expiration of this Agreement, Affiliate shall discontinue immediately all use of the Licensed Marks, Materials and Software.
- f. This Agreement may be terminated at any time if mutually agreed by the parties.

8. Disclaimers

Each party acknowledges and agrees that all the Licensed Marks and any other information or materials licensed or provided hereunder are licensed or provided on an "as is" basis and that neither party makes any representations whatsoever, whether express, implied, or statutory, including without limitation any implied warranties of title, enforceability, or non-infringement.

9. Nature of Relationship

The parties to this Agreement are independent contractors, and no agency, partnership, joint venture or employee-employer relationship is intended or created by this Agreement. Neither party shall have the power to obligate or bind the other party.

10. Indemnification

Affiliate shall indemnify, defend, and hold harmless AARP Foundation, its affiliated entities, together with their directors, officers, employees, and agents, from and against any and all actions, claims, liabilities, losses, damages, expenses and costs (including without limitation attorney's fees) arising out of its performance under this Agreement. This indemnification obligation shall survive expiration or termination of the Agreement.

11. Not Assignable

Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Affiliate, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of AARP Foundation. This Agreement may be assigned by AARP Foundation, provided the assignee assumes all of the Experience Corps program's responsibilities and obligations under this Agreement and has the ability and authority to fulfill all such responsibilities, including the right to license the Licensed Marks.

12. Entire Agreement

This Agreement together with *Exhibits A, B, C, D, E, F G and H* attached hereto contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to that subject matter. In case of conflict between this Agreement and any Exhibit, the terms of this Agreement shall govern. This Agreement may not be amended, except by a writing signed by both parties and dated subsequent to the date of execution of this Agreement.

13. Other Agreement.

Notwithstanding Section 12 herein, to the extent there is a conflict between the Agreement and an agreement sub-granting funds from AARP Foundation to the Affiliate ("Subgrant Agreement"), the terms of the Sub-grant Agreement will govern.

14. Governing Law

This Agreement will be interpreted and construed in accordance with the laws of the District of Columbia and the United States of America, without regard to conflict of law principles. All disputes arising out of this Agreement will be subject to the exclusive jurisdiction of the local and federal courts located in Washington, DC, and each party consents to the personal jurisdiction thereof.

In Witness Whereof, the parties have executed this Agreement as of the date first above written.

For Affiliate (CEO and/or President):

For Affiliate (Program Director):

BY: _____

BY: _____

Mark W. Mitchell

PRINT NAME

PRINT NAME

Mayor

TITLE

TITLE

31 East Fifth Street, Tempe, AZ 85281

ADDRESS

ADDRESS

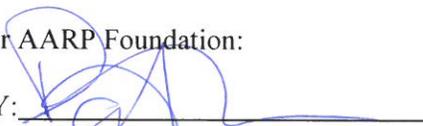
November 3, 2016

DATE

DATE

Attest:

For AARP Foundation:

BY:  _____

Brigitta M. Kuiper, City Clerk

Patricia D. Shannon

Approved as to form:

PRINT NAME

SVP and CFO AARP Foundation

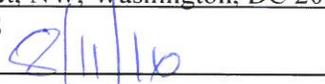
TITLE

601 E Street, NW, Washington, DC 20049

Judith R. Baumann, City Attorney

ADDRESS

DATE



Exhibits

| | |
|-----------------|---|
| Exhibit A: | Program Standards |
| Exhibit B: | Tutoring Strategy Guidelines |
| Exhibit C: | Quality Assurance System |
| Exhibit D: | Financial Management Survey |
| Exhibit E1, E2: | Background Check Policy |
| Exhibit F: | Data Collection Requirements |
| Exhibit G: | Program Branding Standards and Guidelines |
| Exhibit H1, H2: | Salesforce Terms of Use |