



AGREEMENT

This represents the definitive Agreement ("Agreement") dated as of **October 1, 2014**, between EverFi, Inc. a Delaware for-profit corporation whose address is 3299 K Street NW, Washington, D.C. 20007 (the "Company"), and Chicago Housing Authority, an Illinois municipal corporation organized pursuant to the Illinois Housing Authorities Act, whose address and principal place of business is located at 60 East Van Buren, Chicago, Illinois 60605 ("Customer").

The purpose of the Agreement is to define the rights and obligations between the Company and the Customer.

Recitals.

Whereas, the Customer issued a solicitation RFP No. 14-01383 (the "Solicitation"), which is attached hereto as Exhibit 1 and incorporated fully by reference herein, for financial literacy services for its residents and beneficiaries, which included the project's background, scope, assumptions and conditions of award that would be granted under the Solicitation; and

Whereas, Company submitted its proposal (inclusive of any Best and Final submissions, the "Proposal"), which is attached hereto as Exhibit 2, in response to the terms and conditions of the Solicitation, which was thereafter granted award of a contract by the Customer pursuant to the Solicitation,

Now Therefore, the Customer and the Company agree as follows,

Incorporation of Solicitation and Proposal; Precedence.

The Customer and the Company agree that the terms and conditions of the Solicitation shall generally be read and interpreted harmoniously to give the maximum effect to each, and without presumption of any conflict; However, in the event of any express conflict between the terms and conditions of the Solicitation and the terms and conditions set forth below, the terms of the Solicitation shall prevail and take precedence over conflicting or substantially inconsistent terms.

Company Products & Services. The terms "Company Products & Services" and "Products" as used in this Agreement mean the educational technology learning platform, digital courses, surveys, data, data analysis, derivative works, and other services described below.

- A. **Products:** Through the partnership, the Customer will be a sponsor of the following digital learning course(s) hosted on the Company's platform:
 - 1. @Work – Adult Financial Literacy™
 - 2. EverFi – Financial Literacy™
 - 3. Vault – Understanding Money™

- B. **Adult Implementation:** On an annual basis, the Company will provide 4 customized Product Campaigns. Each Product Campaign is planned in advance to have the following variables:
 - A chosen audience (i.e. customer segment, employees, etc.)
 - A given time period (i.e. up to a year)

- Customer selected branding to include name, logo, and messaging linked with @Work module(s)
- A unique URL

C. **K-12 Implementation:** The Customer will be a sponsor of the above Products in the following geographic areas over the Term of the Agreement:

I. Chicago Housing Authority

Outreach: The Company will begin outreach immediately, and work to train and begin technology adoption in the current academic year. Based on the sponsored institution's placement decisions and curriculum timing, the Company projects ramping to full adoption in the sponsored institution(s) over the Term of this Agreement. The Company will reach out to additional selected schools to ensure the contracted number of education institutions is activated.

Institution Relationships: The Company will work with the Customer to establish a relationship with local institutions and provide access to End-Users. The Company will be responsible for the maintenance of these relationships and shall maintain these relationships to ensure the success of the Product, and the relationships will be considered part of the Company.

School Placement: The Company will work with the selected End Users to place the Product in curriculum and learning programs that facilitate and support as broad adoption as possible. The ultimate placement is not the decision of the Company and cannot be guaranteed.

- D. **Communications:** The Company will provide necessary communication materials to the Customer to launch the partnership and announce the program throughout the Term. The Customer will have the right to review, modify, and distribute necessary communication materials and, where appropriate, plan launch and other events. For all K-12 programs, the Company will not allow the Customer to market to end-users.
- E. **Account Management:** Based on the selected partnership level, The Company will provide ongoing account management services, such as written progress updates and dashboard reporting. The frequency and schedule of these communications will be determined at the Kick-Off meeting between the Company and the Customer.
- F. **Licenses:** During the term of this Agreement and subject to the terms of this Agreement, the Company hereby grants Customer (and its residents/beneficiaries) a non-exclusive, non-transferable, royalty-free license to: (i) access and use the Products via remote access; (ii) authorize specific End Users to use the Product; and (iii) promote the Product to End Users for such use. During the term of this Agreement and subject to the terms of this Agreement. Customer hereby grants the Company a non-exclusive, non-transferable, royalty-free license to use the Name solely in connection with the use and promotion of the Products as permitted by this Agreement.
- G. **Privacy:** The Company is committed to protecting the privacy of its users, specifically its youngest learners. These terms are outlined in The Company's Privacy Policy and Terms & Conditions. In compliance with the *Children's Online Privacy Protection Act (COPPA)*, the information K-12 or

Higher Education learners provide to the Company in taking the digital learning course(s) will not be given, sold, rented, loaned, or otherwise disclosed to any third parties outside of the Company. Any data analytics are summarized at an aggregate level, and shall not include the creation or collection of personally identifiable data for any user.

- H. **Maintenance:** The Company is strictly responsible for the maintenance and content of the Platform and represents that it shall maintain the Platform in good working order. Customer shall have no liability or responsibility with regard to the Platform's upkeep or the content thereon.
- I. **Servers:** The Company will host the program on Company or Company-provisioned servers. The Company will make best efforts to ensure that the servers are not down for more than three hours per month.
- J. **Technical Support:** The Company will provide end-users with telephone and email technical and implementation support during normal business hours.
- K. **Additional Sponsors:** During the term of this Agreement, the Customer will be the sole local institution sponsor of the Product for these End-Users. The Company can continue to partner at the national or statewide level with other entities to provide additional sponsorship.

Program Term, Options & Costs.

- A. **Term:** The Agreement will begin on the execution date and continue for a **two (2) year** base term ending on the second (2nd) anniversary date of this Agreement. The Agreement is subject to renewal or extension by the Customer in accordance with the three (3) one-year extension option(s) offered by Company in its response to Solicitation and reserved to the Customer. Customer shall make commercially reasonable efforts to provide notice of its intent to renew the Term of the Agreement not later than thirty (30) days prior to the expiration of the then-current Base Term or any Extension Term.
- B. **Program Cost:** Customer agrees to employ the Company Products below for an annual cost of \$75,000, including:
 - @Work – Adult Financial Literacy™ - \$50,000 annually.
 - EverFi – Financial Literacy™ and Vault – Understanding Money™- \$25,000 annually.
- C. **Payment:** Payments for the annual Program costs of \$75,000.00 for any year of the Agreement (whether a Base Term year or an Extension Term year) will be invoiced by Company as follows: (1) upon execution of the Agreement for the first year of the Base Term; and (2) upon the respective anniversary date(s) of the Agreement for the second year of the Base Term or any Extension Term exercised by Customer.

Restriction on Use of Confidential Information

For purposes of this Agreement, "Confidential Information" shall mean any written information and data of a confidential nature, including but not limited to proprietary, technical, development, marketing, sales, operating, performance, cost, know-how, business and process information, computer programming techniques, and all record-bearing media containing or disclosing such information and techniques which

is disclosed by one party ("Discloser") to the other party ("Recipient") pursuant to this Agreement. When appropriate, the term shall also include any samples, models or prototypes, or parts thereof. All Confidential Information delivered pursuant to this Agreement (a) shall not be copied, distributed, or disseminated in any manner by Recipient, except to those affiliates, directors, officers, employees, agents, contractors or advisors of Recipient who have a need to know, without the prior written consent of the Discloser and (b) shall not be used by Recipient for any purpose, except as otherwise expressly stated herein, without the prior written consent of the Discloser. The confidentiality obligations of this Agreement shall not apply to any information which (a) is already in the public domain through no breach of this Agreement, including but not limited to information available through Customer's Web site(s); (b) was lawfully in Recipient's possession prior to receipt from Discloser; or (c) is received by Recipient independently from a third party free to lawfully disclose such information to Recipient or (d) to the extent required by an order of any court or other governmental authority.

Intellectual Property Protection.

Customer agrees that the Platform, the Implementation Documents, Company Data, Derivatives, EverFi Technology and all Company materials incidental thereto ("Property") shall be the sole and exclusive property of the Company and that the Company shall own all of the rights, title and interest to such Property. The Property shall not be deemed a "work made for hire" under the U.S. Copyright Act of 17 U.S.C. §101, *et. seq.* Customer does not acquire any interest or rights in the Property as a result of this Agreement or its exercise of any rights hereunder.

Customer shall retain all rights and title to its intellectual property and Licensed Marks.

Indemnification. Company will indemnify, defend and hold harmless any action brought against Customer, its directors, officers, members or employees to the extent that the action is based on a claim, suit, or proceeding that the Product, including any documentation or other materials supplied by the Company, infringes such party's intellectual property rights ("Infringement Claim"). In the event of any such Infringement Claim, Company may, at its option: (a) purchase a license to permit Customer to continue using and promoting the Product as contemplated hereunder; (b) modify or replace the relevant portions of the Product with non-infringing products or services of substantially equivalent performance within a reasonable period of time; or (c) terminate this Agreement immediately and reimburse Customer all fees paid for the Product. Upon receiving notice of any claim covered by the indemnity obligations set forth hereunder, Customer shall promptly notify Company in writing of the claim. Company may assume sole control of the defense of any such claim. Customer may, at its own cost and expense, participate through its attorneys or otherwise, in such investigation and defense. If the Customer does not participate in the investigation and defense of the claim, Customer shall provide the Company reasonable assistance regarding such claim at the Company's expense. Company will pay those costs and damages, including reasonable attorneys' fees, awarded against the Customer by a court of competent jurisdiction or other tribunal, arbitrator, panel with jurisdiction over such claim(s), in any such action that is specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. Unless such settlement is solely for monetary damages for which the Customer is fully indemnified hereunder, the Company shall not settle any such claim without the Customer's prior, written consent, which shall not be unreasonably withheld or delayed.

Warranties. Although the Company has used its best efforts to produce the highest quality Products, it can make no guaranty, warranty or representation as the exact effectiveness in changing or in modifying or affecting the behavior or conduct of the users. The Customer is solely responsible for the content and

functionality of any custom messages and custom URL links that are provided by the Customer. The Customer assumes responsibility for reviewing, verifying and testing all custom messaging and custom URL links. THEREFORE, THE COMPANY MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS OR SERVICES, WHICH ARE PROVIDED "AS IS." ALL WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USE OF TRADE, ARE HEREBY EXPRESSLY DISCLAIMED, AND ANY STATEMENTS OR REPRESENTATIONS MADE BY ANY OTHER PERSON OR FIRM ARE VOID.

Limitation of Liability. IN NO EVENT SHALL EITHER PARTY, BE LIABLE FOR ANY LOST PROFITS, LOST DATA, OR LOST EQUIPMENT, ANY WEBSITE OR NETWORK DOWNTIME, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER ARISING, WHICH ARE RELATED TO THIS AGREEMENT AND THE PROVISION OF SERVICES HEREUNDER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EITHER PARTY'S TOTAL CUMULATIVE LIABILITY FOR ANY DIRECT DAMAGES EXCEED THE LESSER OF: (i) ACTUAL DIRECT DAMAGES OR (ii) AMOUNTS ACTUALLY PAID BY CUSTOMER HEREUNDER OVER THE PRECEDING TWELVE (12) MONTHS FROM THE TIME THE EVENT RESULTING IN LIABILITY OCCURS.

Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and the Products and supersedes any and all prior Agreements, written and oral with respect thereto. This Agreement will survive any mergers or acquisitions. No change, amendment or modification of any provision of this Agreement shall be valid unless agreed to in writing by both parties.

Notices. All notices or other communications required or contemplated in this Agreement shall be sufficient and deemed delivered if in writing and sent by courier, overnight delivery service or seventy-two (72) hours after being deposited with the United States Postal Service, postage prepaid via certified mail, addressed to the parties as set forth below, or to such other address as may be changed from time to time by notice duly given:

If to Customer:

Chicago Housing Authority
60 E. Van Buren 12th Floor
Chicago, IL 60605
Attention: Chief Executive Officer

Copy to:

Office of the General Counsel
Chicago Housing Authority
60 E. Van Buren, 12th Floor
Chicago, IL 60605
Attention: Chief Legal Counsel

If to the Company:

Shirley Borrromeo

3299 K Street N.W., 4th Floor
Washington, DC 20007
202-625-0011

Assignment. Neither party may assign this Agreement without the written permission of the other party, such permission not to be unreasonably withheld or delayed, and any violation hereof shall be a breach hereof and will be void ab initio.

Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Illinois, without regard to its conflict of law principles.

No Agency. The parties are and shall be independent contractors to one another, and nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. IN WITNESS WHEREOF, the parties represent their Agreement as of the date first noted above.

EVERFI, INC.

Name:


Tammy Mank Wincup

Title: Chief Operating Officer (COO)

Date:

10/17/14

CUSTOMER: Chicago Housing Authority

Name:


Dionna Brookens

Title: Senior Director, Department of
Procurement and Contracts

Date:

11/7/14

Approved as to Form
Chicago Housing Authority
Office of the General Counsel

BY:


Scott W. Ammatelli
Chief Legal Officer