

Agreement for Use of Facilities
for Clinical Experience

between

Department of Public Health

and

«School»

This agreement is dated for convenience this «Agr_day» day of «Agr_Month» «Agr_year» by the City and County of San Francisco, a municipal corporation, through its Department of Public Health (hereinafter called "CITY") and «School» (hereafter called "SCHOOL").

WHEREAS, SCHOOL has an approved and accredited clinical experience program, and such program requires the use of clinical facilities for use in teaching STUDENTS in the clinical experience program, and

WHEREAS, CITY has suitable clinical and observation facilities for such clinical experience program and is willing to allow SCHOOL to use such facilities for the benefit of STUDENTS in the clinical experience program.

NOW, THEREFORE, it is agreed as follows:

1. DEFINITIONS

a. When any word or phrase defined below is used, or a pronoun is used in place thereof, it shall have the meaning herein set forth:

CITY: The City and County of San Francisco, a municipal corporation, through its Department of Public Health.

DIRECTOR: The Director of Public Health or his/her designated agent

SCHOOL: «School»

PROGRAM: An approved and accredited educational program of SCHOOL, and such program requires the use of clinical facilities for STUDENTS to gain clinical experience.

STUDENT: A Student, Resident, Fellow or other health care worker in a clinical experience program named in Appendix 1.

b. Wherever the words "as directed", "as required", or words of like effect are used, it shall be understood that the direction, requirement, or permission of the Director of Public Health is intended. The words "sufficient", "necessary", or "proper", and the like, means sufficient, necessary, or proper in the judgment of the Director of Public Health. The words "approval", "acceptable", "satisfactory", or words of like import shall mean approved by, or acceptable to, or satisfactory to the Director of Public Health unless otherwise indicated by the context.

2. PROGRAM

a. PROGRAM for STUDENTS to be conducted pursuant to this agreement is an educational program of the SCHOOL and not of the CITY. The SCHOOL will be responsible for the content of the educational program and will provide for necessary instruction in a manner that is acceptable to the CITY and SCHOOL. A statement of the

philosophy and objectives of SCHOOL'S clinical experience program and an updated course outline and description of course content will be made available, upon request of the CITY, and attached to this contract.

b. The clinical experience will be conducted in a manner satisfactory to the CITY in conformity with CITY policies, rules and regulations, and the time, place, and subject matter of all training hereunder will be subject to the approval of the CITY. CITY may instruct STUDENTS where such instruction is considered of particular value, and when agreed upon by CITY and SCHOOL. However, the supervision of health services provided at City facilities shall be the sole responsibility of the CITY.

3. RESPONSIBILITIES OF THE SCHOOL

a. The SCHOOL will designate STUDENTS for participation in the program conducted hereunder.

b. SCHOOL will furnish CITY with such evidence as CITY may require in order to assure itself that each STUDENT assigned for training hereunder meets necessary health, educational and training requirements.

c. SCHOOL will require STUDENTS to fully comply with the San Francisco Department of Public Health's Infection Control Policies as defined but not limited to the California Code of Regulations, Title 8, Section 5193, Bloodborne Pathogens (<http://www.dir.ca.gov/title8/5193.html>), and demonstrate compliance with all requirements including, but not limited to, exposure determination, training, immunization, use of personal protective equipment and safe needle devices, maintenance of a sharps injury log, post-exposure medical evaluations, and recordkeeping. Said policies are incorporated herein by reference as though fully set forth. The parties agree that this Agreement shall be interpreted as containing every applicable requirement set forth in those policies for students or trainees who work at City and County of San Francisco owned or leased or San Francisco Department of Public Health dedicated facilities.

d. School agrees to provide the specific training and instruction for the programs specified in Appendix 1, attached hereto and incorporated by reference as though fully set forth herein.

e. SCHOOL will keep all attendance and academic records of the STUDENTS in the program.

f. Confidentiality of Patient Records. The School will require that STUDENTS hold in strict confidentiality all medical record and patient health information that they may become privy to when they are involved in any program covered by this Agreement. The School will be responsible for ensuring that STUDENTS maintain the confidentiality of medical records and patient health information as specified in State and Federal law, including the Confidentiality of Medical Information Act (California Civil Code Section 56, et seq.), Title 22 of the California Code of Regulations, Medicare and Medicaid Rules of Participation (42 C.F.R., Section 482.13), the Confidentiality of Alcohol and Drug Abuse Patient Records Act (42 C.F.R., Part 2), the Lanternman-Petris-Short Act (California Welfare and Institutions Code, Section 5328), California Health and Safety Code Section 120975, and the Health Insurance Portability and Accountability Act of 1996 – "HIPAA" (45 C.F.R., Parts 160 and 164). CITY may require STUDENTS to sign an Oath of Confidentiality before they begin their clinical experience.

g. School Reports and Papers. The School will be responsible for ensuring that students delete all individually identifiable health information, as defined in the Health Insurance Portability and Accountability Act of 1996, before using any medical record or patient health information in any SCHOOL report or paper.

h. Proprietary or Confidential Information of City. SCHOOL understands and agrees that in the performance of the work or service under this Agreement or in contemplation thereof, SCHOOL/STUDENT may have access to private or confidential information which may be owned or controlled by CITY and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to CITY. SCHOOL agrees that all information disclosed by CITY to SCHOOL/STUDENT shall be held in confidence and used only in performance of the Agreement.

i. Equal Opportunity Employment and Business Practices. SCHOOL agrees to the provisions of Sections 12B, as amended, of the San Francisco Administrative Code and are incorporated herein by reference and made a part of this contract as though fully set forth. The SCHOOL agrees to comply fully with all provisions therein.

4. RESPONSIBILITIES OF CITY

a. CITY will have the right to limit the number of STUDENTS to be allowed to participate in the clinical experience program. When STUDENT reduction is necessary the CITY will inform the SCHOOL during the placement time frame. The CITY shall have the right to terminate the participation of any STUDENT in the program for good cause, such as, but not limited to, failure to abide by the aforementioned rules and regulations.

b. In so far as is available and in accordance with mutually pre-arranged scheduling, the City will provide the following facilities to SCHOOL/STUDENTS:

- (1) Conference-type space suitable for small groups;
- (2) Access to Libraries; and

c. CITY will permit SCHOOL personnel to instruct SCHOOL STUDENTS on CITY premises when, in the opinion of the CITY, such instruction will not interfere with the duties of CITY personnel.

d. The DIRECTOR will designate a member of the CITY staff to participate with the designee of SCHOOL in planning, implementing, and coordinating the program of clinical experience.

e. The CITY agrees to inform both the SCHOOL and the STUDENT concerning the STUDENT'S level of clinical growth and competence and to complete one or more evaluation reports on forms to be provided by the SCHOOL. The evaluation process shall include a conference between the STUDENT and supervisor at the time the report is completed. THE evaluation report(s) shall be sent to the SCHOOL on the date(s) requested. The CITY further agrees to maintain such other records as may be requested by the SCHOOL to evaluate each STUDENT'S performance in the program.

f. The CITY agrees, upon reasonable request made by the SCHOOL at any time during or after the program, to permit inspection of its facilities, STUDENT records, or other records or items which pertain in any way to the program or to the SCHOOL'S STUDENTS, by the SCHOOL and accrediting agencies. The CITY agrees not to

dispose of or destroy such records for a period of at least three years after the termination of this agreement.

Add g. if Workers' Comp is deleted (see Section 7)

g. The CITY agrees to provide emergency care to STUDENTS in case of accident or illness while using CITY facilities. STUDENT and SCHOOL shall be financially responsible for such emergency care rendered by CITY.

(1) SCHOOL is relieved of this financial responsibility where STUDENT is required by SCHOOL to carry personal health insurance that would cover any emergency care provided by CITY; and, prior to use of any CITY facility, STUDENT provides proof of having health insurance coverage and such coverage is maintained throughout the term of their clinical experience.

5. NO MONETARY REMUNERATION FOR SERVICES RENDERED

a. It is understood and agreed that STUDENTS are not employees of City and will not be entitled to any monetary remuneration or employee benefits (e.g. workers' compensation, health or retirement benefits) for services performed by them in the specific course of training, nor shall CITY otherwise have any monetary obligation to SCHOOL administration or faculty, or anyone else by virtue of this Agreement.

b. STUDENTS will be responsible for travel and other expenses as part of their clinical experience.

6. INDEPENDENT CONTRACTOR; PAYMENT OF TAXES AND OTHER EXPENSES

a. SCHOOL and STUDENT shall be deemed at all times independent contractors and SCHOOL shall be wholly responsible for the manner in which SCHOOL and STUDENT perform the service required of SCHOOL and STUDENT by the terms of this Agreement. SCHOOL shall be liable for the negligent acts and omissions of it, its employees and its agents, including its STUDENTS. Nothing contained herein shall be construed as creating an employment or agency relationship between CITY and SCHOOL, or CITY and STUDENT.

b. Should CITY, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that STUDENT is an employee for purposes of collection of any employment taxes, SCHOOL shall promptly forward amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by SCHOOL which can be applied against this liability). CITY shall then forward those amounts to the relevant taxing authority.

c. Should a relevant taxing authority determine a liability for past services performed by STUDENT for CITY, upon notification of such fact by CITY, SCHOOL shall promptly remit such amount due to CITY (again, offsetting any amounts already paid by SCHOOL which can be applied as a credit against such liability).

d. A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, STUDENT shall not be considered an employee of CITY.

7. INSURANCE

a. Without in any way limiting SCHOOL'S liability pursuant to Section 8 (Indemnification and General Liability Section), SCHOOL shall maintain in full force, or require to be maintained, throughout the term of this agreement, at its expense, insurance in the following amounts and coverage for each and every student participating in the clinical program:

(1) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Personal Injury and, Combined Single Limit Bodily Injury and Property Damages, including Personal Injury, Contractual, Independent Contractor, Broad Form Property Damage, and Products/Completed Operations coverage.

(2) Business Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including owned, non-owned and hired auto coverage, as applicable.

Waive Auto Insurance

Deleted (Business Automobile Liability Insurance). In consideration of deletion of Automobile Liability Insurance requirement, SCHOOL and CITY hereby warrants STUDENTS will not use owned or hired vehicles during the performance of this agreement, as evidenced in Appendix 3. Requires a signed letter from the institution stating that students are not required to operate motor vehicles during the performance of the training program.

(3) Professional Liability/Malpractice Insurance with limits not less than \$1,000,000 each claim, with respect to negligent acts, errors, omissions, malpractice, or mistake, and with a deductible not to exceed \$10,000 each occurrence.

(4) Workers' Compensation, with Statutory compensation and Employers Liability limits not less than \$1,000,000 each accident.

Waive Workers; Comp

Deleted (Workers' Compensation). In consideration of SCHOOL'S warranty that it will maintain in force, throughout the term of this Agreement, a program of insurance and/or self-insurance (as evidenced by the certificate attached hereto in Appendix C) of sufficient scope and amount to permit it to discharge promptly any obligations each incurs by operation of this Agreement related to coverage of liabilities in this area, further certificate of insurance is not required for Worker's Compensation. Requires school to provide insurance coverage for students in case of injury or illness during performance of the training program (see 4.g. above)

b. Should any of the required insurance be provided under a claims-made form, SCHOOL shall maintain such coverage continuously throughout the term of this agreement and, without lapse, for a period of three years beyond expiration, to the effect that, should occurrences during the term give rise to claims made after expiration of the agreement, such claims shall be covered by such claims-made policies.

- c. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.
- d. Insurance policies shall be endorsed to provide the following:
- (1) Name as ADDITIONAL INSURED the City and County of San Francisco, its Officers, Agents, and Employees, but only insofar as the operations under this agreement are concerned. This additional-insured endorsement is required for Commercial General Liability and Business Automobile Liability.
 - (2) That such policies are primary insurance to any other insurance available to the City and County of San Francisco, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- e. ALL POLICIES SHALL BE ENDORSED TO PROVIDE:
- (1) Thirty (30) days advance written notice to CITY of cancellation, non-renewal or reduction in coverage, mailed to the following address:
 1. Office of Contract Management and Compliance
 2. DEPARTMENT OF PUBLIC HEALTH
 3. 101 Grove Street, Room 307
 4. San Francisco, CA 94102
- f. CITY will not be responsible for any premiums or assessments on the policy.
- g. Before commencement of the term of this agreement, and prior to each annual renewal, certificates of insurance, in form and with insurers acceptable to CITY shall be furnished to CITY, with complete copies of policies to CITY upon request.
- h. Approval of the insurance by CITY shall not relieve or decrease the liability of the SCHOOL hereunder.
- i. SCHOOL agrees that the insurance herein provided for shall remain in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, SCHOOL agrees to provide at least thirty (30) days prior to said expiration date, a new Certificate of Insurance evidencing insurance coverage as provided for herein for not less than one (1) year. New certificates of insurance are subject to the approval of CITY, and SCHOOL agrees that no work or services shall be performed prior to the giving of such approval. In the event SCHOOL fails to keep in effect at all times insurance coverage as herein provided, CITY may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.
- j. Nothing in this Agreement shall prevent SCHOOL from self-insuring all or part of the insurance requirements.
- (1) Should SCHOOL self-insure any required coverage, SCHOOL shall provide a Letter of Self-insurance signed by School's Risk Manager or the individual responsible for procuring coverage for SCHOOL.
 - (2) If SCHOOL self-insures all or part of the required insurance, the corresponding policy endorsements, certificates of insurance, and copies of policies, required in Section 7d and 7g of this agreement, are hereby waived.

8. INDEMNIFICATION AND GENERAL LIABILITY

a. SCHOOL shall keep, defend, indemnify and hold harmless the CITY and all of the officers, agents and employees of the CITY from any and all claims and liabilities for damages of any kind whatsoever to all persons, corporations and partnerships including but not limited to STUDENTS of SCHOOL and heirs of STUDENTS of SCHOOL and employees of CITY and heirs of employees of CITY arising out of and in the course of the performance of this Agreement.

b. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any Loss. School specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within these indemnity provisions even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to School by City and continues at all times thereafter. The insurance requirements and other provisions of this Agreement shall not limit School's indemnification obligations hereunder. School's obligations under this Section shall survive the expiration or sooner termination of this Agreement.

c. SCHOOL shall save, keep, hold harmless, and fully indemnify and defend CITY, its officers, or agents and employees from all damages or claims for damages, costs or expenses in law or equity that may at any time arise for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark of any person or persons in consequence of the use by CITY, or its officers or agents, of articles or services to be supplied in the performance of this Agreement.

9. APPLICABLE LAW

a. The terms and conditions of this agreement will be interpreted in accordance with the laws of the State of California.

10. PROBLEM RESOLUTION

a. The parties shall meet and attempt to resolve all disputes and differences that may arise between the parties hereto concerning construction, interpretation, performance, operation or breach of the matters in this Agreement prior to seeking any legal remedy.

11. EFFECTIVE DATE AND TERMS OF AGREEMENT

12. This Agreement shall be effective when executed by both parties and shall continue for a term of five (5) years from «Date_TermStarts» to «Date_TermEnds».

13. Either party may cancel this agreement by giving sixty days written notice to the other party of the intention to so cancel.

14. CITY may cancel scheduled instruction or limit or withdraw use of any facility when such instruction or use of such facility would interfere with the effective operation of the CITY. CITY shall give the SCHOOL sixty days notice in advance of its intent to cancel, limit, or withdraw facilities, except in the case of an emergency, or with the consent of the SCHOOL.

15. NOTICES TO THE PARTIES

a. All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and registered as follows:

TO CITY: Office of Contract Management and Compliance
DEPARTMENT OF PUBLIC HEALTH
101 Grove Street, Room 307
San Francisco, CA 94102

TO SCHOOL: «School»
«Address1»
«ContactAddress»
«City», «State» «Zip»
Attn.: «ContactName»
«ContactTitle»

16. ENTIRE AGREEMENT AND MODIFICATION OF AGREEMENT

a. All the agreement between the parties is included herein and no warranties expressed or implied, representations, promises or statements have been made by either party unless endorsed hereon in writing. No change or waiver of any provision hereof shall be valid unless made in writing and executed in the same manner as this Agreement.

17. JURISDICTION

a. The parties hereto agree that all Actions or proceedings arising in connection with this Agreement shall be filed and litigated exclusively in the State and Federal courts located in the County of San Francisco, State of California. The aforementioned choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this paragraph. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this paragraph, and stipulates that the State and Federal courts located in the County of San Francisco, State of California, shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to this agreement. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this paragraph by registered or certified mail, return receipt requested, postage prepaid, to its address for the giving of notices as set forth in paragraph 13 of this agreement. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.

18. SEVERABILITY

a. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then

(1) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and

(2) such provision shall be enforced to the maximum extent possible so as to affect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

IN WITNESS WHEREOF, this Agreement has been executed in duplicate by and on behalf of the parties hereto, the day and year first above written.

Agreement for Use of Facilities for Clinical Experience Signatures.

CITY:

SCHOOL:

«School»
«Address1»
«Address2»
«City», «State» «Zip»

Barbara A. Garcia, MPA
Director of Health
Department of Public Health
Date

«Name_of_School_Agent»
«Title»
Date

Approved as to Form:

Dennis J. Herrera
City Attorney
Date

«Signature2_Name»
«Signature2_Title»
Date

Agreement for Use of Facilities for Clinical Experience
between
Department of Public Health
and
«School»

APPENDIX 1

This Agreement includes, but is not limited to, the Following PROGRAMS:

- 1) «P1»
- 2) «P2»
- 3) «P3»
- 4) «P4»
- 5) «P5»
- 6) «P6»
- 7) «P7»
- 8) «P8»
- 9) «p9»
- 10) «p10»
- 11) «P11»
- 12) «P12»

Additional programs may be added by mutual agreement of the parties, and the programs will be considered part of this agreement.

Agreement for Use of Facilities for Clinical Experience
between
San Francisco Department of Public Health
and
«School»

APPENDIX 2

In accordance with Title 16 of the California Code of Regulations, Section 1427 Clinical Facilities, CITY agrees to provide the following for nursing students:

1. Assurance of the availability and appropriateness of the learning environment in relation to the program's written objectives;
2. Provision for orientation of faculty and students;
3. A specification of the responsibilities and authority of the facility's staff as related to the program and to the educational experience of the students;
4. Assurance that staff is adequate in number and quality to insure safe and continuous health care services to the patients;
5. Provisions for continuing communication between the facility and the program;
and
6. A description of the responsibilities of faculty assigned to the facility utilized by the program.