

**MASTER AFFILIATION AGREEMENT**  
**University of Hawai'i / Hale Makua Health Services**

This AFFILIATION AGREEMENT ("Agreement") is entered into this 29 day of December, 2021, but effective as of January 1, 2022 ("Effective Date") by and between the University of Hawai'i, the state university and a body corporate of the State of Hawai'i, whose business address is 2444 Dole Street, Bachman Hall, Honolulu, Hawai'i 96822 (hereafter the "University") and Hale Makua Health Services, a Hawaii nonprofit corporation, whose principal business and mailing address is 472 Kaulana Street, Kahului, HI 96732 (hereafter called the "Affiliate"). As used in this Agreement, the term "Affiliate Facilities" refers to and includes all of the Affiliate facilities used by or in connection with Affiliate.

**RECITALS**

WHEREAS, the University operates three (3) universities (the University of Hawai'i at Manoa, University of Hawai'i West O'ahu, and University of Hawai'i at Hilo) and seven (7) community college campuses (Honolulu Community College, Leeward Community College, Windward Community College, Maui College, Kapi'olani Community College, Hawai'i Community College, and Kaua'i Community College) in the State of Hawai'i (hereafter collectively referred to as the "UH Campuses"); and

WHEREAS, the University's Board of Regents approved the establishment of professional education colleges or schools at each of the UH Campuses (hereafter each individually referred to as a "School" and collectively referred to as the "Schools"); and

WHEREAS, Schools within the University require field practicum opportunities where the students enrolled in the School (hereafter collectively the "Students") can apply knowledge and skills learned at the School in working with the Affiliate's patients and staff; and

WHEREAS, the Affiliate has the necessary facilities and resources to provide the Students with the Clinical Experiences (as defined below) required or offered by the School; and

WHEREAS, it is of mutual interest and advantage to the University and the Affiliate that the Students be given the benefit of field or clinical practicum experiences at the Affiliate Facilities so as to provide the Students with the opportunity to train and obtain further education and instruction within a clinical practicum setting (hereafter collectively the "Clinical Experiences"); and

WHEREAS, the University and the Affiliate are willing to work together to provide the Students with the Clinical Experiences; and

WHEREAS, the University and the Affiliate are desirous of providing and furnishing to the Students the Clinical Experiences under the terms and conditions described herein; and

WHEREAS, the University and the Affiliate intend that this Agreement cover all Schools and Students within the University, with individual Campuses and Schools being required to submit requests in writing to the Affiliate to schedule and conduct a Clinical Experience for the Students, which the Affiliate will review and confirm whether the arrangements for that Clinical Experience are acceptable,

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the University and the Affiliate mutually agree as follows:

## A. UNIVERSITY RESPONSIBILITIES

The following are University responsibilities that will be performed primarily by each School:

1. Provide Affiliate School's authorization to affiliate under this Master Agreement. Provide Affiliate with notice that a School is authorized to send students to Affiliate for Clinical Experiences in a particular program, in the form of which is set forth in Exhibit A ("Program Authorization").

2. Establish education program. Plan, establish, and conduct a prescribed educational program, including developing a curriculum, for the Clinical Experiences for the Students in consultation with the Affiliate (hereafter the "Program"). The School will develop, establish, and if necessary, reaffirm the Program at least thirty (30) days (or some other period of time mutually agreed upon by the parties) prior to the date the Students are scheduled to start the Program and the Clinical Experiences, including a mutually agreeable schedule of the times that the Students are expected to be at the Affiliate Facilities and the period of time needed to complete the Clinical Experiences for each Student. The School shall endeavor to send the name(s), complete clinical course data for each Student, and any additional required information to the Affiliate at least four (4) weeks (or some other period of time mutually agreed upon by the parties) before the beginning date of each session of the Program.

3. Refer qualified Students. Refer to the Affiliate only Students whom the School believes are qualified to participate in the Program at the Affiliate Facilities.

4. Provide Program curriculum. Provide the Affiliate with an updated copy of the Program curriculum, learning objectives to be achieved at the Affiliate Facilities, and the School's Program evaluation forms and guidelines, at least two (2) weeks prior to the beginning of each session of the Program.

5. Furnish administrative support. Furnish administrative support and/or data including curricula, admissions, scheduling, attendance, accounting, and achievement records similar to those maintained for all other Students. The School shall maintain all of the personnel records of the Program faculty members and instructors and the academic records of the Students.

6. Designate Program director. Designate an appropriately qualified School faculty member to be the Program director, who shall work with a designee of the Affiliate in planning the Program for the Students.

7. Provide instructors. Provide qualified instructors to teach all prescribed courses related to and supportive of the Program and provide appropriate classroom instruction to the Students prior to their participation in the Program.

8. Inform the Program Participants to abide by Affiliate policies and procedures. Inform the Students, the Program faculty members and instructors, and any University employees involved with the Program (collectively, the "Program Participants") that they are responsible to comply with, the Affiliate's policies and procedures regarding Program or Clinical Experiences at Affiliate Facilities, including maintaining the confidentiality of patient information and preventing the unauthorized disclosure of such information in accordance with the Health Insurance Portability and Accountability Act of 1996, Pub.L. 104-191, 110 Stat. 1936, enacted August 21, 1996 as amended by Health Information Technology for Economic and Clinical Health Act of the American Recovery and

Reinvestment Act of 2009, Pub.L. 111-5, 123 Stat. 226, February 17, 2009, and their implementing regulations, such as the Security Rule and the Privacy Rule (see 45 C.F.R. 160 and 164), as said acts, laws, statutes, rules, and regulations may be amended from time to time (hereafter collectively referred to as “HIPAA”), together with other applicable state and federal laws and Affiliate policies and procedures.

a. Patient information access restricted to Program purposes only. Program Participants shall not have access to or have the right to review any medical record, or health care record, except where necessary in the regular course of the Program.

b. Improper handling/disclosure may result in dismissal from the Program. The discussion, transmission, or narration in any form by the Program Participants of any patient information of a personal nature, medical or otherwise, is forbidden except as a necessary part of the Program and any violations of this prohibition, if properly established, shall constitute grounds for immediate dismissal of the Program Participants from the Program.

8. Inform the Program Participants to abide by Applicable Laws. The School shall inform the Program Participants that they are responsible to comply with all Applicable Laws. “Applicable Laws” mean all federal and state laws, statutes, codes, rules, regulations, standards, directives, permits, and all legislative, administrative, or judicial orders, decrees, requirements, rulings, or judgments, which now or in the future may be applicable to the School, the Affiliate, healthcare programs in general, the use of the Affiliate Facilities, and the conduct of any business therein, including, without limitation, compliance with anti-kickback statute, 42 U.S.C. 1320a-7b (b), the STARK Law, 42 U.S.C. 1395nn, and Executive Order 13496 or any successor requirement, if any as applicable, as set forth in 29 CFR Part 470, and any other applicable law.

9. Inform the Program Participants to comply with standards of practice. The School shall inform the Program Participants that they are responsible to comply with applicable standards of practice set forth by Applicable Laws and applicable accreditation agencies.

10. Enforce rules. The School and the Affiliate shall enforce rules and regulations governing Students that are mutually agreed upon by the School and the Affiliate. The School shall be responsible for handling the discipline of Students in the Program, as determined by the School.

11. Notify Affiliate of program changes. The School shall notify the Affiliate as soon as practicable of any anticipated changes in the Program, educational policy, program services, or other matters that may have significant implications for the Affiliate or the Affiliate Facilities, programs, services, and operations.

12. Abide by approved schedules. Require that the Program Participants abide by the School approved schedules for the Program.

13. Comply with withdrawal or exclusion request. Comply with a written request by the Affiliate to exclude or withdraw a Student or Program faculty member or instructor from the Program or exclude a Student or Program faculty member or instructor from any of the Affiliate Facilities for any reason and in the Affiliate’s sole discretion, within five (5) days of receipt of such notice from the Affiliate, provided that if the School disagrees with such request, the Affiliate and the School agree to: (1) utilize the dispute resolution process herein and (2) require the Student to stay away from the Affiliate Facilities during the pendency of the dispute resolution process if and to the extent deemed necessary by the Affiliate.

14. Patient/client care is Affiliate responsibility. The School shall accept the principle, and shall require the Students to confirm in writing their understanding of same, that the patient's physician, and the Affiliate's staff at the physician's direction, have primary responsibility for the care and management of the patient. The School and the Affiliate understand and agree that in no case shall any of the Students participating in the Program be: (a) assigned or have the primary responsibility for the care, management, and/or control of patients or (b) placed in a position of having or being deemed to replace Affiliate staff.

15. Collaborate on assignments. The School shall collaborate and cooperate with appropriate Affiliate staff to help the Students succeed within the Program and the completion of their Clinical Experiences, including, without limitation, developing and revising operational plans, determining the number and levels of the Students assigned to the Program and the various Clinical Experiences, setting and adjusting annual and weekly schedules, establishing recording and reporting procedures, and handling other matters or procedures that impact the administration and operation of the Program and the Clinical Experiences (including, without limitation, the education, training, and teaching components of the Clinical Experiences).

16. School to provide Program orientation. The School shall provide the Affiliate's staff with an orientation regarding the goals, objectives, format, content, and details of the Program and the Clinical Experiences to be implemented at the Affiliate Facilities.

17. Complete orientation requirements. The School shall require all Students and Program faculty members and instructors to complete the Affiliate's orientation requirements and all applicable corporate compliance training (to include HIPAA Privacy and HIPAA Security training), and sign all orientation forms as required by the Affiliate. The School shall collect the completed orientation and training forms and return them to the Affiliate hosting department. The School agrees to help facilitate such orientation and/or training, which shall be scheduled and provided by the Affiliate

18. Training. The School shall conduct training sessions for all Students and Program faculty members and instructors covering the applicable confidentiality requirements, including, without limitation: (a) applicable laws, statutes, ordinances, rules, regulations, orders, and directives. Such training sessions will also include such training curriculum or requirements that may be mutually developed and approved by and between the Affiliate and the School.

19. Periodic evaluation. The School shall meet with the Affiliate's staff at the Affiliate Facilities on a periodic basis to evaluate the Program, the Students, the Affiliate's and the School's staff, and the Clinical Experiences.

20. Generate grade reports. The Program faculty members shall be responsible to generate grades for each of the Students participating in the Program, which are to be reported in the Students' records and based on Student achievement of specified skills as assessed by Affiliate's staff (as furnished by Affiliate pursuant to Section B.4 below) and the Program faculty members.

21. Require Participants to meet health status requirements. Require Students and Program faculty members and instructors to meet Affiliate's health status requirements and satisfy and comply with all of the Affiliate's policies and procedures applicable to the Program and/or Clinical Experiences at Affiliate Facilities. Such health status requirements currently include the following: tuberculosis clearance, applicable fitness testing, Rubella (German Measles), Rubeola (Measles), and

Varicella (Chicken Pox) vaccinations, proof of current immunization for Hepatitis B (or signed waiver/declination), current season vaccination for influenza (or medical contraindication documentation from health care provider or signed waiver/declination), and full vaccination for COVID-19. Prior to the start of each session of the Program, and if applicable under the Program, the School shall also provide to the Affiliate a written document signed by: (a) each Student showing that each such Student holds a current certification for Basic Life Support Health Care Provider and (b) each of the Program faculty members and instructors holds a current license to practice in the State of Hawai'i in the professional fields covered by the Program (if required). All required certification and documentation for the Students and the Program faculty members and instructors must be provided to the Affiliate prior to their arrival at the Affiliate Facilities.

Notwithstanding the foregoing, the Students and Program faculty members and instructors are responsible for satisfactorily completing and providing the Affiliate with the results and/or verification of any required criminal background checks and other immunizations in accordance with procedures and timelines established by the Affiliate and approved by the University. Such requirement will be provided by Affiliate to the Students. Unacceptable results or failure to provide verification of immunizations shall be grounds for barring, excluding, or denying access to Affiliate Facilities or suspension of any Students.

22. Inform Students. Inform Students that the Students are responsible for:

a. Providing uniforms. Providing the necessary and appropriate uniforms that may be designated, but not provided, by the Affiliate. The Students may be required to wear and display their Student badge issued by the School along with the visitor badge provided by the Affiliate at all times while present inside the Affiliate Facilities.

b. Arranging transportation. Arranging for their transportation to and from the Program and the Affiliate Facilities.

c. Arranging for health insurance. Arranging and paying for their health and liability insurance to cover them while participating in the Program at the Affiliate Facilities.

d. Being financially responsible for emergency care. Being financially responsible for whatever emergency care is provided by the Affiliate to the Student for illness or accidents that occur while at or within the Affiliate Facilities. In the event a Student suffers an injury or is exposed to an infectious, environmental, or occupational hazard at any of the Affiliate Facilities, Affiliate shall be financially responsible for providing immediate evaluation and counseling services to Students to the same degree and extent as Affiliate makes available to the Affiliate's employees. Follow-up after the initial evaluation and counseling will not be the responsibility of Affiliate, and Student may receive further treatment in accordance with the School's student health policies or Student's individual medical coverage. Any Student must immediately report such injury to the Student's supervisor, preceptor, instructor and/or Program faculty member or instructor.

23. Supplying additional information. Be responsible for supplying any additional information reasonably required by the Affiliate prior to the beginning of each session of the Program.

24. Not employ or contract with ineligible persons. Not employ or contract with directly or indirectly, any individual or entity who is identified as "ineligible," as defined by the U.S. Department of Health and Human Services (hereafter "HHS") Office of Inspector General (hereafter

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“OIG”), or who has opted out of Medicare for the provision of healthcare services, utilization review, medical social work, or administrative services with respect to members. “Ineligible” is defined by the OIG as an individual or entity who: (1) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal health care programs or in Federal procurement or nonprocurement programs or (2) has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. 1320a-7(a) (but has not yet been excluded, debarred, suspended, or otherwise declared ineligible). The School also shall not refer any “ineligible” individuals to participate in the Program, including the Clinical Experiences, at the Affiliate Facilities.

25. Affiliate Compliance Program. The University acknowledges that the Affiliate may have developed a compliance program which is intended to govern Affiliate operations, including operations at the Affiliate Facilities (“Compliance Program”). If the Affiliate advises the University of the Compliance Program, then the following applies.

a. Affiliate to inform University of changes. The Affiliate will keep the University advised regarding any significant changes to the Compliance Program.

b. University to advise Affiliate of concerns. The University will advise the Affiliate of any University concerns regarding the establishment, operation, and implementation of the Compliance Program. The Affiliate agrees to timely and promptly address the University’s concerns and not require the University to comply with such portions of the Compliance Program that the University is questioning unless and until the University’s concerns are adequately addressed, except as required by law.

c. University shall require Students to comply. The University agrees to comply, and shall require the Students, while at or within the Affiliate Facilities for the Clinical Experiences, to comply with the Compliance Program and such applicable federal program requirements and Affiliate policies to the extent permitted by law, available funding, and the capacity and authority granted by the University’s Board of Regents and the University’s administration. The University agrees to require the Students to participate in training programs, to the extent required.

26. Ownership of Medical Records. The School acknowledges and agrees that any and all medical records created by Students in the course of the clinical experiences shall be the exclusive personal property of the Affiliate.

## **B. RESPONSIBILITIES OF THE AFFILIATE**

1. Provide Clinical Experiences. Upon receipt of a Program Authorization, the Affiliate shall: (a) provide the Clinical Experiences for the Students in patient care in accordance with the curricula adopted for the Program, (b) cooperate with the School to help achieve the objectives of the Clinical Experiences and the Program, and (c) make reasonably available to the Program Participants the Affiliate Facilities’ services (such as support services and related services), and resources (such as equipment, and supplies). Affiliate agrees to use its best efforts to furnish the Clinical Experiences described in the curriculum and that are presented to or experienced by the Students during the Students’ participation in the Program.

2. Accept Students. Accept from the School the mutually agreed upon Student(s) enrolled in the Program and permit the Program Participants access to Affiliate Facilities appropriate for the Program (including classroom and conference room space when available). The Affiliate shall

appropriately orient the Students and the School's Program faculty members and instructors to the Affiliate Facilities and update them, as applicable, regarding any new equipment or procedures.

3. Retain responsibility for Affiliate patients. The patient's physician, and the Affiliate's staff at the physician's direction, have primary responsibility for the care and management of the patient. As between the School, Students and Affiliate, Affiliate shall retain primary responsibility for the care and management of all Affiliate patients. It is understood that in no case shall any of the Students participating in the Program be: (a) assigned or have the primary responsibility for the care, management, or control of patients/clients or (b) placed in a position of having to replace or be considered a substitute for Affiliate staff. If a Student disagrees with what is needed for patient care, the Affiliate's determination of need shall control.

4. Furnish qualified Affiliate staff members. The Affiliate shall provide Affiliate staff members, meeting qualifications as mutually agreed upon between the School and the Affiliate and as specified by the Program, who will be responsible for working with the Students (and supervising them to the extent agreed to between the parties) in connection with the Clinical Experiences at the Affiliate Facilities.

5. Designate Program liaison. Designate an Affiliate manager, administrator, or otherwise qualified professional to participate and work with the Program director in planning, implementing, and coordinating the Program (the "Program Liaison"). The Affiliate shall assure that the Program Liaison: (1) provides education supervision at least one hour per week for the Students, (2) attends appropriate School-sponsored meetings and trainings, (3) meets with School representatives during periodic visits to the Affiliate Facilities to discuss learning opportunities and Student performance, and (4) prepares evaluation reports as required by the School.

6. Conduct orientation. The Affiliate shall provide the Students participating in the Clinical Experiences at Affiliate Facilities with an orientation and materials covering the Affiliate Facilities' programs, policies, practices, rules, and regulations.

7. Affiliate visits. The Affiliate shall host at least one formal visit of the Affiliate Facilities and the Program by the School per academic year (and as periodically required by the School), including meeting with Affiliate staff and leadership, evaluating the effectiveness of the Program, and reviewing Program documentation, Program services, Students' records, and such other items pertaining to the Program.

8. Provide supporting amenities. In accordance with the existing staff policies of the Affiliate Facilities, the Affiliate shall provide the Students, while assigned to the Affiliate Facilities, with amenities (such as parking, lockers and/or secure storage space for personal belongings) as deemed appropriate, available, and consistent with other educational programs within the Affiliate and the Affiliate Facilities.

9. Notify School. The Affiliate shall notify the School as soon as possible of any changes in the Affiliate's policies, practices, rules, regulations, programs, services, facilities, operations, or other matters that may have significant implications for the Program or any of School's programs, services, or operations or impacts the Students.

10. Provide rules, policies, and procedures. Provide or make available (electronically or otherwise) to the School, the Students, and the Program faculty members and instructors, current and updated copies of all Affiliate policies, practices, rules, regulations, procedures, and guidelines

applicable to the Program (to the extent agreed upon between the Affiliate and the School) at least thirty (30) days prior to the start of each session of the Program. Nothing in the foregoing shall be deemed a waiver of School and Students' obligation to comply with all Affiliate and Affiliate Facility policies and procedures, subject to the limitations in Section A.26.c, above.

11. Notify of unsatisfactory performance. If the Affiliate determines that a Student, a Program faculty member, or instructor is not performing satisfactorily within the Program, the Program Liaison and the School will work together to develop and implement a remedial plan for the Student, Program faculty member, or instructor that addresses the deficiencies and identifies the actions or activities necessary to improve Student, Program faculty member or instructor's performance. If the Student, Program faculty member, or instructor's performance does not improve, the Affiliate will notify the School of the Affiliate's intent to no longer permit a Student, Program faculty member, or instructor to participate in the Program at the Affiliate Facilities and may request the School to withdraw from the Program or exclude from any of the Affiliate Facilities any Student, Program faculty member, or instructor who, in the Affiliate's sole judgment: (1) is not performing satisfactorily, (2) refuses to follow the Affiliate's administrative and patient care policies, practices, rules, regulations, procedures, and guidelines applicable to the Program, (3) does not meet the Affiliate's employee standards for safety, health, cooperation, or ethical behavior that the Affiliate imposes on the Affiliate's own employees, including those involving behavior, dress, and hygiene, or (4) whose conduct or state of health is deemed detrimental by the Affiliate to the best interest of the Affiliate or its patients or staff. Such request must be in writing and must include a statement of the reason or reasons why the Affiliate desires the School to withdraw and/or exclude such Student, Program faculty member, or instructor from any of the Affiliate Facilities. If the School disagrees with such request, the Affiliate and the School agree to: (1) utilize the dispute resolution process in this Agreement, and (2) require the Student, Program faculty member, or instructor to stay away from the Affiliate Facilities during the pendency of the dispute resolution process if and to the extent deemed necessary by the Affiliate, pending investigation and resolution of the matter by the Affiliate.

12. Affiliate to cooperate. To the extent that any action taken by the Affiliate under or pursuant to this Agreement, including section B.11 herein, implicates or affects the hearing or appeal processes conducted pursuant to the University's Code of Conduct (hereafter the "University Code"), the Affiliate shall cooperate with the School in any investigation or proceedings relating to such hearing or appeal processes under the University Code. To the extent that any action taken by the Affiliate under or pursuant to this Agreement implicates or affects the hearing, appeal, or other employment processes of the University applicable to the Program faculty members or instructors, the Affiliate shall cooperate with the School in any investigation or proceedings relating to such hearing, appeal, or employment processes with respect to the Program faculty members or instructors. To the extent that such action taken by the Affiliate implicates or affects the hearing, appeal or employment processes of both the Affiliate and the University (due in part to the dual employment status of the Program faculty members or instructors), the Affiliate and the University will cooperate with each other in any investigation or proceedings relating to such hearing, appeal, or other employment processes applicable to the Program faculty members or instructors. The Affiliate agrees to keep the School informed of the progress and results of the Affiliate's investigation of the Student's conduct.

13. Student safety. The Affiliate shall orient the Students participating in the Clinical Experiences at Affiliate Facilities to the safety and security measures in place for employees of the Affiliate Facilities, such as providing an escort to the Student's vehicle if the Student is leaving the Affiliate Facilities during the evening or after it becomes dark.



14. Provide equipment/supplies. The Affiliate shall provide equipment and supplies needed for the conduct of the Program and the Clinical Experiences at the Affiliate Facilities.

15. Permit participation by designated personnel. The Affiliate shall permit designated personnel of the Affiliate to participate with the Program faculty members and instructors in the instruction of Students, provided that such participation does not unreasonably interfere with the service commitments of the Affiliate staff.

16. Provide emergency care to Program Participants. An Affiliate Facility may provide emergency care within its capabilities to any Program Participants who are injured or become ill while: (a) participating in the Clinical Experiences or such other portion of the Program or (b) at or within any of the Affiliate Facilities, unless declined by the Program Participant.

17. Conduct of Affiliate operations. The Affiliate shall operate and maintain the Affiliate Facilities in accordance with the standards prescribed and maintained by the Joint Commission (“TJC”) and shall maintain all licenses required by the applicable laws, statutes, ordinances, rules, and regulations of the federal, state, and county governments, including, without limitation, all licenses required to own and operate the Affiliate Facilities.

18. Affiliate exclusion of Students, Program Faculty Members, or Instructors; Notice of Incidents.

a. Failure to abide by Affiliate policies or conduct deemed detrimental. The Affiliate may, after consulting with and obtaining concurrence from the School, exclude any Students, Program faculty members, or instructors from the Affiliate or any Affiliate facilities in the event that: (1) such person fails to abide by the applicable Affiliate policies and procedures and/or does not meet the Affiliate’s employee standards for safety, health, cooperation, or ethical behavior that the Affiliate imposes on the Affiliate’s own employees, pending investigation and resolution of the matter by the Affiliate; or (2) such person’s conduct or state of health is deemed detrimental by the Affiliate based on the best interest of the Affiliate or the Affiliate’s patients or staff.

b. Immediate exclusion. Notwithstanding anything else in this Agreement to the contrary, Affiliate may, in its sole and absolute discretion for reasons including the safety of Affiliate’s patients, staff and premises, immediately suspend, bar and/or exclude a Student, faculty member, or instructor from participation in any aspect of the Program, including the physical premises and electronic systems of Affiliate Facilities, provided that the Affiliate shall notify the School as soon as practicable but no later than two (2) business days after the Affiliate’s action.

c. Affiliate to notify School of incidents. The Affiliate shall immediately notify the School of any situation or behavior involving any Student, Program faculty member, or instructor that: (1) is deemed by the Affiliate to pose a significant, credible, or specific threat of harm to any person, including Affiliate patients or staff or (2) may jeopardize the ability or capability of the School or the Affiliate to perform or meet their respective obligations under this Agreement.

## **C. COOPERATIVE COMMITMENTS**

1. No exchange of financial obligations. It is understood and agreed by both the Affiliate and the School that this Agreement does not provide for any specific payment or exchange of money nor is it intended that each necessarily incur any financial obligations. There will be no compensation of any kind exchanged or paid between the parties under this Agreement. Neither party shall incur any

financial obligation on behalf of the other party. The Students will not be entitled to any monetary or other remuneration for services performed by them at the Affiliate Facilities, nor will the Affiliate be required to pay the Students for any services performed by or activities completed by the Students in connection with the Clinical Experiences.

2. Status of Students and the Program faculty members and instructors. It is expressly agreed and understood by the School and the Affiliate that the Students in the Program are in attendance at the Affiliate Facilities solely for educational purposes, and are not employees of the Affiliate for any purpose including, but not limited to, compensation for services, employee welfare and pension benefits, fringe benefits of employment, or workers' compensation insurance. The parties agree that the Program faculty members and instructors are employees of the University and will not be considered employees or agents of the Affiliate except to the extent that such Program faculty members or instructors are in fact employees of the Affiliate.

a. Students not agents of Affiliate or School. For the purposes of this Agreement, both parties mutually agree that the Students will not be considered either employees or agents of the University, the School, or the Affiliate.

b. Students may be employed under separate agreement. This provision shall not be deemed to prohibit the employment of any Students by either party under a separate employment agreement or arrangement. The School shall notify each Student of the contents of this paragraph.

3. No employer/employee relationship. Both parties mutually agree that nothing in this Agreement is intended to, nor shall it be construed to create, an employer/employee relationship between the School and the Affiliate's officers, employees, agents, or representatives, nor between the Affiliate and the Students, nor between the Affiliate and the Program faculty members or instructors, officers, employees, or representatives. The mere participation in the performance of the work and services under this Agreement shall not constitute nor be construed as employment with each other and shall not entitle each party or each party's officers, employees, agents, and representatives to vacation, sick leave, retirement, or other benefits afforded the other party's employees. Each party shall be responsible for payment of applicable income, social security, and any other federal, state, county or municipal taxes and fees of their respective employees. The parties understand and agree that under no circumstances shall any of the Students be considered an agent, officer, or employee of the University or the School, or the Affiliate.

4. Independent entities. Except as otherwise specified herein, the parties mutually agree that nothing in this Agreement shall be construed to create any relationship between the School and the Affiliate, other than that of independent entities contracting with each other solely for the purpose of performing services under this Agreement, including providing the Clinical Experiences. Neither the parties hereto, nor any of their respective officers, directors, agents, or employees shall, by virtue of this Agreement, be deemed to exercise any function for the other party, except as specifically provided herein. In the performance of the work, services, duties, and obligations under this Agreement, the School and the Affiliate shall at all times act and perform as "independent contractors," each with the authority and responsibility to control and direct the performance and details of its own work, services, duties, and obligations required under this Agreement; however, the parties shall have a general right to inspect work in progress to determine whether the work, services, duties, and obligations are being performed by the other party in accordance with the terms of this Agreement.

5. Term. This Agreement shall be in full force for a term of five (5) years starting from the Effective Date and ending on Dec. 31, 2026, unless otherwise amended or sooner terminated as provided in this Agreement.

6. No unlawful discrimination. The parties agree to the following:

a. Students selection. The parties agree that all Students participating in the Program pursuant to this Agreement shall be selected without discrimination on account of race, sex, sexual orientation, gender identity or expression, color, creed, religion, national origin, ancestry, age, physical or mental disability, marital status or veteran status.

b. School and Affiliate. In the performance of this Agreement, the Affiliate and the School shall comply with all Applicable Laws prohibiting discrimination, including without limitation, laws prohibiting discrimination: (1) on the grounds of race, color, national origin, ancestry, religion, creed, sex, sexual orientation, gender identity or expression, age, physical or mental disability, marital status, or veteran's status or (2) in affording, providing, or granting the benefits of the services performed by the parties under this Agreement.

c. Examples of applicable laws. Such anti-discrimination laws include at least the following: the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Vietnam Era Veterans Readjustment Assistance Act of 1974. In addition, each party shall comply with all requirements of any applicable affirmative action laws, including, without limitation, Executive Orders 11246, 11375, or any successor orders, if and to the extent applicable, relative to equal employment opportunity for all persons without regard to race, color, religion, sex, sexual orientation, or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, FR Part 60.

d. Termination. In the event of noncompliance by either party with the provisions of this section, this Agreement may be suspended or terminated by the complying party, subject to both parties complying with the dispute resolution process described herein.

7. Mutual cooperation. The Affiliate and the School agree to mutually cooperate and work toward operating and implementing a successful Program, including successful Clinical Experiences.

8. Program period. The period of time for each session of the Program and the duration of each Student's participation in the Program shall be agreed upon by the parties before the beginning of each session of the Program. The maximum number of Students permitted to participate in each session of the Program shall be mutually agreed upon by the parties, based upon the availability of space and other considerations. The Affiliate shall have the right not to accept Students or to terminate and exclude individual Students at any time, and for any reason during the term of this Agreement, subject to the School's right to have any dispute over such non-acceptance, termination, or exclusion submitted to the dispute resolution process described herein and the Affiliate's right to exclude the Student(s) from any of the Affiliate Facilities, pending the investigation and resolution of the dispute.

9. Formalize operational details. The Program director and the Program Liaison shall work together and formalize by letter operational details of the Program, including a mutually agreeable schedule of the times Students are expected to be in the Affiliate Facilities.

10. Mutual agreement as to changes. The School and the Affiliate agree that any future changes that may result in any changes to this Agreement (including, without limitation, revising or increasing the scope of responsibilities, altering the number and type of the Students and/or the Program faculty members and instructors, or submitting funding requests) will be discussed in advance but not implemented unless and until there is mutual agreement in writing between both parties regarding such changes.

#### **D. CONFIDENTIALITY OF PATIENT AND TREATMENT INFORMATION**

1. Confidentiality and HIPAA compliance. The School and the Affiliate agree to comply with all Applicable Laws relating to the confidentiality of patient and treatment information, including, without limitation, HIPAA. The University shall require and direct the Students participating in the Clinical Experiences under this Agreement and working within the Affiliate Facilities to comply with the Affiliate's policies and procedures governing the use and disclosure of individually identifiable health information under Applicable Laws, including HIPAA.

2. HIPAA compliance. It is understood that neither the University nor the School is considered a "Covered Entity", "Business Associate" or "Subcontractor" (as defined in HIPAA) of the Affiliate for purposes of this Agreement. Moreover, solely for the purpose of defining the role of the Students in relation to the use and disclosure of the Affiliate's protected health information, the Students are defined as members of the Affiliate's workforce, as that term is defined in HIPAA, when engaged in activities pursuant to this Agreement. The Students, however, are not and shall not be considered to be employees of the Affiliate except to the extent that any Student has signed a separate employment agreement with the Affiliate.

3. Compliance with Affiliate HIPAA policies and procedures. The Students participating in the Clinical Experiences at the Affiliate Facilities under this Agreement shall be oriented by the Affiliate in, and shall be required to comply with, the Affiliate policies and procedures in handling confidential health information, such as personally identifiable health information (hereafter "PHI") and individually identifiable health information as defined in HIPAA (hereafter "IIHI"), while participating in the Clinical Experiences at the Affiliate Facilities. The School and the Affiliate acknowledge that neither the University nor the School become subject to HIPAA because the Students may access and handle PHI and IIHI at the Affiliate Facilities under the terms of this Agreement.

4. No disclosure of confidential or proprietary information. Except as may be required by Applicable Laws, including, without limitation, compliance with any laws relating to the public disclosure of School documents such as chapter 92F, Hawai'i Revised Statutes, and by any subpoena, civil investigative demand, or similar process or order, the School and the Affiliate shall not, at any time, in any manner, either directly or indirectly, without prior written approval of the other party, divulge, disclose, release, or communicate to any person or entity, any information considered or designated as confidential or proprietary or protected patient information.

Failure to comply may result in immediate termination of this Agreement, at the discretion of the non-breaching party and the non-breaching party may seek an injunction or other court order to prevent any further disclosure or communication and resort to such remedies, at law or in equity, as the non-breaching party believes it may have against the breaching party for such failure to comply, provided that the breaching party, by this provision, is not conceding that any such remedies exist.

5. Training on the handling of confidential information. The University and the Affiliate shall jointly sponsor, arrange, and conduct training sessions for the Students involved in the Clinical Experiences under this Agreement covering the applicable confidentiality requirements, including, without limitation: (a) the Applicable Laws relating to confidentiality requirements, and (b) applicable Affiliate policies, procedures, rules, and guidelines. Such training sessions will also include such training curriculum or requirements that may be mutually developed and approved by and between the Affiliate and the University or if applicable, including those as recommended by the Hawai'i HIPAA Readiness Collaborative ("HRC"), which is a cooperative of Hawai'i health care agency representatives, or any similar HIPAA collaborative or task group. Upon completion of such training, the Students shall sign an acknowledgement that such training session was completed.

6. FERPA. The School and the Affiliate agree to comply with the Family Educational Rights and Privacy Act (FERPA), the federal law which protects the privacy of student academic records. University shall provide designated Affiliate representatives with training regarding FERPA compliance, upon the Affiliate's request

7. Affiliate to protect confidentiality. The Affiliate will protect the confidentiality of information that it receives from the University and the School to the extent required under applicable state and federal laws including, without limitation, FERPA, together with its implementing rules and regulations.

8. Records provided remain School property. Except to the extent required by Applicable Laws or by order of a court or government agency, the Affiliate shall treat all information provided by the University and the School to the Affiliate as confidential material, including, without limitation, any Student background information and educational records. All records (other than medical records of Affiliate's patients) provided by the University or the School to the Affiliate shall remain property of the University or the School, respectively.

9. School to cooperate with audit or review. To the extent permitted by law, available funding, and authority granted by the University's Board of Regents or the President, the University and the School shall cooperate with the Affiliate's internal auditors or any independent quality review and improvement organization or other external review organization, which is retained by the Affiliate as part of its quality assessment and improvement program. When applicable, to the extent permitted by law, the University and the School agree to make available information and records directly relating to its performance under this Agreement for review and audit by the Affiliate's internal auditors, The Joint Commission, the National Committee for Quality Assurance (hereafter "NCQA"), the Centers for Medicare and Medicaid Services (hereafter "CMS"), or other accreditation or certification organizations during their audit reviews of the Affiliate. The University and the School shall not be obligated to furnish any information to Affiliate or accreditation or certification organizations that the University and the School have reason to believe is inaccurate.

#### **E. RESPONSIBILITY AND INSURANCE.**

1. Neither party is responsible for the other. Neither party shall be responsible for the acts and omissions of the Students, the other party, or the other party's employees and agents in carrying out this Agreement. A party shall not be liable for any judgment, settlement, award, fine or otherwise, which arises out of the acts and omissions of the Students, the other party, or the other party's employees and agents, under this Agreement. To the extent either party utilizes its own equipment, products, or other personal property in the performance of its obligations under this Agreement, such party shall take ordinary care that such equipment, product, or other personal property

is suitable and fit for the purpose intended by such party, free from defects which may damage the other party, and otherwise operates in accordance with applicable government standards and safety regulations. For the purposes of this Agreement, the Students are not employees or agents of the University, the School, or the Affiliate.

2. University Limitations.

a. University responsibility. The University shall be responsible for damage or injury caused by the University's officers and employees in the course of their employment to the extent that the University's liability for such damage or injury has been determined by a court or otherwise agreed to by the University. The University shall pay for such damage or injury to the extent permitted by law and provided that funds are appropriated, allotted or otherwise properly made available for that purpose. In each instance in this Agreement (including, without limitation, any of the policies, practices, procedures, rules, regulations, and guidelines adopted or implemented by the Affiliate) where the University is obligated to assume responsibility or liability of any type or nature for damages or injuries, including, without limitation, any obligation to perform, be responsible for failure to perform, or pay monies, such obligation shall be subject to and limited by the provisions of this section E.2.a. The Affiliate acknowledges that this provision, in itself, shall not constitute or be interpreted to be any type of indemnification, defense, or hold harmless obligation of the University. The University's obligations under this section E.2.a shall survive the expiration or earlier termination of this Agreement.

b. University cannot indemnify or be responsible for others. As the University is not authorized to agree to indemnify, defend, hold harmless the Affiliate, or be responsible for the acts or omissions of any other persons or entities (except for the University's officers and employees), the University may not agree to any such obligations. Notwithstanding anything to the contrary contained in this Agreement, in each instance in this Agreement (including, without limitation, any of the policies, practices, procedures, rules, regulations, and guidelines adopted or implemented by the Affiliate) where the University is or may be obligated to: (a) be responsible for the acts/omissions of other persons or entities (except the University's officers and employees) or (b) indemnify, defend, or hold harmless the Affiliate or any other persons or entities, such obligations shall be deemed null and void and such contrary responsibility, indemnity, defense, and/or hold harmless obligations shall be deemed to be superseded by this provision, and of no force or effect.

c. Subject to funding. To the extent that the University is: (1) obligated to perform under this Agreement, (2) obligated to make any payments under this Agreement, or (3) deemed liable under this Agreement, the University's ability to satisfy such obligations or liabilities, particularly any obligations requiring the payment of any amount of monies, is limited to that which is permitted by law and is subject to the condition that funds are properly appropriated, allotted, or otherwise properly made available for the purpose of satisfying such obligations or liabilities. Notwithstanding anything to the contrary contained in this Agreement, this provision shall apply to and qualify each and every obligation of the University to perform under this Agreement, including, without limitation, any obligation of the University to pay or reimburse the Affiliate for any work performed by the Affiliate due to the University's failure or refusal to perform under this Agreement.

d. University limitations qualify all obligations. The University and the Affiliate acknowledge and agree that paragraphs E.2.a (University responsibility), E.2.b (University cannot indemnify or be responsible for others), and E.2.c (Subject to funding) are hereafter collectively the "University Limitations." Notwithstanding and superseding anything to the contrary contained in this Agreement (and any exhibits attached to this Agreement), any and all obligations, duties,

responsibilities, and liabilities of the University under this Agreement (including, without limitation, the University's obligations to comply with any of the policies, practices, procedures, rules, regulations, and guidelines adopted or implemented by the Affiliate) are expressly subject to and limited by the University Limitations set forth and defined in this section E.2.d (University limitations qualify all obligations) of this Agreement.

3. [Reserved]

4. Student insurance coverage. If applicable, the School shall require that the Students who participate in Clinical Experiences at Affiliate Facilities be appropriately covered by professional liability insurance with limits of liability not less than \$1,000,000.00 (One Million) per occurrence, \$3,000,000.00 (Three Million) aggregate.

5. Affiliate insurance coverage. The Affiliate shall obtain, maintain, and keep in force throughout the time of performance of services under this Agreement: (1) general liability and property damage (with an extended endorsement) insurance covering the use of the Affiliate Facilities in connection with the School's Program and the Clinical Experiences and (2) professional liability insurance, or any other form of insurance necessary to provide liability coverage for the services to be provided under this Agreement, all issued by one or more insurance companies or indemnity companies authorized to do business in the State of Hawaii each coverage with minimum limits of at least One Million Dollars (\$1,000,000.00) arising out of each occurrence and at least Three Million Dollars (\$3,000,000.00) in the aggregate. The liabilities to be covered by the insurance described hereunder may be covered through a self-insurance program.

## **F. TERMINATION OF AGREEMENT**

### **1. Termination.**

a. Either party may terminate for cause. If, for any reason, either party fails to satisfactorily fulfill in a timely or proper manner its obligations under this Agreement or breaches any of the promises, terms or conditions of this Agreement, and having been given notice of and the opportunity of up to thirty (30) calendar days to cure any such default and not having taken satisfactory corrective action within the time specified by the non-breaching party, the non-breaching party shall have the right to: (1) terminate this Agreement in its entirety or (2) if the breaching party is the University, the Affiliate may elect to restrict or suspend a particular School or Program of the University, by giving written notice to the breaching party of such termination at least fourteen (14) calendar days before the effective date of such termination. Affiliate may terminate this Agreement immediately upon written notice to University, if University fails to possess any license, accreditation or approval necessary to its business, or the insurance required under this Agreement, or Affiliate reasonably concludes that there is an imminent threat to patient welfare.

b. Either party may terminate without cause. Either party may terminate this Agreement in its entirety or restrict or suspend a particular School or Program without cause by giving at least one hundred twenty (120) days prior notice in writing to the other party at the addresses hereinabove set forth. Such termination shall not take effect, however, with regard to the Students already enrolled in and participating in the Program at the time of such notice until such time as those Students have completed their respective Clinical Experiences and enrolled courses of the Program, provided that the Affiliate continues to provide Clinical Experiences from or at the Affiliate Facilities.

2. Termination due to Affiliate's inability to operate. Affiliate may terminate this Agreement if based on its policies or due to a prohibition to continue operations mandated by governmental and/or regulatory agencies it is unable to operate or its operations are affected such that it cannot continue the Clinical Experiences and/or the Program. The University and School acknowledge that such a termination may be immediate and Affiliate may not be able to give any prior notice of such termination. If such a termination occurs, all Program Participants shall be required to immediately leave any Affiliate Facility that is affected and Affiliate shall have no further obligations to the Program Participants at the affected Affiliate Facility.

3. Survival of obligations after termination. Upon any termination or expiration of this Agreement, all rights and obligations of the parties shall cease except those rights and obligations that have accrued or are intended to or expressly survive such termination or expiration, as provided under this Agreement, including without limitation, the Affiliate insurance obligations hereunder (such as paragraphs D.7 (Affiliate to protect confidentiality), and E.5 (Affiliate insurance coverage) and the University Limitations and the University insurance obligations hereunder. If this Agreement is terminated, any other provision of this Agreement notwithstanding, the breaching party shall not be relieved of liability to the non-breaching party because of any breach of this Agreement.

4. Changes in Law.

a. Legal Event; Consequences. Notwithstanding any other provision of this Agreement, if the governmental agencies that administer the Medicare, Medicaid, or other federal programs (or their representatives or agents) or any other federal, state, or local governmental agency, or any court or administrative tribunal passes, issues, or promulgates any law, rule, regulation, standard, interpretation, order, decision or judgment, including but not limited to, those relating to any regulations pursuant to state or federal anti-kickback or self-referral statutes (collectively or individually as a "Legal Event"), which, in the good faith judgment of one party (the "Noticing Party"), materially and adversely affects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to bill, to claim, to present a bill or claim, or to receive payment or reimbursement from any federal, state or local governmental or non-governmental payor, or which subjects the Noticing Party to a risk of prosecution or civil monetary penalty, or which, in the good faith judgment of the Noticing Party, indicates a rule or regulation with which the Noticing Party desires further compliance, then the Noticing Party may give the other party notice of intent to amend or terminate this Agreement in accordance with section F.3.b herein.

b. Notice Requirements. The Noticing Party shall give notice to the other party setting forth the following information relating to the Legal Event:

- (1) Legal Event. The Legal Event(s) giving rise to the notice;
- (2) Potential consequences. The potential consequences of the Legal Event(s) as to the Noticing Party;
- (3) Intent notice. The Noticing Party's intention to either:
  - (a) Terminate. Terminate this Agreement due to unacceptable risk of prosecution or civil monetary penalty; or
  - (b) Amend. Amend this Agreement, together with a statement that the purpose of the amendment is one or more of the following:



- (i) Anti-kickback rules. To further comply with any anti-kickback or Stark II statutory provision or rules or regulations created or affected by the Legal Event(s); and/or
- (ii) Licensure and accreditation requirements. To satisfy any licensure, accreditation, or certification requirements created or affected by the Legal Event(s); and/or
- (iii) Minimize prosecution risk. To eliminate or minimize the risk of prosecution or civil monetary penalty;
- (4) Proposed amendments. The Noticing Party's proposed amendment(s); and
- (5) Renegotiation period start. The Noticing Party's request for commencement of the Renegotiation Period (as defined below).

c. Renegotiation Period; Termination. Regardless of whether the Noticing Party intends to terminate or amend the Agreement, the parties shall have thirty (30) days from the giving of such notice ("Renegotiation Period") within which to attempt to amend this Agreement in accordance with the Noticing Party's proposal (if any) or otherwise as the parties may agree. If this Agreement is not so amended within the Renegotiation Period, this Agreement shall terminate as of midnight on the thirtieth day after said notice was given.

5. Return of Affiliate property. Upon any termination or expiration of this Agreement, the University shall immediately return to the Affiliate and/or the Affiliate Facilities all of the Affiliate's property, including the Affiliate's equipment, supplies, furnishings, and records, which are in the University's possession or control.

## **G. GENERAL PROVISIONS**

1. Dispute resolution. If any disputes arise between the University and the Affiliate concerning any aspect of this Agreement, the University and the Affiliate will use their best efforts to address and resolve such disputes and the parties agree to negotiate face-to-face or video or phone conference within twenty (20) days of receipt of a letter describing the nature of the dispute and referencing this section of the Agreement. If there is a face-to-face meeting, it will be held on the island of O'ahu, Hawai'i, at the place of business of the party receiving the letter unless the parties mutually agree to meet at another place. In the event the matter is not resolved by negotiation within thirty (30) days of this initial negotiation meeting, the parties shall submit the dispute to mediation with a mutually acceptable alternative dispute resolution firm, with the parties equally sharing the costs of the mediator and the mediation (but each shall bear the cost of making its presentation to the mediator). The parties agree to try in good faith to settle the dispute by mediation under the applicable mediation rules of such alternative dispute resolution firm as may be mutually agreed to between the parties, before resorting to litigation. If the dispute is not resolved by mediation within sixty (60) days of the initial mediation meeting or such further time as the parties may agree to or that the mediator deems is needed, either party may bring an action in the appropriate forum in the Circuit Courts of the State of Hawai'i.

2. Affiliate Requirements. The Affiliate may from time to time adopt, amend, or impose

such reasonable policies, procedures, guidelines, rules, requirements, and standards as the Affiliate deems necessary or desirable for the operation or use of the Affiliate Facilities in connection with the Program, including the conduct of the Clinical Experiences (collectively the “Affiliate Requirements”), provided, however, that the University’s obligation to comply with any of the Affiliate Requirements shall be limited by and subject to (a) the University Limitations set forth in paragraph E.2 (University limitations) herein, (b) the University receiving prior written notice of the Affiliate Requirements, and (c) that the Affiliate Requirements:

- a. Not inconsistent with Agreement. Are not contrary to or inconsistent with the terms of this Agreement;
- b. Applicable to the University’s use. Are applicable to the University’s business in the Affiliate Facilities or the use of the Affiliate Facilities by the University, the Program faculty members and instructors, and/or the Students in connection with the University’s Program, including the conduct of the Clinical Experiences;
- c. No action inconsistent with laws. Do not require the University to take any action inconsistent with any Applicable Laws;
- d. No additional material cost. Do not impose any material additional cost, expense, or liability upon the University; and
- e. No waiver. Do not require the University to waive or release any rights, powers, authorities, or claims that the University may have or acquire.

Any Affiliate Requirements adopted or enforced by the Affiliate shall not be inconsistent with the terms, covenants, and conditions of this Agreement and to the extent that the Affiliate Requirements are inconsistent with the terms, conditions, and covenants of this Agreement, then the terms, conditions, and covenants of this Agreement shall control. Subject to the terms of this paragraph G.2 (Affiliate Requirements), the University shall observe and comply with the Affiliate Requirements.

3. Cooperation between the parties.

a. Risk management issues. The parties recognize that, during the term of this Agreement and for a period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the University and its officers and employees, the Affiliate, and/or the Affiliate’s officers, employees, and/or agents. The parties further recognize the important benefits of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any Applicable Laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims, or actions. As such, to the extent possible, the parties hereby agree to cooperate, to the extent permitted by law, available funding, and the capacity and authority granted by the appropriate governing, oversight, and/or management portion of each party, in good faith, using their best reasonable efforts, to address such issues, claims, or actions in a manner that strongly encourages full cooperation between the parties. Once claims or actions are filed, however, the parties acknowledge and understand that they will be represented by counsel and that their agreement to cooperate is subject to advice of counsel.

b. Actions. The parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an “Action”) arises with a third party wherein both the parties are included or named as defendants, each party shall act through their counsel and promptly disclose to the other party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each party shall make every reasonable attempt to include the other party in any settlement offer or negotiations. In the event the other party is not included in the settlement, the settling party shall immediately disclose to the other party in writing the acceptance of any settlement and terms relating thereto, subject to the advice of counsel.

4. Points of contact. The Affiliate and the School shall each designate a primary point of contact and will attempt to keep the same person as such point of contact during the term of this Agreement.

5. Notice. All notices, demands, requests, and other communications that may be or are required to be given hereunder by either the Affiliate or the University shall be in writing and shall be (A) personally delivered to the receiving party at the addresses noted below, or (B) sent by registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below, or (C) transmitted by an internationally recognized courier service, such as Federal Express, addressed as set forth below:

**To the Affiliate:**

Wesley Lo, CEO  
Hale Makua Health Services  
472 Kaulana Street  
Kahului, HI 96732  
(808) 871-9217  
Wes.Lo@ohanapacific.com

**To the University:**

University of Hawaii  
c/o Debora Halbert  
2425 Campus Road  
Sinclair Annex 1, Room 5  
Honolulu, HI 96813  
Telephone: (808) 956-6976  
Email: halbert@hawaii.edu

In addition, a copy of the notice shall also be sent to the School at the contact information indicated on the Program Authorization.

Notices, demands, requests, and other communications shall be deemed served or given for all purposes hereunder at the time such notice, demand, request, or communication is personally delivered or delivered by internationally recognized courier service, or three days following such mailing thereof, as the case may be. Notices, requests, demands, and other communications hereunder may be transmitted by email or similar electronic transmission but will not be considered official notice unless the sending party receives confirmation that the receiving party has received the email.

6. Extension. This Agreement may be extended upon mutual written agreement of the parties hereto.

7. No unreasonable interference. The Affiliate agrees not to unreasonably interfere with the operation, administration, and policy setting procedures of the University with respect to the Program, including the Clinical Experiences. The University agrees that in the conduct of the University's Programs including the Clinical Experiences at or within the Affiliate Facilities, the University agrees not to unreasonably interfere with the operation, administration, and policy setting procedures of the Affiliate Facilities.

8. Counterparts; facsimile signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing, and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document. This Agreement may be executed in original ("wet-ink") signature or by an electronic signature (including through e-sign services providers such as DocuSign)) and the signature pages transmitted by facsimile, electronic image scan transmission (such as emailing a "pdf" file), or other electronic transmission. The delivery of such signature pages via facsimile, electronic image scan transmission, or other electronic transmission shall constitute effective execution and delivery hereof. If so executed and delivered by one or both Parties hereto, the effectiveness of this Agreement shall not be affected by the non-delivery of any manually-signed signature page.

9. Headings, captions. The headings and captions used herein are for convenience of reference only and are not to be used to construe, interpret, define, or limit the paragraphs or sections to which they may pertain.

10. Singular, plural. In this Agreement, the singular shall include the plural, and the plural shall include the singular, as the case may be.

11. Binding effect. The term "Affiliate" wherever used herein shall include Hale Makua Health Services and its successors and assigns, and the term "University" wherever used herein shall include the UNIVERSITY OF HAWAI'I and its successors and assigns, and subject to any provisions herein restricting assignment or transfer, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their legal representatives, successors, and assigns.

12. No partnership. It is expressly understood and agreed that this Agreement is not intended and shall not be construed to create the relationship of agent, employee, partnership, joint venture, association, or other similar relationship between and among the University, the School, the Affiliate, and/or the Students, but is rather an agreement between and among independent contractors, those being the University and the Affiliate.

13. Qualified to participate. The Affiliate shall require that the Affiliate employees, consultants, and agents are qualified (and licensed, if necessary) to engage in the activities, work, services, duties, and obligations in which they participate. The University and the School shall require that its Program faculty members and instructors be duly qualified (and licensed, if necessary) to engage in the activities, work, services, duties, and obligations in which they participate.

14. Assignment. No party may assign or otherwise transfer any of its interests in or under this Agreement without the prior written consent of the other party. Such consent shall not be unreasonably withheld, conditioned, or delayed. In making such assignment or transfer, the assigning

party will require the assignee or transferee to assume and be responsible for all of the assigning party's obligations under this Agreement, including, without limitation, any obligations relating to the conduct of the Clinical Experiences and the Program at or within the Affiliate Facilities.

15. Affiliate modification of Agreement. Notwithstanding any other provision of the Agreement, if the Affiliate reasonably determines that a modification of this Agreement is necessary to cause it to be in conformity with Applicable Laws, or the requirements of an accrediting or regulatory agency, or in order for the Affiliate to participate in government-funded health plan products, then the Affiliate shall give the University and the School written notice of the proposed modification, and the date on which it is to go into effect, which shall not be less than thirty (30) calendar days following the date of the notice, and the modification shall go into effect on that date. If the University or the School has any objections concerning the proposed modification, the University or the School shall notify the Affiliate within the 30 (thirty) day notice period. If the Affiliate and the University and the School are unable to resolve the University's and the School's objections, either the Affiliate or the University may terminate this Agreement upon or as of such effective date unless the Affiliate agrees to postpone said effective date in order for the parties to use the dispute resolution process set forth herein.

16. Amendment. This Agreement shall not be amended except in writing signed by the parties.

17. Governing law. This Agreement shall be governed by and construed, interpreted, and enforced in accordance with the laws of the State of Hawai'i, and the courts of the Circuit Court of the First Circuit of the State of Hawai'i shall have exclusive jurisdiction in any action to interpret or enforce this Agreement. The provisions of this paragraph shall survive expiration or other termination of this Agreement regardless of the cause of the termination.

18. Waiver. Any waiver of the terms, conditions, or provisions of this Agreement or a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the terms, conditions, or provisions of this Agreement or such party's rights or remedies at any time, will not be construed as a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take any subsequent action. No exercise or enforcement by any party of that party's rights or remedies under this Agreement will preclude the enforcement by such party of any of its other rights or remedies that are available under this Agreement or by law.

19. Severability. If any provision of this Agreement or the application thereof to any person, entity, or circumstance shall, to any extent, be deemed invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid, void, or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and enforceable to the full extent permitted by law.

20. No third party beneficiaries. The parties to this Agreement agree that the Agreement shall not be deemed to run to the benefit of any third party. Both parties mutually agree that under no circumstance shall this Agreement, nor any of its provisions, be construed to state, indicate, mean, or imply that the Students are third party beneficiaries under this Agreement, or that the Students are entitled to any rights, contractual or otherwise, under this Agreement.

21. No conflict of interest. The parties represent that they presently have no interest and promise that they shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the work or services under this Agreement.

22. Neither party deemed a drafter. No provision of this Agreement shall be interpreted for or against any party on the basis that such party drafted or prepared such provisions, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. All provisions of this Agreement have been negotiated by the School and the Affiliate at arm's length and with full opportunity of representation by legal counsel and neither party shall be deemed to be the drafter of this Agreement.

23. Non-Exclusive Agreement. This Agreement is non-exclusive, and the Affiliate reserves the right to contract with other schools to arrange the same or similar programs as covered by this Agreement and the University reserves the right to contract with other similar healthcare related facilities to arrange the same or similar programs as covered by this Agreement.

24. Intellectual Property. Without the mutual written agreement of both parties, no summary, report, map, chart, graph, table, study, or other document or discovery, invention, or development produced in whole or in part under this Agreement shall be the subject of an application for copyright, trademark, patent, or other intellectual property right by or on behalf of either party or either party's officers, employees, agents, or representatives.

25. Entire agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all oral or written agreements, understandings, and communications relating to such subject matter between the parties hereto prior to the Effective Date hereof.

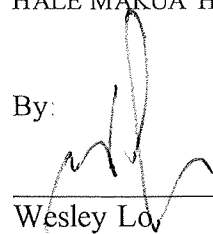
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the day and year first written above and effective as of the Effective Date.

**AFFILIATE:**

HALE MAKUA HEALTH SERVICES

By:



Wesley Lo  
Chief Executive Officer

Date

12/29/21

**UNIVERSITY:**

UNIVERSITY OF HAWAI'I

By:



David Lassner  
President

12/29/21

Date

## SCHOOL'S AGREEMENT AND AUTHORIZATION TO AFFILIATE

The following Program would like to refer its students to Hale Makua Health Services for clinical experiences. The undersigned agrees that the Program can comply with the terms and conditions of the Master Affiliation Agreement dated December 29, 2021 between the University of Hawai'i and Hale Makua Health Services.

UH Campus Name: \_\_\_\_\_  
College/School Name: \_\_\_\_\_  
Program Name(s): \_\_\_\_\_  
\_\_\_\_\_

Contact information for the School is as follows:

Name of School Contact: \_\_\_\_\_  
Title of School Contact: \_\_\_\_\_  
School Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email address: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of University Signatory

\_\_\_\_\_  
Title of University Signatory

\_\_\_\_\_  
Name of School or College

\_\_\_\_\_  
Name of Campus

## APPROVAL TO AFFILLIATE

By: \_\_\_\_\_  
Chancellor/Provost

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Chancellor/Provost

\_\_\_\_\_  
Name of Campus