

AFFILIATION AGREEMENT
University of Hawai‘i /

(Name of Private or Government Entity)

This AFFILIATION AGREEMENT (the “Agreement”) is entered into this ____ day
of _____, _____, but effective as of _____ (the “Effective Date”)
(Month) (Year) (Effective Date) (Day)

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, for
the benefit of the University of Hawai‘i at

_____, whose business address is
(Name of University School or College)

(University School or College Address)
(the “School”) and _____
(Name of Private or Government Entity)

(Continued Name of Private or Government Entity)
whose business and mailing address is _____
(Private or Government Entity Business and Mailing Address)

(the “Agency”). As used in this Agreement, the term “Agency Facilities” refers to and includes all of
the Agency facilities used by or in connection with this Agreement and which include, but is not
limited to, the _____.
(Name of Agency Facilities where Education Program is available)

RECITALS

WHEREAS, the School’s Board of Regents approved the establishment of a professional
education program at the School (“Program”); and

WHEREAS, this Program requires field practicum opportunities where the students enrolled
in the Program (collectively the “Students”) can apply knowledge and skills learned at the School in
working with the Agency’s staff and students enrolled in Agency’s program (collectively the
“Attendees”); and

WHEREAS, the Agency has the necessary facilities and resources to provide the School’s
Students with field practicum opportunities required by the Program; and

WHEREAS, it is of mutual interest and advantage to the School and the Agency that the
Students be given the benefit of field practicum experiences at the Agency Facilities so as to provide
the Students with the opportunity to train and obtain further education and instruction within a
practicum setting (hereafter collectively the “Fieldwork Experiences”); and

WHEREAS, the School and the Agency are willing to work together to provide the Students
with the Fieldwork Experiences; and

WHEREAS, the School and the Agency are desirous of providing and furnishing to the
Students the Fieldwork Experiences under the terms and conditions described herein,

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

A. RESPONSIBILITIES OF THE SCHOOL

1. Develop curriculum. The School will help develop and establish a(n) _____ to be conducted using Agency

(Name and /or type of Education Program)

Facilities, including developing curricula for and planning and conducting a prescribed educational program or programs (collectively the “Education Program”) for the Attendees as part of the Students’ Fieldwork Experiences in consultation with the Agency. The Education Program requirements are set forth in more detail in Exhibit A attached hereto and incorporated herein by reference.

2. Provide faculty oversight. The School will provide Education Program faculty members and/or School staff to oversee the Students during the Education Program. The School will notify the Agency in writing of the School’s faculty and/or staff that are assigned to oversee the Students in the Education Program, including any changes that occur during the term of this Agreement.

3. Designate Education Program director. Designate an appropriately qualified and licensed School faculty member to be Program director (“Program Director”), who will work with a designee of the Agency in planning the Education Program for the Attendees and the Students and be responsible for supervision of the Students.

4. Comply with applicable Agency policies. The School shall require its faculty members and the Students, while present at or within any of the Agency Facilities in connection with the Fieldwork Experiences, to abide by and conduct themselves in accordance with the applicable policies, practices, and rules of the Agency, including any relating to the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99), as the same may be amended from time to time, together with its implementing rules and regulations (hereafter “FERPA”).

5. Comply with Applicable Laws. The School shall inform the Students and the Education Program faculty members that they are responsible for observing and complying with all Applicable Laws. “Applicable Laws” mean all federal and state laws, statutes, codes, rules, regulations, standards, directives, interpretations and conditions of approval, permits, and all legislative, administrative, or judicial orders, decrees, requirements, rulings, or judgments, which now or in the future may be applicable to the Agency Facilities, the conduct of any business therein, to the School or the Agency, and to any use of the Agency Facilities.

6. Comply with standards of practice. The School and its faculty and employees shall perform their duties under this Agreement in a manner that is consistent with applicable standards of practice set forth by Applicable Laws and applicable accreditation agencies. The School shall further require the Students to perform their duties in a manner that is consistent with applicable standards of practice set forth by Applicable Laws and by applicable accreditation agencies.

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

8. Notify Agency of Education Program changes. The School shall notify the Agency as soon as practicable of any anticipated changes in the Education Program, educational policy, program services, or other matters that may have significant implications for the Agency or the Agency Facilities, programs, services, and operations. The School will not implement changes to the Education Program without obtaining the Agency's prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed.

9. Abide by approved schedules. Require that the Students and the Education Program faculty members abide by School approved schedules for the Education Program.

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

11. Attendees care is Agency responsibility. The School shall require the Students to confirm in writing their understanding of the principle that that Agency and the Agency staff have the primary and complete responsibility for the supervision, management, and care of the Attendees, including, without limitation, the provision of all services, and the performance of all related duties and responsibilities. The School and the Agency understand and agree that in no case shall any of the Students participating in the Education Program be: (a) assigned or have the primary responsibility for the supervision, management, or care of the Attendees or (b) placed in a position of having or being deemed to replace Agency staff.

12. Collaborate on assignments. The School shall collaborate with appropriate Agency educational and other work staff to help ensure the success of the Students within the Education Program and the completion of their the Fieldwork Experiences, including, without limitation, making assignments, developing and revising operational plans, determining the number and levels of the Students assigned to the Education Program and the Fieldwork Experiences, scheduling individual shifts, 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 Fieldwork Experiences (including, without limitation, the education, training, and teaching components of the Fieldwork Experiences).

13. School to provide orientation. The School shall provide the Agency's staff with an orientation of the School's Education Program and the Fieldwork Experiences to be implemented at the Agency Facilities.

14. Periodic evaluation. The School shall meet with the Agency's staff at the Agency Facilities on a periodic basis to evaluate the Education Program, the Students, the Education Program faculty members, and the Fieldwork Experiences. The School will meet upon request by the Agency should any problems or issues need to be discussed and will be represented by the School's _____ and other School faculty as deemed appropriate.

(Title of School representative, such as Faculty Program Coordinator, Dean, Vice Chancellor, Chancellor)

B. RESPONSIBILITIES OF THE AGENCY

1. Provide Fieldwork Experiences. The Agency shall: (a) provide Fieldwork Experiences for the Students in accordance with the curricula adopted for the Education Program, (b) cooperate with the School to help achieve the objectives of the Fieldwork Experiences and the School's Education Program, and (c) make reasonably available to the Students and the Education Program faculty members the Agency facilities, services (such as support services and related services), and resources (such as equipment, and supplies).

2. Accept Students. Accept from the School the mutually agreed upon Student(s) enrolled in the Program and permit such Students and the Education Program faculty members access to Agency Facilities appropriate for the Education Program (including classroom and conference room space when available). The Agency shall appropriately orient the Students and the Education Program faculty members to the Agency Facilities and update them, as applicable, regarding any new equipment or procedures.

3. Retain responsibility for Agency patients/clients. The Agency shall retain complete control and responsibility for the supervision, management, and care of all Attendees. It is understood that in no case shall any of the Students participating in the Education Program and/or the Fieldwork Experiences be: (a) assigned or have the primary responsibility for the supervision, management, care, or control of the Attendees or (b) placed in a position of having to replace or be considered a substitute for Agency staff.

4. Furnish qualified Agency staff members. The Agency shall provide Agency staff members, meeting qualifications as mutually agreed upon between the School and the Agency and as specified by the School's Education Program, who will be responsible for working with the Students in connection with the Fieldwork Experiences at the Agency Facilities (collectively the "Practicum Coordinators"). The Agency shall assure that the Practicum Coordinators: (1) provide education supervision at least one hour per week for the Students, (2) attend appropriate School-sponsored meetings and trainings, when their schedule permits, (3) meet with School representatives at periodic site visits to discuss learning opportunities and Student performance, and (4) prepare evaluation reports as required by the School.

5. Designate Program liaison. Designate an Agency manager, administrator, or otherwise qualified professional to participate and work with the School's Program Director in planning, implementing, and coordinating the Education Program (the "Program Liaison"). The Agency 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 Agency Facilities to discuss learning opportunities and Student performance, and (4) prepares evaluation reports as required by the School.

6. Conduct orientation. The Agency shall provide the Students and the Education Program faculty members with an orientation and materials covering the Agency facilities, programs, policies, practices, rules, and regulations.

7. Site visits. The Agency shall host at least one formal site visit of the Agency Facilities and the Program per the School academic year (and as periodically required by the School) including meeting with Agency staff and leadership, evaluating the effectiveness of the Education

Program, and reviewing Education Program documentation, Education Program services, Students' records, and such other items pertaining to the Education Program.

8. Inform School of changes in Agency policies. The Agency shall notify the School as soon as practicable of any changes in the Agency's policies, practices, rules, regulations, programs, services, facilities, operations, or other matters that may have significant implications for the School's Education Program or impacts the School's Students involved with the School's Education Program and/or the Fieldwork Experiences.

9. Provide rules, policies, and procedures. Provide or make available (electronically or otherwise) to the School, the Students, and the Education Program faculty members, current and updated copies of all Agency policies, practices, rules, regulations, procedures, and guidelines applicable to the Education Program (to the extent agreed upon between the Agency and the School) at least thirty (30) days prior to the start of each session of the Education Program.

10. Notice of unsatisfactory student performance. If the Agency determines that a Student is not performing satisfactorily within the Education Program, the Agency shall notify the School of their intent to no longer permit a Student to participate in the Education Program at the Agency Facilities. However, prior to the Agency issuing such notice, the Agency's Practicum Coordinators will develop and implement a remedial plan in conjunction with School Education Program faculty members and the Student that addresses the deficiencies and identifies the actions or activities necessary to improve Student performance.

11. Agency exclusion of Students. The Agency may, after consulting with the School, exclude any Students from the Agency or any Agency Facilities in the event that: (a) such person fails to abide by the applicable Agency policies and procedures and/or does not meet the Agency's employee standards for safety, health, cooperation, or ethical behavior that the Agency imposes on the Agency's own employees, pending investigation and resolution of the matter by the Agency; or (b) such person's conduct or state of health is deemed detrimental by the Agency based on the best interest of the Agency, the Agency's staff, or the Attendees. The Agency may remove Students without first obtaining the School's concurrence when deemed an emergency situation by the Agency. To the extent that any action taken by the Agency pursuant to this paragraph may implicate or affect hearing or appeal processes conducted pursuant to the School's Code of Conduct (the "University Code"), the Agency agrees to: (i) cooperate with the School in any investigation or proceedings relating to such hearing or appeal processes under the University Code and (ii) keep the School informed of the progress of, and if requested by the School, allow the School to participate in, the Agency's investigation of the Students' conduct. To the extent that any action taken by the Agency under or pursuant to this Agreement implicates or affects the hearing, appeal, or other employment processes of the University applicable to the Education Program faculty members, the Agency shall cooperate with the School in any investigation or proceedings relating to such hearing, appeal, or employment processes with respect to the Education Program faculty members. To the extent that such action taken by the Agency implicates or affects the hearing, appeal or employment processes of both the Agency and the University (due in part to the dual employment status of the Education Program faculty members), the Agency 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 Education Program faculty members.

12. Agency to notify the School of incidents. The Agency shall immediately notify the School of any situation or behavior involving any Student or any of the Education Program faculty

members that: (a) is deemed by the Agency to pose a significant, credible, or specific threat of harm to any person, including Agency staff or the Attendees or (b) may jeopardize the ability or capability of the School or the Agency to perform or meet their respective obligations under this Agreement.

13. Provide equipment/supplies. The Agency shall provide equipment and supplies needed for the conduct of the Education Program and the Fieldwork Experiences at the Agency Facilities.

14. Permit participation by designated personnel. The Agency shall permit designated personnel of the Agency to participate with the School's Education Program faculty members and Students in the instruction of the Attendees, provided that such participation does not unreasonably interfere with the service commitments of the Agency staff.

C. COOPERATIVE COMMITMENTS

1. No exchange of financial obligations. It is understood and agreed by both the Agency 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. 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 Agency Facilities, nor will the Agency be required to pay the Students for any services performed by or activities completed by the Students in connection with the Fieldwork Experiences.

2. Term. This Agreement shall be in full force effective from and after the Effective Date to and including _____, unless otherwise amended or sooner terminated as provided in this Agreement.
(Agreement Termination Date)

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

a. Student selection. The parties agree that all Attendees and Students participating in the Education 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 Agency. In the performance of this Agreement, the Agency 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.

4. Mutual cooperation. The Agency and the School agree to mutually cooperate and work toward operating and implementing a successful Education Program, including successful Fieldwork Experiences.

5. Education Program period. The period of time for each session of the Education Program and the duration of each Student's participation in the Education Program shall be agreed upon by the parties before the beginning of each session of the Education Program. The maximum number of Attendees and 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 Agency 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 Agency's right to exclude the Student(s) from any of Agency Facilities, pending the investigation and resolution of the dispute.

6. Formalize operational details. The School's Program Director and the Agency's Program Liaison shall work together and formalize by letter operational details of the Education Program, including a mutually agreeable schedule of the times Students are expected to be in the Agency Facilities.

7. 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 Agency's officers, employees, agents, or representatives, nor between the Agency and the Students and/or the School's faculty members, officers, employees, or representatives, nor between the Agency and the School's faculty members, 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.

8. Students not agents of Agency 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 School or of the Agency.

9. 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.

10. 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 Agency, other than that of independent entities contracting with each other solely for the purpose of performing services under this Agreement, including providing the Fieldwork 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.

11. Mutual agreement as to changes. The School and the Agency 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 faculty or the Students involved, 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 ATTENDEE INFORMATION

1. Confidentiality and FERPA compliance. The School and the Agency agree to comply with all Applicable Laws, such as FERPA, pertaining to the confidentiality of student information, such as information relating to the Students and the Attendees.

2. No disclosure of confidential or proprietary information. Except as may be required or permitted 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, any subpoena, civil investigative demand, or similar process or order, the School and the Agency shall not, at any time, in any manner, either directly or indirectly, without prior written approval of the other party, divulge, disclose, or communicate to any person or entity, any information considered or designated as confidential or proprietary or protected Attendee or Student 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.

3. Agency to protect confidentiality. The Agency will protect the confidentiality of information that it receives from the University and the School to the extent required under Applicable Laws, such as FERPA. The Agency will indemnify, defend, and hold harmless the University and the School and their officers, employees, agents, representatives, and any person acting for or on behalf of the University or the School, from and against any and all claims, demands, suits, actions, causes of action, judgments, injunctions, orders, rulings, directives, penalties, assessments, liabilities, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys’ fees, expert witness fees and costs, discovery and pretrial costs, and costs incurred in the investigation, prosecution, defense, and/or handling of any action) arising from the Agency’s failure to protect the confidentiality of information that it receives from the University or the School.

4. Records provided remain School property. Except to the extent required by Applicable Laws or by order of a court or government agency, the Agency shall treat all information

provided by the University and the School to the Agency as confidential material, including, without limitation, any Student background information and educational records. All records provided by the University or the School to the Agency shall remain property of the University or the School, respectively.

5. Training on the handling of confidential information. The University and the Agency shall jointly sponsor, arrange, and conduct training sessions for the Students and the Education Program faculty members involved in the Program and Fieldwork Experiences under this Agreement covering the applicable confidentiality requirements, including, without limitation: (a) the Applicable Laws relating to confidentiality requirements, and (b) applicable Agency and School 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 Agency and the University.

E. RESPONSIBILITY AND INSURANCE.

1. Neither party is responsible for the other. Neither party shall be responsible for the acts and omissions of 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 either the School or the Agency.

NOTE: Sections E.2 and E.3 will differ depending on the nature of the entity the University is contracting with (e.g., whether it is a private entity, a State of Hawai'i government entity, a City and County of Honolulu or other county entity, or a federal or U.S. government entity).

2. University Limitations. [Used in affiliation agreements with private and State of Hawai'i government entities].

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 Agency) 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 Agency 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 Agency, 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 Agency) 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 Agency 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 Agency for any work performed by the Agency due to the University's failure or refusal to perform under this Agreement.

d. University Limitations qualify all obligations. The University and the Agency acknowledge and agree that sections 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 Agency) are expressly subject to and limited by the University Limitations set forth and defined in this section E.2.d (University Limitations) of this Agreement.

2. University Indemnity. [Used in affiliation agreements with the City and County of Honolulu and other counties in the State of Hawai'i]. In accordance with and to the extent permitted by Hawai'i Revised Statutes §46-71.5, the University will indemnify, defend, and hold harmless the Agency and its officers, employees, and agents, from any and all claims of liability for any damage to real or personal property or injury to or death of any persons when such damage, injury, or death arises out of the action or omission of the University, its officers or employees in conjunction with the use of the Agency Facilities by the University during the Agreement term hereof, provided that the University shall not be required to indemnify, defend, or hold harmless the Agency or its officers, employees, and agents from any and all claims of liability for damage to real or personal property or injury to or death of any persons when such damage, injury, or death arises out of the action or omission of the Agency and/or its officers, employees, or agents relating to the Agency Facilities. This provision shall not be read or interpreted to create any liability for the University or any person

or entity to any person or entity except for the duties to indemnify, defend, and hold harmless set forth herein. This provision is not intended to and shall not be interpreted to benefit any third person, or to benefit or create any third party beneficiary. The University's obligations under this paragraph E.2 shall survive the expiration or earlier termination of this Agreement.

2. University Indemnity. [Used in affiliation agreements with federal or U.S. government entities]. In accordance with and to the extent permitted by Hawai'i Revised Statutes §29-15.5, the University will indemnify, defend, and hold harmless the Agency and its officers, employees, and agents, from any and all claims of liability for any damage to real or personal property or injury to or death of any persons when such damage, injury, or death arises out of the action or omission of the University, its officers or employees in conjunction with the use of the Agency Facilities by the University during the Agreement term hereof, provided that the University shall not be required to indemnify, defend, or hold harmless the Agency or its officers, employees, and agents from any and all claims of liability for damage to real or personal property or injury to or death of any persons when such damage, injury, or death arises out of the action or omission of the Agency and/or its officers, employees, or agents relating to the Agency Facilities. This provision shall not be read or interpreted to create any liability for the University or any person or entity to any person or entity except for the duties to indemnify, defend, and hold harmless set forth herein. This provision is not intended to and shall not be interpreted to benefit any third person, or to benefit or create any third party beneficiary except for the Students and the University's faculty members and staff participating in the Education Program and the Fieldwork Experiences. The University's obligations under this paragraph E.2 shall survive the expiration or earlier termination of this Agreement.

3. Agency indemnification. [Used in affiliation agreements with private entities and City and County of Honolulu and other county government entities]. The Agency shall indemnify, defend, and hold harmless the University, its officers, employees, agents, representatives, or any person acting on its behalf and the Students from and against any and all claims, demands, suits, actions, causes of action, judgments, injunctions, orders, rulings, directives, penalties, assessments, liabilities, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees, expert witness fees and costs, discovery and pretrial costs, and costs incurred in the investigation, prosecution, defense, and/or handling of any action) arising from any claimed injury to or death of persons, or damage to or destruction of property, resulting from or related to: (1) any act or omission of the Agency or any of the Agency's officers, employees, contractors, consultants, agents, representatives, invitees, and any person acting for or on behalf of the Agency (hereafter collectively the "Agency agents"), (2) any accident, fire, or other incident or casualty on or within the Agency Facilities and any areas adjacent thereto, and/or (3) any failure on the part of the Agency or the Agency agents to observe or perform any of the terms and conditions herein or comply with any Applicable Laws. Under no circumstances, shall any Student or Education Program faculty member be considered an Agency agent. Furthermore, the Agency shall reimburse the University, its officers, employees, agents, or any person acting on its behalf, and the Students for all attorneys' fees, costs, and expenses incurred in connection with the defense of any such claims. The Agency's obligations under this section E.3 shall survive the expiration or earlier termination of this Agreement.

3. Agency Responsibility/Liability. [Used in affiliation agreements with the federal and U.S. government entities]. The Agency's liability, if any, for any and all claims for any damage to real or personal property or injury to or death of any persons when such damage, injury, or death arises out of the actions or omissions of the Agency or its employees or agents in the course of the Agency's performance under this Agreement, including the condition of the Agency Facilities used

in connection with this Agreement, shall be determined in accordance with applicable provisions of the United States Federal Tort Claims Act (hereafter the “FTCA”). This provision is not intended to and shall not be interpreted to benefit any third person, or to benefit or create any third-party beneficiary except for the Students and the University’s faculty members and staff participating in the Education Program and the Fieldwork Experiences. To the extent that the Agency contracts with or has other non-federal government persons or entities participate in the Education Program and the Fieldwork Experiences (collectively the “Agency Agents”), the Agency shall require that each of the Agency Agents indemnify, defend, and hold harmless the University, its officers, employees, agents, or any person acting on their behalf and the Students from and against: (a) any claim or demand for loss, liability or damage, including, but not limited to, claims for property damage, personal injury or death, by whomsoever brought, arising from any act or omission of the Agency Agents, their officers, employees, agents, contractors, consultants, or any person acting on their behalf in the performance of this Agreement; and (b) all claims, suits, and damages by whomsoever brought or made by reason of the non-observance or non-performance of the terms, covenants, and/or conditions of this Agreement or the Applicable Laws by the Agency Agents, their officers, employees, agents, contractors, consultants, or any person acting on their behalf.

3. Agency Limitations. [Used in affiliation agreements with State of Hawai‘i government entities].

a. Agency Responsibility. The Agency shall be responsible for damage or injury caused by the Agency’s officers and employees in the course of their employment to the extent that the Agency’s liability for such damage or injury has been determined by a court or otherwise agreed to by the Agency. The Agency 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 University) where the Agency 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.3.a. The University 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 Agency. The Agency’s obligations under this section E.3.a shall survive the expiration or earlier termination of this Agreement.

b. Agency cannot indemnify or be responsible for others. As the Agency is not authorized to agree to indemnify, defend, hold harmless the University, or be responsible for the acts or omissions of any other persons or entities (except for the Agency’s officers and employees), the Agency 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 University) where the Agency is or may be obligated to: (a) be responsible for the acts/omissions of other persons or entities (except the Agency’s officers and employees) or (b) indemnify, defend, or hold harmless the University 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 Agency 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 Agency'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 Agency to perform under this Agreement, including, without limitation, any obligation of the Agency to pay or reimburse the University for any work performed by the University due to the Agency's failure or refusal to perform under this Agreement.

d. Agency Limitations qualify all obligations. The University and the Agency acknowledge and agree that sections E.3.a (Agency Responsibility), E.3.b (Agency cannot indemnify or be responsible for others), and E.3.c (Subject to funding) are hereafter collectively the "Agency 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 Agency under this Agreement (including, without limitation, the Agency's obligations to comply with any of the policies, practices, procedures, rules, regulations, and guidelines adopted or implemented by the University) are expressly subject to and limited by the Agency Limitations set forth and defined in this section E.3.d (Agency Limitations) of this Agreement.

4. Agency insurance coverage. The Agency 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 Agency facilities in connection with the School's Education Program and the Fieldwork 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 Hawai'i, 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. Either party may terminate. Either party may terminate this Agreement without cause by giving at least one hundred twenty 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 the Education Program at the time of such notice until such time as those Students have completed their respective Fieldwork Experiences and enrolled courses of the School's Program, provided that the Agency continues to provide Fieldwork Experiences from or at the Agency facilities.

2. 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 Agency indemnity and insurance obligations hereunder (such as sections D.3 (Agency to protect confidentiality), E.3 (Agency indemnification), and E.4 (Agency insurance coverage) and the University Limitations 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.

G. GENERAL PROVISIONS

1. Dispute resolution. If any disputes arise between the School and the Agency concerning any aspect of this Agreement, the School and the Agency will use their best efforts to address and resolve such disputes and the parties agree to negotiate face-to-face within twenty (20) days of receipt of a letter describing the nature of the dispute and referencing this section of the Agreement. The meeting will be held on the island of Oahu, Hawaii, 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). 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. Agency Requirements. The Agency may from time to time adopt, amend, or impose such reasonable policies, procedures, guidelines, rules, requirements, and standards as the Agency deems necessary or desirable for the operation or use of the Agency Facilities in connection with the University’s Education Program, including the conduct of the Fieldwork Experiences (collectively the “Agency Requirements”), provided, however, that the University’s obligation to comply with any of the Agency 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 Agency Requirements, and (c) that the Agency 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 Agency Facilities or the use of the Agency Facilities by the University, the School’s Education Program faculty members, and/or the Students in connection with the University’s Education Program, including the conduct of the Fieldwork 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 Agency Requirements adopted or enforced by the Agency shall not be inconsistent with the terms, covenants, and conditions of this Agreement and to the extent that the Agency 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 (Agency Requirements), the University shall observe and comply with the Agency 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 Agency, and/or the Agency's officers, employees, and/or agents. The parties further recognize the importance 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, and/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.

4. Points of contact. The Agency 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, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, sent by overnight carrier, or sent by facsimile transmission to the following numbers and addresses, as appropriate:

To the Agency:

Name of Agency: _____

Name of Agency contact: _____

Title of Agency contact: _____

Agency address: _____

City, State, Zip Code: _____

Telephone: _____

Email address: _____

Additional Agency Contact (if applicable)

Name of Agency contact: _____

Title of Agency contact: _____

Agency address: _____

City, State, Zip Code: _____

Telephone: _____

Email address: _____

To the School:

University of Hawai'i

Name of School contact: _____

Title of School contact (including Dean,
Vice Chancellor, Chancellor): _____

College / School Name: _____

Campus name: _____

College/ School address: _____

City, State, Zip Code: _____

Telephone: _____

Email address: _____

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

7. 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. The submission of a signature page transmitted by facsimile (or similar electronic transmission facility) shall be considered as an "original" signature page for purposes of this Agreement.

8. No partnership. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar relationship between the Agency and the School.

9. Qualified to participate. The Agency shall require that the Agency 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 the Education Program faculty members be duly qualified (and licensed, if necessary) to engage in the activities, work, services, duties, and obligations in which they participate.

10. 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 Fieldwork Experiences and the School's Education Program at or within the Agency facilities.

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

12. 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.

13. 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.

14. 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, and not affected thereby.

15. 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, including, without limitation, the Students.

16. 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.

17. 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.

[This Space Intentionally Left Blank]

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.

AGENCY:

By: _____

Signature

Name of Private or Government Entity Signatory

Title of Private or Government Entity Signatory

Name of Private or Government Entity Department/Division/ Section

Date: _____

UNIVERSITY:

UNIVERSITY OF HAWAI'I

By: _____

Signature

Name of University Signatory

Title of University Signatory

Name of School or College

Name of Campus

Date: _____

By: _____

Signature

Name of University Signatory

Title of University Signatory

Name of School or College

Name of Campus

Date: _____

EXHIBIT A

**University's Education Program Responsibilities
Under the Affiliation Agreement
Between the University of Hawai'i and**

(Name of Private or Government Entity)

1. Developing the Education Program. The University of Hawai'i, by its _____, (the "School") will provide student volunteers (the "Students") from the School and School faculty and staff to help

(Name of Private or Government Entity) _____ ("Agency")

(Continued Name of Private or Government Entity)
develop and offer as part of the Education Program defined in the Affiliation Agreement a(n) education program and related activities to support

(Describe the Persons Who Will be Attending the Education Program)
(collectively the "Attendees") at the Agency Facilities ("Agency Facilities").

2. Implement the Education Program. The Education Program will be conducted by the Agency at the Agency Facilities. The School will assist the Agency in implementing and maintaining the Education Program for the benefit of the Attendees and furnish Students from the School to help implement and maintain the Education Program. The School will consider its assistance with the Education Program a part of its _____ Program.
(Indicate Name of Education Program)

3. Schedule of Education Program. The Agency, with assistance from the School and the Students, will provide and make available the Education Program to the Attendees at the _____ during the following days and times each week:
(Name of Agency Facilities where Education Program is available)

- Monday _____
- Tuesday _____
- Wednesday _____
- Thursday _____
- Friday _____
- Saturday _____
- Sunday _____

4. Before start of Education Program. The School will conduct background criminal history checks covering School faculty who will be participating in the Education Program and assisting in its implementation on-site. The School will conduct background criminal history checks covering the Students who will participate in the Education Program, with the Students being responsible for the cost thereof.

5. Monitor the Education Program. The School will assist the Agency in monitoring the implementation and effectiveness of the Education Program, including, without limitation:
(a) maintaining records of the School faculty and the Students participating in the Education Program,
(b) tracking the dates and hours of participation of the Students, and (c) working with the Students and the Agency staff on any problems encountered by or with the Students.

a. Confidentiality. The School will require the Students to maintain the confidentiality rights of others as outlined in the student participation agreement form that may be required by the Agency, including keeping confidential the identities of the Attendees and only sharing such information as necessary among the School faculty and staff and the Students participating in the Education Program.

b. Safety concerns. The School will advise the School faculty and staff and the Students participating in the Education Program that they should be attentive to safety-related concerns at the Agency Facilities, and should bring any safety related concerns to the attention of the Agency's Practicum Coordinators and/or other points of contact designated by the Agency.