MEMORANDUM OF AGREEMENT

University of Hawai'i/Hawai'i Health Systems Corporation

University Nursing Programs in HHSC Facilities

This **MEMORANDUM OF AGREEMENT** (hereafter the "Agreement") is entered into this 1st day of January 2011, but effective as of _____ (hereafter the "Effective Date") by and between the UNIVERSITY 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 nursing programs on the following campuses: (1) University of Hawai'i at Mānoa, (2) University of Hawai'i at Hilo, (3) University of Hawai'i Maui College, (4):Hawai`i Community College, (5) Kapi'olani Community College, and (6) Kaua'i Community College (hereafter collectively referred to as the "University") and HAWAI'I HEALTH SYSTEMS CORPORATION, whose business address is 3675 Kilauea Avenue, Honolulu, Hawai`i 96816 (hereafter called the "Agency"). As used in this Agreement, the term "Agency facilities" refers to and includes the facilities of the Agency, including, without limitation, Hale Ho`ola Hamakua, Hilo Medical Center, Ka`u Hospital, West Kaua'i Medical Center (aka Kauai Veterans Memorial Hospital), Kohala Hospital, Kona Community Hospital, Kula Hospital, Lanai Community Hospital, Leahi Hospital, Maluhia, Maui Memorial Medical Center, and Samuel Mahelona Memorial Hospital.

WITNESSETH

WHEREAS it is of mutual interest and advantage to the University and the Agency that the students enrolled in the University's Nursing Program (hereafter the "Students") be given the benefit of fieldwork experiences at the above listed Agency

facilities so as to provide the Students with the opportunity to train and obtain further education and instruction within a clinical setting (hereafter collectively the "Clinical Experiences"), and

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

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

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

A. SPECIFIC RESPONSIBILITIES OF THE UNIVERSITY

1. Develop curriculum. The University shall develop curriculum for and plan and conduct a prescribed educational program for the Students' Clinical Experiences in consultation with the Agency.

2. Comply with applicable Agency policies. The University shall require its employees and Students, while present at or within any of the Agency facilities in connection with the Clinical Experiences, to abide by and conduct themselves in accordance with the applicable policies, practices, and rules of the Agency, including policies relating to the Health Insurance Portability and Accountability Act of 1996, as it may be amended from time to time (hereafter "HIPAA").

3. Comply with Applicable Laws. The University shall observe 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 University or the Agency, and to any use of the Agency facilities.

4. Comply with standards of practice. The University and its employees shall perform their duties under this Agreement in a manner that is consistent with applicable standards of practice set forth by Applicable Laws or applicable accreditation agencies, such as The Joint Commission (TJC). The University 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 or by applicable accreditation agencies.

5. Notify Agency of program changes. The University shall notify the Agency as soon as practicable of any anticipated changes in educational policy, program services, or other matters that may have significant implications for the Agency or the Agency facilities, programs, services, and operations.

6. Students' emergency care. The University shall inform the Students that they will be financially responsible for whatever emergency care is provided by the Agency for illness or accidents occurring while on or within the Agency facilities and participating in the Clinical Experiences.

7. Students to obtain own health insurance. The University will require the Students to provide their own health insurance coverage while participating in the Clinical Experiences.

8. Patient care is physician responsibility. The University shall accept, and shall require the Students to acknowledge and accept, the principle that the care of the patient is primarily the responsibility of the attending physician.

9. Appointment of qualified nursing faculty. The University shall appoint appropriately qualified nursing faculty who shall have staff privileges at and be credentialed by the Agency to provide team care, teaching, or other educationally related services. The Agency agrees to grant staff privileges and credentials to University nursing faculty so appointed or designated by the University to help provide team care, teaching, or other educationally related services, provided that such University nursing faculty is properly qualified or licensed and meets the Agency's minimum requirements.

10. Collaborate on assignments and clinical programs. The University will collaborate with appropriate Agency facilities staff on assignments and clinical programs with respect to the Clinical Experiences, including, without limitation, developing and revising operational plans, determining the number and levels of the Students assigned to the clinical programs that are part of the Clinical 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 Clinical Experiences (including, without limitation, the education, clinical, training, and teaching components of the Clinical Experiences).

11. University to provide orientation. The University will provide the Agency and the Agency's staff at the Agency facilities with an orientation of the University's Clinical Experiences and other aspects of the University's nursing education program to be implemented at the Agency facilities.

12. Periodic evaluation. The University will meet with the Agency's staff at the Agency facilities on a periodic basis to evaluate the Students, nursing faculty, the Clinical Experiences, and the nursing education program at the Agency facilities.

13. Agency Corporate Compliance Program. The University acknowledges that the Agency has advised and has agreed to continue to advise the University that the Agency has developed a Corporate Compliance Program which is intended to govern Agency operations, including operations at the Agency facilities.

a. Agency to inform University of changes. The Agency has agreed to continue to keep the University advised regarding any significant changes to the Agency's Corporate Compliance Program.

b. University to advise Agency of concerns. The University will advise the Agency of any University concerns regarding the establishment, operation, and implementation of the Agency's Corporate Compliance Program. The Agency agrees to timely and promptly address the University's concerns and not require the University to comply with such portions of the Agency's Corporate 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 Agency facilities for the Clinical Experiences, to comply with the Agency's Corporate Compliance Program and such applicable federal program requirements and Agency 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 and the University's nursing faculty to participate in training programs, to the extent required.

d. Students to complete background checks and drug testing. The University agrees to inform the Students that the Students are responsible for satisfactorily completing any required background checks and drug testing in accordance with procedures and timelines established by the Agency and approved by the University.

B. SPECIFIC RESPONSIBILITIES OF THE AGENCY

1. Provide Clinical Experiences. To provide Clinical Experiences for the Students as described in the Clinical Experiences portion of the University's nursing program. The Agency shall (a) cooperate with the University to help achieve the objectives of the Clinical Experiences and the University's nursing program, (b) make reasonably available the Agency facilities, services (such as support services and related services), and resources (such as conference and classroom areas, equipment, and supplies), and (c) provide the Students with the Clinical Experiences, including, without limitation, clinical and educational experiences in nursing care.

2. Supervision of Students. Supervise the Students during the Clinical Experiences at the Agency facilities.

3. Retain responsibility for Agency patients. The Agency shall retain complete control and responsibility for the care and management of all Agency patients, including, without limitation, all related duties, responsibilities, and services. It is understood that in no case shall the Student in learning situations during the Clinical Experiences replace Agency staff. If any dispute or disagreement arises as to what is needed for patient care, the Agency's determination of need will control.

4. No identical experience guarantee. The Agency neither warrants nor makes any representation that all portions of the Clinical Experiences described in the curriculum will be presented to or experienced by every Student during a semester's time.

5. Furnish qualified staff members. To provide staff members, meeting qualifications as mutually agreed upon between the University and the Agency and as specified by the University's nursing program or such other University educational program, who will be responsible for working with the Students in connection with the Clinical Experiences at the Agency.

6. Conduct orientation. To provide University's nursing faculty and the Students with (a) an orientation covering the Agency facilities, programs, policies, practices, rules, and regulations and (b) current copies of the Agency's policies, practices, rules, and regulations at the time of such orientation.

7. Provide emergency care to faculty and Students. To provide emergency care for University nursing faculty and the Students involved with the Clinical Experiences or any other portion of the University's nursing education, clinical, training, teaching, or nursing program, who are injured or become ill while: (a) on duty, (b) participating in the Clinical Experiences or such other portion of the University's nursing program, or (c) at or within any of the Agency facilities.

8. Maintain Agency facilities to TJC standards. For those Agency facilities accredited by TJC, the Agency shall operate and maintain the Agency facilities in accordance with the standards prescribed and maintained by TJC and shall maintain all licenses required by the Applicable Laws, including, without limitation, all licenses required to own and operate the Agency facilities.

9. Provide supporting amenities. In accordance with the existing staff policies of the Agency facilities, the Agency shall provide University nursing faculty and the Students with amenities (such as parking, call rooms, and meals) as deemed appropriate, available, and consistent with other educational programs within the Agency and the Agency facilities, while the University nursing faculty and the Students are assigned to the Agency's facilities.

10. Inform University of changes in Agency policies. The Agency shall notify the University 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 University's nursing program or impacts the University's nursing faculty or the Students involved with the University's nursing program and/or the Clinical Experiences.

11. Agency exclusion of faculty or Students.

a. Failure to abide by Agency policies or conduct deemed detrimental. The Agency may, after consulting with and obtaining concurrence from the University, exclude any University nursing faculty member or Student 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 to the best interest of the Agency or the Agency's patients or staff.

b. University right to participate in Agency investigation. To the extent that any action taken by the Agency pursuant to this paragraph may implicate or affect hearing or appeal processes pursuant to the University's Code of Conduct, the Agency agrees to keep the University informed of the progress of, and if requested by the University, to participate in, the Agency's investigation of the conduct of the University's nursing faculty or Student.

12. Agency to notify the University of incidents. The Agency shall immediately notify the University of any situation or behavior involving any University nursing faculty or Student that: (a) is deemed by the Agency to pose a significant, credible, or specific threat of harm to any person, including Agency patients or staff or (b) may jeopardize the ability or capability of the University or the Agency to perform or meet their respective obligations under this Agreement.

13. Notice within 24 hours. The Agency shall use best efforts to notify the University in writing within twenty-four (24) hours after the occurrence of any alleged incident involving inappropriate or illegal activities by University nursing faculty or the Students in relation to the nursing program offered under this Agreement or the Clinical Experiences, or any incident involving a Student or University nursing faculty member that violates the terms of participation in the programs offered under this Agreement, including the Clinical Experiences.

C. COOPERATIVE COMMITMENTS

1. No exchange of financial obligations. It is understood and agreed by both the Agency and the University 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 renumeration 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 Clinical Experiences.

2. Term. This Agreement shall be in full force effective from and after the Effective Date (January 1, 2011), to and including June 30, 2015, unless otherwise amended or sooner terminated in the manner noted below.

3. No unlawful discrimination. This Agreement shall prohibit unlawful discrimination against any individual based on race, color, creed, religion, age, physical handicap, and sex as prescribed by the Applicable Laws.

4. Students do not replace Agency staff. It is understood and agreed by both the Agency and the University that in no case during the Clinical Experiences shall the Student in learning situations replace any Agency staff.

5. Mutual cooperation. The Agency and the University agree to mutually cooperate and work toward operating and implementing a successful nursing program, including a successful Clinical Experiences.

6. Students not third party beneficiaries. 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.

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

a. Mere participation not employment. 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 to the other party's employees.

b. Each party responsible for its own obligations. Each party shall be responsible for the payment of applicable income, Social Security, and any other federal, state, county or municipal taxes and fees of and for their respective employees.

c. Students are not University agents or 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.

8. Students not agents of Agency. For the purposes of this Agreement, both parties mutually agree that the Students are neither employees nor agents of the University or of the Agency.

a. Students not entitled to compensation or fringe benefits. The Students participating in the Clinical Experiences or the Univesity'nursing program should be considered students and not employees of either party and thus are not covered by the University or Agency for the purposes of compensation, fringe benefits, workers'

compensation, unemployment compensation, minimum wage laws, income tax withholding, Social Security, or any other purpose, because of their participation in the Clinical Experiences or the University's nursing program under this Agreement.

b. Clinical Experiences is not employment but fulfillment of academic requirements. In connection with the Clinical Experiences, each Student is placed within Agency facilities to receive fieldwork experience as part of his or her academic curriculum; those duties performed by a Student are not performed as employee, but in fulfillment of these academic requirements and are performed under the Agency's supervision.

c. Students shall not substitute for Agency employees. At no time shall Students replace or substitute for any employee of the Agency.

d. Students may be employed under separate agreement. This provision shall not be deemed to prohibit the employment of any such Student by either party under a separate employment agreement.

e. University to inform Students. The University shall notify each Student of the contents of this paragraph.

9. 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 University 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 Clinical Experiences. Neither the parties hereto, nor any of their respective officers, directors, agents, or employees shall, by virtue of this

Agreement, shall be deemed to exercise any function for the other party, except as specifically provided herein.

10. Mutual agreement as to changes. The University 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 PATIENT AND TREATMENT INFORMATION

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

2. No disclosure of confidential or proprietary information. Except as may be required by law, including, without limitation, compliance with any Applicable Laws (including the Applicable Laws relating to the public disclosure of University documents (such as chapter 92F, Hawai'i Revised Statutes)), any subpoena, civil investigative demand, or similar process or order, the University 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 patient information.

Failure to comply may result in immediate termination of this Agreement, at the discretion of the non-breaching party, as well as subjecting the breaching party to all other remedies available at law or in equity to the non-breaching party.

3. Training on the handling of confidential information. The University and the Agency shall jointly sponsor, arrange, and conduct training sessions for the University's nursing faculty and 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 Agency 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 or as recommended by the Hawai`i HIPAA Readiness Collaborative which is a cooperative of health care agency representatives.

4. Agreement subject to HIPAA. The University and the Agency understand that this Agreement and certain data which may be exchanged hereunder may be subject to HIPAA and that the University may be considered a "business associate" of the Agency for the purposes of HIPAA and the rules and regulations adopted thereunder. Moreover, solely for the purpose of defining the role of the Student in relation to the use and disclosure of the Agency's protected health information, the Students are defined as members of the Agency'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 Agency.

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. Neither party shall be liable for any judgment, settlement, award, fine or otherwise, which arises out of the acts and omissions of such other party, or its 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 section, the Students are not employees or agents of either the University or the Agency.

2. University Responsibility.

a. University officers and employees. 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 applicable rules and regulations adopted or implemented by 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 subparagraph 2a (University officers and employees). 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 subparagraph 2a shall survive the expiration or earlier termination of this Agreement.

b. University is not authorized to indemnify. The University and Agency acknowledge and agree that the University, as an agency of the State of Hawai'i, is not authorized to indemnify the Agency in any way, including, without limitation, against any claims for bodily injury, wrongful death, and/or property damage by any persons. Notwithstanding anything to the contrary contained in this Agreement, the University shall have no contractual duty to indemnify, defend, or hold harmless the Agency or any other persons under any circumstances arising out of or related to this Agreement and/or in connection with the carrying out of the University's nursing program, including the Clinical Experiences, at or within the Agency facilities under the terms of this Agreement. In each instance in this Agreement where the University is or may be obligated to indemnify, defend, or hold harmless the Agency or any other persons, such obligations shall be deemed null and void and such contrary indemnity, defense, and hold harmless obligations and provisions shall be deemed to be superseded by this provision, and of no force or effect.

c. University Not Responsible for Others. Notwithstanding anything to the contrary contained in this Agreement, the Agency acknowledges that the University can only be held responsible for the actions of the University and the University's officers and employees, and the Agency shall not hold the University responsible for any actions or omissions of any other person or entity, including, without limitation, any person or entity who (except for the University's officers and employees) could be deemed to be the University's representatives, students, invitees, or customers. In each instance in this Agreement where the University is obligated to assume responsibility for the actions or omissions of any persons or entities other than the University or the University's officers or employees, such obligations shall be deemed null and void and such contrary University responsibility obligations or provisions shall be deemed to be superseded by this provision, and of no force or effect. 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.

d. 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. At a minimum, the following conditions must be satisfied in order for funding to be made properly available: (a) the Hawaii State Legislature shall have appropriated sufficient funding to satisfy such

obligations or liabilities; (b) the Governor of the State of Hawaii shall have authorized the use of such funds for satisfying such obligations or liabilities; and (c) the satisfaction of conditions, if any, imposed by the Hawaii State Legislature and/or the Governor on the use of such funds. The University shall use reasonable good faith efforts to have funds properly appropriated, allotted, or made available for such purposes (including, without limitation, obtaining legislative and Governor's authorizations for use of such funds) and to satisfy such conditions in a timely manner.

(1) Applies to all of the University's obligations. Notwithstanding anything to the contrary contained in this Agreement, this provision shall apply to and qualify each and every of the University's obligation 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.

(2) Agency's right to advance notice. As an inducement to the Agency to agree to the University Limitations (as defined herein), the University hereby agrees that for any obligations or liabilities which are subject to the University obtaining funding or satisfying other conditions prior to the University being able to fulfill such obligations or liabilities, as specified in the University Limitations (as defined herein), if the University knows, in advance, that it will not obtain such funding or not be able to fulfill such an obligation or liability, then the University shall provide the Agency with written notice thereof within thirty (30) days of the University obtaining such knowledge. The Agency shall not have the right to terminate this Agreement for such failure to obtain such funding or failure to fulfill such an obligation unless and until the Agency and the

University fully complete the dispute resolution process described in paragraph 22 (Dispute resolution) herein.

e. Subject to Limitations. AGENCY and the UNIVERSITY acknowledge and agree that subparagraphs E2a, E2b, E2c, and E2d, 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 are expressly subject to and limited by the University Limitations set forth and defined in this paragraph E2 of this Agreement.

3. Agency responsibility.

a. Agency officers and employees. 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 applicable rules and regulations 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 subparagraph E3a (Agency officers and employees). 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 subparagraph E3a shall survive the expiration or earlier termination of this Agreement.

b. Agency is not authorized to indemnify. The Agency and University acknowledge and agree that the Agency, as an agency of the State of Hawai'i, is not authorized to indemnify the University in any way, including, without limitation, against any claims for bodily injury, wrongful death, and/or property damage by any persons. Notwithstanding anything to the contrary contained in this Agreement, the Agency shall have no contractual duty to indemnify, defend, or hold harmless the University or any other persons under any circumstances arising out of or related to this Agreement and/or in connection with the carrying out of the Agency's obligations and responsibilities under this Agreement, including, without limitation, making the Agency facilities available for use by the University's nursing program, such as the Clinical Experiences. In each instance in this Agreement where the Agency is or may be obligated to indemnify, defend, or hold harmless the University or any other persons, such obligations shall be deemed null and void and such contrary indemnity, defense, and hold harmless obligations and provisions shall be deemed to be superseded by this provision, and of no force or effect.

c. Agency Not Responsible for Others. Notwithstanding anything to the contrary contained in this Agreement, the University acknowledges that the Agency can only be held responsible for the actions of the Agency and the Agency's officers and employees, and the University shall not hold the Agency responsible for any actions or omissions of any other person or entity, including, without limitation, any person or

entity who (except for the Agency's officers and employees) could be deemed to be the Agency's representatives, students, invitees, or customers. In each instance in this Agreement where the Agency is obligated to assume responsibility for the actions or omissions of any persons or entities other than the Agency or the Agency's officers or employees, such obligations shall be deemed null and void and such contrary Agency responsibility obligations or provisions shall be deemed to be superseded by this provision, and of no force or effect. 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.

d. 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. At a minimum, the following conditions must be satisfied in order for funding to be made properly available: (a) the Hawaii State Legislature shall have appropriated sufficient funding to satisfy such obligations or liabilities; (b) the Governor of the State of Hawaii shall have authorized the use of such funds for satisfying such obligations or liabilities; and (c) the satisfaction of conditions, if any, imposed by the Hawaii State Legislature and/or the Governor on the use of such funds. The Agency shall use reasonable good faith efforts to have funds properly appropriated, allotted, or made available for such purposes (including, without

limitation, obtaining legislative and Governor's authorizations for use of such funds) and to satisfy such conditions in a timely manner.

(1) Applies to all of the Agency's obligations. Notwithstanding anything to the contrary contained in this Agreement, this provision shall apply to and qualify each and every of the Agency's obligation 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.

(2) University's right to advance notice. As an inducement to the University to agree to the Agency Limitations (as defined herein), the Agency hereby agrees that for any obligations or liabilities which are subject to the Agency obtaining funding or satisfying other conditions prior to the Agency being able to fulfill such obligations or liabilities, as specified in the Agency Limitations (as defined herein), if the Agency knows, in advance, that it will not obtain such funding or not be able to fulfill such an obligation or liability, then the Agency shall provide the University with written notice thereof within thirty (30) days of the Agency obtaining such knowledge. The University shall not have the right to terminate this Agreement for such failure to obtain such funding or failure to fulfill such an obligation unless and until the Agency and the University fully complete the dispute resolution process described in paragraph 22 (Dispute resolution) herein.

e. Subject to Limitations. The Agency and the UNIVERSITY acknowledge and agree that subparagraphs E3a, E3b, E3c, and E3d, 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 are expressly subject to and limited by the Agency Limitations set forth and defined in this paragraph E3 of this Agreement.

4. Cooperation between the Parties.

a. Cooperate on risk management, legal issues. The parties recognize that, during the term of this Agreement and for a period thereafter, certain risk management issues, legal issues, claims, and/or Actions (as defined herein) may arise that involve or could potentially involve the parties and their respective employees and agents. The parties further recognize the importance of cooperating with each other in good faith when such issues, claims, or Actions (as defined herein) 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 Action (as defined herein). 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 risk management, legal, claims handling, and Actions (as defined herein) issues in a manner that 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. Notify other party of Action. The parties further agree that if a controversy, dispute, claim, action or lawsuit (hereafter each an **"Action"**) arises with a third party wherein one or both of the parties are included as named 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.

c. University faculty insurance coverage. The University will be responsible for purchasing or acquiring professional liability or malpractice insurance covering the University's faculty members performing any work or services under this Agreement, including participating in the Clinical Experiences, with minimum limits of One Million And No/100 Dollars ($1,000,000.00) per occurrence and an aggregate amount of Three Million And No/100 Dollars ($3,000,000.00). The University may provide such insurance covering the University's faculty members through either an insurance company licensed in the State of Hawai'I, a program of self-insurance, or an insurance reserve fund.

d. 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 University's nursing 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 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 at the time of such notice until such time as those Students have completed their respective Clinical Experiences and enrolled courses of the University's nursing program, provided that the Agency continues to provide Clinical Experiences from or at that Agency facility.

2. 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 the next paragraph.

b. Notice Requirements. The Noticing Party shall give notice to the other party setting forth the following information relating to an event described in paragraph F2a above:

(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 the purpose thereof 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.

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

G. GENERAL PROVISIONS

1. Dispute resolution.

a. All Disputes. If any disputes arise between the Agency and the University concerning any aspect of this Agreement, the Agency and the University 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 paragraph of this Agreement. The meeting will be held on the island of Oahu, Hawai'i, at the place of business of the party receiving the letter unless the parties mutually agree to meet at another place.

b. Reference to the Agency's President and Chief Executive Officer and the University's President. In the event the matter is not resolved by negotiation within thirty (30) days of this initial negotiation meeting, and the disputes cannot be resolved between the staffs of the Agency and the University, the parties agree that the Agency's President and Chief Executive Officer and the University's President will together address and attempt to resolve the dispute.

c. Governor to make final decision. If the Agency's President and Chief Executive Officer and the University's President are unable to resolve the dispute, the dispute will be submitted to the Governor for resolution. The decision of the Governor on any dispute under this Agreement shall be final and binding upon the parties.

2. Agency requirements. The Agency may from time to time adopt, amend, or impose such reasonable 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 nursing program, including the conduct of the Clinical Experiences (collectively the "Agency Requirements"), PROVIDED, HOWEVER, 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 E2 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, and its nursing faculty and the Students in connection with the University's nursing 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 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 G2 (Agency Requirements), the University shall observe and comply with the Agency Requirements.

3. Points of contact. The Agency and the University 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.

4. Notice. All notices, request, 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:

Howard Ainsely
Regional Chief Executive Officer
East Hawai'i Region
1190 Waianuenue Avenue
Hilo, Hawai'i 96720

Kathryn Harter
Interim Chief Executive Officer
West Hawai'i Region
79-1019 Haukapila Street
Kealakekua, Hawai'i 96750

Wesley P. Lo
Chief Executive Officer
Maui Region
221 Mahalani Street
Wailuku, Hawai'i 96793

Jerry Walker
Regional Chief Executive Officer
Kaua'i Region
4643 Waimea Canyon Drive
Waimea, Kaua'i, Hawai'i 96796

Vincent Lee

O'ahu Regional Chief Executive Officer
3675 Kilauea Avenue
Honolulu, Hawai'i 96816

With copy to:

Bruce Anderson
President and Chief Executive Officer
3675 Kilauea Avenue
Honolulu, Hawai'i 96816
Phone: (808) 733-4020
Fax: (808) 733-4028

To the UNIVERSITY:

Virginia S. Hinshaw, Chancellor
University of Hawai'i at Mānoa
University of Hawai'i
Hawai'i Hall, Room 200
2500 Campus Road
Honolulu, Hawai'i 96822
Attention: Stephanie Marshall
Director, School of Nursing and Dental Hygiene

Donald O. Straney, Chancellor
University of Hawai'i at Hilo
University of Hawai'i
200 West Kawili Street
Hilo, Hawai'i 96720
Attention: Katharyn Daub
Program Director and Department Chair

Clyde Sakamoto, Chancellor
University of Hawai'i Maui College
University of Hawai'i
310 W. Ka`ahumanu Avenue
Kahului, Hawai'i 96732
Attention: Nancy Johnson
Allied Health Department Chair

Noreen Yamane, Chancellor
Hawai'i Community College
University of Hawai'i
Manono Campus, Room 378

200 West Kawili Street
Hilo, Hawai'i 96720-4091
Attention: Elizabeth Ojala
Program Director

Leon Richards, Chancellor
Kapi'olani Community College
University of Hawai'i
`Iilima Building, Room 213
4303 Diamond Head Road
Honolulu, Hawai'i 96816-9565
Attention: May Kealoha
Program Director

Helen Cox, Chancellor
Kaua'i Community College
University of Hawai'i
3-1901 Kaumualii Highway
Līhu'e, Kaua'i 96766
Attention: Charlene Ono
Program Director

With copy to:

Director, Office of Procurement and Real Property Management
University of Hawai'i
1400 Lower Campus Road, Room 15
Honolulu, Hawai'i 96822
Phone: (808) 956-8687
Fax: (808) 956-2093

All notices, demands, requests, and other communications that may be or are required to be given hereunder by either the Agency or the University shall be in writing and shall be (A) personally delivered to the receiving party at the addresses noted above, or (B) sent by registered or certified mail, return receipt requested, postage

prepaid, addressed as set forth above, or (C) transmitted by an internationally recognized courier service, such as Federal Express, addressed as set forth above, or (D) sent by facsimile transmission ("Fax") to the Fax number of the receiving party set forth above. 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, the sender of the Fax transmission has received confirmation of its transmission from the sender's fax machine, or three days following such mailing thereof, as the case may be.

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

6. No unreasonable interference. The Agency agrees not to unreasonably interfere with the operation, administration, and policy setting procedures of the University's nursing program, including the Clinical Experiences. The Imoversotu agrees that in the conduct of the University's nursing program, including the Clinical Experiences at or within the Agency facilities, the UNIVERSITY agrees not to unreasonably interfere with the operation, administration, and policy setting procedures of the Agency facilities.

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 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. 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 to which they may pertain.

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

10. Binding effect. The term "Agency" wherever used herein shall include the HAWAI'I HEATH SYSTEMS CORPORATION 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 hererin 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.

11. 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 University.

12. 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 University's nursing program at or within the Agency facilities.

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

14. No party designated as 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.

15. 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 State of Hawai`i, and the Circuit Court of the First Circuit 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.

16. 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.

17. 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 be enforceable to the full extent permitted by law.

18. 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.

19. 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 provided under this Agreement.

20. 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 date hereof.

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:

Hawai'i Health Systems Corporation:

By:_____
BRUCE ANDERSON
President and Chief Executive Officer
Hawai`i Health Systems Corporation

_____
Date

By:_____
Regional Chief Executive Officer
Center

_____
Date

By:_____
KATHRYN HARTER
Interim Regional Chief Executive Officer
West Hawai`i Region, Kona Community Hospital

_____
Date

By:_____
VINCENT LEE
Regional Chief Executive Officer
Oahu Region, Leahi Hospital

UNIVERSITY

University of Hawai'i

By:_____
M.R.C. GREENWOOD
President
University of Hawai`i

_____
Date

APPROVED BY: HOWARD AINSLEY
East Hawai`i Region, Hilo Medical

By _____
NOREEN YAMANE, Chancellor
Hawai'i Community College

_____
Date

By _____
VIRGINIA S. HINSHAW, Chancellor
University of Hawai'i at Manoa

_____
Date

By _____
DONALD O. STRANEY, Chancellor
University of Hawai'i at Hilo

_____
Date

By _____
CLYDE SAKAMOTO,

Chancellor

_____

College
Date

By:_____
WESLEY LO
Regional Chief Executive Officer
Maui Region, Maui Memorial Medical Center

_____
Date

By:_____
JERRY WALKER

Regional Chief Executive Officer
Kauai Region, West Kauai Medical Center

_____
Date

University of Hawai'i Maui

_____
Date

By _____
LEON RICHARDS, Chancellor
Kapi'olani Community College

_____
Date

By:_____
HELEN COX, Chancellor
Kaua'i Community College