

AGREEMENT BETWEEN  
Las Positas College  
AND  
Pianos Plus

This Agreement is entered into this 15th day August, 2010, by and between Las Positas College with its principal business location 3033 Collier Canyon Rd Livermore Ca 94550 ("School") and Pianos Plus with its principal offices at 1558 A Street Castro Valley, CA 94546 ("Dealer").

WHEREAS School is actively involved in providing music education, including piano education, and requires musical instruments including acoustic and digital pianos to further its educational activities; and

WHEREAS Dealer is involved in the business of distributing Yamaha brand acoustic and digital pianos, and wishes to furnish on a loan/purchase basis Yamaha instruments for use by School faculty, students and professionals; and

WHEREAS School desires to accept the placement of Yamaha instruments and related equipment set forth in Exhibit A ("Units"), on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in exchange for the mutual promises contained herein, School and Dealer agree as follows:

1. Term: This Agreement shall be effective as of the date of approval by Yamaha in accordance with Paragraph 8, and shall terminate as of August 14, 2011 (*which shall be no later than 12 months from the effective date*). As used herein, "Term" means the period August 15, 2010 to August 14, 2011.
2. Equipment: School will accept from Dealer for placement on School premises, and Dealer will provide to School, the Units.
3. Purchase of Units: At the end of the Term, or at any time during the Term, School may purchase any of the Units at Dealer prices listed in Exhibit "A" which will reflect an appropriate School discount. School agrees to buy at least 20% of the total provided units annually
4. Termination: Any party may, with or without cause, terminate this agreement upon 120 days prior written notice. In the event of termination all Units must be returned to Dealer, or purchased by School, on or before the termination date.
5. Responsibilities of Dealer: Dealer shall be responsible for:
  - a. All shipping, receiving, unboxing, delivery and set up of all Units.
  - b. The costs of cosmetic maintenance of Units resulting from normal wear and tear.
  - c. Warranty service on the Units listed in Exhibit A. The Units shall be repaired free of charge, if necessary repairs are covered under the manufacturer's warranty. Dealer shall be the sole service agent.

- d. Reimbursing School for costs, which may be incurred for the preparation of sale announcements to alumni. Dealer is not required to use School services for the design and production of materials to be mailed to alumni. All materials to be mailed to alumni, however, must be approved by School prior to production and mailing.
- e. Insuring all Units.

6. Responsibilities of School: School shall be responsible for:

- a. Routine maintenance of all Units on a regular basis, including tuning, voicing, and action regulation, in accordance with Dealer's written specifications.
- b. Providing reasonable protection of Units by adequately safeguarding the Units and establishing and maintaining appropriate control over their use.
- c. Damages to the Units during the Term; except for damages covered by Paragraph 5.b and 5.c, above, to the extent permitted by law, if such damages result from the negligent or intentional acts or omissions of School or any of its employees or agents acting within the scope of their employment or agency.
- d. Insuring all Units.
- e. Not removing any of the Units after placement in specified locations.
- f. Allowing Dealer, Yamaha, or the assigns or representative of either, access rights to inspect the Units to determine their condition and to verify inventories.
- g. Allowing Dealer and Yamaha the right to use the name of School in public release of information about the brands currently being loaned hereunder, so long as such use does not imply an endorsement by School and is otherwise acceptable to School Administration. Dealer or its designee will submit public release drafts for approval to School Administration, which will notify Dealer or its designee within 5 business days, and School will not unreasonably withhold approval of such drafts.
- h. Cooperating with Dealer, or its designee, to facilitate an on-site sale of the Units, including providing an appropriate facility to conduct a sale of the magnitude expected, and access to mailing lists as approved by School. School represents and warrants that the use of the mailing list or other support provided by School will not infringe on any third party intellectual property rights or privacy.
- i. Using its best efforts to provide the assistance of personnel as may be required to facilitate the sale of all Units involved. Such assistance will consist of logistical arrangements, but in no manner will School employees serve as sales people.
- j. Prepare and distribute sale announcements to faculty, students, alumni, and friends of the music department subject to the representation and warranty in Paragraph 6(g).
- k. Functions held at the School utilizing the Yamaha Piano(s) or Clavinova(s) shall include in any announcements, brochures, and programs that the Yamaha Piano(s) or Clavinova(s) were provided by Pianos Plus at 1558 "A" Street in Castro Valley.

7. Additional Responsibilities of the Parties

- a. School agrees that, at the end of the Term, Dealer may hold a sale of the Units in accordance with the provisions of this Agreement. School agrees that, at the sale, Dealer may offer for sale additional products. If Dealer offers additional products, it will clearly delineate which products were not used at School.

- b. Such sale will be a 4-day event, usually from Thursday-Sunday, held during normal retail hours.
- c. No party to this Agreement shall assign its rights or obligations under this Agreement without the prior written consent of the other party.
- d. All notices required or desired to be sent under this Agreement may be sent by first class mail, postage prepaid, as follows:

If to:                                   Pianos Plus  
   P.O. Box 20039  
   1558 A Street  
   Castro Valley, CA 94546  
   Attention: Robert P Engel

If to:                                   Las Positas College  
   3033 Collier Canyon Road  
   Livermore CA, 94550  
   Attention: Mary Campbell

8. Yamaha’s Approval. Both parties to this Agreement agree that this placement is subject to the approval, by Yamaha Corporation of America, Piano Division Management, of the sale of the Units to the Dealer.

9. Miscellaneous

- a. *Entire Agreement.* This Agreement (including any schedules attached hereto) contains the entire agreement of the parties with respect to the Units to be furnished hereunder. Any modification or amendment of any term or provision of this Agreement shall not be valid or binding unless the same is in writing and signed by each party hereto.
- b. *Governing Law.* This Agreement shall be governed and construed in accordance with the laws of the State of California. Any legal actions, claims or demands shall be handled in a court of competent jurisdiction within the state of California.
- c. *Signing Authority.* Each person signing this Agreement represents that he/she has the requisite authority to sign for and bind the party named.
- d. IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above and as specified in Paragraph 8.

Las Positas College

Pianos Plus

\_\_\_\_\_  
 Authorized Signature, Title  
 Las Positas College

\_\_\_\_\_  
 Date

*Robert P. Engel*      *5/24/10*  
 \_\_\_\_\_  
 Robert P. Engel, President      Date

