



Las Positas College – Surgical Technology Program  
3000 Campus Hill Drive – Room 2111  
Livermore, CA 94551

## **AGREEMENT FOR THE USE OF CLINICAL FACILITIES**

This Agreement, date for reference purposes only, December 21, 2009 is entered into by and between the Chabot-Las Positas Community College District, hereinafter known as the “District” and Eden Medical Center, herein after known as the “Agency”.

### **WITNESSETH**

WHEREAS, the Agency operates a clinical facility at Eden Medical Center, 20103 Lake Chabot Rd., Castro Valley, California;

WHEREAS, the District conducts an accredited **Surgical Technology Program** at Los Positas College which requires clinical experience for students enrolled in said program, hereinafter referred to as the “Program”;

WHEREAS, the parties desire that District students in its Program use the Agency’s clinical facilities to improve their learning experience.

NOW THEREFORE, the parties agree as follows:

#### 1. **TERM**

The initial term of this Agreement shall commence on January 1, 2010 and terminate December 31, 2014 in accordance with the provisions below.

This Agreement shall continue on a year-to-year basis, unless terminated by written notice thereof, delivered by either party to the other party, at least ninety (90) days prior to any anniversary date thereof.

Notwithstanding the foregoing, either party may terminate this Agreement without cause by giving ninety (90) days prior written notice thereof to the other party, and upon the effective date of such termination, all rights and obligations of the parties hereunder shall cease and terminate except that the Agency and the District shall each perform fully any obligations under this Agreement relating to an event occurring or circumstances existing prior to the date of termination. If notice of termination is given by Agency and the ninety (90) days expires during an instructional sequence, termination shall become effective at the end of that instructional sequence.

#### 2. **AGENCY**

Subject to such reasonable rules and regulations as Agency shall from time to time adopt, Agency shall:

- A. Participate with District in planning and implementing the clinical education of students.

- B. Permit each student designated in writing by District, pursuant to Section 3, subparagraph (B) hereof, the opportunity to participate in those types of clinical training experiences which may be available at Agency that are agreed upon by Agency and District. Permit such students, as well as District instructors, access to Agency facilities selected by Agency for such periods of time and for such clinical experiences as may be determined by Agency and District; provided, however, that the clinical experiences permitted shall take place at such times and places which minimize interference with normal Agency routine;
- C. Provide supplies and equipment customarily available on Agency premises for class demonstration and instruction of students.
- D. Provide space for classroom and conference room use, provide facilities for the changing of uniforms and for the storage of clothing and personal effects, and allow students and instructors, at their own expense, to use cafeteria facilities used by Agency personnel, all to the extent that such space is available and as Agency may agree from time to time;
- E. Reserve the right exercisable in its sound discretion to exclude any person, students or others, from Agency clinic in the event that such person's conduct or state of health is deemed objectionable or detrimental, having in mind the proper administration of said Clinical Facility and the best interest of the patients under care therein. Prior to taking such actions under this provision, Agency shall confer with the appropriate District representatives regarding the basis of any proposed exclusion and shall cooperate with District in discharging any District obligations related to such exclusion.
- F. Designate lines of authority and communication for relations between District faculty and the Agency so as to carry out the purposes of this Agreement;
- G. Provide orientation programs for the advice and information of new District instructors and students. Such orientation programs will include a delineation of Agency policies concerning ethical practices and drug abuse;
- H. Permit members of the staff of Agency to participate in clinical experiences offered to the students of District on an advisory and consulting basis at such times and in such number as Agency shall determine; provided that such participation does not interfere with normal Agency activity;
- I. Agency shall promptly notify District of any illness or injury received by student or District faculty member resulting from participation of such student or faculty member in a clinical experience at Agency pursuant to this Agreement. If Agency is in a hospital setting, Agency shall provide emergency health care for such illness or injury received by a student or District faculty member; provided, however, that the sole and exclusive authority to determine the duration and extent of necessary

emergency health care shall be vested in Agency, and Agency's determination in this regard shall be conclusive. All costs of emergency health care shall be paid by the District.

- J. Agency shall at all times have ultimate responsibility for all aspects of patient care, provided that this responsibility shall in no way limit the responsibility or obligations of District and its faculty and students under this Agreement.

3. **DISTRICT**

District Shall:

- A. Participate with Agency in planning and implementing the clinical education of students.
- B. Designate in writing a minimum of two (2) weeks prior to the commencement of each clinical program the names of those students registered for the health care internship or clinical placement program at Agency, where required by Agency. The number of students eligible to participate in a program shall be determined by the Agreement of Agency and District.
- C. Recommend for clinical education only those students who possess a satisfactory academic record and have met the minimum requirements established by District for the Teaching Program.
- D. District will notify the students that they are responsible for:
  - 1) Following the administrative policies of Agency;
  - 2) Arranging their own transportation
  - 3) Reporting to Agency on time and following all established rules and regulations of Agency;
  - 4) Arranging for their own health insurance;
  - 5) Assuming responsibility for their personal illness; necessary immunizations, tuberculin test, and annual health examination;
  - 6) Maintaining confidentiality of patient information in accordance with state and federal law. No student will have access to or have the right to review any medical record, except where necessary in the regular course of their Clinical Program. The discussion, transmission or narration in any form by students of any patient information obtained in the regular course of the Clinical Program is forbidden except as permitted by law.

- E. Designate lines of authority and communication for relations between District faculty and the appropriate Agency Administrator so as to carry out the purposes of the Agreement.
- F. Retain general responsibility for all instruction, supervision, control, evaluation, and related matters concerning student participation in the clinical program at Agency, subject to such sharing of responsibility with Agency as shall be agreed upon by Agency and District. Student discipline shall be the exclusive responsibility of the District.
- G. Provide all educational supplies and equipment necessary for the instruction of students participating in the clinical program to the extent they are not customarily available at the Agency, and be exclusively responsible for the care and control of all such education supplies and equipment so provided.
- H. Enforce the rules, regulations, and requirements governing the students participating in the Clinical Program; said rules, regulations, and requirements to be agreed upon by District and Agency.

4. **STATUS OF STUDENTS**

It is understood and agreed by the parties that all student participants shall be considered students and not Agency staff. They shall not engage in patient care activities and shall not replace Agency staff except as may be necessary as part of their educational training and subject to any and all applicable laws. District shall be solely responsible for any remuneration, stipend, fringe benefit, or other similar payments to be made to District instructors, except as Agency may otherwise agree in writing. Students are not and shall not be deemed to be employees of Agency. However, nothing in this Agreement is intended to restrict the employment by Agency of students in any capacity for part-time work nor shall any provision in this Agreement be construed to apply to such part-time work.

5. **LIABILITY INSURANCE AND INDEMNITY**

District agrees to keep in force, during the period this Agreement is in effect, either a policy of general liability and professional indemnity liability insurance from a reputable insurance carrier authorized to transact insurance in California, or general liability and professional indemnity liability coverage under the State Wide Association of Community Colleges (SWACC) joint Powers Authority for Self-Funding of Property and Liability organized under the provisions of California Government Code Section 6500 et seq., to protect the students and the District against the risk of injury, death, and damage to persons or property as a result of the acts and/or omissions of any District students. The minimum limits of said general liability and professional indemnity liability insurance policies or coverage shall be, respectively, \$250,000.00 and \$1,000,000.00. District shall provide at least twenty-five (25) days prior written notice to School of any substantial change to or cancellation of said coverage.

Agency agrees to keep in force, during the period this Agreement is in effect, either a policy of general liability and professional indemnity liability insurance from a reputable insurance carrier authorized to transact insurance in California, or general liability and professional indemnity liability coverage to protect against the risk of injury, death, and damage to persons or property as a result of the negligent or otherwise wrongful acts or omissions of Agency or its officers, directors, employees or agents. The minimum limits of said general liability and professional indemnity liability insurance policies or coverage shall be, respectively, \$250,000.00 and \$1,000,000.00. Agency shall provide at least twenty-five (25) days prior written notice to District of any substantial change to or cancellation of said coverage.

Notwithstanding any other provisions herein, Agency shall indemnify and hold District harmless from and indemnify it against any and all liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which District incurs as a result of the negligent or otherwise intentional acts or omissions of Agency or its officers, directors, employees or agents, in the performance of activities or Agency's responsibilities and privileges under this Agreement. The obligations of Agency pursuant to this paragraph shall not extend to the proportion of any liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which District may incur as a result of the negligence or other intentional acts or omissions of District or its officers, directors, employees, agents, faculty or students.

Notwithstanding any other provision herein, District shall indemnify and hold Agency and its directors, officers, employees, and agents harmless from and indemnify them against any and all liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which they individually or collectively incur as a result of the negligent or otherwise intentional acts or omissions of District, its officers, directors, employees, agents, faculty or students in the performance of the activities or District's responsibilities and privileges under this Agreement. District shall also indemnify and hold Agency and its directors, officers, employees, and agents harmless from and indemnify them against any and all liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which they individually or collectively incur as a result of workers compensation claims by students. The obligations of District pursuant to this paragraph shall not extend to any proportion of liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which Agency or its directors, officers, employees, or agents may incur as a result of the negligence or other intentional acts or omissions of Agency or its officers, directors, employees or agents. For purposes of this provision, students and faculty of the District assigned to Agency under this Agreement shall be deemed to be the agents of the District.

## 6. **WORKER'S COMPENSATION**

The parties agree that Agency is not to assume nor shall it assume by this Agreement any liability under the California Worker's Compensation Insurance and Safety Act for, by, or on behalf of any students or District instructors while said students or District instructors are on the premises of the Agency or while performing any duty whatsoever under the terms of this Agreement or while going to or from any of Agency's facilities. District hereby agrees to assume such liability and indemnify and hold Agency harmless therefrom. District assumes and relieves and by this Agreement assumes and relieves the Agency of and indemnifies and holds Agency harmless from all liability therefore if any there be, and any such liability which

hereafter may exist under said State Compensation Act because of injuries arising out of and in the course of said performance of any duties whatsoever under the terms of this Agreement; provided, however, that the District shall not assume nor relieve Agency from tort liability arising from the tortious conduct of Agency officers, agents, or employees. For the purpose of any determination or interpretation under this clause, each said student, if determined to be an employee of either party hereto, shall be considered the employee of the District and not the employee of the Agency, for Worker's Compensation purposes only.

7. **CONFIDENTIALITY**

District agrees that all students and District instructors participating in the program encompassed by this Agreement shall not divulge or otherwise cause to be disclosed any confidential or privileged information or communications which become known to such students and/or District instructors in the course of their participation in such program. District agrees to assume liability for any such disclosure and indemnify and hold Agency harmless therefrom. District agrees to assume responsibility for informing students and District instructors of the requirements of this paragraph in order to prevent the disclosure of any confidential information.

The parties further acknowledge that Agency is a "covered entity," as such term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations regarding the privacy and security of individually identifiable health information promulgated thereunder at 45 C.F.R. Parts 160 and 164 (the "HIPAA Regulations"), and accordingly that Agency has certain obligations to protect the privacy and security of "protected health information" thereunder. To the extent that District students and faculty have access to protected health information by virtue of their participation in the Program at Agency, the parties agree that such students and faculty shall be subject to, and at all times shall abide by, all Agency policies and procedures governing the use and disclosure of such protected health information to the same extent that such policies and procedures apply to Agency's employees and other staff members. Without limiting the generality of the foregoing, District hereby agrees, on behalf of itself and the students and faculty assigned to Agency under this Agreement, that students and faculty participating in the Program will access and use protected health information only as minimally necessary to provide treatment to patients pursuant to his or her participation in the Program. District shall obtain the written agreement of each student and faculty member to comply with the provisions of this paragraph. The provisions of this paragraph shall survive the termination of this Agreement.

8. **NO MONETARY OBLIGATIONS**

Except as specifically provided in this Agreement or in any subsequent amendment hereto, no Monetary obligation on the part of District or Agency is hereby created. Consideration for the Agreement is furnished by the mutual promises of the parties.

9. **USE OF NAME OF AGENCY**

District shall not use the name of the Agency in any advertising campaign or in the solicitation of prospective students or any other purpose without the prior written approval of Agency thereto. However, nothing herein shall prohibit District, during the term of this Agreement, from using the Agency name, solely to identify Agency as the location of District's Program under this Agreement to students.

Agency shall not use the name of the District for any purpose without the prior written approval of District thereto.

10. **ASSIGNMENT**

Neither party shall not assign, sell, or otherwise transfer this Agreement or any interest herein without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assignees.

11. **NON-DISCRIMINATION**

The Agency agrees not to discriminate against any employee, applicant for employment, patient or enrolled student because of race, color, creed, sex, age, physical handicap, or country of origin. It is the policy of the District to provide equal employment and educational opportunity without regard to race, color, national origin, ethnic group identification, religion, age, sex, marital status, sexual orientation, or physical or mental disability. These matters are reflective of Policy Manual Section 5126 and 4006 for the Chabot-Las Positas Community College District.

12. **PROBLEM RESOLUTION**

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

13. **WRITTEN NOTICE**

Any notices required or permitted to be given by this Agreement shall be deemed given when personally delivered to the recipient thereof or two (2) days after it has been mailed by registered or certified mail, return receipt requested, postage prepaid, and addressed to:

CHABOT-LAS POSITAS  
COMMUNITY COLLEGE DISTRICT

5020 Franklin Drive  
Pleasanton, CA 94588  
Attention: Lorenzo S. Legaspi  
Vice Chancellor, Business Services

EDEN MEDICAL CENTER

20103 Lake Chabot Road  
Castro Valley, CA 94546-5367  
Attention: Bret Stover, RN, BSN  
Asst. Director of Perioperative Services

Either party by a written notice to the other party may change the address of notice or the names of the persons or parties to receive written notice.

14. **ENTIRE AGREEMENT**

This Agreement, including any attachments constitutes the entire Agreement between the parties and no other agreements, oral or written, have been entered into with respect to the subject matter of this Agreement.

15. **GOVERNING LAW**

The validity, interpretation and performance of this Agreement shall be governed by and constructed in accordance with the laws of the State of California.

16. **SEVERABILITY**

The provisions of this Agreement shall be deemed severable and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties.

17. **NON-EXCLUSIVE AGREEMENT**

This Agreement is non-exclusive and both parties expressly reserve the right to contract with other entities for the same or similar services covered by this Agreement.

18. **WAIVER**

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver of any term or condition hereof granted by a party must be in writing and signed by the party and shall apply solely to the specific instance expressly stated in the writing. No such waiver shall be construed as a waiver of any other term or condition of this Agreement.

19. **MODIFICATIONS AND AMENDMENTS**

This Agreement may be amended or modified at any time by mutual written consent of the authorized representatives of both parties. District and Agency agree to amend this Agreement to the extent the amendment (1) is required by an applicable regulatory authority and (2) does not materially affect the provisions of this Agreement.

20. **INTEGRATION**

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all covenants and agreements between the parties with respect to said subject matter, and each party to this Agreement acknowledges that any representations, inducements, promises or acknowledgements, oral or otherwise, which have been made by any party or anyone acting on



behalf of any party but which are not embodied herein, or in a later amendment which complies with Paragraph 19, above, are not binding.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate on the date specified immediately below their respective signatures.

CHABOT-LAS POSITAS  
COMMUNITY COLLEGE

EDEN MEDICAL CENTER

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

\_\_\_\_\_  
Signature

Lorenzo S. Legaspi  
Print Name

Bret Stover, RN, BSN  
Print Name

Vice Chancellor, Business Services  
Title

Asst Director of Perioperative Svcs  
Title

\_\_\_\_\_  
Date Executed

\_\_\_\_\_  
Date Executed