

EMERSON COLLEGE
CLINICAL AFFILIATION AGREEMENT

This Clinical Affiliation Agreement (including all exhibits, attachments and appendices, the "Agreement"), effective as of 9/1/2019 (the "Effective Date"), is by and between Emerson College, a Massachusetts non-profit educational corporation and its agents, employees, affiliates, invitees, or representatives (collectively, "Emerson") and Berkeley Unified School District, a California Organization, and its agents, employees, affiliates, invitees, or representatives (collectively, the "Affiliate"). Emerson and Affiliate referred herein individually as a "Party"; collectively, as the "Parties".

RECITALS

WHEREAS, Emerson desires to engage Affiliate for the purpose of providing supervised, practical learning experiences in connection with a clinical program (the "Program") to students of Emerson (each a "Student" and collectively, the "Students"); and

WHEREAS, Affiliate is willing to participate in the Program in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Purpose.** Emerson hereby engages Affiliate, and Affiliate hereby accepts such engagement, to participate in the Program pursuant to the terms and conditions set forth herein. The objective of the Agreement is to help the Students learn about, and engage and exhibit as appropriate, the following:
 - 1.1 Role and responsibilities of the Student within the practice setting.
 - 1.2 Assessments (both formal and informal, direct and dynamic) specific to the populations in that practice setting.
 - 1.3 Treatment approaches/techniques that are evidence-based and appropriate for the populations in that practice setting.
 - 1.4 Patient/client/family centered education and counseling appropriate to and within that practice setting.
 - 1.5 Related disciplines within the practice setting and working collaboratively with patients/families and other team members to ensure an optimal outcome for the client.
 - 1.6 Clinical problem-solving across age span, disorder, and setting.

- 1.7 Professional and clinical oral and written communication skills appropriate to that practice setting.
- 1.8 Cultural competency when working with patients/clients/families in all practice settings.
- 1.9 Adherence to ASHA's Code of Ethics and appropriate ethical behavior.

2. Responsibilities of Emerson.

- 2.1 Program. Emerson shall be responsible for all academic and accreditation aspects of the Program. Emerson shall maintain custody and control of all educational records and reports relating to Students' clinical learning experience in the Program. Emerson may withdraw any Student from the Program and/or assignment with Affiliate in Emerson's sole discretion.
- 2.2 Policies, Rules & Regulations of Affiliate. Emerson shall instruct Students participating in the Program (and faculty members, if applicable) to abide by the applicable lawful policies, rules and regulations of Affiliate made known to them during the Program.
- 2.3 Insurance. Emerson shall ensure that it maintains professional liability insurance in the amount of two million dollars (\$2M USD) per occurrence and four million dollars (\$4M USD) in the aggregate.
- 2.4 TB Clearance. Emerson shall advise Students of their obligation to provide at their own expense, evidence of Tuberculosis clearance by a medical professional to the Affiliate prior to their assignment start date.
- 2.5 Background Checks. Emerson shall advise Students of their obligation to submit to fingerprinting and a background investigation. Affiliate shall fingerprint and conduct a background investigation of Students prior to their assignment start date at the Affiliate campus. The fee for the fingerprinting will be subsidized by the Affiliate at the cost of \$31 per student.
- 2.6 Health Insurance. If requested by Affiliate, Emerson shall ensure that each Student participating in the Program is covered by health insurance.

3. Responsibilities of Affiliate.

- 3.1 Program Opportunities and Activities. Affiliate shall appoint an individual to supervise each Student (the "Student Supervisor"). Affiliate shall provide to Students opportunities for suitable clinical learning experiences and supervision consistent with the Program's curriculum and objectives, and shall complete such

records and reports necessary for the conduct and evaluation of Student's participation in the Program. Upon request by the Student, Affiliate shall provide the Student with documentation or other information as required for the Student's submission to applicable licensing bodies or agencies.

- 3.2 Emergency Care. Affiliate shall provide emergency medical care to Students at Student's expense in case of accident or illness and shall promptly notify Emerson of such medical care.
- 3.3 Withdrawal. Affiliate reserves the right to withdraw any Student or, if applicable, a faculty member of Emerson, from the Program with Affiliate if (i) the achievement, progress, adjustment, or health of such person does not warrant continuation in the Program; or (ii) the behavior of such person fails to conform to the applicable policies, rules or regulations of Affiliate. Except in unusual circumstances, Affiliate shall make reasonable efforts to consult with Emerson before withdrawing any Student.
- 3.4 Insurance. Affiliate shall ensure that it maintains (i) comprehensive commercial general liability insurance for personal or bodily injury and property damages and professional liability insurance in amounts, in each case, of not less than one million dollars (\$1M USD) per occurrence and three million dollars (\$3M USD) in the aggregate; or (ii) a program of self-insurance reasonably satisfactory to Emerson, in both cases covering the employees, officers, directors, agents and representatives of Affiliate. Evidence of such insurance or self-insurance reasonably satisfactory to Emerson shall be provided to Emerson upon request. Such insurance shall not be canceled without thirty (30) days' prior written notice to Emerson.
- 3.5 Indemnification. Affiliate agrees to defend, indemnify and hold harmless Emerson, its corporations, trustees, officers, employees, faculty, students, representatives and agents (collectively, the "Indemnitees") from and against any and all claims, demands, suits, settlements, damages, losses, obligations, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and expenses (collectively, "Losses") of any kind or nature paid or incurred by, imposed on, or asserted against the Indemnitees relating to, arising out of, directly or indirectly, or in connection with Affiliate's acts or omissions related in any way to this this Agreement or the Program.

4. Term and Termination.

- 3.1 The term of this Agreement ("Term") shall be one (1) year commencing on the Effective Date, and shall automatically renew for successive one (1) year terms unless earlier terminated as set forth herein.
- 3.2 This Agreement may be terminated at any time with or without cause by either Party upon sixty (60) days' written notice; *provided, however*, that such notice shall not impair the activities of the Students then at the Affiliate and participating in the Program.
- 3.3 In the event of a material breach of this Agreement by either Party, the other Party

may terminate this Agreement immediately upon written notice.

- 3.4 Notwithstanding the on-going nature of this Agreement, Emerson is not obligated to place a Student with Affiliate, and Affiliate is not obligated to accept a placement of a Student. Both placement and acceptance are at the complete discretion of the respective Party. Each student placement will be memorialized by a Student-Supervisor Agreement signed by both the Student and the Affiliate's Student Supervisor.
5. **Education Records.** If Affiliate obtains student "education records" as defined by the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C § 1232g), Affiliate acknowledges that Affiliate is receiving such education records as an agent of Emerson and agrees to comply with FERPA with respect to such records. This section shall survive any cancellation or termination of this Agreement.
6. **Confidentiality.** The Parties agree to keep all non-public information shared between them, including but not limited to personal information about Students (including background checks, if any) and FERPA "education records," strictly confidential. This section shall survive any cancellation or termination of this Agreement.
7. **Status of the Parties.** Each Party hereto shall be considered an independent contractor and this Agreement shall not create a relationship of a joint venture, employer and employee, principal and agent and the like. In no case shall Students in the Program replace or be deemed to be employees of Affiliate. All Students participating in the Program shall be, at all times, unpaid externs of Affiliate without expectation of or entitlement to compensation or employment benefits from Affiliate, including, without limitation, workman's compensation insurance benefits.
8. **No Discrimination.** In connection with the Program, neither Party shall discriminate against any person on the basis of gender or sex (including pregnancy), gender identity or expression, race, color, religion or religious creed, sexual orientation, national origin, ancestry, disability or handicap, age, genetics, marital status, veteran status and any other category protected by federal or state law, including but not limited to Title IX of the Education Amendments Act of 1972.
9. **Compliance with Policies.** Affiliate understands that the Students in the Program are subject to and protected by Emerson policies. Affiliate agrees to review, abide by, and cooperate with actions taken pursuant to Emerson's Sexual Misconduct Policy available at <https://www.emerson.edu/social-justice-center/title-ix/sexual-misconduct-policy>.
10. **Use of Name; Media Contact.** Affiliate may not use the name of "Emerson" or any Emerson logo or mark without Emerson's prior written approval. Affiliate may not disclose the terms of this Agreement without Emerson's prior written approval. Affiliate shall not communicate with members of the media or otherwise make any public announcement regarding the Program, or the terms or existence of this Agreement, without Emerson's prior written consent.

11. **Notices.** Any notices permitted or required by this Agreement shall be deemed made on the day personally delivered in writing or mailed by certified mail, postage prepaid, to the other Party at the address set forth below or to such other persons and address as either Party may designate in writing:

If to the Affiliate: Berkeley Unified School District
 2134 MARTIN LUTHER KING JR WAY
 BERKELEY, CA 94704

If to Emerson: Emerson College
 120 Boylston
 Street
 Boston, MA 02116
 Attn: Laura Glufling-Tham

With a copy to: Emerson College
 120 Boylston Street
 Boston, MA 02116
 Attn: Office of the General Counsel

12. **Assignment.** The Parties bind themselves and their successors, assigns, and legal representatives to the other Party to the Agreement and to the successors and assigns of such other Party with respect to all covenants of the Agreement. Affiliate shall not assign or transfer any rights or obligations of Affiliate under this Agreement without the prior written consent of Emerson.
13. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of law principles. The Parties agree that disputes pertaining to this Agreement must be brought in state and federal courts in the Commonwealth of Massachusetts and will not contest venue or jurisdiction in those courts.
14. **Entire Agreement; Amendment; Waiver.** This Agreement and the exhibits attached hereto in this Agreement set forth the entire understanding between the Parties hereto regarding the subject matter hereof and may not be amended except by an instrument in writing signed by both Parties. Neither the failure nor delay by either Party to exercise any right, remedy, power or privilege under this Agreement shall operate or be construed as a waiver thereof, nor shall any waiver with respect to any occurrence be construed as a waiver with respect to any other occurrence.

<signature page to follow>

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

EMERSON COLLEGE

Berkeley Unified School District

By:

By:

Title:

Title:

Name:

Name:

Santha Espinosa
Assistant Superintendent,
Human Resources
*Samantha Tobias-
Espinosa*