

# Resident Physician Rotation to a Non-HHC Facility Agreement

\_\_\_\_\_  
**Institution/ Service**

*MODIFICATIONS TO THIS FORM ARE NOT BINDING ON THE HHC FACILITY WITHOUT THE WRITTEN APPROVAL OF THE OFFICE OF LEGAL AFFAIRS FOR THE NEW YORK CITY HEALTH AND HOSPITALS CORPORATION.*

**AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_

\_\_\_\_\_  
(the "Facility"), a facility licensed pursuant to New York Public Health law Article 28 operated by the New York City Health and Hospitals Corporation, a New York State Public Benefit Corporation having its principal place of business at 125 Worth Street, New York, N.Y. 10013, and which is located at \_\_\_\_\_  
and \_\_\_\_\_

(the "Institution"), a New York Not-For-Profit Corporation located at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**WHEREAS**, the Facility wishes to have resident physicians enrolled in its \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

program (the "Program") obtain such training and experience at the Institution; and

**WHEREAS**, the Institution agrees to provide such resident physicians with such training and experience in \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**NOW, THEREFORE**, it is agreed:

**1.** This agreement, when executed by the Executive Director or Administrator of the Facility (the "Executive Director" or the "Administrator"), as applicable, and a duly authorized representative of the Institution, shall be deemed effective as of the date first above written and shall continue for one year from that date. This Agreement shall be automatically renewable for additional two one-

year terms, unless the Facility or Institution shall give the other party written notice of intent not to renew this Agreement, thirty (30) days before the end of any term. Either party may terminate this Agreement at any time with or without cause upon six (6) months written notice. The Institution shall make its best efforts to ensure that any such termination shall not take effect with respect to resident physicians already enrolled in the Program until such resident physicians shall have completed their training.

**2.** The Institution shall make its premises available, upon the following terms and conditions, in order to implement the Program. The parties recognize that the objective of the Institution is the delivery of high quality, dignified and comprehensive care for its patients, and to foster the exchange of Institution faculty and resident physicians with the Program. Therefore, the Facility will do whatever is necessary to prevent itself, its resident physicians from in any way interfering with the provision of patient care at the Institution.

**3.** The Facility shall have sole responsibility for the accreditation of its Program, the planning, programming and a administration of the Program, the selection, and assignment of Residents in the Program, and the requirements for matriculation, grading, and graduation, subject to the Institution's control of its services. No later than 90 days prior to the beginning of each Program term, the Facility and the Institution shall mutually agree upon the number of Residents, eligible to participate in the Program and the days and hours of their assignments at the Institution, giving due consideration to the Facility's continuing need to deliver quality patient care, and the educational needs of those Residents in other educational programs at the Institution.

**4.** The Facility shall assign resident physicians to the Program in accordance with the following protocol:

- a.** Resident physicians will be under the general supervision of the Institution's Program Director for the \_\_\_\_\_ Department.
- b.** Resident physicians will have patient contact under the direct supervision of an Institution physician with a current, valid, New York State license to practice the following specialty: \_\_\_\_\_ .
- c.** Resident physicians will be assigned the duties and responsibilities commensurate with their validated clinical competencies, Institution's needs, post-graduate training levels, and

such other duties as appropriate. Attachment A (Scope of Program) is annexed hereto and made part of this Agreement. It sets forth the scope of the Program.

**d.** The following terms and conditions of this Resident Physician Training Agreement are (if additional space is required, attach additional pages as an addendum): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**5.** Resident physicians selected for the Program shall have completed didactic preparation at the Facility commensurate with the anticipated training assignments.

**6.** After the conclusion of the Resident's rotation, the Institution shall provide the Facility with a preliminary written evaluation of the Resident's performance on a form and in a format acceptable to both parties. It shall be the sole responsibility of the Facility to determine the final evaluation of the Resident's performance at the Institution. In the event that the Facility requests the assistance of the Institution in any disciplinary action relating to the rotation at the Institution, the Institution and its appropriate staff shall reasonably assist and participate in such proceedings.

**7.** Compensation or any other financial arrangement pertaining to this agreement are outlined in Attachment B, annexed hereto and made a part of this agreement. In the event that the Facility shall pay the Institution \$50,000 or more, there must be prior approval by the HHC Board of Directors authorizing such expense.

**8.** The parties represent and warrant that, at all times during the term of this Agreement, the respective Executive Director or Administrator, as applicable, shall be advised of and made a party to any negotiation and/or decision regarding any commission, payment, percentage, brokerage, contingency, or other fees or compensation paid in connection with this Agreement, including the provision of any gift or anything of value to be made, given or promised directly to any employee, agent of the Facility and/or the Institution and/or their respective medical services affiliates.

**9.** The resident physicians of the Facility who are assigned to the Institution under this Agreement shall comply with all the rules, regulations, procedures and policies of the Institution, and all applicable rules, regulations and laws of the City and State of New York and the Federal Government. The Institution shall make the pertinent Institution policies and procedures available in the Departmental Office. The Institution Program Director shall be responsible for ensuring that

New York State Department of Health Code 405 Regulations regarding resident work hours limitations are adhered to.

**10.** The resident physicians of the Facility who are assigned to the Institution under this Agreement shall in no event become nor be considered employees or agents of the Institution.

**11.** The Facility shall assume any and all obligations, if any are imposed under the Workers' Compensation Law of the State of New York, upon any party to this Agreement, insofar as a resident physician may sustain injury or disability by reason of accident or occupational disease arising out of, or in the course of, the activities conducted under this Agreement.

**12.** Each resident physician and faculty member assigned to the Institution shall have a complete medical assessment prior to assignment to the clinical field. In addition, in accordance with the New York State Health Code, as it may be amended from time to time, the Institution shall require the following of all faculty and resident physicians engaging in activities under this Agreement. Each individual assigned to the Institution shall comply with the Institution's Employee Health Service Clinic requirements and shall have:

(a) a complete physical examination within the past year and physical assessment every year thereafter, prior to assignment to the clinical field.

(b) had a booster of diphtheria and tetanus toxoid combined within the last ten (10) years, prior to assignment to the clinical field.

(c) had a PPD tuberculin skin test within twelve (12) months prior to assignment to the clinical field. Only those persons with a history of positive PPD tuberculin skin test reaction and those who, during field work, develop PPD tuberculin conversion, shall require a chest x-ray.

(d) had a rubella antibody test and, if an immune antibody titer is not detected, shall have received rubella immunization after 1969.

(e) hepatitis B vaccine if titer is low or negative, or letter of declination.

The Facility will certify in writing that this requirement has been met, prior to the assignment of any resident physician to the Institution, and that each resident physician has presented documented evidence of a medical assessment within the past year, demonstrating good health. Upon request, the Facility will make all reports relating to the health of the resident physicians and faculty available to the Institution, provided that the Facility is able to obtain the consent of the

resident physicians and faculty members for such release of reports. All Institution reports and records relating to the health of resident physicians and faculty members, exclusive of X-ray films and hospital in-patient and out-patient records, shall be transferred to the Facility, at the Facility's request, upon termination of this Agreement.

**13.** The Facility shall immediately remove a resident physician from assignment at the Institution upon the request of the Institution to do so after the Institution has determined that such removal would be in its best interest. When feasible, the Institution will attempt to discuss a particular situation with the Facility before making its request for removal. The Institution, however, may, at any time, take whatever action it deems necessary, including the barring of a resident physician from its premises to ensure the safety and welfare of its patients, Institution, resident physicians', faculty, employees, agents and independent contractors and maintain its operation free from disruption.

**14.** The Institution shall defend, indemnify and hold harmless HHC, the City of New York, and the Facility, their directors, officers, employees, agents and independent contractors, from any and all claims, liabilities, losses, or damages, including reasonable attorneys' fees, arising from or in connection with the activities of the Institution, its resident physicians, as well as HHC physician residents at its site under this Agreement, including any injuries or disabilities of any nature, including death, or damage or loss of property of any nature arising out of their activities under this Agreement. The Institution shall not be responsible for any claims, liability, loss, or damage to the extent such claims, liability, loss, or damage is attributable to the negligence or willful misconduct of HHC, the City of New York, the Facility, their officers, directors, employees, and agents.

**15.** The Institution shall carry paid up comprehensive general liability, professional and contractual liability insurance with limits of not less than one million dollars per occurrence; three million dollars annually in the aggregate, covering bodily injury, personal injury (endorsed to cover types A, B, and C), and property damage, under a combined single limit, written on an "occurrence" form. Such insurance shall protect HHC and the City of New York against any and all claims, loss or damage, whether in contract or tort, including claims for injuries to or death of persons, or damage to property, whether such injuries, death or damages be attributable to the statutory or common law negligence or any other acts of the Institution, its resident physicians, faculty, employees, officers, trustees, agents, or independent contractors. Such policy or policies of insurance shall be obtained

from a company, or companies, duly licensed to do business in the State of New York; shall name HHC and the City as insured thereunder; and shall be endorsed to state that in the event of cancellation, the Facility shall be notified at least sixty days in advance; and shall provide that the carrier shall appear, defend and indemnify HHC, the City of New York, and their officers, agents, and employees in connection with all such claims, losses or damage. The Institution will provide the Facility with two certified copies of the certificate of such insurance policies for approval as to form prior to the effective date of this Agreement.

**16.** The Institution agrees to comply with the Mayor's Executive Order No. 50, dated April 25, 1980 as amended, which prohibits unlawful discrimination against any employee, applicant for employment, or applicant for admission because of race, color, religion, sex, age, marital status, citizenship status, handicap, national origin, sexual orientation or affectional preference. The Institution will remove any barriers of discrimination concerning disabled veterans of the Vietnam Era. In the event of non-compliance, this Agreement may be canceled, terminated or suspended in whole or in part.

**17.** This Agreement may be modified or amended only in writing, signed by the Executive Director or Administrator, as applicable, an authorized representative of the Institution, and HHC's General Counsel for Legal Affairs. No modification or amendment to this Agreement shall be enforceable against the Facility until it is signed by HHC's General Counsel for Legal Affairs.

**18.** This Agreement supersedes any and all other agreements or understandings, either oral or written, between the parties and contains all the terms and conditions agreed upon by the parties.

**19.** This Agreement shall be governed by and construed in accordance with New York State law. The parties shall submit to the jurisdiction of the federal and state courts located in New York County for the resolution of any disputes arising hereunder.

**20.** This Agreement shall not create any agency, partnership, association, or joint venture between the parties. Neither party shall have any right or authority to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party, or to bind the other party contractually in any manner whatsoever.

**21.** Any notice or other communication required to be given pursuant to this Agreement shall be in writing and sent by messenger, or by certified or registered mail, return receipt requested, to the

address as follows:

If to the Facility:

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

copied to:

Office of Legal Affairs  
New York City Health and Hospitals Corporation  
125 Worth Street, Room 527  
New York, New York 10013

If to the Institution:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

copied to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**22.** Neither this Agreement nor any rights or obligations hereunder may be assigned or transferred by either of the parties without the prior written consent of the other party, and any purported assignment or transfer for which such consent has not been obtained shall be null and void.

**23.** Notwithstanding any other provision in this Agreement, the Facility remains responsible for (a) ensuring that any services provided pursuant to this Agreement complies with all pertinent provisions of federal, state and local statutes, rules and regulations; (b) planning, coordinating and ensuring the quality of all services provided; and (c) ensuring adherence to the plan of care established for patients.

**IN WITNESS WHEREOF**, the parties have duly executed two copies of this Agreement as of the day and year first above written.

Name of Facility: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
(Executive Director or Administrator)

Date: \_\_\_\_\_

Name of Signatory:  
\_\_\_\_\_

Title: \_\_\_\_\_

Name of Institution: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Representative)

Date: \_\_\_\_\_

Name of Signatory:  
\_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
HHC General Counsel, Legal Affairs  
(Not required unless modifications  
are made to this form)

**ATTACHMENT A**  
**SCOPE OF PROGRAM**

**ATTACHMENT B**  
**FINANCIAL ARRANGEMENTS**

STATE OF NEW YORK )  
 )  
 ) ss.:  
 )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known to me to be the Executive Director or Administrator of the Facility described in the attached agreement, and who executed the attached agreement on behalf of the Facility for the purposes therein mentioned.

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_ )  
 ) ss.:  
 )  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known to me to be the \_\_\_\_\_ of the Institution described in the attached agreement, and who executed the attached agreement on behalf of the Institution for the purposes therein mentioned.

\_\_\_\_\_  
Notary Public