

PHYSICIAN MANPOWER TRAINING COMMISSION

NURSING STUDENT ASSISTANCE PROGRAM

(Matching Scholarship Loan)

CONTRACT AND PROMISSORY NOTE

The Physician Manpower Training Commission, _____ (hereinafter referred to as "Recipient"), and _____ (hereinafter referred to as "Health Institution"), hereby enter into the following agreement:

1. DEFINITIONS

For the purposes of this Contract the following terms have the following meanings:

- 1.1 "Contract" means this Contract and Promissory Note.
- 1.2 "Commission" means the Physician Manpower Training Commission.
- 1.3 "Recipient" means _____
Social Security No. _____
- 1.4 "Full-time" means a minimum of forty (40) hours per week or the written policy of employer health institution as to the number of hours which constitutes full-time.
- 1.5 "Calendar year" means 365 days.
- 1.6 "To practice nursing" means to be employed full-time as a nurse licensed by the State of Oklahoma.
- 1.7 "Health Institution" _____, in _____, Oklahoma.
- 1.8 "Date of first disbursement of funds" shall be deemed to be the date of this Contract.
- 1.9 "Program" means the Nursing Student Assistance Program.
- 1.10 "Nursing degree" means an Associate Degree in Nursing, a Bachelor of Science Degree in Nursing, a Master of Science Degree in Nursing, or any degree, certificate or diploma received upon completion of a course of study pursued in anticipation of application for licensure as a Licensed Practical Nurse, which Recipient seeks and for which Recipient desires the financial assistance that may be provided pursuant to this Contract. "Nursing degree" does NOT include any Associate Degree in Nursing, Bachelor of Science degree in Nursing, or any other degree, certificate or diploma that Recipient may already hold.

2. AGREEMENT TO PRACTICE NURSING FOR ONE CALENDAR YEAR AT THE HEALTH INSTITUTION

- 2.1 **Agreement to practice nursing for one calendar year.** In consideration of the sum of \$ _____, receipt of which is hereby acknowledged, Recipient agrees and promises to practice nursing full-time for one calendar year at Health Institution. Fulfillment of obligation begins upon licensure or certification in level of nursing for which Recipient is being trained under the terms of this contract.
- 2.2 **Begin practicing within 90 days.** Recipient shall begin to practice nursing full-time at Health Institution within ninety (90) days after Recipient receives a nursing degree.
- 2.3 **Fulfillment of obligations.** If Recipient practices nursing full-time for one calendar year at Health Institution in full compliance with the terms and provisions of this Contract, then Recipient's obligations under this Contract shall be deemed fulfilled. Practicing nursing full-time for one calendar year at Health Institution, however, shall not fulfill any other obligation that Recipient may have under any other contract or agreement with the Commission.
- 2.4 **This Contract in addition to other agreements.** This agreement to practice nursing full-time for one calendar year is in addition to any other agreement that Recipient may have with the Commission to practice nursing. The intent of this Contract is that Recipient shall practice nursing full-time for one calendar year for each loan Recipient receives under the Program. For example, if Recipient receives two (2) loans under the Program, then Recipient shall be obligated to practice nursing full-time for two (2) years at Health Institution.
- 2.5 **No Promise or Warranty by Health Institution of Availability of Position.** Health Institution is under no liability, implied or otherwise, to provide a nursing position to Recipient upon Recipient's obtaining a nursing degree.

2.6 **Employment Responsibilities Between Health Institution and Recipient.**

- (a) It is the intent of the parties that upon graduation, the Health Institution will offer, and the Recipient shall accept, a full-time nursing position at the level of nursing for which Recipient was trained under this Contract, and that the Recipient will begin working in that position within two (2) weeks of being notified of passing NCLEX. The beginning date of employment may be extended by a separate agreement in writing between all the parties to this Contract. In the event the Health Institution fails to extend an offer as provided herein, the Recipient shall be relieved of all obligations under this Contract to the Health Institution. In the event that the Recipient fails to accept employment as provided herein, Recipient shall be determined to be in default under this Contract.
- (b) If an offer of employment as provided herein is not extended by the Health Institution to Recipient due to misconduct on the part of the Recipient, or a preexisting employment is terminated by the Health Institution due to misconduct on the part of the Recipient, then the Health Institution will be relieved from any further obligations under this Contract. For the purposes of this Contract, in the event of a dispute, the term "misconduct" shall be the same as that used by the Oklahoma Employment Security Commission and Board of Review under 40 O.S. §§ 2-405 and 2-406; a final determination of unemployment benefits shall be binding and dispositive.

2.7 **Recipient's Liability to Fulfill Obligations.** In the event that Health Institution is unable to provide a position to Recipient, as described in 2.5 above, Recipient agrees to select an alternate Health Institution, subject to approval by the Commission, at which Recipient will practice nursing full-time for one calendar year in order to satisfy Recipient's obligation(s) under the terms of the Contract. This obligation to practice nursing for one year may NOT be fulfilled by practicing in a physician's office, in a federally-funded program or facility, in private duty practice, as a summer camp nurse, or in research or industry.

2.8 **Nurse Practitioner Recipient.** A Recipient who becomes a nurse practitioner may carry out the service obligation by practicing full time as a nurse practitioner at any non-federal hospital, nursing home, state health facility, qualified rural health clinic, or non-federal hospital owned or leased rural physician clinic.

3. PROMISSORY NOTE

- 3.1 **Promise to pay.** If Recipient fails to practice nursing full-time for one calendar year at Health Institution, then Recipient agrees and promises to pay Commission the principal amount of \$_____, together with a one-time liquidated damages assessment of 5% of the total amount dispersed to said recipient, costs, and attorney fees as provided elsewhere in this Contract.
- 3.2 **Events constituting failure to practice nursing.** Recipient shall be deemed to have failed to practice nursing full-time at Health Institution (1) if Recipient does not begin to practice nursing full-time at Health Institution within ninety (90) days after obtaining a nursing degree; or (2) if Recipient does not obtain a nursing degree within three (3) calendar years of the date of this Contract.
- 3.3 **Payment in lump sum within ninety (90) days.** Recipient shall repay the principal and liquidated damages in lump sum within ninety (90) calendar days (1) after the date Recipient should have begun practicing nursing at Health Institution; (2) after Recipient ceases to practice nursing full-time at Health Institution; (3) after Recipient ceases to pursue a course of study leading to a nursing degree at an approved and accredited nursing school in the United States; or (4) after Recipient's default or breach of any term or provision of this Contract, whichever date is applicable in the circumstances. Provided, however, the Commission may, in its sole discretion, accept other repayment arrangements when the Commission deems necessary.
- 3.4 **Credit.** If Recipient fails to practice nursing full-time for one calendar year at Health Institution, the Commission may, in its sole discretion, give Recipient credit for the time, if any, that Recipient actually practiced nursing at Health Institution. In giving such credit, the Commission may reduce the principal and liquidated damages that Recipient owes to the Commission in the proportion that the time Recipient actually practiced nursing bears to the time Recipient was obligated to practice nursing under this Contract.
- 3.5 **Liquidated damages.** If Recipient fails to comply fully with any term or provision of this Contract, Recipient shall pay to the Commission liquidated damages, which shall be 5% of remaining principal. The Commission may, in its discretion and for good cause, waive all or part of the liquidated damages owed. The liquidated damages shall be in addition to any principal that Recipient may owe to the Commission under the provisions of this Contract.
- 3.6 **Collection costs, litigation costs and attorney fees.** If the Commission turns this matter over to a collection agency or to an attorney in an attempt to recover monies disbursed under this Contract, or to enforce the Commission's rights under this Contract, Recipient agrees to pay to Commission its costs and reasonable attorney fees incurred in taking such action. The Commission may take judgment against Recipient for such costs and attorney fees.
- 3.7 **Payment to be applied to liquidated damages first.** The Commission may apply any payment received under this Contract first toward payment of liquidated damages, then toward payment of costs, attorney fees and principal, in that order. Provided, however, the commission may, in its sole discretion, apply any payment received hereunder as the Commission deems best.
- 3.8 **Payment to be made at Commission's offices.** Recipient shall make any payments required by this Contract to the Commission at the Commission's offices, 5500 North Western Avenue, Suite 201, Oklahoma City, Oklahoma 73118, or at any other place that the Commission may direct.

4. DEFAULT AND ACCELERATION

- 4.1 **Events constituting default.** In its sole discretion, the Commission may deem Recipient to be in default if any of the following events occur:
- (a) Recipient becomes insolvent;
 - (b) A petition in bankruptcy is filed by or against Recipient;
 - (c) An assignment for the benefit of Recipient's creditors is made;
 - (d) Recipient is found by the Commission to be permanently disabled;
 - (e) Recipient fails to practice nursing full-time at Health Institution or fails to perform any other obligation, promise or undertaking required by this Contract;
 - (f) Recipient breaches any term, provision or warranty contained in this Contract;
 - (g) Recipient ceases to pursue a full-time course of study leading to a nursing degree at an approved and accredited nursing school in the United States;
 - (h) Recipient fails to pass any one of the first two successive licensure examinations offered following completion of course work;
 - (i) The occurrence of any event which, in the Commission's opinion, jeopardizes or impairs Commission's rights under this Contract.
- 4.2 **Acceleration upon default.** In the event Recipient is in default, the principal, together with liquidated damages, shall become immediately due and payable without notice or demand at the Commission's option.

5. RECIPIENT'S WARRANTIES AND OTHER PROMISES

- 5.1 **Warranty of residence status.** Recipient warrants that Recipient is a bona fide resident of the State of Oklahoma and is a citizen of the United States. The term "resident" means a person who has been residing in the State of Oklahoma for at least twelve (12) months prior to applying for financial assistance under the Program with the intent to permanently reside in the State of Oklahoma. The term "resident" does not include a person who is residing in Oklahoma temporarily for the purpose of enrolling in an educational program or for application for financial assistance under the Program.
- 5.2 **Warranty of correctness of application information.** Recipient warrants that all the information furnished in Recipient's application for financial assistance is true and correct as of the date of this Contract.
- 5.3 **Answer communications promptly.** Recipient agrees to answer promptly all communications addressed to Recipient by the Commission and by the Health Institution.
- 5.4 **Agreement to be governed by Commission's Rules.** Recipient agrees to observe, abide by, and be governed by all applicable Rules and Regulations of the Commission including, but not necessarily limited to, the Commission's Rules governing the Nursing Student Assistance Program.
- 5.5 **Current address and phone number.** Recipient agrees to keep the Commission and the Health Institution informed of Recipient's current mailing and geographical addresses and phone number at all times.
- 5.6 **Loan to be used only for necessities.** Recipient agrees to use the monies disbursed under this Contract solely and exclusively for necessities. "Necessities" include payment of tuition, books, supplies, equipment, campus housing and food, uniforms, essential commuting transportation, required insurance, health expenses and other expenses necessary for attendance at nursing school. Recipient shall not use the Loan proceeds to pay any expense that is not a nursing school necessity nor to pay off any other indebtedness that Recipient may have.

6. CO-MAKER AND SURETY

- 6.1 **Execution by Co-Maker and Surety.** Under the following circumstances, this contract requires execution by a Co-maker and Surety.
- (a) If Recipient is married, Recipient's spouse must execute this Contract as Co-maker and Surety.
 - (b) If Recipient is unmarried, and under the age of twenty-one (21), Recipient's parent must execute this Contract as Co-maker and Surety or if Recipient is unmarried, and under the age of twenty-three (23) and an unemancipated minor, Recipient's parent must execute this Contract as Co-maker and Surety.
 - (c) If Recipient shows little or no income, the primary non-parental individual who provides financial support for the Recipient must execute this Contract as Co-maker and Surety.
- 6.2 **Co-maker and Surety assumes payment obligations.** By executing this Contract, Recipient's Co-maker and Surety assumes the obligation to repay the outstanding principal, liquidated damages, costs and attorney fees in the event of Recipient's default or breach of the terms of this Contract.
- 6.3 **Joint and several liability.** Recipient and Recipient's Co-maker and Surety shall be jointly and severally liable to the Commission for any default or breach of the terms of this Contract.
- 6.4 **Warranties of Co-maker and Surety.** Recipient's Co-maker and Surety warrants that he/she has read this Contract in its entirety, understands its content and its legal significance. By executing this Contract, Recipient's Co-maker and Surety warrants that he/she approves of the terms of this Contract.

- 6.5 **Waiver of demand, etc.** Recipient and Recipient's Co-maker and Surety hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Contract.
- 6.6 **Liability absolute and unconditional.** The liability of every maker or co-maker hereunder shall be absolute and unconditional without regard to the liability of any other party.

7. REPAYMENT OF LOAN FUNDS PROVIDED BY HEALTH INSTITUTION

- 7.1 **Purpose of Nursing Student Assistance Program.** Recipient understands that the purpose of the Nursing Student Assistance Program is to encourage persons to enter nursing education programs and to practice nursing in areas of the State of Oklahoma where there is an urgent need for nursing services or at institutions and agencies in this state which provide funds on a matching basis with the Commission for the support of nursing students.
- 7.2 **Source of loan funds.** Recipient understands that at least one-half (1/2) of the monies disbursed under this Contract was provided by the Health Institution and not over one-half (1/2) by the Commission. Further, Recipient acknowledges that Recipient's promise to practice nursing at Health Institution is also in consideration of the monies provided by Health Institution.
- 7.3 **Health Institution is third party beneficiary of the Contract.** It is the intent of this Contract that Health Institution is a third party beneficiary of this Contract with a right to sue Recipient to enforce Health Institution's rights hereunder and to recover from Recipient monies provided by Health Institution, together with liquidated damages, costs and attorney fees as provided in this Contract.
- 7.4 **Commission's determination as to areas where there is an urgent need for nursing services.** It shall be exclusively within the Commission's discretion to determine whether a particular area of the State of Oklahoma is an area where there is an urgent need for nursing services and the Commission's determination shall be final.

8. MISCELLANEOUS

- 8.1 **Entirety clause.** This Contract embodies the entire agreement between the parties and supersedes any and all agreements, contracts, understandings or representations, whether oral or written.
- 8.2 **Waiver of Commission's right must be in writing.** The Commission shall not by any act, omission, or otherwise, be deemed to have waived any of its rights or remedies hereunder unless such waiver be in writing and signed by the Chairman of the Commission, and then only to the extent set forth in such writing. A waiver on any one occasion shall not be construed as a bar to or waiver of any such rights or remedies on any further occasion.
- 8.3 **No promise or warranty of availability of future financial assistance.** The Commission makes no promise or warranty whatsoever that similar financial assistance will be offered or available during the remaining years of Recipient's nursing training. The availability of such financial assistance will depend upon Recipient's performance in nursing school; Recipient's financial status; whether the Oklahoma State legislature appropriates additional loan funds during subsequent legislative sessions; the amount of private gifts to the Nursing Student Assistance Loan Fund; the availability of any Federal funds; and any other factor that the Commission, in its sole discretion, may take into account in offering such financial assistance. Recipient agrees that Recipient's obligation to practice nursing full-time at the Health Institution for the required period of time, or to make repayment with liquidated damages in lieu thereof according to the terms of this Contract, shall not be diminished in any way if subsequent financial assistance is not forthcoming.
- 8.4 **Commission authorized to fill in blanks.** The Commission is hereby authorized, without further notice, to fill in any blank spaces in this Contract.
- 8.5 **Adequate consideration.** Recipient warrants and represents that Recipient has received fair and reasonable consideration in return for the promises, agreements, payments, and other obligations set forth in this Contract.
- 8.6 **Contract not transferable or assignable.** This Contract, including the rights, duties, and obligations hereunder, is not transferable nor assignable without the express written permission of the Commission.
- 8.7 **Governing law.** The validity, construction and enforcement of this Contract shall be governed by the laws of the State of Oklahoma.
- 8.8 **Amendment and modification.** Neither this Contract nor any of the provisions contained herein may be modified or amended except by a subsequent agreement in writing signed by all parties. No amendment or modification of this Contract shall be effective unless executed in writing by the parties hereto.

SIGNATURE PAGE DELETED