

Observation Agreement  
For  
Emergency Medical Technician - EMT  
Between  
Chabot-Las Positas Community College District  
&  
**WESTMED AMBULANCE SERVICE (Alameda County)**

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**01.00 PARTIES TO THIS AGREEMENT**

**01.01** IN CONSIDERATION OF THE PROMISES MADE HEREIN, THIS AGREEMENT is entered in this 1<sup>st</sup> day of December in the year 2011, by and between the following parties:

**01.02** **WESTMED AMBULANCE SERVICE**, individually and on behalf of its subsidiaries, parents, siblings, officers, directors, shareholders, agents, employees, representatives, predecessors, successors and assigns, [hereafter collectively referred to as “Westmed”].

**01.03** Chabot – Las Positas Community College District and specifically Chabot College, located at 25555 Hesperian Blvd., Hayward, CA 94545 and Las Positas College, located at 3033 Collier Canyon Road, Livermore, CA 94551, a Public Entity, and on behalf of its subsidiaries, parents, siblings, officers, directors, shareholders, agents, employees, representatives, predecessors, successors and assigns, [hereinafter collectively referred to as “SCHOOL”].

**02.00 INTRODUCTION**

**02.01** SCHOOL is an educational institution, which provides, Emergency Medical Technician Training. SCHOOL warrants that its EMT Training Program is an “Approved EMT Training Program” as defined in California Administrative Code Title 22, section 100147 et seq. SCHOOL requires, as a part of its training regimen, the cooperation of local EMT (Basic) and or EMT (Advance) services, to provide a mechanism whereby potential EMT (Basic and or Advance) candidates may obtain their requisite practical training. SCHOOL has implemented a program by which students are placed as observer-EMTs with practicing EMTs.

**02.02** Westmed is an EMT service provider, which by means of this contract, desires to define the parameters by which it will accept interns for training in the field.

**02.03** Pursuant to the mandate of California Administrative Code Title 22, section 100112, the parties hereto desire to establish the written guidelines by which selected students of SCHOOL may participate in a program of EMT Internship with assignment to BLS or ALS ambulances operated by Westmed;

**02.04** The person(S) executing this agreement on behalf of SCHOOL represent(s) that Mr. Lorenzo Legaspi, Vice Chancellor of Business Services, the Signatory to this agreement is a managerial employee of, owner or, or other person who has authority to bind SCHOOL to the terms of this contract. In the event that SCHOOL is a public entity, corporation or other entity, which requires formal resolution by its board of directors or

equivalent to adopt this contract, the signatory to this agreement on behalf of the SCHOOL warrant that such resolution has been obtained.

**02.05** The purpose of this agreement is to comprehensively establish the respective rights and duties of SCHOOL and Westmed while students are participating in an EMT program with Westmed to allocate any and all risks of loss incident to this process according to the advance written agreement of the parties hereto.

**03.00 PARTICIPATION IN THE FIELD INTERNSHIP PROGRAM**

**03.01** To maintain the highest quality of patient care, Westmed has developed its own internal guidelines concerning the conduct of supervised EMT Field Internship. Westmed's rules and regulations pertaining to supervised ENT Field Internship are hereinafter referred to as the "PROGRAM". Strict adherence to the principles of the PROGRAM, as it is periodically updated and amended, insures the best care for Westmed's patients. SCHOOL is familiar with the parameters of the PROGRAM and hereby gives its express approval of the nature, scope and substance thereof and warrants that the PROGRAM meets or exceeds the standards of the EMT training program at SCHOOL.

**03.02** To assist SCHOOL in the provision of its Approved EMT Training Program, on an individual case-by-case basis, Westmed agrees to accept limited numbers of selected students of SCHOOL for EMT internship subject to the terms of this agreement and the parameters of the PROGRAM. SCHOOL understands that Westmed's ability to accept students is limited and restricted. Westmed makes no warranties or guarantees regarding the volume of students it can accept either in total, or in any particular period of time. SCHOOL warrants that it will affirmatively refrain from making any representations to its students at any time regarding the availability of positions for internships with Westmed.

**03.03** All participation by students while interns with Westmed shall be supervised by experienced Westmed employees who shall be selected in accordance with the PROGRAM.

**03.04** From the pool of applicants submitted to Westmed by SCHOOL, Westmed will select the individual interns who will be accepted for participation in the PROGRAM. Selections will be made without regard to the race, creed, color, sex, sexual preference, political affiliations or national origin of any prospective intern. SCHOOL warrants that it shall not consider the race, creed, color, sex, sexual preference, political affiliations or national origin of any prospective interns when submitting the names of potential applicants to Westmed. Westmed shall have the sole discretion in selecting appropriate applicants.

**03.05** At least four weeks prior to the date desired for the commencement of a student's participation in the PROGRAM, SCHOOL shall forward to Westmed any and all appropriate biographical data, a complete report of the potential student's health status and immunizations, and any other information regarding each prospective student including but not limited to the following:

A) General Student Information:

- I) A copy of the prospective student's current California Driver's License or a passport style photograph.
- II) A face sheet of basic information, including but not limited to; their full name, residence and mailing address, date of birth, day and evening telephone numbers and emergency contact information.

B) Student Health Information:

- I) A fully executed and witnessed emergency treatment authorization form.
- II) Written Evidence of the Immunizations as follows:
  - 1) MMR, <8 years old
  - 2) PPD (Mantoux), <6 months old
  - 3) Hepatitis B Vaccination, at least 1<sup>st</sup> injection in series
  - 4) Tetanus, <10 years old
  - 5) Varicella, past history or lab titer.

C) Prior Student Education / Training

- I) Written evidence of Blood-Borne and Air-Borne Pathogen training within the past 12 months. SCHOOL shall provide proof of the same to Westmed in addition to proof of their provisions of appropriate personal protective equipment.

Thereafter, Westmed shall notify SCHOOL of the nature of any reasonably necessary additional information concerning any or all of the prospective students, which information shall be provided to Westmed prior to the commencement of, or the student's acceptance for, participation in the PROGRAM. In the event that the information submitted to Westmed renders, in Westmed's sole opinion, an applicant unsuitable for participation in the PROGRAM, the applicant shall be rejected and shall not participate in the PROGRAM. In addition, Westmed shall receive the right to demand that each current or prospective intern participate in a complete physical examination equivalent to that given to prospective employees. The refusal to cooperate with this exam, if demanded, shall constitute grounds for denial of participation or dismissal from participation in the PROGRAM.

**03.06** Notwithstanding anything to the contrary in this agreement, Westmed shall have the absolute discretion to refuse to accept for participation in the PROGRAM and to terminate unilaterally at any time, any intern who does not, in Westmed's opinion, meet the performance requirements incident to employment with Westmed. Specifically, the occupation of EMT involves significant heavy lifting, carrying and other manual skills. It also requires visual and auditory acuity. Any person who is selected to participate in the PROGRAM may be hereinafter referred to as a "TRAINEE".

- 03.07** The duration of each individual TRAINEE'S participation in the PROGRAM shall be agreed to in writing by the TRAINEE, the SCHOOL, and Westmed prior to the commencement of the trainee's participation in the PROGRAM. To this end, TRAINEE and Westmed shall, prior to the commencement of the TRAINEE'S participation in the PROGRAM, execute an individual training contract (hereinafter "INDIVIDUAL CONTRACT"). The INDIVIDUAL CONTRACT to be used with each TRAINEE is attached hereto as EXHIBIT "A".
- 03.08** Any TRAINEE may be terminated from, reassigned, suspended from, or extended in, the PROGRAM when mutually agreed by SCHOOL and Westmed in writing, which writing shall include a statement of the reason the actions were taken.
- 03.09** Westmed may unilaterally terminate from the PROGRAM any TRAINEE who it deems is not performing satisfactorily, or who fails to follow the administrative and / or patient care policies, procedures, rules and regulations of Westmed or of the applicable EMS regulatory agency. In addition, Westmed may unilaterally terminate from the PROGRAM any TRAINEE who is tardy for, or fails to report for scheduled shifts (regardless of the reasons expressed by the TRAINEE).
- 03.10** The provision of prehospital emergency care in the field is an occupation that presents varying risks and dangers. Each TRAINEE, and each other person who wishes to witness and / or participate in the field practices of Westmed (e.g., an "observation shift") shall be required, as a prerequisite to such participation, to submit to Westmed a fully executed release (an example of which is attached hereto). The scheduling of the accompaniment of any TRAINEE with Westmed personnel in the field as they perform their duties shall remain in the sole, exclusive and unfettered discretion of Westmed. Westmed may adjust or cancel such observation shifts without further notice.
- 03.11** SCHOOL shall notify TRAINEES that the TRAINEES shall be responsible for:
- a) Following the administrative and patient care policies, procedures, rules and regulations of Westmed and of the appropriate EMS regulatory agency:
  - b) Acquiring and using the necessary and appropriate uniforms and personal protective equipment (PPE). TRAINEES shall be prohibited from participation in the PROGRAM or any aspect thereof if they fail to strictly comply with the uniform, dress and grooming standards of Westmed;
  - c) Arranging for his/her own transportation and personal living accommodations and costs;
  - d) Arranging for, and providing documentary proof of his or her health insurance; and
  - e) Maintaining the confidentiality of all patient information.
- 03.12** Westmed shall maintain complete attendance and progress records on each TRAINEE'S performance and shall provide evaluations for each TRAINEE in accordance with Westmed's PROGRAM in forms provided by SCHOOL. It shall be the responsibility of the TRAINEE to forward copies of these evaluations to the SCHOOL.
- 03.13** Westmed shall, upon reasonable advance written request, permit SCHOOL and / or appropriate governmental agencies charged with the responsibility of accrediting or approving the PROGRAM to inspect the Internship facilities, services available for

Internship experience, TRAINEE'S records and such other materials which pertain to the PROGRAM. When such inspection or site-visit involves employees or agents of SCHOOL riding aboard Westmed's ambulances, it is agreed that any such persons shall submit to Westmed a fully completed and executed release of liability, an example of which is attached hereto.

**03.14** Under no circumstances shall Westmed allow any TRAINEE to operate any vehicle used by Westmed in its business under any circumstances. SCHOOL is aware of this restriction and consents to the same. It shall be the responsibility of SCHOOL to inform all TRAINEES of this requirement. Westmed shall take all reasonable steps to ensure full compliance.

**03.15** It is understood by SCHOOL that the central control of the PROGRAM is essential to the assurance of quality care for patients and quality education for the TRAINEES. Accordingly, any attempt by a potential TRAINEE to accomplish his or her internship without compliance with the terms of this agreement and the PROGRAM shall, at the sole and exclusive option of Westmed, serve as permanent grounds from disqualification from participation in the PROGRAM by any such TRAINEE.

#### **04.00 DISCLAIMERS AND WARRANTIES**

**04.01** By operation of the holding of the matter of Barrigan v. Workers' Compensation Appeals Board (1987) 195 Cal.App3d 637; 350 Cal.Rptr. 811 it is apparent that a TRAINEE who is injured in the course and scope of his or her participation in the PROGRAM may be deemed an "employee" for purposes of the Workers' Compensation Act. It is the intent of these parties hereto that Westmed not bear the risk of the payment of Workers' Compensation benefits to such an injured TRAINEE and thus this agreement expressly allocates that risk to SCHOOL.

**04.02** Westmed agrees, by operation of this agreement, to provide a benefit to SCHOOL in the form of placement of TRAINEES in the PROGRAM. To the extent that any TRAINEE receives any educational benefit from participation in the PROGRAM, this benefit is provided to TRAINEE by SCHOOL. It is expressly agreed and understood by SCHOOL and Westmed that the TRAINEES under this PROGRAM are in attendance with Westmed for educational purposes, and they are not considered to be employees of Westmed for any purpose, including, but not limited to, compensation for services, employee welfare and pension benefits or workers' compensation insurance. SCHOOL expressly warrants that all TRAINEES are not employees of Westmed and SCHOOL shall be stopped hereby to assert the same. SCHOOL by executing this agreement, agrees that it will not assert in any future civil proceedings or before WCAB the status of Westmed as the employer of TRAINEES. It shall be the duty of SCHOOL to notify each TRAINEE that the TRAINEE has no employment relationship with Westmed and to include a statement to this effect in each contract executed by a TRAINEE prior to participation in the PROGRAM.

**04.03** SCHOOL agrees to indemnify and hold harmless Westmed from any and all liability that arises in any manner from any injury to TRAINEE which occurs in the course and scope of the PROGRAM. This duty of indemnity shall include a duty of Workers' Compensation defense if a claim is brought against Westmed.

- 04.04** In the event that a claim, cause of action, or other liability arises for Westmed which comes as a result of any injury to any other District employee or agent accompanying Westmed during the performance of its duties (e.g. observers), SCHOOL agrees to indemnify and hold harmless Westmed from all claims (including reasonable attorney's fees), regardless of the presence or validity of any release executed by the injured person.
- 04.05** It is agreed and understood that the parties to this agreement are independent contractors and that neither is the employee or the employer of the other and that the employees of one are not the employees of the other.
- 04.06** In addition to the immunities granted to Internship Training Programs by California Health and Safety Code (1799.100 et. Seq.) SCHOOL agrees to defend, indemnify and hold harmless Westmed, its employees, officers or agents from and against any loss, injury, damage or liability (including reasonable attorney's fees) alleged in whole or in part to have been solely the result of or arisen from the acts, negligent acts, or any other wrongful act or omission on the part of the TRAINEE or stemming in any way from the participation of TRAINEE in the PROGRAM, or of SCHOOL, its officers, or employees.
- 04.07** Westmed agrees to defend, indemnify and hold harmless SCHOOL, its employees, officers or agents from and against any loss, injury, damage or liability (including reasonable attorney's fees) alleged in whole or in part to have been solely the result of the or arisen from the acts, negligent acts, and / or any other wrongful act or omission on the part of Westmed, its employees, officers or agents which acts are wholly unrelated to the acts or omissions of any TRAINEE or agent of SCHOOL.

## **05.00 INSURANCE**

- 05.01** SCHOOL will purchase and maintain Comprehensive General liability Insurance (including Premises / Operations, Contractual Insurance and Personal injury) with a limit of no less than \$1,000,000.00 per occurrence, \$3,000,000.00 aggregate, on which policy Westmed shall be named as an additional insured.
- 05.02** SCHOOL will purchase and maintain Professional Liability Insurance with a limit of no less than \$1,000,000.00 per occurrence, \$3,000,000.00 aggregate, on which policy Westmed shall be named as an additional insured.
- 05.03** SCHOOL will purchase and maintain Workers' Compensation Insurance coverage for each TRAINEE who participates in the PROGRAM.
- 05.04** SCHOOL shall provide to Westmed certificates of Insurance attesting to the coverages and extensions required herein. The certificates must name Westmed as an Additional Named Insured for the policies depicted and must affirmatively demonstrate the deletion of any contractual liability exclusions for all coverage depicted herein. The certificate must state that 30-days notice of cancellation or reduction of coverage must be given to Westmed. Any restriction in this wording depicting a duty to "endeavor to" give advance notice of cancellation or reduction must be deleted.
- 05.05** All overages required herein must be contracted with an insurer licensed and admitted by the State of California.

## **06.00 TRADE SECRETS – INTELLECTUAL PROPERTY – CONFIDENTIALITY**

**06.01** SCHOOL understands that Westmed and its agents, employees and all others affiliated with its activities (such as TRAINEES) are under a strict statutory duty to maintain absolute confidentiality of patient care. In addition to this statutory, the internal workings of Westmed are strictly confidential and proprietary. To this end, SCHOOL understands and agrees that it will not allow its agents and TRAINEES to discuss, disclose or otherwise reveal or allow to be revealed to any outside parties any internal Westmed affairs or any information concerning patient care.

**06.02** The term “TRADE SECRET” is defined as including all of Westmed’s confidential and proprietary information, including, but not limited to the following: any information in any form relating to the fiscal or physical operations of Westmed; any and all agreements or contracts to which Westmed is a party or has an interest; customer lists; employee lists, manuals or any related information; operational procedure or policy manuals; sources, types and magnitudes of financing; developmental work or plans, proposals; codes, marketing and sales programs; financial projections; cost summaries; pricing lists or formulas; results or substance of internal or external auditing; any and all documents or the contents thereof in the possession of Westmed; any information garnered directly or indirectly from any employee of Westmed or their agents; the status, number and nature of litigation in which Westmed is involved; the staging, strategy, tactics and day to day operations of Westmed; the methodology and practices of the provision of all services by Westmed and its subsidiaries; and all concepts and ideas, materials or information related to the business, products or sales of Westmed’s.

The term “TRADE SECRET” shall include the items within the above non-inclusive listing without regard to the fact that, absent this agreement, such information might not be protected under the statutory and common law regimes regarding trade secrets and unfair competition.

**06.03** SCHOOL hereby expressly consents and acknowledges that the TRADE SECRETS of Westmed are expressly proprietary to Westmed and the sole and exclusive property of Westmed without permit or license. SCHOOL acknowledges that it does not presently claim any right, permit or license in the TRADE SECRETS of Westmed.

**06.04** SCHOOL covenants and agrees that Westmed hereto is fully entitled to enforce by any lawful means the secrecy and privacy of each TRADE SECRET at all times hereafter. SCHOOL agrees to hold any and all TRADE SECRETS of Westmed of which he or she comes into possession prospectively, or has already come into possession through his preliminary discussions with Westmed, in strict confidence, and to NOT disclose the same to any person, firm, corporation, partnership or any other entity without the written advance permission of Westmed which is the owner of the TRADE SECRET in issue.

**06.05** At the termination of this agreement (as defined infra) SCHOOL shall promptly return all information relating to the subject of this agreement and the underlying negotiations, in any form, and from any source, together with all copies, written or otherwise, to the place from where it was received. Westmed shall be entitled to seek immediate relief to enforce this provision, including, but not limited to: the modes of relief depicted within this agreement, and immediate injunctive relief.

**06.06** Notwithstanding the termination of this consultation agreement for any reason, any information consisting of TRADE SECRETS shall be held confidential for a period of no less than seven (7) years from the date of execution of this agreement, subject to extension by agreement of the parties in writing, be reduced, shortened, or restricted. In the event that any TRADE SECRETS become or are at the time of this agreement the subject of Trade name, Trademark, Copyright or Patent protection, the applicable exclusivity period granted by the statutory or common law scheme granting the same shall apply if in excess of the aforementioned seven (7) years.

**06.07** In the event of a breach of the confidentiality portions of this agreement, Westmed shall be entitled if it so elects, to institute and prosecute proceeding in the Superior Court of the State of California, either in law or in equity; to enjoin SCHOOL and any TRAINEES, both preliminary and permanently, from violating any of the terms of this agreement; to seek specific performance of any of the terms of this agreement; and to obtain damages. Westmed may seek any or all of the above remedies, any combination of the above, or any other remedy available at law or equity.

Each party hereto acknowledges that damages may be very difficult to ascertain at the time of a breach of this agreement.

**06.08** The administration of prehospital care is a field in which press exposure is inevitable. Westmed prides itself in the professionalism with which it provides its services. However, it has been Westmed's experience that innocent discussions with members of the media often develop into inappropriate press coverage. Accordingly, it is Westmed's policy that no contact is made, nor communication with the press without advance approval from Westmed in writing. SCHOOL agrees that its agents and employees will not discuss any part of this contract with Westmed, any portion of Westmed's operations or any other aspect of prehospital care, whether operational or administrative, with any member of the press without advance written approval of the Chief Executive Officer of Westmed. The provisions of this paragraph are in addition to, and do not supplant, the general duty of confidentiality depicted supra.

## **07.00 TERMS OF AGREEMENT**

**07.01** The term of this agreement shall commence on **December 1, 2011** and continue in effect through **June 30, 2015** provided, however, that this agreement may be terminated by either party upon giving thirty (30) days' prior written notice to the other party. The indemnity provisions of this agreement shall survive such termination as to acts, which allegedly occur prior to said termination.

## **08.00 GENERAL PROVISIONS**

**08.01** The agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreement, representations, and understandings of the parties hereto. No supplement, modification, or amendment of this agreement shall be binding unless executed in writing by all the parties. No waiver of any of the provisions of this agreement shall be deemed, or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

- 08.02** This contract is not assignable by the parties hereto without the express advance written consent of the other party. If assigned, this contract shall inure to the benefit of, and be binding upon, the heirs, legal representatives, successors and assigns of each party hereto.
- 08.03** This contract shall be governed by and construed in accordance with the laws of the state of California and any venue within the County of Alameda, South County Branch.
- 08.04** Any action brought by a party hereto seeking to enforce this agreement or seeking remedies for the breach of this agreement shall entitle the prevailing party to reasonable attorney's fees and costs.
- 08.05** It shall be the responsibility of SCHOOL to provide a fully executed short form agreement, in the form of EXHIBIT "A" hereto, on behalf of each TRAINEE who participates in the PROGRAM. SCHOOL warrants to Westmed full compliance with this paragraph and will indemnify Westmed for any costs, including reasonable attorney's fees, expended in the enforcement of any provision of this agreement as to any TRAINEE.

**WHEREUPON IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS CONTAINED HEREIN, THE PARTIES HERETO ACKNOWLEDGE THAT THEY HAVE READ THE PROVISIONS HEREOF, THEY ARE CONFIDENT THAT THEY UNDERSTAND THE MEANING AND EFFECT OF THE PROVISIONS HEREOF, AND THAT THEY DESIRE TO EXECUTE THE SAME.**

**SCHOOL:** Chabot-Las Positas Community College District

**BY:** Mr. Lorenzo Legaspi

**TITLE:** Vice Chancellor of Business services

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Westmed: WESTMED AMBULANCE SERVICE – Alameda County**

**BY:** Mrs. Coleen Cotter

**TITLE:** Managing Director

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)