



DIRECTIVE 2012-020

May 23, 2012

RE: JOINT USE AGREEMENT BETWEEN THE UNIVERSITY OF AKRON AND NORTHEAST OHIO MEDICAL UNIVERSITY AND AKRON CHILDREN'S HOSPITAL

The University of Akron and Northeast Ohio Medical University have received Ohio Research Scholars Program funding from the Ohio Department of development, Third Frontier Grant Program to establish and support the Orthopaedic Research Cluster of Northeast Ohio (ORCNEO), and are eligible to receive an award in the amount of \$900,000 for the purchase of equipment for use by the partners of the project. As required by Ohio Administrative Code section 3333-1-03, The University of Akron submitted a Joint Use Agreement for consideration and approval by the Chancellor.

The agreement conforms to Ohio Administrative Code as follows –

- The format of the agreement is appropriate
- The commitment extends no less than twenty years
- The value of use to Ohio higher education institutions is reasonably related to the amount of the appropriation

Agency staff reviewed the agreement and posted its recommendations to the Regents' web site for purposes of providing a period of public comment before final approval by the Chancellor. The materials posted for comment and the joint use agreement are attached to this document.

Based on my review of staff recommendations, I hereby approve the Joint Use Agreement between The University of Akron and Northeast Ohio Medical University and Akron Children's Hospital.

This directive will take effect immediately.

Jim Petro  
Chancellor, Ohio Board of Regents

MIC

# Joint Use Agreement

Date: April 18, 2012

## RECOMMENDATION

The Capital Planning Section has reviewed and recommends approval of the Joint Use Agreement between **The University of Akron and Northeast Ohio Medical University**  
And  
Akron Children's Hospital



4.18.12

Signature

Date

## RECOMMENDATION

The Office of the Vice Chancellor of Finance has reviewed and recommends approval of the Joint Use Agreement between **The University of Akron and Northeast Ohio Medical University**  
And  
Case Western Reserve University  
The Cleveland Clinic Foundation  
Summa Health System  
Akron General Medical Center  
Children's Hospital Medical Center of Akron dba Akron Children's Hospital



18 APR 12

Signature

Date

## JOINT USE AGREEMENT ANALYSIS

**Date:**

Institutions  
Involved:

The University of Akron and Northeast Ohio Medical University  
and Akron Children's Hospital

Project Title: Orthopaedic Research Cluster of Northeast Ohio

Capital Bill: HB 462 Item: C25046

- ✓  Is the facility to be built/improved identified specifically by address or location?
- ✓  Does the non-profit organization now own the property or have a long term lease? If not, when will it control the property?
- ✓  Does the agreement provide for use of the facility for at least 20 years from the time that it is ready for occupancy?
- ✓  If the agreement is terminated, is there a pro rata reimbursement clause? Is the reimbursement formula correct?
- ✓  Will funds be used only for capital improvements and not operating costs?
- ✓  Will the non-profit hold the institution harmless for all operation/maintenance costs?
- ✓  Will the non-profit comply with federal, state and local laws and rules?
- ✓  Is the non-profit required to competitively bid as outlined generally in ORC Chapter 153 (published ads, sealed bids, public opening, award to lowest responsive and responsible bidder, etc.)?
- ✓  Does the contract provide for a 1.5% administrative fee for the institution?
- ✓  Does the agreement require that amendments be approved by the Board of Regents?
- ✓  Is a drawdown schedule or payment procedure included?
- ✓  Are the extent and nature of spaces and uses adequately described?
- ✓  Are the terms and conditions of use of the facility described?
- ✓  **Has the institution demonstrated that the value of the use of the facility is reasonably related to the amount of the appropriation? (See attached worksheet)**
- ✓  Is the facility insured?

OK to post  
MLC 4/23/12

DOJ 4.18.12

Joint Use Agreement Worksheet

The Ohio Board of Regents

April 2005

Direction: The purpose of this worksheet is to enable a campus to demonstrate how the value of the uses that will be derived from a Joint Use Agreement is reasonably related to the value of the state capital appropriation made to the partner entity. Section I is to be filled out by the staff of the Board of Regents. Sections II and III are to be filled out by the partner campus.

Example: A campus wishes to enter into a Joint Use Agreement with a 501(C)(3) entity for a state appropriation of \$5,000,000. The annual debt service paid by the state on this appropriation is about \$390,000 per year, for 20 years. To demonstrate that the value of the uses of the facility is reasonably related to the state appropriation, the sum of the campus' educational uses of the facility should roughly equal \$390,000 per year for 20 years.

*Section I: State appropriation information.*

1. Amount of state appropriation provided: \$ 900,000
2. Estimated annual debt service on the appropriation: \$ 69,189
3. Term of the state bond, in years: 20 years

*Section II: Estimated value of use of the facility.*

Use(s) of the facility*	Annual value of use	# of years
a. <u>NEOMED Ohio Research Scholar research</u>	\$ <u>385,000</u>	<u>10</u>
b. <u>UA Ohio Research Scholar research</u>	\$ <u>250,000</u>	<u>10</u>
c. <u>Partner contributions to equipment costs</u>	\$ <u>450,000</u>	<u>2</u>
d. <u>industry sponsored research</u>	\$ <u>10,000</u>	<u>20</u>
e. <u>Ph.D student training &amp; dissertation research</u>	\$ <u>60,000</u>	<u>10</u>
f. _____	\$ _____	_____

(\* List additional uses on separate page as needed.)

*Section III. On a separate page, explain how each use listed in Section II was valued for this analysis.*

*Section II: Estimated value of use of the facility explanation.*

- a. NEOMED's Ohio Research Scholar, Dr. Fayez Safadi, is expected to obtain at least one National Institutes of Health R01 grant in skeletal biology leveraged by the collaborations created by and equipment provided to the partners, valued at \$350,000/year for the next 10 years.
- b. The University of Akron's Ohio Research Scholar is expected to obtain at least one National Science Foundation grant in biomaterials science leverage by the collaborations created by and equipment provided to the partners, valued at \$250,000/year for the next 10 years.
- c. The Partners, Akron Children's Hospital, Akron General Medical Center, Case Western Reserve University, Cleveland Clinic Foundation, and Summa Health System, have committed to matching the state funds dollar for dollar at a total of \$900,000.
- d. The collaborations resulting from the shared equipment and the enhanced infrastructure of NEOMED and UA is anticipated to attract industry sponsored research conservatively valued at \$10,000/year for 20 years.
- e. On average, at least two Ph.D. students from the universities are expected to use the state-of-the-art biomedical equipment for training and dissertation research, valued at \$60,000/year for 10 years based on the students' stipend and tuition costs.

**Joint Use Agreement**  
**Between**  
**The University of Akron**  
**And**  
**Northeast Ohio Medical University**  
**And**  
**Children's Hospital Medical Center of Akron d/b/a Akron Children's Hospital**

This Joint Use Agreement (this "Agreement") is effective this 5<sup>th</sup> day of ~~October~~ 2011 (the "Effective Date"), by and between The University of Akron (hereinafter referred to as "UA"), a State of Ohio assisted institution of higher education with its principal offices at 302 Buchtel Common, Akron, Ohio, 44325-2102, Northeast Ohio Medical University (hereinafter referred to as "NEOMED"), a State of Ohio supported institution of higher education, with its principal offices at 4209 State Route 44, Rootstown, Ohio 44272 and Akron Children's Hospital (hereinafter referred to as "Partner") with its principal offices at One Perkins Square, Akron, Ohio 44308 (all of which may hereinafter be referred to respectively as the "Parties" or a "Party").

WHEREAS, UA and NEOMED have received Ohio Research Scholars Program funding from the Ohio Department of Development, Third Frontier Grant Program to establish and support the *Orthopaedic Research Cluster of Northeast Ohio (ORCNEO)* (the "Project") and are eligible to receive an award in the amount of \$900,000 (nine hundred thousand dollars) for the purchase of equipment for use by the Akron Children's Hospital and other partners in the Project; and

WHEREAS, the Parties collaborate and will continue to collaborate in research and development relating to the Project and desire to purchase the equipment identified in Attachment A for joint use on the Project (the "Equipment"); and

WHEREAS, the Parties desire to enter into this Joint Use Agreement relating to the purchase by Partner, joint use, and maintenance of the Equipment,

Now, therefore, in consideration of the mutual promises and premises set forth below, the Parties agree as follows:

**I. Equipment**

Partner will purchase the Equipment and maintain ownership thereof. Partner will install, operate, and maintain the Equipment. The Award funds will be used in accordance with the Chancellor of the Ohio Board of Regents Allowable Capital Expenditure Guidelines. UA and NEOMED will provide \$200,000 (two hundred thousand dollars) to Partner in support of the cost of the Equipment and Partner will provide cost share in an amount up to \$406,011 (four hundred six thousand eleven dollars), but a minimum of \$200,000 (two hundred thousand dollars). The Equipment will be located on Partner property (the "Location").

**II. Reservation of Usage Rights**

UA and NEOMED retain the right to use the Equipment for education, research and development related to the Project at the Location. Partner, UA and NEOMED shall cooperate to schedule their respective usages of the Equipment toward maximum benefit relating to the Project. Access by UA and NEOMED,

**VIII. Return of Equipment**

Upon early termination of the Agreement, Partner shall peacefully yield up the Equipment to UA or NEOMED. Partner will cover the costs of removing and transporting the Equipment to UA or NEOMED. UA and NEOMED shall have the right to use, re-lease or sell the Equipment.

**IX. Amendments**

Any amendments of this agreement shall be in writing, signed by the Parties, and shall require approval by the Chancellor of the Ohio Board of Regents.

**X. Compliance with Laws**

The Parties shall comply in all material respects with all pertinent federal, state and local laws and rules.

**XI. Hold Harmless**

Partner will hold UA and NEOMED harmless from, and at UA and NEOMED's request, will defend UA and NEOMED against any and all claims and liabilities whatsoever regarding the planning, design, engineering, installation, construction, operation, maintenance, and repair costs of the Equipment occurring during the performance of this Agreement to the extent caused by Partner's negligence, gross negligence, recklessness or willful misconduct.

IN WITNESS WHEREOF, The Parties have executed this Joint Use Agreement as of the Date stated below.

THE UNIVERSITY OF AKRON

By: 

Kathryn Watkins

Title: Director

Research Services & Sponsored Programs

Date: 10/15/11

NORTHEAST OHIO MEDICAL UNIVERSITY

By: 

Walter E. Horton, Jr., Ph.D.

Vice President for Research

Date: 9/30/2011

AKRON CHILDREN'S HOSPITAL

By: 

Shawn M. Lyden

Title: Executive Vice President

Date: 9/29/11

**First Amendment to the  
Joint Use Agreement  
Between  
The University of Akron  
And  
Northeast Ohio Medical University  
And  
Children's Hospital Medical Center of Akron d/b/a Akron Children's Hospital**

This Amendment is made to the original Joint Use Agreement between the University of Akron (hereinafter referred to as "UA") and Northeast Ohio Medical University (hereinafter referred to as "NEOMED"), and Akron Children's Hospital (hereinafter referred to as "Partner"), signed by UA on 10/5/2011, by NEOMED on 9/30/2011, and by Partner on 9/29/2011, for the purchase of equipment for use by the Akron Children's Hospital and other partners in the *Orthopaedic Research Cluster of Northeast Ohio (ORCNEO)* (the "Project").

The Agreement is hereby amended as follows:

**I. Equipment**

Partner will purchase the Equipment and maintain ownership thereof. Partner will install, operate, and maintain the Equipment. The Award funds will be used in accordance with the Chancellor of the Ohio Board of Regents Allowable Capital Expenditure Guidelines. UA and NEOMED will provide a total of \$200,000 (two hundred thousand dollars) to Partner in support of the cost of the Equipment and Partner will provide cost share in an amount up to \$406,011 (four hundred six thousand eleven dollars), but a minimum of \$200,000 (two hundred thousand dollars). The Equipment will be located at the Akron Children's Hospital Pediatric Cancer Molecular Research Laboratory, 130 West Exchange Street, Room 168, Akron, Ohio 44308 (the "Location").

**XII. Distribution of Funds and Payment of Administrative Costs**

Following the approval of this Agreement by the Board of Regents, UA will request the release of and seek to encumber the Funds to UA for the purpose of the purchase of the equipment. After release and encumbrance of the Funds, the Partner may obtain payment by submitting to NEOMED an invoice for payment identifying the amounts to be reimbursed and the cost share provided. Said invoice, signed by an authorized financial official, should be sent to:

Marie Baka-Mosko, Grants Accountant  
Northeast Ohio Medical University  
4209 State Route 44, PO Box 95  
Rootstown, Ohio 44272  
email: mbaka@neomed.edu  
phone: 330.325.6371

Equipment must be purchased by January 11, 2014. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to by March 11, 2014. Pursuant to O.A.C. 3333-1-03(E)(10), UA may deduct and retain from the Funds an amount up to 1.5% of the Funds to compensate it for actual costs of administration.



All other terms and conditions set forth in the Agreement shall not be affected by this Amendment and shall remain in full force and effect.

IN WITNESS WHEREOF, the respective Parties hereto have caused this Agreement to be executed by their properly and duly authorized officers or representatives.

THE UNIVERSITY OF AKRON

By: 

Kathryn Watkins

Director, Research Services and Sponsored Programs

Date: 4/17/12

NORTHEAST OHIO MEDICAL UNIVERSITY

By: 

Walter E. Horton, Jr., Ph.D.

Vice President for Research

Date: 4/16/2012

AKRON CHILDREN'S HOSPITAL

By: 

Shawn M. Lyden

Executive Vice President

Date: 4/11/12