



DIRECTIVE 2020-039

June 11, 2020

RE: JOINT USE AGREEMENT BETWEEN CLEVELAND STATE UNIVERSITY AND
UNIVERSITY HOSPITALS CLEVELAND MEDICAL CENTER

Cleveland State University has been granted appropriations contained in House Bill 529 of 132nd General Assembly in the amount of three hundred fifty thousand dollars. Cleveland State University will use the funds to improve the facility owned by University Hospitals Cleveland Medical Center. As required by Ohio Administrative Code section 3333-1-03, Cleveland State University 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 Department's website for the purpose 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 Cleveland State University and University Hospitals Cleveland Medical Center.

This directive will take effect immediately.

Randy Gardner
Chancellor

JOINT USE AGREEMENT
BETWEEN
CLEVELAND STATE UNIVERSITY
AND
UNIVERSITY HOSPITALS CLEVELAND MEDICAL CENTER

This Joint Use Agreement (“Agreement”) is entered into by and between **CLEVELAND STATE UNIVERSITY**, a public institution of higher education and an instrumentality of the State of Ohio, created under Chapter 3344 of the Ohio Revised Code, whose address is 2121 Euclid Avenue, Cleveland, Ohio 44115-2214 (“University”) and **UNIVERSITY HOSPITALS CLEVELAND MEDICAL CENTER**, an Ohio non-profit corporation, whose address is 11100 Euclid Avenue, Cleveland, Ohio 44106 (“UHCMC”).

WHEREAS, the 132nd Ohio General Assembly passed House Bill Number 529, which appropriates in Section 207.80, line C26080 the sum of Three Hundred Fifty Thousand Dollars (\$350,000) (“Funds”) to University to be used for University Hospitals Heart and Vascular Institute, which is part of UHCMC; and

WHEREAS, UHCMC will use the Funds for the purchase of University Hospitals Harrington Heart and Vascular Institute equipment (“Project Equipment”); and

WHEREAS, University’s mission is to provide an education of high quality to students with diverse backgrounds, experiences, and educational needs, as well as serve as a catalyst, leader, and partner in the ongoing enhancement of the quality of life and economic viability of the region and the State of Ohio; and

WHEREAS, UHCMC is an Ohio non-profit corporation that is home to some of the most prestigious clinical and research centers of excellence in the nation and the world, including cancer, pediatrics, women’s health, orthopedics and spine, radiology and radiation oncology, neurosurgery and neuroscience, cardiology and cardiovascular surgery, organ transplantation and human genetics. UHCMC’s mission is To Heal. To Teach. To Discover.®; and

WHEREAS, it is the goal and intention of this Agreement that University and UHCMC will establish and maintain an educational relationship that will be mutually beneficial to both parties; and

WHEREAS, Ohio Administrative Code §3333-1-03(E) requires a public institution to submit to the Chancellor of the Ohio Department of Higher Education a joint use agreement that contains the requirements in (E)(1)-(11) for review and approval; and

WHEREAS, University has demonstrated that the value of the use of the equipment is reasonably related to the amount of appropriation as set forth herein.

NOW, THEREFORE, in consideration of the mutual benefits hereunder, it is hereby agreed to between the parties as follows:

1. **Facility or equipment owned, to be built or purchased by nonprofit or public body.**

The Project Equipment will be purchased by UHCMC and, for so long as the Project Equipment is suitable for patient care, will be located and used in the University Hospitals Harrington Heart and Vascular Institute, which is located on the campus of University Hospitals Medical Center, 11100 Euclid Avenue, Cleveland, Ohio 44106, and is owned by UHCMC. If UH deems the Project Equipment unsuitable for patient care and it is unable to be repaired or updated, the parties shall negotiate in good faith to determine a new location to ensure that the parties continue to mutually benefit from the Project Equipment.

2. **Use of the Project Equipment by University.**

During each year of the Term of this Agreement, as outlined in Attachment A, hereby incorporated, UHCMC shall:

- Provide University observational opportunities and supervision to at least two students doing Research Projects in imaging at no cost to University;
- Assign a UHCMC medical or physics staff member, or resident to present at least one clinical seminar for the University's Medical Physics Program, at no cost to the University;
- Permit trained University faculty, staff, and students to use the Project Equipment, flexibly scheduled with input from University as arranged by the parties under UHCMC supervision and in accordance with applicable industry, state and federal regulations;
- Consider and interview University students for the Medical Imaging Physics Residency Program at UHCMC;

University faculty, staff, and students are permitted to use the Project Equipment, which will be made available, as agreed by the parties pursuant to UHCMC's Medical Staff Bylaws and other UHCMC policies, including those imposed by UHCMC's parent (collectively, the "Policies"). UHCMC shall provide University with a copy of all such Policies. Subject to scheduling and patient needs, the Project Equipment will be open to appropriate use by University faculty, staff, and students who are trained by hospital staff

to use the Project Equipment and permitted under the Policies to the same extent the Project Equipment is open to use by physicians and employees at UHCMC. Due to the nature of the University Hospitals Harrington Heart and Vascular Institute and its patient care purposes, such use shall be subject to the Policies and Procedures of UHCMC. UH shall provide University with a copy of all such Policies.

Throughout the Term of this Agreement, further uses and opportunities may be explored and put into place through the Joint Committee.

3. **Joint Committee.** A joint committee comprised of an equal number of UHCMC's representatives and representatives of the University's College of Science and Health Professionals, Department of Physics ("Joint Committee") will develop the details and guidelines for implementation of programs referenced in Section 1 above. The Joint Committee shall meet at least annually to review and monitor implementation of the parties' commitments under this Agreement. The Joint Committee shall prepare a written report following each meeting and submit the written report to each party's board of directors or trustees, if required by the party's policies, and, upon request, to the Chancellor.
 4. **Reimbursement of funds.** In the event that University's right to use the Project Equipment is terminated by UHCMC prior to the expiration of the twenty (20) year Term, UHCMC shall remit to the State of Ohio a prorated portion of the Funds, which shall be calculated by dividing the funds contributed by the State of Ohio and received by UHCMC by twenty (20) and multiplying that sum by twenty (20) less the number of full years during which UHCMC's obligations under this Agreement have been fulfilled.
 5. **Use of Funds.** The Funds shall be used by UHCMC only for capital improvements and not operating costs, as defined in the bill appropriating the Funds, House Bill Number 529 of the 132nd Ohio General as further described in Attachment B, hereby incorporated.
 6. **Insurance for facility and hold harmless.** UHCMC will obtain and maintain for the entire Term of this Agreement, at its own cost, commercial general liability insurance covering the facilities and Project Equipment in an amount not less than One Million Dollars per occurrence and Two Million Dollars aggregate. A certificate reflecting the continuing coverage of all such policies procured by UHCMC in compliance herewith shall be delivered to University upon request at least thirty days prior to the time such insurance is required to be carried by UHCMC, and thereafter at least thirty days prior to the expiration of any policies. Such insurance shall name University as an additional insured. Such policies shall bear an endorsement stating that the insurer agrees to notify University not less than thirty days in advance of any proposed modification or cancellation of any such policy. UHCMC shall hold the University harmless from all liability for construction, operation, and maintenance costs related to this Agreement.
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Each party to this Agreement agrees that it will be responsible for its own acts and omissions and the results thereof and shall not be responsible for the acts and omissions of the other party and the results thereof. The terms of this section shall survive the expiration or termination of this Agreement. Neither party hereunder shall be liable to the other party for any special, consequential, indirect, incidental or punitive damages hereunder even if such party has been advised of the possibility thereof.

7. **Compliance with federal, state and local law.** UHCMC shall comply with all pertinent federal, state and local laws as well as state administrative regulations applicable to this Agreement.
 8. **Competitive bidding.** UHCMC shall follow competitive bidding procedures, which include, at a minimum, publishing advertisements to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidder, as described generally in Ohio Revised Code Chapter 153.
 9. **Appropriation administrative fee.** From the Funds, University will be reimbursed for administrative costs incurred as a result of the project equal to 1.5% of the appropriated amount, which is equal to \$5,250.
 10. **Amendments.** Any amendment to this Agreement shall be in writing, signed by UHCMC and University and shall require the approval by the Ohio Department of Higher Education and the Chancellor before any amendment takes effect.
 11. **Payment.** Upon execution of this Agreement, University shall submit to the Controlling Board a formal request for the release of the Funds. After the release of the Funds, UHCMC shall submit to University requests for payment of amounts along with documentation of contractor invoices or purchase orders related to obligations incurred by UHCMC for permitted uses of the Funds. Within thirty (30) days after University's receipt of any such request for payment and documentation of invoices or purchase orders, University shall disburse to UHCMC the Funds so requested. From the Funds, University shall receive administrative costs in the amount of \$5,250, which is equal to 1.5% of the total amount of the Funds.
 12. **Term.** The term ("Term") of this Agreement shall be for twenty years, commencing when the Project Equipment is ready to be used by University.
 13. **Records of University Use.** Either party of this Agreement shall, upon request, supply the requesting parties with all pertinent records, which measure the nature and extent of
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use of the facility by the University. The parties agree that notwithstanding anything that could be construed to the contrary, UHCMC shall have no obligation to make available or provide any patient or individually identifying information.

14. **Notices.** All notices to the parties shall be sent by registered or certified mail, postage prepaid and addressed to the parties at the addresses set forth below, or to such other address as either party shall have designated by prior notice.

If to University: Cleveland State University
2121 Euclid Avenue AC 333
Cleveland, Ohio 44115
Attn: Provost

With a copy to: Office of General Counsel
Cleveland State University
2121 Euclid Avenue AC327
Cleveland, Ohio 44115

If to UHC: University Hospitals Cleveland Medical Center
11100 Euclid Avenue
Cleveland, Ohio 44106
Attention: Daniel Simon, MD
With a copy at the same address to:
Grace McComsey, MD

With a copy to: University Hospitals Health System
3605 Warrensville Center Rd.
Shaker Heights, Ohio 44122
Attn: Chief Legal Officer

If to the Ohio Department of Higher Education:

Ohio Department of Higher Education
25 S. Front St.
Columbus, OH 43215

15. **Entire Agreement.** This Agreement sets forth the entire agreement of the parties hereto relating to the subject matter of this Agreement, supersedes all prior communications, proposals, representations, or other understandings, requirements, or agreement of any kind.
16. **Headings.** The headings used in this Agreement are inserted only as a matter of convenience and for reference and should not be given effect in the interpretation of this Agreement.
17. **Governing Law.** This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Agreement and/or performance thereunder.
18. **Publicity.** Neither party shall use the other party's names, logos, trademarks, or other identifiers on any website or in any press release, advertisement or other marketing material without the other party's prior written consent to the specific instance of use.
19. **Binding Nature.** This Agreement shall be binding upon and inure to the benefit of University and UHCMC and their respective successors and assigns. Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part without the prior written consent of University, UHCMC and Chancellor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the month, day and year signed.

[Signature page follows]

UNIVERSITY:

CLEVELAND STATE UNIVERSITY

By: Harlan Sands

Harlan M. Sands

President

Date:

UHCMC:

**UNIVERSITY HOSPITALS CLEVELAND
MEDICAL CENTER**

By:  _____

Print Name: Daniel Simon, MD

Title: President, UHCMC

Date: 05-20-2020

Attachment A

Joint Use Agreement Worksheet

The Ohio Department of Higher Education

Project: University Hospitals Cleveland Medical Center Harrington Heart and Vascular Institute

Date: _____

Section I: State appropriation information.

- | | |
|--|--------------------|
| 1. Amount of state appropriation provided: | <u>\$350,000</u> |
| 2. Estimated annual debt service on the appropriation: | <u>\$26,906.65</u> |
| 3. Term of the state bond, in years: | <u>20</u> |

Section II: Estimated value of use of the facility.

Use(s) of the facility*	Annual value of use	# of years
a. <u>Annual internships in imaging</u>	<u>\$ 12,000.00</u>	<u>20</u>
b. <u>Annual research or clinical seminar</u>	<u>\$ 4,500.00</u>	<u>20</u>
c. <u>Clinical training</u>	<u>\$ 10,500.00</u>	<u>20</u>
d. <u>Medical Imaging Residency Program</u>	<u>\$ 1,040.00</u>	<u>20</u>
e. _____	\$ _____	_____
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 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 Department of Higher Education. 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 \$384,381 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 \$384,381 per year for 20 years.

Attachment A (continued)
Joint Use Agreement Worksheet
The Ohio Department of Higher Education

Section III:

a. Two Medical Physics Internships/Research Projects in Imaging - The annual amount of \$12,000 will be applied to the cost associated with UHCMC supervision and training of two unpaid internships/research projects. These internships/research projects will focus on the training and use of the Project Equipment. There will be no cost to the University. It is estimated that each internship/research project will require 48 hours of Medical Doctor or Director-level supervision at a salary of \$125 per hour. $48 \text{ hours per project} \times \$125 \text{ per hour} = \$6,000 \times 2 \text{ projects} = \$12,000$.

b. "Annual Clinical Learning Module"

A medical physics UHCMC staff member, or resident from UHCMC will present a Clinical Module in Nuclear Medicine at the University, annually, at no cost to the University. The UHCMC staff member's time spent in preparation and teaching the course has been assessed to be \$4,500 annually. It is estimated that the presenter will require 24 hours to prepare for the module and teach the module for 12 hours (typically, 6 x 2 hours sessions), at a salary of \$125 per hour. $24 \text{ preparation hours} \times \$125 = \$3,000 + 12 \text{ teaching hours} \times \$125 = \$1,500$ for a total of \$4,500"

c. Clinical Training - Clinical training will necessitate supervision on the part of UHCMC hospital staff for training University students, faculty, and staff on the use of the equipment and personnel safety. It is expected that the estimated value of this is \$10,500 annually. Training will be provided by the following:

1. Training Development / Maintenance 5 hours x \$100 per hour = \$500
 2. Equipment & Safety Supervision: Director, 1 hour x \$100 per hour = \$100 per student x 10 students = \$1,000
 3. Equipment & Safety Supervision: Manager, 4 hours x \$75 per hour = \$300 per student x 10 students = \$3,000
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4. Equipment & Safety Supervision: Staff, 12 hour x \$50 per hour = \$600 per student x 10 students = \$6,000

5. Total \$10,500

d. Medical Imaging Residency Program – The Medical Imaging Physics Residency Program Director will ensure that open positions are advertised to University students and recent graduates. The program will screen applicants to ensure that University graduates who meet the program admission criteria are included among candidates invited to on-campus interviews. The program director (UHCMC staff member) time spent in coordinating this has been attributed to \$1,000 annually. It is estimated that the program director will expend 8 hours at a salary of \$130 per hour. 8 hours x \$130 = \$1,040.

Attachment B

Cardiolab Documentation System (\$325,615.60): The Cardiolab documentations system is designed to optimize workflow, productivity and throughput. For UH, the Cardiolab documentations system is used to document and record all electrophysiology cases. It is easy to use and is customizable. This program helps bridge the gap between clinical and IT needs. It has a comprehensive IT data integration and interoperability between systems. Cardiolab provides efficient point-of-care data collection and focuses on team-based patient care with options for multiple workflows; allows multiple systems and solutions to integrate with the CardioLab system, automatically consolidates related data into a single procedure report, provides multiple users the ability to document what is important to patients, from the point-of-view of their individual care, across the entire recording continuum. CardioLab is configurable to help streamline workflow, with signal data analysis tools to help evaluate administration and clinical operations.

GEM Blood Gas Machine (\$15,500.00): The GEM blood gas machine is used to optimize diagnosis and treatment. Blood gases can also be obtained for research. This gives fast, reliable results in the lab or at the point-of-care (which is where it is used in the procedure labs). These blood gases are usually done during a right heart catheterization for Heart Failure, Shock, Congenital Heart Disease, Heart Valve Disease, Cardiomyopathy, Pulmonary Hypertension and for Heart Transplant. This particular machine gives quantitative results in less than 10 seconds for diagnosis and detection of intracardiac and great vessel shunts. It uses multiple wavelengths to yield accurate measurement of: fractional O₂ saturation, O₂ content, and total hemoglobin. It is ideal for trending “step-ups” in O₂ saturation while advancing catheters in right heart procedures. The Gem blood gas machine measures and displays differences in oxygen saturation between adjacent anatomical sites. Utilizes the Fick Principle to calculate cardiac output.

Hemochron Signature Elite (\$7,250.00): The Hemochron signature elite is used in both the Cath and EP labs. It is for rapid whole blood testing to measure hemostasis. This is needed to prevent clotting during procedures and to prevent bleeding after procedures. The levels determine the amount of medications given during procedures, such as heparin. This device monitors both high and low heparin ranges (ACT +, ACT-LR), as well as PT and APTT. It is very important for the procedure labs to be able to accurately measure heparin effects quickly to provide the best care for the patient. This test is a billable test.

Medication Refrigerator (\$1,247.04): This under counter pharmacy fridge is needed for medications that need to be secured, including high risk medications. This fridge is controlled by the Omnicell and can only be opened by staff trained in usage and must have prior approval for use.
