

June 12, 2019

TO: The Board of Trustees of the University of Oregon

FR: Angela Wilhelms, Secretary

RE: Notice of Executive and Audit Committee Meeting

The Executive and Audit Committee of the Board of Trustees of the University of Oregon will hold a public meeting on the date and at the location set forth below. The subject of the meeting will be a resolution authorizing a memorandum of understanding between the UO and OHSU regarding biomedical data science.

The meeting will occur on **Friday, June 14, 2019 at 11:00 a.m.**

This is a telephonic meeting of the board. A public location is available for those interested in the proceedings: Johnson Hall Conference Room. Johnson Hall is located at 1098 E. 13<sup>th</sup>, Eugene, Oregon. Accommodations needed for the disabled should be requested at least 48 hours in advance of the posted meeting time by contacting Jennifer LaBelle at (541) 346-3166 or emailing [trustees@uoregon.edu](mailto:trustees@uoregon.edu).

**BOARD OF TRUSTEES**

6227 University of Oregon, Eugene OR 97403-1266 | (541) 346-3166 | [trustees.uoregon.edu](http://trustees.uoregon.edu) | [trustees@uoregon.edu](mailto:trustees@uoregon.edu)

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**Board of Trustees | Executive and Audit Committee  
Public Meeting | June 14, 2019 @ 11:00 a.m.  
Via Telephone  
(Public Location: Johnson Hall Conference Room 105)**

**Convene**

- Call to order, roll call and verification of quorum

- 1. MOU Between UO and OHSU re Biomedical Data Science Center (Action):** Bill Cresko, professor of Biology and executive director of the Data Science Initiative; Patrick Phillips, professor of Biology

**Meeting Adjourns**

**Introduction**

The Board of Trustees must authorize the execution of all instruments which are reasonably expected to exceed \$5,000,000 in total value. As a result, a proposed MOU between the University of Oregon and Oregon Health & Science University is before the board for authorization at the request of the president and provost.

**Background on MOU Proposal**

In the spring of 2019, the University of Oregon and Oregon Health & Science University agreed to pursue the joint creation of a biomedical data science center to empower researchers at both institutions to join forces and attack cancer with big data. The partnership combines complementary expertise on the two campuses to develop new approaches to quickly and efficiently analyze large groupings of data, allowing researchers to “listen in” on cell development for early detection of lethal diseases. The new UO-OHSU center builds on a foundation of the UO’s Data Science Initiative and integrates interdisciplinary research and liberal arts strengths from around the UO to collect, analyze and interpret data in a way that has positive societal impact. The initiative, along with UO graduate programs in areas such as computer science, math, life sciences, ethics and soon-to-be bioengineering, will combine with OHSU’s large-scale efforts in precision medicine to identify more quickly cell abnormalities that lead to cancer and other diseases.

This joint center marks the next phase for deepening collaboration and cooperation among our sister institutions that will benefit our students and the state. In order to facilitate and codify this synergistic relationship, an agreement captured in a memo of understanding (MOU) signed by the Presidents of each campus is required. The agreement calls for a senior director to report jointly to UO and OHSU and for each institution to make four initial faculty hires. At the UO, those hires are slated to be in genomics, computer science, applied math and machine learning. In addition, a handful of existing faculty members at both institutions could become involved as faculty fellows, bringing the total of formally involved researchers to as many as 20. The expectation is that the center will grow to function as a single academic entity and will involve significant investment of funds in faculty hiring and support that will yield dividends in new educational programs and degrees, increased sponsored research support, and deepening connections with biomedical and data science industries. The scope of these activities requires Board consideration, input and approval. The MOU that details the UO-OHSU relationship in biomedical data science is before you today for consideration.

**Board of Trustees of the University of Oregon**

**Resolution: Authorization to Enter into UO-OHSU Memorandum of Understanding**

Whereas, the University of Oregon (“UO”) has a long-standing history of excellence in the biological sciences and a burgeoning effort around applied research and data sciences;

Whereas, the University of Oregon wishes to enter into a partnership with Oregon Health & Science University (“OHSU”) that will leverage the strengths of and empower researchers at each institution to join forces and battle cancer and other significant challenges in cellular biology using big data;

Whereas, this partnership would create a joint biomedical data science center focused on developing new approaches to analyze information and ultimately expand opportunities for early detection of cancer and create lasting societal impact;

Whereas, this center will require investment by each institution and a clear articulation of operational and administrative management, obligations which are best captured in a memorandum of understanding;

Whereas, actions or instruments anticipated to exceed \$5,000,000 require approval by the Board of Trustees (“Board”); and,

Whereas, the Executive and Audit Committee is authorized to act on behalf of the Board when practical.

NOW THEREFORE, the Executive and Audit Committee of Board of Trustees of the University of Oregon hereby authorizes the following:

- 1) The President or his designee(s) may enter into an MOU with OHSU substantially similar to that attached hereto as Exhibit A;
- 2) The President or his designee(s) may take any and all actions necessary to implement the MOU and meet the University’s obligations therein; and,
- 3) All actions taken by the University up to and through passage of this resolution in advancement of the aforementioned MOU are ratified.

Moved: \_\_\_\_\_ Seconded: \_\_\_\_\_

Trustee	Vote
Bragdon	
Ford	
Kari	
Lillis	
Ralph	
Wilcox	

Dated: \_\_\_\_\_ Initials: \_\_\_\_\_

**INTER-INSTITUTIONAL AGREEMENT  
RELATED TO THE ESTABLISHMENT OF A JOINT RESEARCH CENTER  
Between  
Oregon Health & Science University  
And  
University of Oregon**

This Inter-Institutional Agreement (“Agreement”) is entered into between Oregon Health & Science University, an Oregon statutory public corporation (“OHSU”) and the University of Oregon, an Oregon public institution of higher education (“UO”). The Agreement shall be effective when signed by both parties (“Effective Date”).

**WHEREAS**, OHSU is an academic health center which, through the activities of the OHSU Knight Cancer Institute (“KCI”) maintains a National Cancer Institute designated comprehensive cancer center at OHSU with the latest treatments, technologies, research studies, clinical trials and education related to medical, radiologic and surgical cancer care and treatment that serves the people of the state of Oregon consistent with OHSU’s statewide missions in research, education, clinical care and community outreach.

**WHEREAS**, UO is an Association of American Universities research institution with expertise in, *inter alia*, Biology, and Computer Sciences, and through its Phil and Penny Knight Campus for Accelerating Scientific Impact (“Knight Campus”), houses and supports the intellectual infrastructure to fast-track scientific discoveries into innovations that improve the quality of life for people in Oregon, the nation, and the world.

**WHEREAS**, OHSU and UO desire to create an innovative joint research center that addresses complex problems in normal and abnormal cell biology, including as it relates to cancer, using advanced quantitative approaches by capitalizing on the unique and complementary strengths of the two institutions.

NOW THEREFORE, OHSU and UO agree that this Agreement documents OHSU’s and UO’s understanding and agreed upon intentions and commitments to create a joint research center, but that except as specifically set forth below, this Agreement is not intended to be a binding agreement.

**I. GENERAL PROVISIONS**

- a. **Establishment of Center.** OHSU and UO agree to create a joint research center that addresses complex problems in normal and abnormal cell biology, including as it relates to cancer, using advanced quantitative approaches by building upon the complementary strengths and expertise of the KCI and Knight Campus and creating an interactive, collaborative environment that supports the research of faculty and training of its students. OHSU and UO shall have equal responsibility for the management, oversight, support and direction of the Center.
- b. **Name of Center.** The joint research center will be named the Center for Biomedical Data Science (“Center”).

c. **Leadership.**

i. *Steering Committee.*

1. OHSU and UO shall establish a Steering Committee comprised of an equal number of representatives of each institution; three (3) individuals appointed by each institution. The Steering Committee will be responsible for designation and oversight of a joint search committee for a Director for the Center ("Center Director"). The joint search committee will be comprised of an equal number of UO and OHSU persons, and will develop the position description, giving due regard to the goals and needs of both institutions and the Center. The position description, advertisement and posting will set forth the joint nature of the position, reference both institutions, and be consistent with institutions' customary hiring and personnel policies. The position description shall also specify that the Center Director will have a joint academic appointment at OHSU and UO. The position description developed by the search committee, the selection of the Center Director, and the terms and conditions of the employment agreement will be mutually agreed upon by OHSU and UO.
2. The Steering Committee will appoint an initial operations group comprised of an equal number of UO and OHSU personnel to oversee resource allocation and administrative operations of the Center for the first year of this Agreement or until a Center Director is appointed, whichever is earlier. Recommendations by the operations group on resource allocation and administrative operations will be mutually agreed upon by OHSU and UO.
3. Following the first year of this Agreement or appointment of a Center Director, whichever is earlier, the Steering Committee will meet periodically to review the goals, objectives and progress of the Center.

- ii. *Center Director.* The Center Director will have a joint academic appointment at UO and OHSU. The Center Director's employment appointment shall be at UO. The Center Director will report to the Director of the KCI and to the Executive Director of the Knight Campus. Each institution will be responsible for the management and control of the Center Director, and be responsible for contributing equally to the Director's salary, benefits, research activities, and other expenses necessary for the Center Director; provided, however, that UO will be responsible for the Center Director's payroll, benefits, and worker's compensation premiums (subject to the terms of equitable sharing of costs set forth in this Agreement) and the Center Director shall not be entitled to any salary or benefits of OHSU. To the extent possible, the Center Director is expected to split his/her time between UO and OHSU, and to run grants to which the Center Director is the principal investigator and other research activities related to the Center through UO and OHSU on an equal basis.

1. After the appointment of the Center Director, OHSU and UO will have joint authority and responsibility to appoint and remove the individual serving as the Center Director. The institutions agree to work collaborative and discuss in good faith any concerns raised by or at either institution regarding the performance of, claims from or about, or concerns raised involving the Center Director. However, because the Center Director's employment position shall reside with UO, (a) the policies and procedures governing the Center Director's review, promotion and tenure will be determined by and only be available at UO; and (b) UO reserves its authority to terminate, transfer or discipline the Center Director for misconduct as appropriate, consistent with UO policies and procedures; provided, however, that to the extent allowed by law, UO shall consult with OHSU prior to UO taking any such actions against the Center Director. It is the expectation of the parties that the Center Director will serve an initial term of three (3) years, subject to annual reviews and UO policies and procedures, with the option of renewal. Any recruitment or appointment of a new Center Director will give due regard to the goals, objectives, and needs of both institutions and the Center.
- iii. *Associate Directors.* Two associate directors (each an "Associate Director" and together "Associate Directors") will be appointed for the Center; OHSU will employ and appoint one Associate Director and UO will employ and appoint one Associate Director. The Associate Directors will report to the Center Director for work related to the Center, and also continue to report to their respective departments in their institutions. Each Associate Director will only be an employee of his/her respective institution and will be bound by the terms and conditions of the employment agreement and policies and procedures of the employing institution, subject to removal by the employing institution, and in no event will the Associate Director be considered an employee of the non-employing institution or be entitled to any salary or benefits of the non-employing institution. The employing institution will provide salary and benefits in accordance with its policies and procedures, and be responsible for the management and control of its employed Associate Director.
- iv. *Responsibilities of Center Director and Associate Directors.* The Center Director will oversee the management of the Center. The Associate Directors will oversee the research programs sited at their respective institutions, and ensure that the specific vision and mission of their institutions is met. The Center Director and each Associate Director will be responsible for the integration of faculty, research goals and objectives and training programs at the Center. The Director and each Associate Director will develop a shared vision for recruitment of new faculty to be Members (as described below) of the Center.
- d. **Effective Date; Termination.** This Agreement will become effective on the Effective Date and shall continue in force and effect on an annual renewable basis without further action on the part of either party. The parties agree to review this Agreement annually to

determine if any changes are necessary and to make any changes as shall be mutually agreed upon by OHSU and UO. This Agreement may be terminated by either party upon giving the other party at least twelve months prior written notice of the intent to terminate. Upon notice of termination, each institution will act in good faith during the twelve month period following notice to transition each institution from its participation in the Center. For the purpose of clarity, the institutions agree that neither institution shall be responsible for any financial obligations owed to the other institution under Section VI.a.i or otherwise under this Agreement after the date of termination.

## II. **FACULTY**

- a. **Faculty Membership in the Center.** Faculty from each institution may be named as Members of the Center as set forth in this Agreement. The Center may offer membership to faculty of OHSU and UO, but tenure-related appointments will not be made by or within the Center itself. For purposes of this Agreement, “Members” are faculty who are offered and accept membership to the Center, consistent with the terms of this Agreement, to participate in the programming of the Center, including collaborative research and mentoring of trainees.
- b. **OHSU Faculty.** OHSU will offer the option of membership in the Center to faculty, as determined by OHSU, in OHSU’s Computational Biology and Bioinformatics program areas. Other OHSU faculty with relevant expertise may also be offered membership, as determined by OHSU.
- c. **UO Faculty.** UO will offer membership in the Center to faculty, as determined by UO, from the UO Knight Campus. UO may offer membership to other UO faculty from other academic units affiliated with the UO Presidential Initiative in Data Science and other related fields whose interest align with the mission of the Center.
- d. **Faculty Institutional Home.** Faculty will have an Institutional Home determined by the identity of the hiring institution. Membership in the Center will not be deemed or interpreted as appointment or employment of faculty in any institution other than the Institutional Home.
  - i. *Employment Terms.* All terms and conditions of employment by faculty will be determined by the Institutional Home. Center Members will not be deemed or be inferred as employed with any institution other than the Institutional Home.
  - ii. *Institutional Faculty Governance.* Faculty can only participate in the institutional faculty governance structure of their Institutional Home. For example, OHSU faculty cannot be elected to the UO Faculty Senate and UO faculty cannot be elected to the OHSU Faculty Senate.



- iii. *Faculty Promotion and Tenure.* The policies, procedures and collective bargaining agreements (if applicable) governing a faculty member's review, promotion and tenure, where applicable, will be determined by their Institutional Home.
  - iv. *Faculty Salary and Benefits.* The salary and benefits of Members in the Center will be determined in accordance with the policies, procedures, and collective bargaining agreements (if applicable) of each faculty member's Institutional Home. Research and grant support will be determined separately by each institution using each institution's respective administrative structures, policies and procedures.
  - v. *Institutional Opportunities.* OHSU and UO both offer its faculty access to institutional funding (e.g. travel grants, bridge funding, research seed funding, etc.), benefits and other opportunities. Faculty will be able to seek access to such institutional resources only from their Institutional Home.
- e. **Faculty Recruitment.** Recruitment of new faculty to the Center will be accomplished through a collaborative search with representation from both institutions and from the Center leadership (Center Director and Associate Directors). The Institutional Home of the recruit will be determined based on the source of funding for the position and the Institutional Home will use its own recruiting and hiring criteria, but will develop the position descriptions giving due regard to the goals, objectives, and needs of the Center. The Institutional Home of the recruit will be made clear to the candidates in the position posting, interview process, and offer letter. The hiring process will follow policies and procedures of the Institutional Home. Each institution agrees to use best practices for diversity in faculty searches, including search committee training and national outreach.
- f. **Joint Appointments.** Joint appointments by faculty at each institution are not required to be a Member in the Center. OHSU and UO faculty, irrespective of their Institutional Home, can seek appointments in other academic units at each institution. The processes for seeking and being awarded these additional appointments must follow the policy and procedures of the applicable academic unit and institution. In no event will withdrawal or termination from a joint appointment at a non-Home Institution impact the employee's underlying employment by the Home Institution. Such employment will be subject to the terms and conditions set forth by the Home Institution.

### III. **TRAINEES**

- a. Students and postdoctoral fellows, identified by Center Members, will each be co-mentored by Center Members from both institutions to maximize cross-institutional opportunities and training. Students and postdoctoral fellows will be considered trainees or employees only of the institution in which they are enrolled as a student or appointed as a postdoctoral fellow.
- b. As determined by Center leadership, students and postdoctoral fellows shall be given opportunities to experience relevant research programs of each institutions. UO students

and postdoctoral fellows that visit OHSU will be subject to the policies and procedures of OHSU that apply to other visiting trainees. OHSU students and postdoctoral fellows that visit UO will be subject to the policies and procedures of UO that apply to other visiting trainees.

#### IV. RESEARCH

- a. **Assignment of Lead Institution:** Activity related to securing and managing external funding in the form of grants and contracts relating to research associated with the Center will be managed according to the Institutional Home of the faculty involved. Proposals for external funding from faculty who are Members in the Center will be submitted by, and awarded to the Institutional Home of the designated Principal Investigator (“Recipient Institution”) for an individual project. For purposes of this arrangement, the Principal Investigator (“PI”) is defined as the individual designated as the primary or lead PI/Project Director on the proposal application. Projects involving additional investigators (co-Investigators) whose Institutional Home is not the same as the designated PI will be designed to incorporate a sub-award to the other institution to cover the costs of the work conducted by the faculty, students and other staff whose payroll runs through the other institution.
- b. **Facilities & Administrative Costs:** Each institution will apply its appropriate Facilities and Administration rate to their portion of the project.
- c. **Research Administration Infrastructure:** The OHSU Office of Proposal & Award Management (“OPAM”) will serve as the institutional point of contact (“POC”) and authorized organizational representative (“AOR”) for proposals submitted by and awarded to OHSU as the Recipient Institution. The UO office of Sponsored Projects Services (“SPS”) will serve as the institutional POC and AOR for proposals submitted by and awarded to UO as the Recipient Institution. The leadership of OPAM and SPS will work with the Center Director to maintain an appropriate research administration infrastructure to ensure the sound fiscal management and oversight of grants awarded to Center Members and to ensure ongoing compliance with all federal, state and local regulations, policies and procedures. These offices are responsible for executing sub- award agreements between the institutions
- d. **Research Proposal Submission:** All faculty who are Members of the Center will follow the internal approval processes and systems required by their Home Institution for research proposal submissions.
- e. **Award management:** OHSU and UO will be responsible for monitoring compliance with the terms and conditions of all awards associated with their respective faculty. Each institution will be responsible for the submission of required reports to sponsors and the final close-out of all awards related to their respective faculty. OHSU will be responsible for tracking personnel effort associated with grants and contracts awarded to Center Members with their Institutional Home at OHSU. UO will be responsible for tracking personnel effort

associated with grants and contracts awarded to Center Members with their Institutional Home at UO.

- f. **Research Compliance.** Each institution will be responsible for ensuring appropriate compliance reviews typically conducted by Institutional Review Boards, Institutional Animal Care and Use Committees and Institutional Biosafety Committees when its faculty or employees engage in research requiring compliance review at their respective institution. Center Members will be subject to the regulatory/compliance requirements associated with the institution in which research is being performed; provided, however, that to the extent each institution requires compliance obligations of its researchers or research that can be met by compliance completion at the other institution, it is the desire of each institution, whenever possible and appropriate for the research being conducted, to not require duplicative compliance requirements.
- g. **HIPAA Compliance.** Any research involving Protected Health Information from or at OHSU must comply with the Health Insurance Portability and Accountability Act (“HIPAA”) and as such each institution is responsible, as applicable under HIPAA, to comply with all regulations related thereto. OHSU is not a “business associate,” of UO as that term is defined in 45 C.F.R. §160.103. UO is not a “business associate,” of OHSU as that term is defined in 45 C.F.R. §160.103.

V. **INTELLECTUAL PROPERTY.**

- a. The term “Intellectual Property” or “IP” means any discovery, invention, patent, patent application, copyrightable work, copyright, trademark, service mark, trade secret, process, method, technique, procedure, machine, apparatus, instrumentation, circuit, device, system, data, formula, formulation, composition of matter, chemical, article of manufacture, software, computer program, programming code, database, compilation of information, educational and professional materials, media, know-how, design, model, technological development, biological material, tangible property, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items, whether or not patentable.
- b. **IP owned by OHSU.** All rights, title and interest to any IP that an OHSU employee conceives, develops, creates or reduces to practice which: (a) relates to or arises out of the responsibilities or work by an OHSU employee for OHSU; (b) arises through the use of OHSU time, funds, materials, equipment, personnel, facilities or information; or (c) results from any research, development, or other activities of OHSU, belong exclusively to OHSU (“OHSU IP”). UO agrees that all such OHSU IP will be and remain the sole and exclusive property of OHSU, and that OHSU may assign, license, sell and otherwise use such IP as it deems appropriate.
- c. **IP owned by UO.** All rights, title and interest to any IP that an UO employee conceives, develops, creates or reduces to practice which: (a) relates to or arises out of the responsibilities or work by an UO employee for UO; (b) arises through the use of UO time, funds, materials, equipment, personnel, facilities or information; or (c) results from any

research, development, or other activities of UO, belong exclusively to UO ("UO IP"). OHSU agrees that all such UO IP will be and remain the sole and exclusive property of UO, and that UO may assign, license, sell and otherwise use such IP as it deems appropriate.

- d. **IP jointly owned by OHSU and UO.** All rights, title and interest to any IP that an OHSU employee and UO employee conceives, develops, creates or reduces to practice which: (a) relates to or arises out of the responsibilities or work by an OHSU employee and UO employee for OHSU and UO; or (b) arises through the use of OHSU and UO time, funds, materials, equipment, personnel, facilities or information, belong exclusively to OHSU and UO ("Joint IP"). Inventors shall disclose Joint IP to both institutions. All rights, title and interest to any IP by Center Members who are joint employees of UO and OHSU shall be governed by the Agreement Between OHSU and UO Regarding Ownership of Intellectual Property from Joint Appointees, dated 4/13/2018.
- e. **Commercialization of Joint IP.** In the case of Joint IP, the OHSU Office of Technology Transfer and Business Development and the UO Office of Innovation Partnership Services will consider negotiation of an agreement to: a) govern the patent protection of the Joint IP; b) identify the institution who will, with consultation with the other institution, be responsible for patent prosecution and commercialization of the Joint IP; and c) determine the sharing between the institutions of any expenses and/or proceeds resulting from the patent protection and commercialization of any Joint IP. In general, expenses related to patent prosecution and commercialization will be recouped by the institution making such expenditures before remaining proceeds are divided.
- f. **Determination of Inventorship.** In all cases of potentially patentable IP, inventorship will be determined by United States patent law.
- g. No rights of any kind whatsoever in any OHSU IP, UO IP, Joint IP or other intellectual property are granted or transferred under this Agreement.

## VI. RESOURCES

- a. **Financial Support.** OHSU and UO will each provide programmatic support for the Center. Each institution will be responsible for funding the programmatic elements that are sited at their respective institution. Funds invested by each institution will remain at their respective institution, but may be used to support inter-institutional collaborations in the Center. OHSU and UO agree to support faculty recruitment, endowed positions, collaborative research funding, space, infrastructure and the development of trainees to support the mission of the Center. OHSU and UO each intend to provide one endowed position at their respective institution in support for the Center.
  - i. *Center Director.* Notwithstanding anything to the contrary in this Agreement, OHSU and UO agree to equitably share in the costs of compensation, benefits, and administrative expenses of the Center Director during the period of the Agreement. Beginning on the date of the appointment of the Center Director, OHSU and UO agree to each provide up to \$1 million per year, in equal shares, for a period of five years to

support the salary, research activities and other expenses necessary for the Center Director in support of the Center. To the extent OHSU incurs expenses that are not directly paid by UO (*e.g.* benefits, salaries of necessary OHSU appointed staff), UO will pay OHSU in monthly installments. Upon receipt of invoice from OHSU, UO will reimburse OHSU within 30 days. To the extent UO incurs expenses that are not directly paid by OHSU (*e.g.* benefits, salaries of necessary UO appointed staff), OHSU will pay UO in monthly installments. Upon receipt of invoice from UO, OHSU will reimburse UO within 30 days. The expectation is that overall support provided by the institutions will be equal on a per annum basis. UO and OHSU will meet at least annually to discuss and reach agreement on the financial support necessary from each institution to support the Center Director and Center under this subsection.

- b. **Space.** Each institution agrees to provide space for faculty and trainees that are sited at their respective institutions to support the Center. Each institution agrees to provide space to host visiting faculty and trainees based at the other institution to support the mission of the Center. Each institution agrees to provide adequate space for the Center Director to perform his or her obligations at each institution to support the mission of the Center.
- c. **Visiting Faculty.** Center Members visiting the non-Home Institution will be subject to the policies and procedures of the non-Home Institution that apply to other visiting faculty, scientists and trainees of the non-Home Institution, including policies, procedures, and collective bargaining agreements (if applicable) relating to health, environmental, safety, security and training. Use by either institution, or its employees, of the other institution's space or equipment will be subject to the other institution's rules for access, priority of use, and policies and procedures.
- d. **Computing Infrastructure.** Members of the Center will have the opportunity to access computing environments at both institutions, subject to any third-party contractual limitations and data security requirements. Access to an institution's computing resources will be subject to the policies and procedures of the institution providing access to the computing resources.
- e. **Fundraising.** OHSU and UO will encourage their respective fundraising units (*i.e.* OHSU Foundation and UO Advancement) to work collaboratively to outline how philanthropic support for the Center will be generated and managed.

## VII. MISCELLANEOUS

- a. **Binding Provisions.** The following Sections are intended to be binding on and enforceable by the parties: I.b., I.d, IV.f, IV.g, V, VI.a.i, and VII.
- b. **Compliance with Applicable Law.** The parties agree to comply with all federal, state, county and local laws, ordinances and regulations applicable to this Agreement.

- c. **Publicity.** Press releases, media announcements, and advertising by the parties pertaining to this Agreement and the Center must be mutually approved in writing by the parties prior to release. Neither party shall use the name or identifying characteristics of the other party without the prior written consent of the other party.
- d. **Confidentiality.** Each institution shall safeguard confidential information of the other institution against non-confidential disclosure to third parties with the same degree of care as it exercises with its own confidential information of a similar nature.
- e. **Amendments.** This Agreement may only be amended by mutual consent, reduced to writing, and signed by an authorized representative of each party.
- f. **Dispute Resolution.** The parties agree that they will attempt to resolve any dispute between them arising out or for related to this Agreement at the lowest appropriate level of administration possible. If a dispute continues to be unresolved, the Steering Committee will be advised of the issue and will meet to negotiate an acceptable resolution. If a dispute continues to be unresolved, the Presidents of each institution will be advised of the issue and will negotiate an acceptable resolution. If the dispute remains unresolved after a reasonable period of time, both parties agree that the dispute will be submitted to non-binding mediation. If mediation is held, both parties agree to pay for their respective costs and to split the costs of the mediator. If further legal action is required, both parties agree to pay for their own attorneys' costs.
- g. **Indemnification.** Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitutions Article XI, Section 7, OHSU agrees to be responsible for liability arising out of the negligence of OHSU. OHSU will not be required to indemnify or defend UO for any liability arising out of the wrongful acts of employees or agents of UO. OHSU will have the right to direct the defense of any claim or suit subject to this paragraph, including providing or retaining attorneys.

Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitutions Article XI, Section 7, UO agrees to be responsible for liability arising out of the negligence of UO. UO will not be required to indemnify or defend OHSU for any liability arising out of the wrongful acts of employees or agents of OHSU. UO will have the right to direct the defense of any claim or suit subject to this paragraph, including providing or retaining attorneys.

Each institution agrees to notify the other institution immediately of any incident, occurrence, or event that is likely to result in a claim against either institution related to the Center Director or Center or that relates directly or indirectly to activities or omissions of either institution under the terms of this Agreement. Said notice shall be in writing and directed to the OHSU Department of Risk Management, (3181 SW Sam Jackson Park Road, Mail Code L328, Portland, OR 97239-3092) or to UO's Office of the General Counsel, 219 Johnson Hall, 1226 University of Oregon, Eugene, OR 97403-1226, as applicable.

Each institution agrees to cooperate fully with the other institution in the investigation and defense of third party claims brought against either party and/or any of its directors, officers, employees and agents as a result of the activities under the terms of this Agreement. Such cooperation shall include, but not be limited to, making institution staff available and providing access to pertinent institution records and documentation to allow investigation, evaluation and defense.

- h. **No Third Party Beneficiaries.** This Agreement does not confer any enforceable rights or remedies on any party other than OHSU and UO.
- i. **Execution and Counterparts.** This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute one and the same instrument.
- j. **Severability.** In the event that any provision of this Agreement is rendered invalid or unenforceable by any law or regulation, or declared null and void by any court of competent jurisdiction, that part will be reformed, if possible, to conform to law and if reformation is not possible, that part will be deleted, the remainder of the provisions of this Agreement will, subject to this section, remain in full force and effect.
- k. **Subcontractors.** Neither party will assign or transfer any of its interests or rights nor delegate its obligations under this Agreement, in whole or in part, without the prior written consent of an authorized representative of the other party.
- l. **Waiver.** The failure of either party to enforce any provision of this Agreement will not constitute a waiver by the party of that or any other provision.
- m. **Merger.** This Agreement, including all attachments referenced herein, which are fully incorporated by this reference, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No amendment, consent or waiver of the terms of this Agreement will bind either party unless in writing and signed by authorized representatives of both parties.

IN WITNESS WHEREOF, OHSU and UO have caused this Agreement to be executed by their respective duly authorized representatives.

**OREGON HEALTH & SCIENCE UNIVERSITY**

By: \_\_\_\_\_

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

Name: Danny Jacobs, M.D., M.P.H., F.A.C.S

Title: President

**UNIVERSITY OF OREGON**

By: \_\_\_\_\_

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

Name: Michael H. Schill, J.D.

Title: President and Professor of Law

DRAFT