

**JOINT USE AGREEMENT
BETWEEN
PLAYHOUSE SQUARE FOUNDATION
AND
CLEVELAND STATE UNIVERSITY**

THIS JOINT USE AGREEMENT (“Agreement”) is between PLAYHOUSE SQUARE FOUNDATION, an Ohio non-profit corporation (“PlayhouseSquare Center”) and CLEVELAND STATE UNIVERSITY, an instrumentality of the State of Ohio created and existing under Chapter 3344 of the Ohio Revised Code (“University”).

RECITALS

WHEREAS, the 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 further, whereas PlayhouseSquare Center is a not-for-profit performing arts center that presents and produces a wide variety of performing arts and advances arts education, it is the intention of this Agreement to undertake an educational relationship that will be mutually beneficial to both parties; and

WHEREAS, the Ohio General Assembly passed House Bill Number 562, which appropriates a total sum of Three Hundred Fifty Thousand Dollars (\$350,000.00) (“Funds”) to University to be used by PlayhouseSquare Center for capital expenditures relating to the renovation and expansion of the Allen Theater complex for joint use by University and the Cleveland Playhouse; and

WHEREAS, the State of Ohio capital appropriations released through the Chancellor of the Ohio Board of Regents (“Chancellor”) require compliance with Ohio Administrative Rule 3333-1-03(E), which specifically calls for the execution of a joint use agreement; and

WHEREAS, the University has concluded that the value of the use of PlayhouseSquare Center facilities and resources by the University as provided in this Agreement is reasonably related to the amount of the appropriation, and that the terms of this Agreement are more favorable to the University than to others;

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

1. Use of PlayhouseSquare Center's Facilities and Resources by University. Use of the Allen Theater complex located at 1501 Euclid Avenue, Cleveland, Ohio 44115 (which will include a total of three stages to be built within the Allen Theater complex) by the University's performing arts department, including classes, rehearsals and performances. The University and the Cleveland Playhouse will jointly operate the three theaters in the Allen Theater complex and will have joint programs on site. The University shall be entitled to at least 22 days of use of a theater in the complex annually (valued at approximately \$27,500 based on a per day charge of \$1,250) during the term of this Agreement, although the expectation is that the University will have 161 days of use of a theater in the complex annually during the term of this Agreement, as provided in the attached worksheet. Both the University and the Cleveland Playhouse will enter into additional agreements both among themselves and with PlayhouseSquare Center as the project develops, and each party will make additional payments and contributions to the project for use exceeding 22 days per year, the details of which have not been finalized.

2. Joint Committee. A Joint Committee comprised of PlayhouseSquare Center's representatives and representatives of University's College of Liberal Arts and Social Sciences will develop the details and guidelines for implementation of programs referenced in item (1) above. The Joint Committee shall meet at least annually to review and monitor implementation of the parties' commitments under this Agreement. A written report shall be prepared by the

University's representatives following each meeting, and submitted to each party's board of trustees, and the Chancellor upon request.

3. Annual Reports. Each annual report issued by PlayhouseSquare Center during the term of this Agreement shall (1) include a description of the University-PlayhouseSquare Center relationship created by this Agreement, and (2) mention that the funds were provided via a state appropriation made to the University.

4. Term; Termination Prior to Expiration of Term. The term of this Agreement shall commence as of the date of execution set forth below and shall end twenty (20) years thereafter. If any of the material terms or conditions contained in this Agreement are breached by PlayhouseSquare Center, then University shall have the right to terminate this Agreement upon forty-five (45) days' written notice to PlayhouseSquare Center, provided that PlayhouseSquare Center does not cure the breach within 45-day period.

5. Reimbursement of State upon Termination. In the event that this Agreement is terminated for any reason prior to twenty (20) years from the commencement date, PlayhouseSquare Center 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 by twenty (20) and multiplying that sum by twenty (20) less the number of full years that PlayhouseSquare Center's obligations under this Agreement were fulfilled.

6. Compliance with Laws. PlayhouseSquare Center shall comply with all pertinent federal, state and local laws as well as state administrative regulations, applicable to the use of funds hereunder and to the operation of the Capital Improvement.

7. Funds Used Only for Capital Improvements. The Funds provided under this Agreement shall be used by PlayhouseSquare Center only for capital improvements, including, but not limited to, costs related to renovation and expansion of the Allen Theater at PlayhouseSquare Center (the "Project").

8. Ownership by PlayhouseSquare Center; Insurance. The Allen Theater complex will be owned by PlayhouseSquare Center, and will be fully insured by PlayhouseSquare Center. University will be added as an additional insured.

9. Competitive Bidding. PlayhouseSquare Center, in connection with the expenditure of funds for the Project, shall, to the extent required by law, follow the competitive bidding procedures for educational facilities construction identified in Ohio Revised Code Chapter 153, including, but not limited to, publishing advertisements to seek bids, and awarding contracts to the lowest responsive and responsible bidder.

10. Hold Harmless. PlayhouseSquare Center shall hold the State of Ohio and the University, its officers, trustees and employees harmless from any and all obligations, expenses, liabilities or claims of any kind arising out of the construction, renovation, operation or maintenance of the Project, and/or the University, its officers, trustees or employees being named as a defendant or party to any lawsuit or adjudicatory proceedings, if such lawsuit or adjudicatory proceeding arises out of an action or omission or an alleged action or omission of PlayhouseSquare, its officers, trustees or employees, including, but not limited to PlayhouseSquare's failure or alleged failure to comply with applicable public bidding requirements or any other federal, state or local law, ordinance, rule, order, directive or regulation.

11. Amendments. Any amendments to this Agreement shall be in writing, signed by PlayhouseSquare Center and University, and shall require approval by the Chancellor.

12. Records of University Use. Upon request by the Chancellor and/or the University, PlayhouseSquare Center shall supply the Chancellor and/or the University with all pertinent records, including financial records, which measure the nature and extent of use of PlayhouseSquare Center's facilities by the University, the terms and conditions governing such use and the specific benefits derived by the University under this Agreement.

13. Distribution of Funds; Administrative Costs. Upon execution of this Agreement, University shall submit to the Chancellor a formal request for the release of the Funds. After the release of the Funds, PlayhouseSquare Center shall submit to University requests for payment of amounts along with documentation of contractor invoices or purchase orders related to obligations incurred by PlayhouseSquare Center for permitted uses of the Funds. A tentative disbursement schedule is attached hereto as **Exhibit A**. From the Funds, University shall receive administrative costs actually incurred in an amount not to exceed Five Thousand Two Hundred Fifty Dollars (\$5,250.00), which is equal to one and one-half percent (1½ %) of the total amount of the Funds.

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.

PlayhouseSquare Foundation
1501 Euclid Avenue
Suite 200
Cleveland, Ohio 44115
Attention: Chief Financial Officer

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

With a copy to: General Counsel

Cleveland State University
2121 Euclid Avenue AC327
Cleveland, Ohio 44115

15. Binding Nature. This Agreement shall be binding upon and inure to the benefit of and the University and their respective successors and assigns.

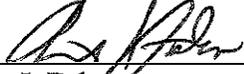
16. Entire Agreement. This Agreement sets forth the entire agreement of the parties hereto relating to the subject matter of this Agreement.

17. Heading. 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.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

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

PLAYHOUSESQUARE FOUNDATION

By: 
Art J. Falco
President and CEO
Date: 3/25/10

CLEVELAND STATE UNIVERSITY

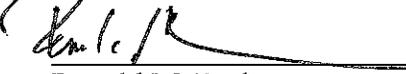
By: 
Ronald M. Berkman
President
Date: 3/09/10

EXHIBIT A

Tentative Disbursement Schedule

<u>Amount</u>	<u>Nature of Expenditure</u>	<u>Date of Disbursement</u>
Up to \$5,250	Administrative Fee to University	April 2010
\$344,750	Reimburse PlayhouseSquare Center for Architectural Fees	April 2010