

MANAGEMENT AGREEMENT
BY AND BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

November 15, 2005

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This MANAGEMENT AGREEMENT, executed this 15th day of November, 2005, by and between the Commonwealth of Virginia (hereafter, the "Commonwealth") and Virginia Polytechnic Institute and State University (hereafter, "Virginia Tech," to be abbreviated as "the University") provides as follows:

RECITALS

WHEREAS Virginia Tech has satisfied the conditions precedent set forth in subsections A and B of § 23-38.97 of the Code of Virginia to become a public institution of higher education of the Commonwealth governed by Subchapter 3 (§ 23-38.91 et seq.) of the Restructured Higher Education Administrative and Financial Operations Act, Chapter 4.10 (§ 23-38.88 et seq.) of Title 23 of the Code of Virginia ("Subchapter 3" and the "Act," respectively), as evidenced by:

1. Board of Visitors Approval. The minutes of a meeting of the Board of Visitors of Virginia Tech held on September 24, 2005, indicate that an absolute two-thirds or more of the members voted to approve the resolution required by subsection A 1 of § 23-38.97 of the Act. True copies of the minutes and resolution are attached hereto as Exhibit A;

2. Written Application to the Governor. Virginia Tech has submitted to the Governor a written Application, dated October 27, 2005, with copies to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health, expressing the sense of its Board of Visitors that Virginia Tech is qualified to be, and should be, governed by Subchapter 3 of the Act, and substantiating that Virginia Tech has fulfilled the requirements of paragraph 2 of

subsection A of § 23-38.97 of the Act. A true copy of this written Application is attached hereto as Exhibit B; and

3. Finding by the Governor. In accordance with subsection B of § 23-38.97 of the Act, the Governor has found that Virginia Tech has fulfilled the requirements of subsection A 2 of § 23-38.97, and therefore has authorized the Cabinet Secretaries whose signatures appear below to enter into this Management Agreement on behalf of the Commonwealth with Virginia Tech; and

WHEREAS, Virginia Tech is therefore authorized to enter into this Management Agreement as provided in subsection D of § 23-38.88 and Subchapter 3 of the Act.

AGREEMENT

NOW THEREFORE, in accordance with the provisions of the Restructured Higher Education Administrative and Financial Operations Act, Chapter 4.10 (§ 23-38.88 et seq.) of Title 23 of the Code of Virginia, and in consideration of the foregoing premises, the Commonwealth and Virginia Tech do now agree as follows:

ARTICLE 1. DEFINITIONS.

As used in this Agreement, the following terms have the following meanings, unless the context requires otherwise:

“Act” means the Restructured Higher Education Administrative and Financial Operations Act, Chapter 4.10 (§ 23-38.88 et seq.) of Title 23 of the Code of Virginia.

“Agreement” means “Management Agreement.”

“Board of Visitors” means the Board of Visitors of Virginia Tech.

“Covered Employee” means any person who is employed by Virginia Tech on either a salaried or wage basis.

“Covered Institution” means, on and after the effective date of its initial management agreement with the Commonwealth, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by and in accordance with the provisions of subsection D of § 23-38.88 and Subchapter 3 of the Act.

“Enabling legislation” means those chapters, other than Chapter 4.10, of Title 23 of the Code of Virginia, as amended, creating, continuing, or otherwise setting forth the powers, purposes, and missions of the individual public institutions of higher education of the Commonwealth.

“Management Agreement” means this agreement between the Commonwealth of Virginia and Virginia Tech as required by subsection D of § 23-38.88 and Subchapter 3 of the Act.

“Parties” means the parties to this Management Agreement, the Commonwealth of Virginia and Virginia Tech.

“Public institution of higher education” means those two-year and four-year institutions enumerated in § 23-14 of the Code of Virginia.

“University” means Virginia Polytechnic Institute and State University, consisting of the University Division (State Agency 208) and Virginia Cooperative Extension and the Agricultural Experiment Station Division (State Agency 229).

ARTICLE 2. SCOPE OF MANAGEMENT AGREEMENT.

SECTION 2.1. Enhanced Authority Granted and Accompanying Accountability.

Subchapter 3 of the Act provides that, upon the execution of, and as of the effective date for, this Management Agreement, Virginia Tech shall become a Covered Institution entitled to be granted by the Commonwealth and to exercise the powers and authority provided in Subchapter 3 of the Act that are expressly contained in this Management Agreement. In general, subject to its management agreement with the Commonwealth, status as a Covered Institution governed by Subchapter 3 of the Act and this Management Agreement is intended to replace (i) the post-General Assembly authorization prior-approval system of reviews, approvals, policies and procedures carried out and implemented by a variety of central State agencies with (ii) a post-audit system of reviews and accountability under which a Covered Institution is fully responsible and fully accountable for managing itself pursuant to Subchapter 3 of the Act and its management agreement with the Commonwealth.

SECTION 2.1.1. Assessments and Accountability. Virginia Tech and its implementation of the enhanced authority granted by Subchapter 3 of the Act and this Management Agreement, and the Board of Visitors policies attached hereto as Exhibits C through H, shall be subject to the reviews, assessments, and audits (i) set forth in the Act that are to be conducted by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, or (ii) as may be conducted periodically by the Secretaries of Finance, Administration, Education, or Technology, or by some combination of these four Secretaries, or (iii) as otherwise may be required by law other than the Act.

SECTION 2.1.2. Express Grant of Powers and Authority. Subject to the specific conditions and limitations contained in Article 4 (Institutional Management), Article 5 (Capital Projects; Procurement; Property Generally), and Article 6 (Human Resources) of Subchapter 3 of the Act, the Commonwealth and Virginia Tech agree that the Commonwealth has expressly granted to Virginia Tech by this Management Agreement all the powers and authority contained in certain policies adopted by the Board of Visitors of Virginia Tech attached hereto as Exhibits C through H and governing (1) the undertaking and implementation of capital projects, and other acquisition and disposition of property (Exhibit C), (2) the leasing of property, including capital leases (Exhibit D), (3) information technology (Exhibit E), (4) the procurement of goods, services, including certain professional services, insurance, and construction (Exhibit F), (5) human resources (Exhibit G), and (6) its system of financial management (Exhibit H), including, as provided in subsection B of § 23-38.104 of the Act, the sole authority to establish tuition, fees, room, board, and other charges consistent with sum sufficient appropriation authority for non-general funds as provided by the Governor and the General Assembly in the Commonwealth's biennial appropriations authorization. Subject to the specific conditions and limitations contained in Article 3 (Powers and Authority Generally) of Subchapter 3 of the Act, in this Management Agreement, and in one or more of the Board of Visitors policies attached hereto as Exhibits C through H, the Commonwealth and Virginia Tech agree that the Commonwealth has expressly granted to Virginia Tech all the powers and authority permitted by Article 3 (Powers and Authority Generally) of Subchapter 3 of the Act.

The Board of Visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this Management Agreement and the policies adopted by it and

attached hereto as Exhibits C through H. Consistent with this full and ultimate accountability, however, the Board may, pursuant to its legally permissible procedures, specifically delegate the duties and responsibilities set forth in this Management Agreement to its officers, committees, and subcommittees, and, as set forth in the policies adopted by the Board and attached hereto as Exhibits C through H, to a person or persons within the University.

SECTION 2.1.3. Reimbursement by Virginia Tech of Certain Costs.

Pursuant to subsection D 2 c of § 23-38.88 of the Act, Virginia Tech agrees to reimburse the Commonwealth an amount mutually agreed upon with the Commonwealth for any additional costs to the Commonwealth in providing health or other group insurance benefits to employees, and in undertaking any risk management program, that are attributable to Virginia Tech's exercise of any restructured financial or operational authority set forth in Subchapter 3 of the Act and included in this Management Agreement or the policies adopted by its Board of Visitors and attached hereto as Exhibits C through H.

SECTION 2.1.4. Potential Impact on Virginia College Savings Plan.

As required by subsection D 2 c of § 23-38.88 of the Act, Virginia Tech has given consideration to potential future impacts of tuition increases on the Virginia College Savings Plan (§ 23-38.75 of the Code of Virginia) and has discussed those potential impacts with the Executive Director and staff of that Plan and with parties in the Administration who participated in the development of this Management Agreement. The Executive Director of the Plan has provided to Virginia Tech and the Commonwealth the Plan's assumptions underlying the contract pricing of the program.

SECTION 2.1.5. Justification for Deviations from the Virginia Public Procurement Act. Pursuant to § 23-38.110 of the Act and subject to the provisions of this

Management Agreement, Virginia Tech may be exempt from the provisions of the Virginia Public Procurement Act ("VPPA"), Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia. Any procurement policies or rules that deviate from the VPPA must be uniform across all institutions governed by Subchapter 3 of the Act, and the Board of Visitors shall adopt and comply with procurement policies that are based upon competitive principles and seek competition to the maximum practical degree. The Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials and the Rules Governing Procurement of Goods, Services, Insurance, and Construction (the "Procurement Rules") attached to that Policy as Attachment 1 constitute the policies and uniform deviations from the VPPA required by subsections A and B of § 23-38.110 of the Act.

Subsection D of § 23-38.110 of the Act requires that Virginia Tech identify the public, educational, and operational interests served by any procurement rule or rules that deviate from those in the VPPA. The adopted Board of Visitors policy on procurement and the Procurement Rules provide Virginia Tech with the autonomy to administer its procurement process while fully adhering to the principle that competition should be sought to the maximum extent feasible. This autonomy will better position Virginia Tech to support the requirements of its growing teaching, research and outreach missions. Greater autonomy in procurement will improve internal capacity to respond quickly to emergent material and service issues and, therefore, enable Virginia Tech to be more efficient and effective in meeting the Commonwealth's goals for institutions of higher education. In some instances, costs will be reduced. Taken collectively, Virginia Tech's procurement policies and rules that differ from those required by the VPPA will enhance procurement "best practices" as they currently are being observed within

the higher education community nationally. Further, these changes will provide efficiencies to both Virginia Tech and public sector suppliers.

SECTION 2.1.6. Quantification of Cost Savings. Subsection C of § 23-38.104 of the Act requires that a Covered Institution include in its management agreement with the Commonwealth the quantification of cost savings realized as a result of the additional operational flexibility provided pursuant to Subchapter 3 of the Act. Since this initial Management Agreement with the Commonwealth has not yet been implemented by Virginia Tech, the parties agree that Virginia Tech is not in a position to quantify any such cost savings at this time, although Virginia Tech expects that there will be cost savings resulting from the additional authority granted to Virginia Tech pursuant to Subchapter 3 of the Act and that such cost savings will be part of the determinations made during the reviews, assessments, and audits to be conducted pursuant to Subchapter 3 of the Act by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, and as otherwise described in Section 2.1.1 above.

SECTION 2.1.7. Participation in State Programs. The Commonwealth intends that Virginia Tech shall continue to fully participate in, and receive funding support from the many and varied programs established now or in the future by the Commonwealth to provide support for Virginia's public institutions of higher education and for Virginians attending such institutions, including but not limited to: the state capital outlay and bond financing initiatives undertaken from time to time by the Commonwealth; the Higher Education Equipment Trust Fund established pursuant to § 23-30.24 et seq. of the Code of Virginia; the Maintenance Reserve Fund as provided in the Appropriation Act; the Eminent Scholars program as provided in the Appropriation Act; the Commonwealth's various student financial assistance programs; and other statewide programs or

initiatives that exist, or may be established, in support of the Commonwealth's higher education institutions, programs, or activities.

SECTION 2.1.8. Implied Authority. Pursuant to subsection D 1 of § 23-38.88 of the Act, the only implied authority granted to Virginia Tech by this Management Agreement is that implied authority that is actually necessary to carry out the expressed grant of financial or operational authority contained in this Agreement or in the policies adopted by Virginia Tech's Board of Visitors and attached hereto as Exhibits C through H.

SECTION 2.1.9. Exercise of Authority. Virginia Tech and the Commonwealth acknowledge and agree that the execution of this Management Agreement constitutes the conclusion of a process that, as of the effective date of this Agreement, confers upon Virginia Tech the enhanced authority and operating flexibility described above, all of which is in furtherance of the purposes of Subchapter 3 of the Act. Therefore, without any further conditions or requirements, Virginia Tech shall, on and after the effective date of this Management Agreement, be authorized to exercise the authority conferred upon it by this Management Agreement and the policies adopted by its Board of Visitors attached hereto as Exhibits C through H, and by Article 3 (Powers and Authority Generally) of Subchapter 3 of the Act except to the extent that the powers and authority contained in Article 3 of Subchapter 3 of the Act have been limited by this Management Agreement or the Board of Visitors policies attached hereto as Exhibits C through H.

Virginia Tech and the Commonwealth also acknowledge and agree that, pursuant to subsection A of § 23-38.91 of the Act and consistent with the terms of this Management Agreement, the Board of Visitors of Virginia Tech shall assume full responsibility for

management of Virginia Tech, subject to the requirements and conditions set forth in Subchapter 3 of the Act, the general requirements for this Management Agreement as provided in § 23-38.88 of the Act, and this Management Agreement. The Board of Visitors shall be fully accountable for (a) the management of Virginia Tech as provided in the Act, (b) meeting the requirements of §§ 2.2-5004, 23-9.2:3.02, and 23-9.6:1.01 of the Code of Virginia, and (c) meeting such other provisions as are set forth in this Management Agreement.

SECTION 2.2. State Goals.

SECTION 2.2.1. Furthering State Goals. As required for all public institutions of higher education of the Commonwealth by subsection B of § 23-38.88, prior to August 1, 2005, the Board of Visitors of Virginia Tech adopted the resolution attached hereto as Exhibit I setting forth its commitment to the Governor and the General Assembly to meet the State goals specified in that subsection B.

In addition to the above commitments, the University commits to furthering these State goals by:

1. In addition to its six-year target of achieving \$ 227 in external research by 2011-12 [which is the last year of the six-year plan], the University commits to match from institutional funds, on a dollar for dollar basis, any additional research funds provided by the State in the Appropriation Act above the amount provided from institutional funds for research in 2005-06.

2. In a concerted effort to provide educational opportunities to Virginia students attending institutions in the Virginia Community College System ("VCCS") and Richard Bland College, the University commits to work with the University of Virginia and the College of William and Mary in

Virginia to establish a program under which these three institutions will increase significantly the number of such students transferring to their institutions. Specifically, pursuant to this program, the University, the University of Virginia and the College of William and Mary in Virginia collectively commit to enroll as transfer students from VCCS institutions and Richard Bland College (i) by the 2007-08 fiscal year, not less than approximately 300 new such transfer students each year over the number enrolled in 2004-05, for a total of 900 such transfer students each year, and (ii) by the end of the decade, not less than approximately 650 new such transfer students each year over the number enrolled in 2004-05, for a total of 1,250 such transfer students each year. The three institutions have agreed that they will mutually determine how to divide the responsibility for these additional transfer students equitably among themselves.

3. As an institutional priority and obligation, the University commits to the Governor and General Assembly to work meaningfully and visibly with an economically distressed region or local area of the Commonwealth, not smaller in size than a city or county, which lags behind the Commonwealth in education, income, employment, and other factors. The University commits to establish a formal partnership with that area to develop jointly a specific action plan that builds on the University's programmatic strengths and uses the University's faculty, staff and, where appropriate, student expertise to stimulate economic development in the area to make the area more economically viable, and to improve student achievement and teacher and administrator skill sets in a school division in that area. The University shall submit the action plan to the Governor and General Assembly by no later than December 31, 2006, and shall report to the Governor and General Assembly by September 1 of each year on its progress in implementing the action plan during the prior fiscal year.

SECTION 2.2.2. Student Enrollment, Tuition, and Financial Aid. As required by § 23-9.2:3.02 of the Code of Virginia, Virginia Tech, along with all other public institutions of higher education of the Commonwealth, has developed and submitted to the State Council of Higher Education for Virginia ("SCHEV") by October 1, 2005, an institution-specific Six-Year Plan addressing Virginia Tech's academic, financial, and enrollment plans for the six-year period of fiscal years 2006-07 through 2011-12. Subsection A of § 23-9.2:3.02 requires Virginia Tech to update this Six-Year Plan by October 1 of each odd-numbered year. Subsection B of § 23-38.97 of the Act requires that a management agreement address, among other issues, such matters as Virginia Tech's in-state undergraduate student enrollment, its financial aid requirements and capabilities, and its tuition policy for in-state undergraduate students. These matters are addressed below and in Virginia Tech's Six-Year Plan submitted to SCHEV, and the parties therefore agree that Virginia Tech's Six-Year Plan and the description below meet the requirement of subsection B of § 23-38.97 of the Act.

Subsection B of § 23-38.104 of the Act requires the Board of Visitors of Virginia Tech to include in this Management Agreement Virginia Tech's commitment to provide need-based grant aid for middle- and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees. Virginia Tech's commitment in this regard is clear. Virginia Tech recognizes that the cost of higher education as a percentage of family income has increased steadily in recent years for low and moderate income families. Since the University anticipates further increases in tuition and fees during the six year period of 2006-2012, the University developed its Funds for the Future program to increase institutional funds and other fund sources to moderate the impact of future

tuition and fees increases for Virginia undergraduates from families with adjusted gross income of \$100,000 or less, as determined by federal financial aid regulations.

The Funds for the Future program works on a sliding scale of family responsibility for coverage of tuition and fees. For example, students with a family adjusted gross income of \$30,000 or less (approximately 150 percent of the poverty level for a family of four) will receive incremental grant aid sufficient to completely offset any increase in their tuition and mandatory fees during their four years of enrollment at Virginia Tech. For students with family adjusted gross income of \$30,001 to \$99,999, the University will provide varying levels of financial aid awards to reduce the impact of tuition and fee increases.

Virginia Tech serves a large number of students with financial need. Based on 2003-04 enrollment data, the University estimates that for the 2006-07 academic year approximately 5,636 students, representing over 36 percent of the Virginia undergraduate student body, will receive incremental benefits under the Funds for the Future program. The institution will draw upon the full range of available resources to increase grant aid to these students and has established very aggressive goals for its institutional and private funds resources to create and sustain this program. As such, the University program is also based on the commitment of additional state General Fund support, consistent with the levels identified in its Six-Year Financial Plan; these amounts are based upon SCHEV calculations for incremental General Fund appropriations. Consistent with the current financial aid environment, the University also anticipates that existing federal, state, and University loan programs will be available, as needed, to assist students in addressing their annual costs of education not addressed by existing grant aid programs, the Funds for the Future program, or other available resources.

The Commonwealth and Virginia Tech agree that this commitment meets the requirements of subsection B of § 23-38.104 of the Act.

SECTION 2.3. Authority Granted to Virginia Cooperative Extension and the Agriculture Experiment Station Division. Virginia Cooperative Extension and the Agriculture Experiment Station Division shall receive the benefits of the additional financial and operational authority granted by this Management Agreement as it and the policies adopted by the Board of Visitors attached as Exhibits C through H are implemented by Virginia Tech on behalf of Virginia Cooperative Extension and the Agriculture Experiment Station Division, but Virginia Cooperative Extension and the Agriculture Experiment Station Division shall not receive any additional independent financial or operational authority as a result of this Management Agreement or the attached Board of Visitors policies beyond the independent financial and operational authority that it had prior to the effective date of this Management Agreement or that it may be granted by law in the future.

SECTION 2.4. Other Law. As provided in subsection B of § 23-38.91 of the Act, Virginia Tech shall be governed and administered in the manner provided not only in this Management Agreement, but also as provided in the Appropriation Act then in effect and Virginia Tech's Enabling Legislation.

SECTION 2.4.1. The Appropriation Act. The Commonwealth and Virginia Tech agree that, pursuant to the current terms of the Act and the terms of § 4-11.00 of the 2004-06 Appropriation Act, if there is a conflict between the provisions of the Appropriation Act and the provisions of Subchapter 3 of the Act, or this Management Agreement, or the Board of Visitors policies attached to this Management Agreement as Exhibits C through H, the

provisions of the Appropriation Act shall control, and shall continue to control unless provided otherwise by law.

SECTION 2.4.2. Virginia Tech's Enabling Legislation. As provided in subsection C of § 23-38.91 of the Act, in the event of a conflict between any provision of Subchapter 3 of this Act and Virginia Tech's Enabling Legislation, the Enabling Legislation shall control.

SECTION 2.4.3. Title 2.2 of the Code of Virginia. As provided in subsection B of § 23-38.92 of the Act, except as specifically made inapplicable under Subchapter 3 of the Act and the express terms of this Management Agreement, the provisions of Title 2.2 relating generally to the operation, management, supervision, regulation, and control of public institutions of higher education shall be applicable to Virginia Tech as provided by the express terms of this Management Agreement. As further provided in subsection C of § 23-38.92 of the Act, in the event of conflict between any provision of Title 2.2 and any provision of Subchapter 3 of the Act as expressed in this Management Agreement, the provisions of this Management Agreement shall control.

SECTION 2.4.4. Educational Policies of the Commonwealth. As provided in subsection A of § 23-38.93 of the Act, for purposes of §§ 2.2-5004, 23-1.01, 23-1.1, 23-2, 23-2.1, 23-2.1:1, 23-3, 23-4.2, 23-4.3, 23-4.4, 23-7.1:02, 23-7.4, 23-7.4:1, 23-7.4:2, 23-7.4:3, 23-7.5, 23-8.2:1, 23-9.1, 23-9.2, 23-9.2:3, 23-9.2:3.02, 23-9.2:3.1 through 23-9.2:5, 23-9.6:1.01, and Chapter 4.9 (§ 23-38.75 et seq.) of the Code of Virginia, Virginia Tech shall remain a public institution of higher education of the Commonwealth following the effective date of this Management Agreement, and shall retain the authority granted and any obligations required by

such provisions, unless and until provided otherwise by law other than the Act. In addition, Virginia Tech shall retain the authority, and any obligations related to the exercise of such authority, that is granted to institutions of higher education pursuant to Chapter 1.1 (§ 23-9.3 et seq.), Chapter 3 (§ 23-14 et seq.), Chapter 3.2 (§ 23-30.23 et seq.), Chapter 3.3 (§ 23-30.39 et seq.), Chapter 4 (§ 23-31 et seq.), Chapter 4.01 (§ 23-38.10:2 et seq.), Chapter 4.1 (§ 23-38.11 et seq.), Chapter 4.4 (§ 23-38.45 et seq.), Chapter 4.4:1 (§ 23-38.53:1 et seq.), Chapter 4.4:2 (§ 23-38.53:4 et seq.), Chapter 4.4:3 (§ 23-38.53:11), Chapter 4.4:4 (§ 23-38.53:12 et seq.), Chapter 4.5 (§ 23-38.54 et seq.), Chapter 4.7 (§ 23-38.70 et seq.), Chapter 4.8 (§ 23-38.72 et seq.), and Chapter 4.9 (§ 23-38.75 et seq.), unless and until provided otherwise by law other than the Act.

SECTION 2.4.5. Public Access to Information. As provided in § 23-38.95 of the Act, Virginia Tech shall continue to be subject to § 2.2-4342 and to the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, but shall be entitled to conduct business pursuant to § 2.2-3709 and, in all cases, may conduct business as a “state public body” for purposes of subsection B of § 2.2-3708.

SECTION 2.4.6. Conflicts of Interests. As provided in § 23-38.96 of the Act, the provisions of the State and Local Government Conflict of Interests Act, Chapter 32 (§ 2.2-3100 et seq.) that are applicable to officers and employees of a state governmental agency shall continue to apply to the members of the Board of Visitors of Virginia Tech and to its Covered Employees.

SECTION 2.4.7. Other Provisions of the Code of Virginia. Other than as specified above, any other powers and authorities granted to Virginia Tech pursuant to any other

sections of the Code of Virginia, including other provisions of the Act, are not affected by this Management Agreement or the Board policies attached hereto as Exhibits C through H.

ARTICLE 3. AMENDMENTS TO, AND RIGHT AND POWER TO VOID OR REVOKE, MANAGEMENT AGREEMENT.

SECTION 3.1. Amendments. Any substantial and material change to or deviation from this Management Agreement or the Board of Visitors policies attached hereto as Exhibits C through H shall require the execution by the parties of an amendment to this Management Agreement or a new Management Agreement pursuant to the provisions of subsection D of § 23-38.88 and may lead to the Governor declaring this Management Agreement to be void pursuant to subsection D 4 of § 23-38.88 of the Act.

SECTION 3.2. Right and Power to Void, Revoke, or Reinstate Management Agreement.

SECTION 3.2.1. Governor. Pursuant to subsection D 4 of § 23-38.88, and § 23-38.98, of the Act, if the Governor makes a written determination that Virginia Tech is not in substantial compliance with the terms of this Management Agreement or with the requirements of the Act in general, (i) the Governor shall provide a copy of that written determination to the Rector of the Board of Visitors of Virginia Tech and to the members of the General Assembly, and (ii) Virginia Tech shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of this Management Agreement and with the requirements of the Act, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If after a reasonable period of time after the corrective action plan has been implemented by Virginia Tech, the Governor determines that the institution is not yet in substantial compliance with this

Management Agreement or the requirements of the Act, the Governor may void this Management Agreement. Upon the Governor voiding this Management Agreement, Virginia Tech shall no longer be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Subchapter 3 of the Act unless and until Virginia Tech has entered into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the voided Management Agreement is reinstated by the General Assembly.

SECTION 3.2.2. General Assembly. As provided in subsection D 4 of § 23-38.88 of the Act, the General Assembly may reinstate a Management Agreement declared void by the Governor. Pursuant to § 23-38.98 of the Act, Virginia Tech's status as a Covered Institution governed by Subchapter 3 of the Act may be revoked by an act of the General Assembly (i) if Virginia Tech fails to meet the requirements of Subchapter 3 of the Act, or (ii) if Virginia Tech fails to meet the requirements of this Management Agreement.

ARTICLE 4. GENERAL PROVISIONS.

SECTION 4.1. No Third-Party Beneficiary Status. Nothing in this Agreement, express or implied, shall be construed as conferring any third-party beneficiary status on any person or entity.

SECTION 4.2. Sovereign Immunity. Pursuant to subsection E of § 23-38.88 of the Act, Virginia Tech and the members of its Board of Visitors, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if Virginia Tech were not governed by the Act; provided that the Virginia Tort Claims Act, § 8.01-195.1 et seq. of the Code of Virginia, and its limitations on recoveries shall remain applicable with respect to Virginia Tech.


SECTION 4.3. Term of Agreement; Authority to Renew. This Management Agreement shall remain in effect for a period of three years from its effective date. Pursuant to subsection D 3 of § 23-38.88 of the Act, the Commonwealth and Virginia Tech may by mutual agreement renew this Agreement for successive five-year periods, or may enter into a new management agreement. If after its initial three-year term, or a successive five-year term if it is renewed by the parties, this Management Agreement is not renewed or a new agreement executed prior to the expiration of the three-year or five-year term, as applicable, this Management Agreement shall remain in effect on a provisional basis for a period of one year. If, after the expiration of the provisional one-year period, this Management Agreement has not been renewed or a new agreement executed, Virginia Tech shall no longer be granted any of the financial or operational authority set forth in Subchapter 3 of the Act, unless and until such time as a new management agreement is entered into between Virginia Tech and the Commonwealth.

WHEREFORE, the foregoing Management Agreement has been executed by the undersigned as of this 15th day of November, 2005, and shall become effective on the effective date of the Appropriation Act or amendments to an Appropriation Act enacted by the General Assembly containing a recommendation for its approval.


[END OF PAGE]

COMMONWEALTH OF VIRGINIA


By


John M. Bennett
Secretary of Finance


By


Sandra D. Bowen
Secretary of Administration

By



Peter A. Blake
Secretary of Education

By


Eugene J. Huang
Secretary of Technology

Virginia Tech

By


Charles W. Steger
President