PROCUREMENT AUTHORITY

MEMORANDUM OF UNDERSTANDING

BETWEEN

RADFORD UNIVERSITY

AND

THE COMMONWEALTH OF VIRGINIA

Background

The General Assembly of Virginia enacted at its 2008 Session, and the Governor approved, Chapters 824 and 829 of the 2008 Acts of Assembly of Virginia ("Chapters 824 and 829"), two identical acts that amended and reenacted § 23-38.90 of the Code of Virginia and enable certain operational authority to be granted to certain public institutions of higher education in Virginia in the functional areas of information technology, procurement, and capital projects excluding leases of real property. Specifically, §1.0 of the second enactment clause of Chapters 824 and 829 provides that "any public institution of higher education in Virginia may be granted additional operational authority in a minimum of two, but not all three of the following functional areas: information technology ..., procurement ..., and capital projects excluding leases of real property ..." For each functional area ... such institution shall be required to enter into a separate and distinct memorandum of understanding with the appropriate Cabinet Secretary or Secretaries, as designated by the Governor, in order to exercise any such operational authority." Radford University (the "University") having satisfied both the general and functional criteria required by the second enactment clause of Chapters 824 and 829 selected information technology and procurement as the most advantageous functional areas for which to request and be granted additional operational authority. On July 6, 2009, the University and the Commonwealth of Virginia entered into original memoranda of understanding with the appropriate Cabinet Secretary or Secretaries, as designated by the Governor, granting appropriate operational authority, for the functional areas of information technology and procurement. The term of the original memoranda of understanding was three years from date signed and hence shall expire July 5, 2012.

Continuation of Prior Memoranda

As set forth herein, the University and the Commonwealth intend to and hereby do enter into these subsequent memoranda of understanding, confirming the continuation without interruption of all operational authority originally granted by the previous agreement in the operational areas of information technology and procurement. The University is in substantial compliance with the terms of the initial agreement and with the requirements of Chapters 824 and 829.

Grant and Exercise of Authority

This Memorandum of Understanding ("MOU") renews and grants to the University the additional operational authority authorized by § 3.0 of the second enactment clause of Chapters 824 and 829 for the functional area of procurement. The University agrees to exercise this procurement authority as granted by this MOU and set forth in § 3.0 of the second enactment clause of Chapters 824 and 829, the "Rules Governing Procurement of Goods, Services, Insurance and Construction by a Public Institution of Higher
Education of the Commonwealth of Virginia” contained in Attachment 1 to § 3.0 of the second enactment clause of Chapters 824 and 829, and its small, women and minority-owned business (“SWaM”) plan adopted by its Board of Visitors on June 11, 2009, and approved by the Secretary of Administration.

**University Personnel Responsible for Implementation**

With the understanding that it is at all times fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of the procurement authority detailed in § 3.0 of the second enactment clause of Chapters 824 and 829, the University’s Board of Visitors has, by its legally permissible procedures, adopted a Board Resolution specifically delegating the duties and responsibilities set forth in § 3.0 of the second enactment clause of Chapters 824 and 829 to the President of the University, and, while continuing to be fully accountable for such duties and responsibilities, the President is authorized to further delegate the implementation of those duties and responsibilities pursuant to the University’s usual delegation policies and procedures.

**General Criteria Satisfied**

The University hereby certifies that all general criteria originally satisfied in the original memorandum of understanding dated July 6, 2009 is still in good standing and where applicable shall continue to be so for the term of this subsequent memorandum of understanding.

- The University received certification pursuant to § 23-9.6:1.01 of the Code of Virginia from the State Council of Higher Education for Virginia (“SCHEV”) on June 8, 2009 for the most recent fiscal year (2007-08) for which SCHEV has completed certification, and has maintained, and shall continue to maintain, that certification.

  The University received certification pursuant to § 23-9.6:1.01 of the Code of Virginia from the State Council of Higher Education for Virginia (“SCHEV”) during 2011-12, for the most recent fiscal year (2010-11) for which SCHEV has completed certification, and has maintained, and shall continue to maintain, that certification.

- The University’s Board of Visitors has by at least two-thirds vote in the affirmative approved a Resolution expressing that the University is qualified to be, and should be, governed by separate MOU’s for information technology and procurement authority.

- In consultation with the Secretary of Administration, the Secretary of Finance, the Secretary of Education, the Secretary of Technology and SCHEV, the University has developed and adopted two new education-related measures and targets for those measures. SCHEV approved these two new education-related measures and their respective targets at its May 12, 2009 meeting.

**Functional Criteria for Procurement Satisfied**

The University hereby certifies that all functional criteria originally satisfied in the original memorandum of understanding dated July 6, 2009 is still in good standing and where applicable shall continue to be so for the term of this subsequent memorandum of understanding.
The University has decentralized procurement authority delegated it by the Department of General Services pursuant to Chapter 11 (§2.2-1100 et seq.) of Title 2.2 of the Code of Virginia.

The University is in full compliance with the requirements of the Virginia Public Procurement Act, Chapter 43, (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia.

The University remains in compliance with the requirement of the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia. As part of the Level II authority requirements, the University has adopted the Rules Governing Procurement of Goods, Services, Insurance and Construction by a Public Institution of Higher Education of the Commonwealth of Virginia.

The University has adopted the “Rules Governing Procurement of Goods, Services, Insurance and Construction by a Public Institution of Higher Education of the Commonwealth of Virginia” contained in Attachment 1.0 to §3.0 of the second enacted clause of Chapters 824 and 829 to govern the University’s procurement of goods, services and insurance.

The University’s Chief Procurement Officer and all other current buyers have and shall maintain the Virginia Contracting Officer (“VCO”) certification. Any new buyers hired will attain certification within two years of hiring.

The Department of General Services has issued a written exemption, dated October 21, 2011, allowing all Higher Education Institutions who have entered into a Memorandum of Understanding to be exempt from the requirement that the University’s Chief Procurement Officer and buyers maintain their Virginia Contracting Officer (VCO) as well as the requirement that newly hired buyers obtain their VCO within two years of hire. Higher Education Institutions who have adopted the “Rules Governing Procurement of Goods, Services, Insurance and Construction” (Rules) were granted this exemption.

The University’s 2009-10 small, women, and minority-owned business ("SWaM") plan goals and its aspirational SWaM plan goals for 2010-11 and 2011-12 were adopted by its Board of Visitors and on June 11, 2009, and have been approved and certified by the Secretary of Administration.

The University’s current year SWaM plan was adopted by its Board of Visitors on June 11, 2009 and has been approved and certified by the Secretary of Administration.

As its implementing policies and procedures for the procurement authority granted by this MOU, the University will continue to use (i) the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors (the “Manual”), other than those provisions of the Manual requiring state agency review or approval for procurements covered by Chapters 824 and 829, including by the Department of General Services and its Division of Purchase and Supplies, and (ii) the University’s internal procurement policies and procedures to implement the Rules and the Manual.
Termination of MOU

The Governor shall have the right and power to void this MOU as provided herein. If the Governor makes a written determination that the University is not in substantial compliance with the terms of this MOU or with the requirements of Chapter 824 and 829, (i) the Governor shall provide a copy of that written determination to the Rector of the Board of Visitors of the University and to the members of the General Assembly, and (ii) the University 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 MOU and with the requirements of Chapters 824 and 829, as soon as practical, 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 the University, the Governor determines that the University is not yet in substantial compliance with this MOU or the requirements of Chapter 824 and 829, the Governor may void this MOU. Upon the Governor voiding this MOU, the University shall not be allowed to exercise any authority pursuant to Chapter 824 and 829 unless and until the University enters into a subsequent MOU with the Secretary or Secretaries designated by the Governor or the void MOU is reinstated by the General Assembly.

Effective Date and Term of MOU and Future Renewals

This MOU shall become effective on the date of the latest signature below and shall remain in effect until June 30, 2017. If the University remains in substantial compliance with the terms of the agreement and the Governor has not exercised his right and power to terminate this MOU as provided herein, the agreement shall automatically renew for additional five year terms.

*** END OF PAGE ***
Agreed to by Radford University:

Penelope W. Kyle
President
Date: December 6, 2011

Agreed to by the Commonwealth of Virginia:

For the Secretary of Administration:
By: 
Title: 
Date: 1/8/12

For the Secretary of Education:
By: 
Title: Secretary of Education
Date: 1/8/12

For the Secretary of Finance:
By: 
Title: 
Date: 

*This MOU shall be effective upon the Board of Visitors adopting a resolution pursuant to §23-38.90 of the Code of Virginia accepting the operational authority in the renewal of this 2012 MOU.*
INFORMATION TECHNOLOGY AUTHORITY

MEMORANDUM OF UNDERSTANDING

BETWEEN

RADFORD UNIVERSITY

AND

THE COMMONWEALTH OF VIRGINIA

Background

The General Assembly of Virginia enacted at its 2008 Session, and the Governor approved, Chapters 824 and 829 of the 2008 Acts of Assembly of Virginia ("Chapters 824 and 829"), two identical acts that amended and recodified § 23-38.90 of the Code of Virginia and enable certain operational authority to be granted to certain public institutions of higher education in Virginia in the functional areas of information technology, procurement, and capital projects excluding leases of real property. Specifically, § 1.0 of the second enactment clause of Chapters 824 and 829 provides that "any public institution of higher education in Virginia may be granted additional operational authority in a minimum of two, but not all three of the following areas: information technology ...; procurement ...; and capital projects excluding leases of real property ... . For each functional area ... such institution shall be required to enter into a separate and distinct memorandum of understanding with the appropriate Cabinet Secretary or Secretaries, as designated by the Governor, in order to exercise any such operational authority." Radford University ("the University") having satisfied both the general and functional criteria required by the second enactment clause of Chapters 824 and 829 selected information technology and procurement as the most advantageous financial areas for which to request and be granted additional operational authority. On July 6, 2009, the University and the Commonwealth of Virginia entered into original memoranda of understanding with the appropriate Cabinet Secretary or Secretaries, as designated by the Governor, granting appropriate operational authority, for the functional areas of information technology and procurement. The term of the original memoranda of understanding was three years from date signed and hence shall expire July 5, 2012.

Continuation of Prior Memoranda

As set forth herein, the University and the Commonwealth intend to and hereby do enter into these subsequent memoranda of understanding, confirm the continuation without interruption of all operational authority original granted by the previous agreement in the operational areas of procurement and information technology. The University is in substantial compliance with the terms of the initial MOU and with the requirements of Chapters 824 and 829.

Grant and Exercise of Authority

This Memorandum of Understanding ("MOU") renews and grants to the University the additional operational authority authorized by § 2.0 of the second enactment clause of Chapters 824 and 829 for the functional area of information technology. The University agrees to exercise this information technology authority as granted by this MOU and set forth in § 2.0 of the second enactment clause of Chapters 824 and 829.
University Personnel Responsible for Implementation

With the understanding that it is at all times fully and ultimately accountable for proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, the information technology authority detailed in § 2.0 of the second enactment clause of Chapters 824 and 829, the University's Board of Visitors has, by its legally permissible procedures, adopted a Board Resolution specifically delegating the duties and responsibilities set forth in § 2.0 of the second enactment clause of Chapters 824 and 829 to the President of the University, and, while continuing to be fully accountable for such duties and responsibilities, the President is authorized to further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

General Criteria Satisfied

The University hereby certifies that all general criteria originally satisfied in the original memorandum of understanding dated July 6, 2009 is still in good standing and where applicable shall continue to be so for the term of this subsequent memorandum of understanding.

- The University received certification pursuant to § 23-9.6:1.01 of the Code of Virginia from the State Council of Higher Education for Virginia ("SCHEV") on June 8, 2009 for the most recent fiscal year (2007-08) for which SCHEV has completed certification, and has maintained, and shall continue to maintain, that certification.

The University received certification pursuant to § 23-9.6:1.01 of the Code of Virginia from the State Council of Higher Education for Virginia ("SCHEV") during 2011-12 for the most recent fiscal year (2010-11) for which SCHEV has completed certification, and has maintained, and shall continue to maintain, that certification.

- The University's Board of Visitors has by at least a two-thirds vote in the affirmative approved a Resolution expressing that the University is qualified to be, and should be, governed by separate MOUs for information technology and procurement authority.

- In consultation with the Secretary of Administration, the Secretary of Finance, the Secretary of Education, the Secretary of Technology, and SCHEV, the University has developed and adopted two new education-related measures and targets for those measures. SCHEV approved these two new education-related measures and their respective targets at its May 12, 2009 meeting.

Functional Criteria for Information Technology Satisfied

The University hereby certifies that all functional criteria originally satisfied in the original memorandum of understanding dated July 6, 2009 is still in good standing and where applicable shall continue to be so for the term of this subsequent memorandum of understanding.

- The University is a member of the Virginia Association of State College and University Purchasing Professionals ("VASCUPP"), was a member as of July 1, 2003, and has implemented
at least one of the following major information technology systems in the last decade: a financial system, a human resources system, or a student information system.

- The University has a chief information officer who reports to the President or to a position of no more than one level below the President.

- The University has developed and its Board of Visitors has adopted an information technology strategic plan and information technology policies, standards, and guidelines governing project management, infrastructure, architecture, ongoing operations, and security, and project auditing.

- The University has at least one information technology project manager on staff who has met the Commonwealth’s project management qualification requirements for major projects and has passed both the core and facilitation processes qualification examinations.

**Termination of the MOU**

The Governor shall have the right and power to void this MOU as provided herein. If the Governor makes a written determination that the University is not in substantial compliance with the terms of this MOU or with the requirements of Chapters 824 and 819, (i) the Governor shall provide a copy of that written determination to the Rector of the Board of Visitors of the University and to the members of the General Assembly, and (ii) the University 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 MOU and with the requirements of Chapters 824 and 829, 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 the University, the Governor determines that the University is not yet in substantial compliance with this MOU or the requirements of Chapters 824 and 829, the Governor may void this MOU. Upon the Governor voiding this MOU, the University shall not be allowed to exercise any authority pursuant to Chapters 824 and 829 unless and until the University enters into a subsequent MOU with the Secretary of Secretaries designated by the Governor or the void MOU is reinstated by the General Assembly.

**Effective Date and Term of MOU**

This MOU shall become effective on the date of the latest signature below and shall remain in effect until June 30, 2017. If the University remains in substantial compliance with the terms of the agreement and the Governor has not exercised his right and power to terminate this MOU as provided herein, the agreement shall automatically renew for additional five years terms.

***END OF PAGE***
Agreed to by Radford University:

[Signature]
Pamela W. Kyle
President

Date: December 6, 2011

Agreed to by the Commonwealth of Virginia:

For the Secretary of Technology:

[Signature]  
Title: SECRETARY OF TECHNOLOGY

Date: 2-28-2012

For the Secretary of Education:

By: [Signature]
Title: Secretary of Education

Date: 2/25/12

For the Secretary of Finance:

By: [Signature]
Title: Secretary of Finance

Date: 3/20/12

* This MOU shall be effective upon the Board of Visitors adopting a resolution pursuant to §23-38.90 of the Code of Virginia accepting the operational authority in the renewal of this 2012 MOU.
March 8, 2012

Penelope W. Kyle, J.D., President
Radford University
Office of the President
Martin Hall 0314
Radford, Virginia 24142

Dear President Kyle:

Congratulations on being conditionally approved for a five-year renewal of operational authority for the functional areas of Information Technology and Procurement. I am enclosing the original signed Memorandum of Understanding (MOU) under which this authority is conditionally granted. This is a solid achievement and reflects the continuing hard work and expertise of the staff at Radford University. Upon an absolute two-thirds or more of your Board of Visitors voting in the affirmative for a resolution expressing the sense of the body that Radford University is qualified to be, and should be, governed by the two attached MOUs, such MOUs will become effective. Once approved, please provide us with a copy of the Board’s resolution.

If you have any questions or need additional information, please do not hesitate to contact me or my Deputy Neil Miller at (804) 786-1148. Thank you and CFO and Vice President Richard Alvarez for your hard work and cooperation on this endeavor.

Sincerely,

Richard D. Brown

C: The Honorable Lisa Hicks-Thomas, Secretary of Administration
   The Honorable James D. Duffey, Jr., Secretary of Technology
   The Honorable Laura W. Fornash, Secretary of Education
   Mr. Peter A. Blake, Executive Director, SCHEV
   Mr. R. Neil Miller, Deputy Secretary of Finance

Attachments
January 11, 2012

R. Neil Miller  
Deputy Secretary of Finance  
Office of Governor Robert F. McDonnell  
Patrick Henry Building  
1111 East Broad Street, 3rd Floor  
Richmond, Virginia 23219

Re: Higher Education Management Agreement Renewal for Radford University

Dear Mr. Miller:

The Virginia Information Technologies Agency (VITA) Project Management Division has validated compliance with the information technology management agreement requirements by Radford University. The University has fully complied with the criteria set forth in §2.0 III. A. of the Restructured Higher Education Financial and Administrative Operations Act. I recommend that the Governor enter into the requested Memorandum of Understanding.

All requirements for reporting and conformance were met as required during the period covered by the previous management agreement.

Sincerely,

[Signature]

Samuel A. Nixon, Jr.

SAN/mcs

c: The Honorable Richard D. Brown, Secretary of Finance  
The Honorable James D.UFFEY, Jr., Secretary of Technology  
Aaron Mathes, Deputy Secretary of Technology  
Jerry Simonoff, Virginia Information Technologies Agency  
Judy Marchand Hampton, Virginia Information Technologies Agency
March 1, 2012

The Honorable Lisa M. Hicks-Thomas
Secretary of Administration
Office of Governor Robert F. McDonnell
1111 E. Broad Street, Third Floor
Richmond, Virginia 23219

Re: Higher Education Management Agreement Renewal for Radford University

Dear Secretary Hicks-Thomas:

The Virginia Department of General Services (DGS) Division of Purchases and Supplies has validated compliance with the procurement management agreement requirements by Radford University. The University has complied with all criteria set forth in §2.0 III.A of the Restructured Higher Education Financial and Administrative Operations Act. I recommend that the Governor enter into the requested Memorandum of Understanding.

To the best of my knowledge and belief, all requirements for reporting and conformance were met as required during the period covered by the previous management agreement.

Sincerely,

[Signature]

Richard F. Sliwoski, P.L.

RFS/rmb

c: The Honorable Richard D. Brown, Secretary of Finance
Charles James, Deputy Secretary of Administration
Radford University Board of Visitors

RESOLUTION

Approval to Continue Level II Authority

May 4, 2012

WHEREAS, the 2005 Session of the General Assembly enacted Chapters 933 and 945, Acts of Assembly, known as the Restructured Higher Education Financial and Administrative Operations Act (the “Act”), now codified at Chapter 4.10 of Title 23, Sections 23-38.88 et seq., of the Code of Virginia (1950), as amended; and

WHEREAS, the 2008 Session of the General Assembly enacted Chapters 824 and 829, Acts of the Assembly to amend and reenact § 23-38.90 of the Code of Virginia relating to operational authority for public institutions of higher education in information technology, procurement, and capital projects excluding leases of real property, and which allows the University to enter into memoranda of understanding for additional operating authority in two, but no more than two, of these three areas; and

WHEREAS, on July 6, 2009, the University and the Commonwealth of Virginia entered into original memoranda of understanding with the appropriate Cabinet Secretary or Secretaries, as designated by the Governor, granting appropriate operational authority, for the functional areas of information technology and procurement, for a period of three years and which shall expire July 5, 2012.

WHEREAS, the University desires to continue the operational authority originally granted and as required must enter into subsequent memoranda of understanding with the Commonwealth. As a condition to entering into subsequent memoranda of understanding, the Board of Visitors must approve a resolution affirmed by at least two-thirds of the Visitors expressing the sense that the institution is qualified to be, and should continue to be, governed by such subsequent memoranda of understanding.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF VISITORS OF RADFORD UNIVERSITY that the President of the University and its Chief Financial Officer/Vice President for Finance and Administration and Chief Information Officer/Vice President for Information Technology are authorized to proceed in cooperation with the applicable Cabinet Secretaries to obtain the continuation of the additional operating authority outlined in § 23-38.90 of the Code of Virginia relative to information technology and procurement and to take all actions deemed by them to be necessary or advisable to facilitate this undertaking.

BE IT FURTHER RESOLVED, that upon approval of the subsequent memoranda of understanding, the President and designated Vice President are granted full continuation of the authority and responsibility of management of the information technology and procurement functions of the University.

Adopted: May 4, 2012

[Signature]
Secretary, Board of Visitors of Radford University