

BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA
COOPERATIVE ORGANIZATION GUIDING PRINCIPLE MEMORANDUM OF UNDERSTANDING

This agreement is entered into this 15 day of June 2005 by and between the University of Georgia hereinafter referred to as "the Institution" and the Arch Foundation hereinafter referred to as "the Cooperative Organization", a non-profit tax-exempt corporation organized under the laws of the state of Georgia and Section 501 (c)(3) of the Internal Revenue Code, as amended.

WITNESSETH:

WHEREAS, the purpose of this Memorandum of Understanding is to guide and direct the parties respecting their affiliation, cooperation and working relationship, inclusive of anticipated future arrangements and agreements in furtherance thereof; and

WHEREAS, (the Institution) is a unit of higher learning of the University System of Georgia; and

WHEREAS, the Cooperative Organization is a legal entity separate from the Institution that was formally designated as a cooperative organization by the president of the Institution who has determined it to be in the best interest of the Institution to do so; and

WHEREAS, the Cooperative Organization was created for the express purpose of serving the interests of the Institution in carrying out its programs, activities and services and is authorized by the Institution to engage in activities programs and services including soliciting gifts, donations and grants for the purpose of supporting and enhancing Institution programs and the Cooperative Organization shall not engage in activities, programs and services that are in conflict with or inconsistent with the policies, mission and goals of the Board of Regents, the Institution or the cooperative organization.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for good and other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Cooperative Organization and the Institution do hereby agree as follows:

1. The Cooperative Organization agrees to abide by the Board of Regents policy section 1905 and the University System of Georgia Guiding Principles for Cooperative Organizations, which are attached hereto as Exhibits A and B and incorporated herein.
2. Neither the Cooperative Organization nor the Institution shall have any liability for the obligations, acts or omissions of the other party. The Cooperative Organization shall not accept any gift, donation, grant or enter into any transaction that creates any liability for the Institution, without advance written approval by the President.
3. The Institution shall make available to the Cooperative Organization its facilities, programs and services, subject to any established policies or procedures applicable to such facilities, programs, activities and services. There shall be separate agreements between the Institution and the Cooperative Organization concerning the use of each party's respective facilities by the other, and the programs, activities and services to be provided by each party to the other.
4. The Cooperative Organization may receive various administrative services from the Institution, which may enable it to provide a greater level of support to the Institution. If the Institution incurs expenses as a result of the Cooperative Organization's operations, then the Cooperative Organization shall reimburse the Institution for those expenses. This reimbursement shall not be required if the Institution would be conducting those operations and bearing the expense in the absence of the Cooperative Organization.
5. The Cooperative Organization shall use generally accepted accounting principles in its financial record keeping and reporting. The Cooperative Organization will provide, or cause to be provided, audited financial data in conformance with the reporting requirements of the State of Georgia. This data will be provided in a timely manner so that the reporting requirements of the State can be met. The Cooperative Organization shall present annually to the President the annual independent audit report of the Cooperative Organization. The audit report shall include financial statements, a management letter and an audit opinion, which addresses the conformance of the operating procedures of the Cooperative Organization to the provisions of this agreement and Board of Regents cooperative organization policy.
6. The Cooperative Organization shall be entitled to use the name, symbols and trademarks of the Institution during the term of this Agreement. Upon termination of this Agreement, the Cooperative Organization shall be prohibited from using the name, symbols or trademarks of the Institution.
7. The Cooperative Organization shall clearly and conspicuously disclose that funds or other items of value donated are to be provided to the Cooperative Organization as distinct from the Institution and shall establish a procedure to ensure that funds and other items of value donated to the Institution are properly deposited in Institution accounts or transferred properly.
8. This agreement has a term of five (5) years. It may be terminated by either party upon 90 days written notice. If terminated, paragraph 11 of the Guiding Principles shall survive such termination. This agreement may be amended by mutual consent from time to time at the request of either party. All amendments must be in writing and executed by the parties. The Cooperative Organization agrees to and shall transfer requested records to the Institution and assist, as needed with any transition requirements, in the event the MOU is terminated.

IN WITNESS WHEREOF, the President of the Institution and the Chairperson/President of the Board of Trustees/Directors of the Cooperative Organization by their signatures do hereby put this agreement in force.

Michael F. Adams
President For: University of Georgia Date

John P. Spalding
Chair For: Arch Foundation Date

EXHIBIT "A"**1905 COOPERATIVE ORGANIZATIONS**

- I. An organization is a cooperative organization if it
 - A. is organized or operated primarily
 1. for the purpose of soliciting gifts or assisting a System institution in soliciting gifts from third persons in the name of the System institution or any of the Institution's programs; or
 2. for soliciting grants and contracts or accepting grants or entering into contracts for research or services to be performed by or in conjunction with a System institution or using the institution's facilities; or
 - B. bills or collects professional fees in the name of or in behalf of faculty members of a System institution who provide professional services within the scope of their employment by the institution; or
 - C. includes officials, faculty, staff, or employees of a System institution as ex officio members of the organization's board of directors or other governing structure; or
 - D. is formally designated as a cooperative organization by the Board of Regents or by the president of the relevant System institution, and of those formally designated, certain cooperative organizations will be required to follow the Regents' Guiding Principles for Cooperative Organizations. The Board of Regents and the president will determine the cooperative organizations that must follow the Guiding Principles (BR Minutes, June 2004).
- II. A relationship, whether formal or informal, between a System institution and a cooperative organization may be maintained only if
 - B. the relationship between the cooperative organization and the System institution is in the best interest of the System institution as determined by the Board of Regents and the president of the institution in consultation with the Chancellor (BR Minutes, June 2004); and
 - C. the financial records of the cooperative organization, including any audits, are available for inspection by the president of the System institution or the president's designee; and
 - D. any use by the cooperative organization of the name of the System institution, or of a symbol or trademark of the System institution, is approved in advance by the president of the System institution or the president's designee; and
 - E. the cooperative organization annually presents evidence satisfactory to the president of the System institution or the

- president's designee that the cooperative organization is adequately capitalized for any activities undertaken in the name of, for the benefit of, or in conjunction with the System institution; and
- F. the cooperative organization annually presents evidence satisfactory to the president of the System institution or the president's designee of insurance or self-insurance adequate in form and amounts to cover foreseeable liability arising from activities undertaken in the name of, for the benefit of, or in conjunction with the System institution; and
 - G. there is a written general agreement or memorandum of understanding between the System institution and the cooperative organization describing each party's responsibilities so that it is clear to third parties dealing with the cooperative organization that the organization is acting as a legal entity separate from System institution; and
 - H. actions of the System institution's officials, faculty, staff, or employees pursuant to the relationship are consistent with policies established by the Board of Regents and the System institution regarding conflicts of interest, outside activities, and other matters (BR Minutes 1988-89, pp. 150-151).

EXHIBIT "D"

University System of Georgia Guiding Principles for Cooperative Organizations

Cooperative Organizations have been extraordinarily beneficial in supporting the institutions of the University System of Georgia in a variety of ways such as providing scholarships for students, endowments for faculty, acquiring real estate for the institution, and enhancing funds for research programs and athletics. The following guiding principles are proposed to clarify the roles and responsibilities of the institution and the Cooperative Organizations as they seek to enhance the reputation and quality of the University System of Georgia.

1. The mission of the Cooperative Organization shall be closely aligned with the mission, functions and activities of the institution it supports.
2. It is the responsibility of the Board of Regents of the University System of Georgia to provide guidance for and approval of the strategic direction of each institution. It is the responsibility of each institution to carry out its mission as articulated by the Board of Regents. It is the responsibility of the Cooperative Organization to support the institution at all times in a cooperative, ethical and collaborative manner, engage in activities in support of the institution and its president, and, where appropriate, assist in securing resources, administer assets and property in accordance with donor intent, manage its assets and resources so that the property, resources and funds hold their purchasing power into the future.
3. The priorities of the institution, as set by the President, shall be integrated into the operation, activities, efforts, and priorities of the Cooperative Organization. Institutional priorities shall be set by the President and it is assumed the president will develop these in consultation with all appropriate constituencies.
4. The Cooperative Organization's Board and Executive Committee shall include the institution's president or the president's designee, as a voting member. Institutional officers designated by the president also should be included on the Cooperative Organization's Board and its committees as either members or ex-officio members (voting and/or non-voting) to foster and maintain productive relationships, to ensure an open and ongoing dialogue between the institution and the Cooperative Organization and to ensure the alignment of priorities. Of equal importance, the volunteer chair/president of the Cooperative Organization shall have direct access to the institutional president.
5. Cooperative Organizations shall have a comprehensive strategic plan to guide them in their mission to support the institution. It is expected that the President of the institution shall have input and shall be consulted in this process.
6. Cooperative Organizations have a responsibility to remain current with accounting and investment practices and ensure that they follow sound financial policies, practices and procedures.

7. The Cooperative Organization shall develop policies to ensure that its business, governance and programming activities are conducted in an open and responsible manner, consistent with the laws of the State of Georgia.
8. The Cooperative Organization shall be accountable, its financial transactions transparent, and it shall disclose the following to the institution: the financial audit by outside firms, the annual report of activities and results (not donor information), list or report of the Cooperative Organization's priorities, operating budget, policies on disbursements (including expenditure policies), investment policies, operational costs, and policies regarding the establishment of all priorities, in accordance with all applicable laws.
9. The Cooperative Organization shall develop policies and procedures to establish ethical standards to ensure that no conflict of interest occurs between its members and employees and the activities of the cooperative organization and the institution.
10. Since the Board of Regents owns the intellectual property of the institutions, all usage by the Cooperative Organization of the institution's name, symbols, or trademarks is subject to approval by the institution or Board of Regents.
11. The Cooperative Organization should always operate in a manner that is consistent with the best interest of the institution. The Board of Regents of the University System of Georgia and the president of the institution in consultation with the Chancellor may determine that the Cooperative Organization's operations and activities are not in the best interest of the institution and/or Board.
12. Notice to and concurrence of the Board of Regents or institution is required for change of name, change of mission, or change of governance documents or structure of the Cooperative Organization.
13. Should a cooperative organization cease to exist, all obligations regarding existing resources must be fulfilled in accordance with donor's intent, and any remaining assets and property of the cooperative organization must be transferred to another entity in support of the mission of the institution.
14. No employee of the institution, or member of their immediate family, may receive remuneration (salary, stipend or gifts for service) from the Cooperative Organization without the approval of the institutional president or, in the case of the president or the president's immediate family, the Chancellor, or in the case of the Chancellor or the Chancellor's immediate family, the Board.
15. All Cooperative Organizations must execute a Memorandum of Understanding that meets the letter and spirit of the Board of Regents Official proposed Memorandum of Understanding with Cooperative Organizations.
16. Cooperative Organizations must agree to comply with all Board of Regents' policies that pertain to Cooperative Organizations.

Approved, August 4, 2004

**ADDENDUM TO MEMORANDUM OF UNDERSTANDING ("MOU")
BETWEEN THE UNIVERSITY SYSTEM OF GEORGIA AND
THE ARCH FOUNDATION FOR THE UNIVERISTY OF GEORGIA, INC.**

1. Addendum to Paragraph 8. of the MOU – There shall be inserted after the second sentence thereof, the following additional sentence:

“Prior to the termination of the MOU pursuant to Paragraph 8. of the MOU, the parties agree to enter into good faith discussions regarding their relationship for a 90-day period.”

2. Addendum to Principle 13. – There shall be added to the end of Principle 13., an additional paragraph to read as follows:

“In the event of termination of the MOU by either party, the Cooperative Organization shall remain a separate legal entity and continue to hold its assets and property. Funds held by the Cooperative Organization for restricted purposes shall continue to be held in accordance with the donors' intent, and funds held by the Cooperative Organization for the unrestricted support of the Institution shall continue to be applied by the Cooperative Organization to the general support of the Institution. All existing agreements, including memoranda of understanding, leases, rental agreements and loan agreements, will continue to be honored in accordance with their terms. Following termination of the MOU, the Cooperative Organization may continue to engage in activities that are permitted by law and its governance documents that do not require an association with the Institution or the use of the name, symbols or trademarks of the Institution. Should the Cooperative Organization dissolve, any transfers of assets by the Cooperative Organization pursuant to Principle 13. shall be made only to entities that qualify as public charities under Internal Revenue Code Section 501(c)(3).”

UNIVERSITY OF GEORGIA

By: Michael F. Adams
Its President

**THE ARCH FOUNDATION FOR THE
UNIVERSITY OF GEORGIA, INC.**

By: John P. Appalduy
Its Chair