

**MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
VIRGINIA POLYTECHNIC INSTITUTE  
AND STATE UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS  
ACT OF 2005**

**THE BOARD OF VISITORS  
OF  
VIRGINIA POLYTECHNIC INSTITUTE  
AND STATE UNIVERSITY**

**POLICY GOVERNING  
LEASES OF REAL PROPERTY**

November 7, 2005

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**THE BOARD OF VISITORS OF VIRGINIA POLYTECHNIC INSTITUTE  
AND STATE UNIVERSITY  
POLICY GOVERNING LEASES OF REAL PROPERTY**

**I. PREAMBLE.**

In 1996 the Board of Visitors adopted a Policy Statement Governing Exercise of Autonomy in Leases of Property for certain leases entered into by the University, which was amended in 2003 as the Policy Statement Governing Exercise of Autonomy in Operating and Capital Leases of Property. The Restructured Higher Education Financial and Administrative Operations Act (the “Act”), Chapter 4.10 (§ 23-38.88 et seq.) of Title 23 of the Code of Virginia, provides that, upon becoming a Covered Institution, Virginia Polytechnic Institute and State University may have the authority to establish its own system for the leasing of property, both real and personal. The University’s system for implementing this authority is to be governed by policies adopted by the Board of Visitors. The following provisions of this Policy constitute the adopted Board of Visitors policies regarding Leases of real property entered into by the University.

This Policy is intended to cover the authority that may be granted to the University pursuant to Subchapter 3 of the Act. Any other powers and authorities granted to the University pursuant to the Appropriation Act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's Enabling Legislation, as defined in § 23-38.89 of the Act, are not affected by this Policy.

**II. DEFINITIONS.**

The following words and terms, when used in this Policy, shall have the following meaning unless the context clearly indicates otherwise:

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

“**Board of Visitors**” means the Board of Visitors of Virginia Polytechnic Institute and State University.

“**Capital Lease**” means a lease that is defined as such within Generally Accepted Accounting Principles pursuant to the pronouncement of the Financial Accounting Standards Board.

“**Covered Institution**” means 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 Subchapter 3 of the Act.

“**Expense Lease**” means an Operating Lease of real property under the control of another entity to the University.

“**Income Lease**” means an Operating Lease of real property under the control of the University to another entity.

“**Lease**” or “**Leases**” means any type of lease involving real property.

“**Operating Lease**” means any lease involving real property, or improvements thereon that is not a Capital Lease.

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

### **III. SCOPE OF POLICY.**

This Policy provides guidance for the implementation of all University Leases.

### **IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.**

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 Policy. Consistent with this full and ultimate accountability, however, the Board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate Board resolution the duties and responsibilities set forth in this Policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

### **V. REQUIREMENTS FOR LEASES.**

#### **A. Factors to Be Considered When Entering into Leases.**

All Leases shall be for a purpose consistent with the mission of the University. The decision to enter into a Lease shall be further based upon cost, demonstrated need, compliance with this Policy, consideration of all costs of occupancy, and a determination that the use of the property to be leased is necessary and is efficiently planned. Leases shall also conform to the space planning procedures that may be adopted by the President, acting through the Executive Vice President and Chief Operating Officer, to ensure that the plan for the space to be leased is consistent with the purpose for which the space is intended.

**B. Competition to Be Sought to Maximum Practicable Degree.**

Competition shall be sought to the maximum practicable degree for all Leases. The President, acting through the Executive Vice President and Chief Operating Officer, is authorized to ensure that Leases are procured through competition to the maximum degree practicable and to determine when, under guidelines that may be developed and adopted by the President, acting through the Executive Vice President and Chief Operating Officer, it is impractical to procure Leases through competition.

**C. Approval of Form of Lease Required.**

The form of Leases entered into by the University shall be approved by the University's legal counsel.

**D. Execution of Leases.**

All Leases entered into by the University shall be executed only by those University officers or persons authorized by the President or the Executive Vice-President and Chief Operating Officer, or as may subsequently be authorized by the Board of Visitors, and subject to any such limits or conditions as may be prescribed in the delegation of authority. Subject to the University's Policy Governing Capital Projects adopted by the Board as part of the Management Agreement between the Commonwealth and the University, no other University approval shall be required for leases or leasing, nor state approval required except in the case of leases of real property as may be governed by general state law in accordance with § 23-38.109 and § 23-38.112 of the Act.

**E. Capital Leases.**

The Board of Visitors shall authorize the initiation of Capital Leases pursuant to the authorization process included in the Policy Governing Capital Projects adopted by the Board as part of the Management Agreement between the Commonwealth and the University.

**F. Compliance with Applicable Law.**

All Leases of real property by the University shall be consistent with any requirements of law that are contained in the Act or are otherwise applicable.

**G. Certification of Occupancy.**

All real property covered by an Expense Lease or leased by the University under a Capital Lease shall be certified for occupancy by the appropriate public body or building official.