MEMORANDUM OF UNDERSTANDING

NORTH CAROLINA A&T STATE UNIVERSITY

and

NORTH CAROLINA A&T UNIVERSITY FOUNDATION, INC.

This Memorandum of Understanding (hereinafter "Agreement") is made by and between
NORTH CAROLINA A&T STATE UNIVERSITY (hereinafter "University") and
NORTH CAROLINA A&T UNIVERSITY FOUNDATION, INC. (hereinafter
"Foundation").

RECITALS

A. University is an institution of higher education; and

B. Foundation is a North Carolina nonprofit corporation qualified under Section
501(c) (3) of the Internal Revenue code and exists for the purposes of aiding and
promoting educational and charitable purposes and lawful activities of
University; and

C. University has officially recognized Foundation as satisfying the standards and
eligibility requirements as a supporting affiliated organization set forth in the
rules of the University of North Carolina System and University; and

D. The parties desire to formalize the relationship between University and
Foundation by setting forth the manner in which University is to provide support
to Foundation and in which Foundation is to provide support for University.

TERMS

For good and valuable consideration the adequacy of which is hereby
acknowledged, University and Foundation agree as follows:

1.0 North Carolina A&T University Foundation, Inc. support of North Carolina
A&T State University

1.1 Foundation's sole purpose is to foster and promote the growth, progress and
general welfare of University by receiving and administering gifts and
donations for such purposes. This includes, but is not limited to, providing
funds to help accommodate those needs for which state and/or state tax
monies are not available:

To generate - through solicitations and promotions - gifts, grants and
donations, to be used in helping university to accommodate its needs and
realize its goals; and
To manage and administer the funds and properties of Foundation in keeping with those provisions so stated in the organization’s certificate of incorporation and bylaws.

1.2 To provide support to University. In accordance with Foundation governing documents, such support includes, but is not limited to:

1.2.1 Generating, through solicitations and promotions, gifts grants and donations, and to manage and administer the funds and properties of the Foundation to help University to accommodate its needs and realize its goals;
1.2.2 Assisting University in its fundraising, marketing, public relations and alumni outreach activities;
1.2.3 Promoting the welfare and future development of the University;
1.2.4 Performing other acts as may be deemed appropriate in carrying out the mission and purpose of the University.

2.0 Use of North Carolina A&T State University’s Name

2.1 Foundation may, in connection with its lawful business and activities use the name of University, provided that Foundation clearly communicates that it is conducting business in its own name for the benefit of University. Foundation shall use the name of University from time to time consistent with the mission and goals of the Foundation and University.

2.2 Foundation shall not delegate the authority to use University’s name or symbols to any person or entity without the written approval of the chancellor of University.

2.3 Foundation agrees to cease using University’s name and symbols in the event:

2.3.1 Foundation dissolves (see bylaws);
2.3.2 This agreement is terminated as provided below (unless the parties agree otherwise); or,
2.3.3 Foundation ceases to be a nonprofit corporation or ceases to be recognized by the Internal Revenue Service as described in section 501(c)(3) of the Internal Revenue Code.
2.3.4 The Chancellor revokes such authority for failure to conform with the requirements of section 2.1, above. Any revocation, by the chancellor shall not occur until after Foundation is provided a mutually time frame to satisfy such revocation.

2.4 Foundation agrees that it will not offer any course or seminar using the University’s name without first obtaining written permission from the chancellor.
3.0 Relationship between North Carolina A&T University Foundation, Inc. and North Carolina A&T State University

3.1 University agrees to encourage and maintain the independence of Foundation and recognize Foundation’s Bylaws and, simultaneously, foster the cooperative relationship between University and Foundation.

3.2 The chancellor of university shall be an ex-officio voting member of Foundation’s governing board and executive committee.

3.3 The president of Foundation and the chancellor of University agree to cooperate and to monitor the relationship between University and Foundation. The relationship shall be reciprocal.

3.4 The board of directors of the Foundation shall be responsible for control and management of Foundation assets including prudent management of all gifts to Foundation consistent with its articles of incorporation, bylaws, mission statement, and donor intent.

3.5 Foundation will maintain an audit committee which does not have any employees, University or Foundation as members. This committee will receive and review the annual audit of the Foundation and relevant annual tax forms submitted by the Foundation.

4.0 North Carolina A&T University Foundation, Inc.’s Obligation to North Carolina A&T State University and North Carolina A&T State University’s Obligation to North Carolina A&T University Foundation, Inc.

4.1 Foundation agrees, before accepting gifts with any restrictive terms and/or conditions that impose an obligation on University or the State of North Carolina to expend resources in addition to the gift, obtain written approval from the chancellor and the vice chancellor of business and finance, unless such gift otherwise complies with University’s gift acceptance policy which may then be in force and in effect. In addition, Foundation agrees that it will not accept a gift that has any restriction which is unlawful.

4.2 Foundation agrees to advise prospective donor’s of restricted gifts that acceptance of such gifts should comply with University’s gift acceptance policy.

4.3 Foundation agrees to coordinate with University regarding campaigns and programs.

4.4 University and Foundation agree to reconcile monthly fund labeling and identification, so that the intended donee, whether University or Foundation receives the designated and appropriate funds.
4.5 Foundation shall obtain, operate, and maintain its accounting, development activities, alumni records, and other information on University - compatible data processing equipment, peripheral hardware and software and shall make its data reasonably available to University in accordance with existing University guidelines and University of North Carolina regulations and as otherwise required by applicable law. Should Foundation not currently operate said compatible data processing equipment, peripheral hardware and software, such equipment shall be provided to Foundation in order to comply with the terms of this agreement at University's sole expense. Otherwise, Foundation shall continue use of its current equipment without being deemed in violation of this agreement. Notwithstanding the foregoing, Foundation shall maintain ownership of and control access to any prospect and donor information it collects that constitutes a trade secret under North Carolina General Statute § 132-1.2. The Board Chair of the Foundation shall be the custodian of these records and employees of University will have access to them only for the purpose of providing services to the Foundation. Foundation agrees that it will establish and maintain a policy governing the retention and destruction of documents including electronic files and which prohibits destruction of documents if an investigation into wrongdoing or litigation is anticipated or underway.

4.6 Foundation shall administer its funds and make distributions to University in accordance with polices and procedures established by the Foundation from time-to-time, with advice and counsel from University. Foundation agrees that all transfers of funds from Foundation to University must be documented in writing or electronically in a form that has a retrievable transaction trail.

4.7 University shall provide support services to Foundation and Foundation shall provide support services to University. Services or other acts to be provided at cost to Foundation in exchange for support should be coordinated with University governing board or its designee. Any agreement in this regard shall be approved by the University chancellor or the University governing board and the president of Foundation. All agreements are to be in compliance with University, University of North Carolina, and Foundation governing policies and/or by-laws and shall be in writing, executed by the appropriate officers of University and Foundation.

5.0 Limitations on North Carolina A&T University Foundation, Inc.

5.1 Foundation agrees to operate using sound fiscal and business principles and to ensure that sound internal control structures are in place, and follow generally accepted accounting principles.

5.2 Foundation shall create an annual unrestricted operations and capital budget.
5.3 Foundation agrees not to make any payments to any University employee, except for approved expense reimbursements, without prior written approval from the chancellor of University. All salary and non-salary compensation of employees of Foundation shall be approved through the budget process by the board of directors of the Foundation.

5.4 Foundation officers and employees who have check signing authority or who handle cash or negotiable instruments must be bonded in an amount determined to be reasonable by the Foundation board of directors.

5.5 Foundation shall obtain general liability and directors/officers insurance in an amount determined to be reasonable by the Foundation’s board of directors.

5.6 Foundation shall not engage in any lobbying activities and may not engage in any political activities.

5.7 Foundation may not acquire debt outside of its normal trade and business without approval of the Foundation board of directors that is not to be publicly traded before consulting with the chancellor of the University and then the Vice President of Finance of the University of North Carolina.

6.0 North Carolina A&T University Foundation, Inc. Audits, Legal Representation, and Reporting

6.1 Foundation agrees to select a certified public accounting firm, to serve as Foundation’s independent auditor and to complete a full annual audit of its finances and operations. Foundation, agrees to notify University within 30 days if it selects a different auditor.

6.2 Foundation agrees to provide the chancellor of University, annually, on/or before November 1 or following the acceptance of the audit report by the board of directors:

6.2.1 The annual audit report, management letters and responses to management letters, and the Foundation’s IRS Form 990;
6.2.2 The list of Foundation’s governing board, officers and employees; and the names of the officers and governing board members of all Foundation associated or affiliated entities.
6.2.3 An annual report of operations that shows actual versus budgeted revenues and expenditures.

6.3 Foundation agrees to allow University chancellor, the chair of University Board of Trustees, or the chair’s or the chancellor’s designee, to inspect and audit all Foundation books and records that are relevant to an articulated legitimate reason at reasonable times and to provide timely such other reports
of and information on its financial status and operations as required by the chancellor.

7.0 **Conflicts of Interest**

Foundation will establish and maintain conflicts of interest policies pertaining to its relationship with University, members of the governing board and persons doing business with Foundation. Such policies shall provide that (a) all transactions (other than expense reimbursements set forth in 5.3), between Foundation and an officer, director, or employee of Foundation, must be approved by the Foundation Board; (b) no Foundation officer, director, or employee having a private business interest in an Foundation business transaction may be involved in the decision with respect to whether the Foundation should enter into such transaction; (c) no Foundation scholarship or fellowship award may be made to an officer, director, or employee of the Foundation or to a family member of such person unless the recipient of the award is determined by an independent awards committee.

8.0 **Compliance with University of North Carolina and N.C. A&T State University policies and regulations and N.C. A&T University Foundation, Inc. Bylaws**

University and Foundation agrees to comply with the policies and regulations of the University of North Carolina, Board of Governors, the University Board of Trustees, the President of UNC and the Chancellor of the University pertaining to the relationship between University and its associated entities, including amendments thereto. Foundation agrees to provide University with a copy of its Bylaws and shall provide any proposed amendments as soon as possible but in no event less than fifteen days prior to the meeting of the Foundation at which they are considered for adoption.

9.0 **Effect of Agreement; Modification**

This agreement (and its attachments, if any) contains the terms between the parties and may be amended only in writing and signed by an authorized representative of both parties.

10.0 **Confidentiality**

Neither Foundation nor University shall disclose or use any private, confidential, proprietary or trade secret information provided from one to the other except as required in, and by the terms of this agreement or as required by law. Foundation recognizes the obligation of University to comply with North Carolina Public Records laws.
11.0 **Indemnification**

Foundation shall indemnify and hold harmless University, its governing board officers, employees, agents, and students in their official capacities, from and against any and all claim, damage, liability, injury, expense, demands, and judgments, including court costs and attorney's fees, arising out of Foundation's performance of this agreement to the extent any such claim, damage, liability, injury, expense, demand or judgment is caused by the Foundation and/or University's employee acting at the direction of the Foundation's board or the chair of the Foundation board. This provision shall continue beyond termination or expiration of this agreement. Likewise, University shall indemnify and hold harmless Foundation, it board of directors, officers, employees, and agents, in their official capacities, from any and all claims, damage, liability, injury, expense, demands, and judgments, arising from any act or omission, foreseeable or unforeseeable, of University, its employees, its agents or assigns only to the extent allowed by North Carolina law without waiving the rights to sovereign immunity or without assuming liability for actions not covered by the Tort Claims Act, in a forum other than the Industrial Commission, for an amount greater than the Tort Claims Act, or for liabilities different from the liabilities allowed under the Tort Claims Act (such as attorney's fees).

12.0 **Term and Termination**

The initial term of this agreement shall be five years and shall be automatically renewed for successive five-year terms, unless and until either party gives notice in writing to the other party of its intent not to renew the agreement at least 90 days prior to the beginning of a new term. University may terminate this agreement at any time if the Foundation fails to abide by the policies or regulations of University or of The University of North Carolina which govern the relationship between University and Foundation.

13.0 **Dissolution**

It is the intent of the Foundation to have perpetual existence. In the event of dissolution of the foundation, either voluntary or involuntary, all assets and property which remain after the dissolution shall be distributed by the board of directors to University.

14.0 **Compliance with Applicable Law and Non-Discrimination**

14.1 Foundation agrees to comply with all executive orders, federal, state and local rules, regulations, and laws, applicable to Foundation as currently in effect and as may be amended from time-to-time. Foundation further agrees not to discriminate in any manner on the basis of sex, race, creed, age, color, national origin, religious belief, disability, status as a disabled veteran, or
veteran of the Vietnam era, and to comply with all non-discriminatory laws
and policies that University promulgates and to which Foundation is subject.

14.2 Foundation agrees that it will utilize the University’s confidential and
anonymous mechanism to encourage employees to report any
inappropriateness within the entity’s financial management and will not
punish or retaliate against any employee for reporting problems.

15.0 Notice

Any notice to either party hereunder must be in writing signed by the party giving
it, and shall be deemed given when mailed via U.S. Postal Services, certified, or
express mail, or other overnight mail service, or hand delivered, when addressed
as follows:

If to North Carolina A&T State University:

North Carolina A&T State University
Dowdy Administration Building
1601 East Market Street
Greensboro, NC 27411
Attn: Chancellor, N C A&T State University

If to N.C.A&T University Foundation, Inc.:

NC A&T University Foundation, Inc.
Alumni-Foundation Event Center
200 N. Benbow Road
Greensboro, NC 27411
Attn: President, Board of Directors

Or such other addressee as may be hereafter designated by written notice. All
such notices shall be effective only when received by the addressee.
IN WITNESS WHEREOF, North Carolina A&T State University and the authorized representative(s) of N.C. A&T University Foundation, Inc. have executed this agreement on this ______ day of __________________, 2006.

North Carolina A&T State University

By ____________________________
Lloyd V. Hackley, Chancellor

By ____________________________
Wilie T. Ellis, Vice Chancellor

N.C.A&T University Foundation, Inc.

By ____________________________
Obrie Smith, President

By ____________________________
Gordon Waddell, Treasurer

ATTEST:

By ____________________________

ATTEST:

By ____________________________
Thurmon Deloney, Secretary