READINESS UNIVERSITY CENTER

OPERATING AGREEMENT

This Operating Agreement is made this ____ day of ____________, 2003, between the Spartanburg County Commission for Higher Education (hereinafter "the Commission"), the University of South Carolina Spartanburg (hereinafter "USCS"), and the South Carolina National Guard (hereinafter "the Guard"). The parties to this Agreement, in consideration of the mutual covenants and stipulations set forth herein, agree as follows:

WHEREAS, the Commission agreed to donate to the Guard by long term lease, and the Guard agreed to lease from the Commission, approximately twelve (12) acres on the USCS campus on North Campus Drive, Spartanburg, South Carolina, for the purpose of constructing a dual purpose facility that will function as both an Armory and a multipurpose campus facility, and the Commission and the Guard entered into a Long Term Lease Agreement (hereinafter "the Lease") on September 27, 2001; and

WHEREAS, in accordance with Section 4.02 of the Lease, the Guard agreed to construct an approximately 55,000 square foot dual purpose facility on the leased premises, such facility to be called The University Readiness Center (hereinafter "the Center"); and

WHEREAS, in accordance with Section 5.01 of the Lease, the Guard and the Commission agreed to address the exterior appearance, maintenance, joint usage, classroom space, parking lots, and the use of all other amenities, etc., of the Center in an Operating Agreement; and

WHEREAS, the Guard and the Commission agree that USCS should be a party to this Operating Agreement,

NOW, THEREFORE, the parties agree as follows:

ARTICLE I
(Use, Maintenance, and Upkeep)

1.01 USE OF PREMISES: USCS may schedule and use non-restricted areas of the Center for appropriate purposes, including but not limited to academic programming, special events, student activities and athletic activities. USCS, through the Special Events office or other designee, is charged with managing the non-restricted areas. Specifically, USCS has the sole authority to determine who may use the space, when they may use it, and how the space may be used, during all days of the year, except as designated as Guard training periods, as indicated on Exhibit B of this Agreement. Furthermore, USCS may assess a reasonable rental fee for the use of this space by organizations and individuals for the use of non-restricted areas of the Center through the USCS Special Events Office. USCS shall retain all revenue generated thereby.
1.09 **SIGNAGE:** USCS may erect and maintain appropriate signage on the outside grounds of the Center.

1.10 **USCS MAY ENFORCE THE TERMS OF THE LEASE:** The parties agree that USCS may enforce the terms of the Lease.

**ARTICLE II**
(Insurance)

2.01 The parties shall maintain insurance coverage in accordance with Article XI of the Lease.

**ARTICLE III**
(Relationship of the Parties)

3.01 Nothing in this Agreement is intended, or shall be deemed, to constitute a partnership or joint venture between the parties.

**ARTICLE IV**
(Applicable Law)

4.01 This Agreement shall be construed under the laws of the State of South Carolina. The parties agree that any action related to this contract shall be instituted and prosecuted in Spartanburg County, South Carolina.

**ARTICLE V**
(Entire Agreement)

5.01 This instrument embodies the entire Agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained in this Agreement, and this Agreement supersedes all previous communications, representations, or agreements, either verbal or written, between the parties. Beginning on this date, the Agreement will endure for fifty-five (55) years. This Agreement may thereafter renew for an additional period up to and including fifty (50) years upon the written approval of USCS and the Guard.

**ARTICLE VI**
(Modification of Agreement)

6.01 Any modification of this Agreement shall be binding only if evidenced in writing signed by an authorized representative of each party. If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
1.02 LIMITATIONS: The parties agree that the Guard’s military activities and requirements for use of the Center shall have priority over use by USCS. The Guard and USCS shall cooperate to avoid any conflict between uses. Each year on December 1 during the remainder of the Lease Term, the Guard shall provide USCS with a written schedule of its intended use of the Center’s shared facilities for the subsequent twelve (12) months. This schedule shall become part of this Agreement, as indicated as Exhibit B of this Agreement. USCS shall then coordinate its schedule with the Guard’s schedule. The parties understand that the Guard may change its schedule from time to time, and the Guard shall give reasonable notice to USCS in such cases. The parties understand that USCS may change its schedule from time to time, and USCS shall give reasonable notice to the Guard in such cases. The Guard will solely control the joint-use area during its designated training periods. The Guard shall promptly clean the joint-use area after making use of it for its designated training periods, and agrees to otherwise return the space to its normal operating condition.

1.03 RESTRICTED AREAS: As indicated on Exhibit A to this Agreement, approximately 26,126 square feet of the Center shall be restricted for exclusive use by the Guard and shall not be occupied or used by either USCS or third parties. As indicated on Exhibit A to this Agreement, approximately 6,526 square feet of the Center shall be restricted for exclusive use by USCS and shall not be occupied or used by either the Guard or third parties.

1.04 CUSTODIAL SERVICE: As indicated on Exhibit A, USCS shall be responsible for providing janitorial service for the Center, excluding restricted areas for use by the Guard, in accordance with standards used for other University facilities at no cost to the Guard.

1.05 GROUNDS AND ROAD MAINTENANCE: USCS shall maintain the exterior grounds of the Center and parking lot, including mowing, fertilizing, and weed treatments, snow removal, and parking lot sweeping, during the term of this Agreement in accordance with standards used for other University grounds at no cost to the Guard. Grounds maintenance will not be provided by USCS in the restricted area designated for military vehicle parking, as indicated on Exhibit A to this Agreement.

1.06 REPAIRS AND MAINTENANCE: USCS shall be responsible for repairs and maintenance of the Center in the same manner that it repairs and maintains other University facilities. The Guard will reimburse USCS for fifty percent (50%) of allowable costs per the guidance in MGR 5-1/ANGI 63-101, page 13-5, paragraph 13-5 c.(3).

1.07 ADDITIONS, IMPROVEMENTS, AND ALTERATIONS: All additions, improvements, and alterations as requested by the Guard, shall be made in accordance with Article X of the Lease.

1.08 UTILITIES: USCS shall be responsible for all utility costs, including but not limited to natural gas, electric, water and sewer, trash removal and recycling. Voice and data communications will be maintained by each agency.
6.02 A five-year review of this Agreement, conducted jointly by an authorized representative of each party, will occur throughout the term of this Lease, commencing from the effective date of this Agreement.

ARTICLE VII
(Notices)

7.01 All notices, demands, or requests from one party to the other may be personally delivered or sent by mail -- certified or registered, postage prepaid, return receipt requested -- to the addresses stated in this Article 7.01, and shall be deemed to have been given at the time of delivery. All notices, demands, or requests from the Guard to USCS shall be given to USCS at 800 University Way, Attn: Mr. Robert Connelly, Spartanburg, SC 29303. All notices, demands, or requests from USCS to the Guard shall be given to the Guard at

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal.

SPARTANBURG COUNTY COMMISSION
FOR HIGHER EDUCATION

By: ____________________________
Title: __________________________

WITNESSES

UNIVERSITY OF SOUTH CAROLINA
SPARTANBURG

By: ____________________________
Title: __________________________

SOUTH CAROLINA NATIONAL GUARD

By: ____________________________
Title: __________________________