

**OPERATING AGREEMENT
BETWEEN CALIFORNIA STATE UNIVERSITY
AND
CALIFORNIA STATE UNIVERSITY STANISLAUS AUXILIARY AND BUSINESS SERVICES**

This agreement is made and entered into by and between the Chancellor of the California State University on behalf of the Board of Trustees (CSU) and California State University Stanislaus Auxiliary and Business Services (Auxiliary). The term of this agreement shall be January 1, 2014 through December 31, 2018 unless sooner terminated as herein provided.

1. PURPOSE

The purpose of this agreement is to set forth the terms and conditions under which the Auxiliary may operate as an auxiliary organization pursuant to Education Code Sections 89900 et seq. and Sections 42400 et seq. of Title 5 of the California Code of Regulations (CCR). In entering this agreement, CSU finds that certain functions important to its mission are more effectively accomplished by the use of an auxiliary organization rather than the usual state procedures.

2. PRIMARY FUNCTION OF THE AUXILIARY

In consideration of receiving recognition as an official auxiliary organization of the CSU, Auxiliary agrees, for the period covered by this agreement that its primary activity generally can be classified as:

- Real Property Acquisition / Real Property Development
- Commercial

In carrying out this activity, the Auxiliary engages in the following functions authorized by Section 42500, Title 5, CCR, which are activities essential and integral to the educational mission of the University:

1. Commercial in the form of Bookstores, Food Services, and Campus Services, which may also include the following:
 - a. Sale of logo wear, campus affinity wear and related clothing items for the campus community; management of royalty contracts for licensing campus trademarks, logos and other similar services.
 - b. Provision of food services through contractors or direct services exclusively at all campus locations, including catering, vending, cafeteria, café or specialty shop services. Manage and direct pouring rights contract on behalf of University.
 - c. Manage, supervise, direct and control leasing of University property when not in use for the primary mission of the University. Lease to third parties with the goal to provide funds to the University for its operations and to ensure that such efforts are professionally conducted and to enhance the reputation and profile of the University. Increase revenue for food services and other commercial operations on campus which will result in improved and expanded services to students, faculty, staff and the community.

- d. Manage and supervise the campus identification card (Warrior Card) program, including optimizing the services or conveniences available to students to use with the card, which may include: access to campus facilities and services; support or facilitation of student access to food services and meal plans; provision of a mechanism for student access and utilization of on-campus equipment and services which require a cash payment; assistance in providing controls over cash handling while facilitating delivery of services to students and the campus community; supervision and management of University arrangements with local commercial banks, which provide banking services, checking accounts, or ATM services to students or the campus community.
2. Real Property Acquisition and Development in the form of Housing and other support facilities for students and faculty, including assistance to the University in placing temporarily unused land into a commercial or mission-related use, or by providing assistance to academic programs or other campus activities to improve the attractiveness, efficiency or financial position of the campus.
 - a. Acquisition, development, sale, and transfer of real and personal property including financing transactions related to these activities.
 - b. Event, conference or dining facilities to be leased or otherwise gainfully employed to benefit the campus.

Auxiliary further agrees to receive and apply exclusively the funds and properties coming into its possession toward furthering these purposes. Prior to initiating any additional functions, Auxiliary agrees to amend the existing operating agreement.

3. CAMPUS OVERSIGHT AND OPERATIONAL REVIEW

The responsibility and authority of the campus president regarding auxiliary organizations is outlined in Title 5 Section 42402, which in part requires that auxiliary organizations operate in conformity with policy of the Board of Trustees and the campus. The campus President has been delegated authority by the CSU Board of Trustees (Standing Orders Section IV) to carry out all necessary functions for the operation of the campus. The operations and activities of Auxiliary under this agreement shall be integrated with campus operations and policies established by the President and shall be overseen by the campus Chief Financial Officer or designee so as to assure compliance with objectives stated in Title 5 Section 42401.

Auxiliary agrees to assist the Chief Financial Officer and his or her designee in carrying out the compliance and operational reviews required by applicable Executive Orders and related policies.

4. OPERATIONAL COMPLIANCE

Auxiliary agrees to maintain and operate its organization in accordance with all applicable laws, regulations and policies promulgated by the Federal Government, the State, Chancellor and Campus on which the Auxiliary operates. Failure of Auxiliary to comply with any term of this

agreement may result in the removal, suspension or placing on probation of Auxiliary as an auxiliary organization in good standing. Such action by CSU may involve the limitation or removal of Auxiliary's right to utilize the resources and facilities of Campus (ref. Title 5, CCR, 42406).

5. CONFLICT OF INTEREST

No officer or employee of the CSU shall be appointed or employed by Auxiliary if such appointment or employment would be incompatible, inconsistent or in conflict with his or her duties as a CSU officer or employee.

6. EXPENDITURES AUGMENTING CSU APPROPRIATIONS

With respect to expenditures for public relations or other purposes which would serve to augment appropriations for CSU operations, Auxiliary may expend funds in such amount and for such purposes as are approved by Auxiliary's governing body. Auxiliary shall file, as **Attachment 1** to this Agreement, a statement of Auxiliary's policy on accumulation and use of public relations funds. The statement shall include the policy and procedures for solicitation of funds, the purposes for which the funds may be used, the allowable expenditures and procedures of control.

7. FISCAL AUDITS

Auxiliary agrees to comply with CSU policy and the provisions of Section 42408 of Title 5, CCR regarding fiscal audits. All fiscal audits shall be conducted by auditors meeting the guidelines established in the Integrated CSU Administrative Manual (ICSUAM).

The campus Chief Financial Officer shall submit to the Chancellor's Office (see Notices below) the written evaluation of the external audit firm selected by the Auxiliary. This review must be conducted annually and prior to entering into an engagement letter with an external audit firm. If the Auxiliary has not changed auditor and the audit firm was previously subjected to this review only a limited review need be submitted.

9. CHANGE OR MODIFICATION OF CORPORATE STATUS

Auxiliary shall provide notice to the CSU upon any change in Auxiliary's legal, operational or tax status including but not limited to changes in Articles of Incorporation, bylaws, tax status, bankruptcy, dissolution or change in name.

10. FAIR EMPLOYMENT PRACTICES

In the performance of this agreement, and in accordance with Government Code 12900 ET. seq., Auxiliary shall not deny employment opportunities to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation or veteran's status. Auxiliary shall adopt

employment procedures consistent with the policy statement on nondiscrimination and affirmative action in employment adopted by the CSU.

11. DISPOSITION OF ASSETS

Attached hereto as **Attachment 2** is a copy of Auxiliary's Constitution or Articles of Incorporation (as applicable) which establishes that upon dissolution of Auxiliary, the net assets other than trust funds shall be distributed in accord with Section 42600, Title 5, CCR. For the period covered by this agreement, Auxiliary agrees to maintain this provision as part of its Constitution or Articles of Incorporation. In the event Auxiliary should change this provision to make other dispositions possible, this agreement shall terminate as of the date immediately preceding the date such change becomes effective and all net assets shall become the property of CSU.

Alternatively, upon termination or breach of this agreement, CSU, at its sole discretion, may require Auxiliary to transfer all assets in its possession to a successor nonprofit corporation qualifying as an auxiliary organization. This remedy shall be in addition to any other remedies available to CSU upon termination or breach of this agreement.

12. USE OF CAMPUS FACILITIES

Auxiliary may use those facilities identified for its use in a lease agreement executed between Campus and Auxiliary.

Auxiliary may use Campus facilities and resources for research projects and for institutes, workshops, and conferences only when such use does not interfere with the instructional program of Campus and upon the written approval from appropriate Campus administrators with such specific delegated authority. Auxiliary shall reimburse Campus for costs of any such use.

13. DISPOSITION OF NET EARNINGS

Auxiliary agrees to comply with CSU and Campus policy on expenditure of funds including, but not limited to, CSU guidelines for the disposition of revenues in excess of expenses and CSU policies on maintaining appropriate reserves.

14. ACCEPTANCE, ADMINISTRATION, AND USE OF GIFTS

Auxiliary agrees, if authorized to do so in Section 2 above, that it will accept and administer gifts, grants, contracts, scholarships, loan funds, fellowships, bequests, and devises in accordance with policies of CSU and Campus.

A. Delegation of Authority to Accept Gifts

If authorized, Auxiliary may evaluate and accept gifts, bequests and personal property on behalf of CSU. In acting pursuant to this delegation, due diligence shall be performed to

ensure that all gifts accepted will aid in carrying out the CSU mission as specified in Education Code Sections 89720 and 66010.4(b).

B. Reporting Standards

Gifts shall be recorded in compliance with the Council for Advancement and Support of Education and California State University reporting standards and shall be reported to the Chancellor's Office on an annual basis in accordance with Section 89720 of the Education Code.

C. Donor Rights

All donors of gifts, bequests and personal property shall be treated openly and fairly in accordance with the "Donor Bill of Rights" found at:

<http://www.calstate.edu/foundation/donor.shtml>.

15. INDEMNIFICATION

Auxiliary agrees to indemnify, defend and save harmless the CSU, its officers, agents, employees and constituent campuses (all of which are hereafter referred to as "CSU") from any and all loss, damage, or liability that may be suffered or incurred by CSU, caused by, arising out of, or in any way connected with the operation of Auxiliary as an auxiliary organization.

16. INSURANCE

Auxiliary shall maintain insurance protecting the CSU and Campus as provided in this section. CSU's Systemwide Office of Risk Management shall establish minimum insurance requirements for Auxiliaries, based on the insurance requirements described in Technical Letter RM "RM 2011-04" or its successor then in effect. Auxiliary agrees to maintain at least these minimum insurance requirements.

Auxiliary's participation in a coverage program of the California State University Risk Management Authority (CSURMA) shall fully comply with the insurance requirement for each type of required coverage (which may include but not be limited to, general liability, auto liability, directors and officers liability, fiduciary liability, professional liability, employer's liability, pollution liability, workers' compensation, fidelity, property and any other coverage necessary based on Auxiliary's operations). Auxiliary shall ensure that CSU and campus are scheduled as additional insured or loss payee as its interests may appear.

17. NOTICES

All notices required to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed to all parties as provided below.

Notice to Auxiliary shall be addressed as follows:

California State University, Stanislaus Auxiliary and Business Services

California State University, Stanislaus
One University Circle MSR 290
Turlock, CA 95382
Attention: Treasurer

Notice to the CSU shall be addressed to:

Trustees of the California State University
401 Golden Shores
Long Beach, California 90802
Attention: Director, Contract Services & Procurement

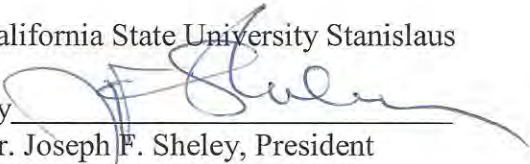
Notice to the Campus shall be addressed as follows:

Office of the President
California State University Stanislaus
One University Circle MSR 390
Turlock, CA 95382

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

Approved: January 14, 2014

California State University Stanislaus

By 
Dr. Joseph F. Sheley, President

Executed on January 7, 2014

California State University Stanislaus
Auxiliary & Business Services

By 
Russell Giambelluca, Treasurer

Executed on January 29, 2014

California State University Office of the Chancellor
Contract Services and Procurement

By 