

**OPERATING AGREEMENT  
BETWEEN CALIFORNIA STATE UNIVERSITY  
AND SONOMA STATE ENTERPRISES, INC.**

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 Sonoma State Enterprises, Inc. The term of this agreement shall be July 1, 2012 through June 30, 2017 unless sooner terminated as herein provided.

**1. PURPOSE**

The purpose of this agreement is to set forth the terms and conditions under which 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:

- Commercial
- Housing – Staff/Faculty

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. Bookstores, Food Services, and Campus services

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. ADDITIONAL CONDITIONS**

- A. Auxiliary agrees to maintain its organization and to operate in accordance with all applicable regulations and policies of State, Chancellor, and Sonoma State University.
- B. The auxiliary agrees to adopt the fiscal, human resources, and logistical practices, processes, procedures, and policies of Sonoma State University in their entirety.

#### 4. RECORDS

Auxiliary shall maintain adequate records and shall submit periodic reports as required by State showing the operation and financial status of Auxiliary. The records and reports shall cover all activities of Auxiliary whether pursuant to this agreement or otherwise.

#### 5. 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.

#### 6. 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).

#### 7. 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.

#### 8. 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.

## **9. 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 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.

## **10. 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.

## **11. 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.

## **12. 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.

### **13. 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.

### **14. 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.

### **15. 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>.

### **16. 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.

## **17. 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.

## **18. 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:

Sonoma State Enterprises, Inc.  
1801 E. Cotati Avenue  
Rohnert Park, CA 94928  
Attention: Senior Director for Entrepreneurial Activities

Notice to the CSU shall be addressed to:


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

Notice to the Campus shall be addressed as follows:


Sonoma State University  
1801 E. Cotati Avenue  
Rohnert Park, CA 94928  
Attention: Financial Services, Contracts and Procurement

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

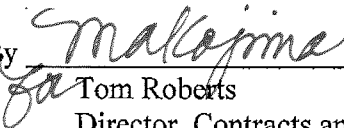
Approved: 6/29, 2012

Sonoma State University  
By   
\_\_\_\_\_  
Ruben Arminana  
President

Executed on 6/21, 2012

Sonoma State Enterprises, Inc  
By   
\_\_\_\_\_  
Neil Markley  
Vice President/Chief Operating Officer

Executed on 8/22, 2012

California State University  
Office of the Chancellor  
Contract Services and Procurement  
By   
\_\_\_\_\_  
Tom Roberts  
Director, Contracts and Procurement

Agenda item 00.09

**Sonoma State Enterprises, Inc.  
Sonoma State University**

**Policy Title:** Expenditure of Funds for Discretionary and Public Relations Purposes

**Policy**

It is the Policy of the Board of Directors that the Sonoma State University President or Vice President for Administration and Finance/Chief Financial Officer may make expenditures for discretionary and public relations purposes to advance the mission, goals and objectives of Sonoma State University. The purpose of this policy is to provide definition and scope in the administration of such expenditures.

**Source of Funds**

Revenue generated from operations, interest earnings, and unrestricted grants/gifts constitute the major source of funds used for discretionary and public relations purposes.

**Use of Funds**

**Discretionary Purposes:**

The discretionary fund may be used for any discretionary expenses deemed appropriate by the Sonoma State University President or Chief Financial Officer including but not limited to hospitality, food, light refreshments, beverages, and official business travel by volunteer employees of Sonoma State University.

**Public Relations:**

The use of funds is confined to expenditures most likely to further the goals of The California State University, Sonoma State University, and Sonoma State Enterprises, Inc. Allowable Public Relations expenditures all into the following categories:

- - Community affairs lectures, conferences and special events.
- - Dues, memberships and subscriptions providing continuing contact with key organizations not otherwise available.
- - Entertainment necessary to further the goals as defined above.
- - Exhibits and displays.
- - Printing and duplicating.
- - Other expenses not reimbursable by the State and used to accomplish the public relations goals of the University.

Sonoma State Enterprises, Inc.  
Discretionary/Public Relations Expenditures

**Procedure:**

The Board of Directors of Sonoma State Enterprises, Inc. authorizes the necessary budget appropriation to accomplish the goals as defined above. The funds are then set aside and dispersed by the President or Chief Financial Officer of Sonoma State University.

**Policy Review:**

The Finance Committee is charged with a bi-annual review of this policy beginning two years from adoption date.

Adopted by the Board of Directors on 9/22/2000  
(date)

Certified: Letitia Coate  
Letitia Coate, Secretary/CFO



ARTICLES OF INCORPORATION

SONOMA STATE ENTERPRISES, INC.

FIRST: The name of the corporation is SONOMA STATE ENTERPRISES, INC.

SECOND: The purposes for which this corporation is formed are:

A. The specific and primary purpose for which the corporation is formed is to promote and furnish facilities for the educational development and academic services of Sonoma State College.

B. The General purposes and powers are:

- 1) To acquire and operate such facilities as are necessary and convenient for the furtherance of the primary purposes including, but not limited to, bookstores, food services, and other educationally related needs of the college, and to acquire, hold, sell and deal in all goods, services, and property of all kinds.
- 2) To act as a partner or joint venturer or in any other legal capacity in any transaction which is necessary or appropriate to the furtherance of the primary purposes of this corporation.
- 3) To have and exercise all the powers conferred by the California General Nonprofit Corporation Law on nonprofit corporations, as that law is now in effect or at any time hereafter may be amended.
- 4) To conduct its business anywhere in the world.

The foregoing clauses conferring powers shall not be limited by reference to or inference from one another, but each such clause shall be construed as a separate statement conferring independent powers upon the corporation.

Notwithstanding any of the above statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purpose of this corporation.

This corporation is formed, and shall operate, as an auxiliary organization of the California State University and Colleges, as defined in Education Code Section 24054.5.

THIRD: A. That the directors and officers of this corporation shall be drawn from the administration and staff of the college, the faculty of the college, the students of the college, and the off campus community at large. The corporation shall have no members other than the persons who constitute the board of directors.

B. The number of directors of the corporation is nine (9), which number may be changed from time to time by amendment of the Articles of Incorporation of this corporation or by amendment of the bylaws of this corporation.

FOURTH: The names and address of the persons who were the first directors until the election of their successors were:

NAMES ADDRESSES

Ambrose R. Nichols, Jr.	Sonoma State College, Cotati
Hector H. Lee	Sonoma State College, Cotati
Alvin Marks	Sonoma State College, Cotati
Richard M. D. Childs	Sonoma State College, Cotati
George McCabe	Sonoma State College, Cotati
A. S. Picket	Sonoma State College, Cotati
Wesley R. Burford	Sonoma State College, Cotati

FIFTH: The principal office of this corporation for the transaction of business will be located in the County of Sonoma, State of California.

SIXTH: This corporation does not contemplate the distribution of gains, profits or dividends to the members thereof and is organized pursuant to the General Nonprofit Corporation Law of the State of California.

No substantial part of the activities of this corporation shall be devoted to carrying on propaganda, or otherwise attempting to influence legislation; nor shall this corporation participate or intervene in any political campaign on behalf of any candidate for public office.

SEVENTH: Upon dissolution of this corporation, net assets, other than trust funds, shall be distributed to a successor approved by the President of the University and by the Board of Trustees and which is tax exempt under either Section 115 or 501 (c) (3) of the Internal Revenue Code.