COPY

OPERATING AGREEMENT
BETWEEN TRUSTEES AND
CAL STATE L.A. UNIVERSITY AUXILIARY SERVICES, INC.

This agreement is made and entered into by and between the State of California through its Trustees of the California State University by their duly qualified and acting Chancellor (hereinafter called State) and Cal State L.A. University Auxiliary Services, Inc. (hereinafter called Auxiliary). The term of this agreement shall be July 1, 2001 through June 30, 2033, 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 Chapter 7, Part 55, Division 8, Title 3 (Sections 89900 et seq.) of the Education Code and Subchapter 6, Article 1, Part V (Sections 42400 et seq.) of Title 5 of the California Code of Regulations (CCR). In entering this agreement, Trustees find that certain functions important to the mission of the California State University are more effectively accomplished by the use of an auxiliary organization rather than the usual state procedures.

2. FUNCTION

In consideration of receiving recognition as an official auxiliary organization of the California State University, Auxiliary hereby agrees, for the period covered by this agreement, to perform the following functions specified in Section 42500, Title 5, CCR:

A. Bookstore, Food Services, and Campus Services, including Child Care Services, Copy Services, and other Commercial related services.

B. Loans, Scholarships, Grant-in-Aid, Stipends, and Related Financial Assistance.

C. Externally Funded Projects Including Research, Workshops, Conferences, and Institutes.

D. Instructionally-related Programs and Activities, including Agriculture, Athletics, Radio and Television Stations, Newspapers, Films, Transportation, Printing, and other Instructionally Related Programs and Activities.

E. Gifts, Bequests, Devices, Endowments, Trust and Similar Funds.

F. Public Relations, Fundraising, Fund Management, and Similar Development Programs.

G. Acquisition, development, sale and transfer of real property and personal property including financing transactions related to these activities. This authority includes the leasing of real property and personal property.

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 obtain written approval of Trustees.

Operations of Auxiliary under this Agreement shall be integrated with campus operations and shall be supervised by campus officials so as to assure compliance with the objectives stated in Title 5, CCR, Section 42401.

3. ADDITIONAL CONDITIONS

A. Auxiliary agrees to maintain its organization and to operate in accordance with all applicable regulations and policies of the State, Chancellor, and California State University, Los Angeles.

B. With respect to expenditures for public relations or other purposes which would serve to augment appropriations for California State University operations, Auxiliary may expend funds in such amount and for such purposes as are approved by Auxiliary's governing body. Auxiliary shall file with State 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, purposes for which the funds will be used, allowable expenditures, and procedures of control.

C. No officer or employee of the California State University 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 State officer or employee.

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. INTERNAL COMPLIANCE AND OPERATIONAL REVIEW

Auxiliary agrees to assist the President and his or her designee in carrying out the compliance and operational reviews required by Executive Order 698 and related policies.

6. FISCAL AUDITS

Auxiliary is subject to the provisions of Section 89900 of the Education Code and Section 42408 of Title 5, CCR. In accordance with these provisions, Auxiliary agrees to:

A. Contract with a certified public accountant for an annual audit at Auxiliary's expense. The report on such examinations shall be furnished to the State.

B. Permit examination of all Auxiliary records by State or their designee.

7. REMEDIES ON TERMINATION OR BREACH

A. 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 State may involve the limitation or removal of Auxiliary's right to utilize the resources, facilities, and name of State and California State University, Los Angeles (ref. Title 5, CCR, Section 42406).

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

8. FAIR EMPLOYMENT PRACTICES

In the performance of this agreement, Auxiliary shall not deny employment opportunities to any person on the basis of race, color, religion, ethnic group identification, sex, sexual orientation, marital status, pregnancy, age, physical or mental disability, medical condition, or veteran's status. Auxiliary shall adopt employment procedures consistent with the policy statement on nondiscrimination and affirmative action in employment adopted by State.

9. DISPOSITION OF ASSETS

Attached hereto as Attachment 1 is a copy of Auxiliary's Articles of Incorporation, which establishes that upon dissolution of Auxiliary, the net assets other than trust funds shall be distributed in accord with Section 42600, Title 5, California Code of Regulations. For the period covered by this agreement, Auxiliary agrees to maintain this provision as part of its Articles of Incorporation. In the event Auxiliary should change this provision to make other disposition of the net assets, 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 State.

10. USE OF CAMPUS FACILITIES

Auxiliary may use those facilities identified for its use in a lease agreement executed between California State University, Los Angeles and the Auxiliary. In addition to the facilities covered by the lease agreement, California State University, Los Angeles may permit Auxiliary

to utilize other campus facilities. Permission shall be granted by the execution of a license agreement with California State University, Los Angeles. Such a license must be set forth in the format provided by State. The campus may be used for research projects and for institutes, workshops, and conferences only when such use does not interfere with the instructional program of the campus.

11. DISPOSITION OF NET EARNINGS

Auxiliary agrees to comply with State's and California State University, Los Angeles' policy on expenditure of funds, including but not limited to State guidelines for the disposition of revenues in excess of expenses and State's policies on maintaining appropriate reserves.

12. ACCEPTANCE, ADMINISTRATION, AND USE OF GIFTS

Auxiliary agrees that it will accept and administer gifts, grants, contracts, scholarships, loan funds, fellowships, bequests, and devises in accordance with all policies of State, Chancellor and California State University, Los Angeles.

13. MAINTENANCE AND OPERATING EXPENSE

Auxiliary shall be responsible for the payment of organizational maintenance and operating expense during the term of this agreement.

14. CHARGES FOR FACILITIES & SERVICES PROVIDED BY THE STATE

Auxiliary agrees to reimburse State for expenses incurred by State as the result of Auxiliary's activities under this agreement. Reimbursement shall be for items including, but not limited to rentals, campus services, and the indirect costs. Reimbursement shall be on a simple but equitable basis and in accordance with the policies for reimbursement of costs as established by State. Auxiliary agrees to make reimbursement within 30 days from receipt of notice of such determination.

15. INDEMNIFICATION

Auxiliary agrees to indemnify, defend, and save harmless the State, the Trustees of the California State University, Chancellor, and California State University, Los Angeles, their officers, agents and employees of each of them (all of which are hereinafter referred to as "State") from any and all loss, damage, or liability that may be suffered or incurred by State, caused by, arising out of, or in any way connected with the operation of Auxiliary as an auxiliary organization.

16. INSURANCE

A. Auxiliary shall maintain in force during the term of this agreement and all extensions thereof liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Auxiliary, its agents, representatives, employees or subcontractors.

B. Minimum Scope of Insurance Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

2. Insurance Services Office Business Auto Coverage form number CA 0001, code f (any auto).

3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

4. "All Risk" Property Insurance with applicable limits for all property that the Campus has an insurable interest in.

C. Minimum Limits of Insurance

Auxiliary shall maintain limits no less than:

1) General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: $1,000,000 per accident for bodily injury and property damage.

3) Employer's Liability: $1,000,000 per accident for bodily injury or disease.

4) Property Insurance: Full replacement of insured property.

D. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Campus. At the option of the Campus, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Campus, its trustees, officers, employees and volunteers; or the Auxiliary shall provide a financial guarantee satisfactory to the Campus guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The Campus, its trustees, officers, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Auxiliary; and with respect to liability arising out of work or operations performed by or on behalf of the Auxiliary including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Auxiliary's insurance, or as a separate owner's policy.

2) For any claims related to a project, the Auxiliary's insurance coverage shall be primary insurance as respects the Campus, its trustees, officers, employees, and volunteers. Any insurance or self-insurance maintained by the Campus, its trustees, officers, employees, or volunteers shall be excess of the Auxiliary s insurance and shall not contribute with it.

3) All insurance required under this agreement shall contain an endorsement naming the State of California, the Trustees of the California State University, California State University, Los Angeles, and the officers, agents and employees of each of them as additional insureds. It shall also contain requiring thirty (30) days written notice from the insurance company to both parties before cancellation or change in Coverage, scope or amount of any policy. Each policy, or a certificate of the policy, shall be deposited with the Campus within thirty (30) days after execution of this agreement and, on renewal of the policy, not less than thirty (30) days before the expiration of the term of the policy."

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current AM. Best's rating of no less than A:VII.

G. Verification of Coverage

Auxiliary shall furnish the Campus with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Campus or on other than the Campus' forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the Campus before work commences. The Campus reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

H. Subcontractors

Auxiliary shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

17. **NOTICES**

All notices herein 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 as herein provided.

Notice to Auxiliary shall be addressed as follows:

Executive Director
Cal State L.A. University Auxiliary Services, Inc.
5151 State University Drive, ADM 306
Los Angeles, California 90032

Notice to the State shall be addressed as follows:

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

Notice to the Campus shall be addressed to:

Vice President for Administration and Finance
California State University, Los Angeles
5151 State University Drive, ADM 604
Los Angeles, California 90032

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

Cal State L.A. **University Auxiliary Services, Inc.**

Joan Gomez, Acting Executive Director — Date 6-19-02

California State University, Los Angeles

Steven N. Garcia, Vice President for Administration and Finance — Date: 6/26/02

James M. Rosser, President — Date: 6-27-02

Approved: California State University, Office of the Chancellor — Date: 6/28/02