

**OPERATING AGREEMENT
BETWEEN CALIFORNIA STATE UNIVERSITY
AND AZTEC SHOPS**

This agreement is made and entered into by and between the Trustees of the California State University by their duly qualified Chancellor (CSU) and Aztec Shops, Ltd. (Auxiliary) serving San Diego State University (Campus). The term of this agreement shall be July 1, 2023 through June 30, 2053 *(30 Year Term unless sooner terminated as herein provided. This 30 year period only may be extended for financing or leasing purposes, and with the written approval of the CSU.)* This Agreement supersedes the prior Operating Agreement between these parties, SDSU #40113521.

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 California Education Code §89900 et seq. and California Code of Regulations (CCR) Title 5, § 42400 et seq. 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 by the Campus under the usual state procedures.

2. PRIMARY FUNCTION(S) OF THE AUXILIARY

In consideration of receiving recognition as an official CSU auxiliary organization, Auxiliary agrees, for the period covered by this agreement, that the primary function(s), which the Auxiliary is to manage, operate or administer is/are *(Check each category that applies):*

- Student Body Organization
- Student Union
- Housing
- Philanthropic
- Externally Funded Projects
- Real Property Acquisition/ Real Property Development
- Commercial

In carrying out the above, the Auxiliary engages in the following functions authorized by,

CCR tit.5, §42500, which are activities essential and integral to the educational mission of the University:

Note to document authors:

List only Functions from the following as specified in, CCR tit.5, §42500. Greater specificity of any function may be included but you MUST include one of the following twelve functions. Example:

“1. Student Body Organization Programs, which includes the operation of a physical fitness facility.”

1. Bookstores, Food Services (including student meal plans, if applicable), and Campus Services
2. Housing
3. Acquisition, development, sale, and transfer of real and personal property including financing transactions related to these activities
4. Management of Conference Services for the University
5. Commercial Advertising
6. Administrative and/or Shared Services for San Diego State University and other auxiliaries
7. As directed by the San Diego State University VP of Business and Financial Affairs and CFO on behalf of the Trustees of the California State University, leasing of any real property at SDSU Mission Valley for retail purposes and for the benefit of San Diego State University and the Trustees of the California State University.

Auxiliary agrees to receive and apply exclusively the funds and properties coming into its possession toward furthering these purposes for the benefit of CSU and the Campus. Auxiliary further agrees that it shall not perform any of the functions listed in CCR tit.5, §42500 unless the function has been specifically assigned in this operating agreement with the Campus. Prior to initiating any additional functions, Auxiliary understands and agrees that CSU and Auxiliary must amend this agreement in accordance with Section 21, *Amendment*.

3. CAMPUS OVERSIGHT AND OPERATIONAL REVIEW

The responsibility and authority of the Campus president regarding auxiliary organizations is set forth in CCR tit.5, §42402, which requires that auxiliary organizations operate in conformity with CSU and Campus policies. The Campus President has been delegated authority by the CSU Board of Trustees (Standing Orders §VI) 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 and shall be overseen by the campus Chief Financial Officer (CFO) or designee so as to assure compliance with objectives stated in CCR tit.5, §42401.

The Campus shall review Auxiliary to ensure that the written operating agreement is current and that the activities of Auxiliary are in compliance with this agreement at least every five (5) years from the date the operating agreement is executed and at least every five years thereafter. Confirmation that this review has been conducted will consist of either an updated operating agreement, or a letter from the Campus CFO or designee to the Campus President with a copy to the Chancellor's Office, certifying that the review has been conducted. As part of these periodic reviews, the Campus President should examine the need for each auxiliary and look at the efficiency of the auxiliary operation and administration.

Auxiliary agrees to assist the Campus CFO or designee in carrying out the compliance and operational reviews required by applicable CSU Executive Orders and related policies.

4. OPERATIONAL COMPLIANCE

Auxiliary agrees to maintain and operate its organization in accordance with all applicable laws, regulations and CSU and Campus rules, regulations and policies. Failure of Auxiliary to comply with any term of this agreement may result in the removal, suspension or probation of Auxiliary as an auxiliary organization in good standing. Such action by CSU may result in the limitation or removal of Auxiliary's right to utilize the CSU or campus name, resources and facilities (CCR tit.5, §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.

Auxiliary has established and will maintain a conflict of interest policy. The Auxiliary's Conflict of Interest Policy is attached as **Attachment 1**.

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.

7. FISCAL AUDITS

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

The Campus CFO shall annually review, and submit a written evaluation to the Chancellor's Office in accordance with Section 20, Notices, *of* the external audit firm selected by the Auxiliary. This review by the Campus CFO must be conducted prior to the Auxiliary engaging an external audit firm and annually thereafter. If the Auxiliary has not changed audit firms, and the audit firm was previously reviewed and received a satisfactory evaluation, a more limited review may be conducted and submitted.

8. USE OF NAME

Campus agrees that Auxiliary may, in connection with its designated functions as a CSU auxiliary organization in good standing and this agreement, use the name of the Campus, the Campus logo, seal or other symbols and marks of the Campus, provided that Auxiliary clearly communicates that it is conducting business in its own name for the benefit of Campus. All correspondence, advertisements, and other communications by Auxiliary must clearly indicate that the communication is by and from Auxiliary and not by or from CSU or Campus.

Auxiliary shall use the name of Campus, logo, seal or other symbols or marks of Campus only in connection with services rendered for the benefit of Campus and in accordance with Campus guidance and direction furnished to Auxiliary by Campus and only if the nature and quality of the services with which the Campus name, logo, seal or other symbol or mark are used are satisfactory to the Campus or as specified by Campus.

Campus shall exercise control over and shall be the sole judge of whether Auxiliary has met or is meeting the standards of quality of the Campus for use of its name, logo, seal or other symbol or mark.

Auxiliary shall not delegate the authority to use the Campus name, logo, seal or other symbol or mark to any person or entity without the prior written approval of the Campus President or designee. Auxiliary shall cease using the Campus name, logo, seal or other symbol or mark upon expiration or termination of this agreement, or if Auxiliary ceases to be a CSU auxiliary organization in good standing, dissolves or disappears in a merger.

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 its Articles of Incorporation, bylaws, tax status, bankruptcy, dissolution, merger, or change in name.

10. FAIR EMPLOYMENT PRACTICES

In the performance of this agreement, and in accordance with California 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, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status. Auxiliary shall adopt employment procedures consistent with the policy statement on nondiscrimination and affirmative action in employment adopted by the CSU.

11. BACKGROUND CHECK POLICY COMPLIANCE

In compliance with governing laws and CSU policy, Auxiliary shall confirm that background checks are completed for all new hires and for those independent contractors, consultants, outside entities, volunteers and existing employees in positions requiring background checks as set forth in CSU systemwide policy. Auxiliary will provide confirmation of completed and cleared background checks to the University President/Chancellor upon request, or as established by campus policy. (See HR 2016- 08).

12. DISPOSITION OF ASSETS

Attached hereto as **Attachment 2** is a copy of Auxiliary's Constitution or Articles of Incorporation (as applicable) which, in accordance with CCR tit.5, §42600, establishes that upon dissolution of Auxiliary, the net assets other than trust funds shall be distributed *to the CSU or to another affiliated entity subject to financial accounting and reporting standards issued by the Government Accounting Standards Board*. 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.

13. USE OF CAMPUS FACILITIES

Auxiliary may use those facilities identified for its use in a lease agreement executed between Campus and Auxiliary. If this Operating Agreement terminates or expires and is not renewed within 30 days of the expiration, the lease automatically terminates, unless extended in writing by the parties.

Auxiliary and Campus may agree that Auxiliary may use specified 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. CONTRACTS FOR CAMPUS SERVICES

Auxiliary may contract with Campus for services to be performed by state employees for the benefit of Auxiliary. Any agreement must be documented in a written memorandum of understanding between Auxiliary and Campus. The memorandum of understanding shall among other things, specify the following: (a) full reimbursement to Campus for services performed by a state employee in accord with CCR tit.5, §42502(f); (b) Auxiliary must clearly identify the specific services to be provided by state employee, (c) Auxiliary must specify any performance measures used by Auxiliary to measure or evaluate the level of service; (d) Auxiliary must explicitly acknowledge that Auxiliary does not retain the right to hire, supervise or otherwise determine how to fulfill the obligations of the Campus to provide the specified services to Auxiliary.

15. 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. Cal. Educ. Code §89904; Executive Order 1059.

16. FINANCIAL CONTROLS

Recovery of allowable and allocable indirect costs and maintenance and payment of operating expenses must comply with ICSUAM §13680. CCR tit. 5, §42502(g) and (h).

17. 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. 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 §§89720 and 66010.4(b).

Auxiliary agrees, before accepting gifts of real estate or gifts with any restrictive terms or conditions that impose an obligation on CSU or the State of California to expend resources in addition to the gift, to obtain written approval from the appropriate campus authority. Auxiliary agrees that it will not accept a gift that has any restriction that is unlawful.

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 Education Code §89720.

18. INDEMNIFICATION

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

19. 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 in [Technical Letter RM 2012-01](#) 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 named as additional insured or loss payee as its interests may appear.

20. 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:

Aztec Shops, Ltd.
5500 Campanile Drive
San Diego, CA 92182-1701
Attention: Chief Executive Officer

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:

Office of the President
San Diego State University
San Diego, CA 92182

21. AMENDMENT

This agreement may be amended only in writing signed by an authorized representative of all parties.

22. RECORDS

Auxiliary shall maintain adequate records and shall submit periodic reports as required by CSU 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.

23. TERMINATION

CSU may terminate this agreement upon Auxiliary's breach of or failure to comply with any term of this agreement by providing Auxiliary with a minimum of ninety (90) days advance written notice. Auxiliary may use the ninety-day advance notice period to cure the breach. If, in the judgment of CSU, the breach has been cured, the termination notice will be canceled.

The President of San Diego State University may rescind this agreement with notice of 365 days at any time. If dissolution is a result of such decision, dissolution shall be subject to terms outlined in the Aztec Shops, Ltd Articles of Incorporation in **Attachment 2** and to paragraph 12 of this contract, Disposition of Assets.

24. REMEDIES UPON TERMINATION

Termination by CSU of this agreement pursuant to Section 23, *Termination*, may result in Auxiliary's removal, suspension or probation as a CSU auxiliary in good standing, and loss of any right for Auxiliary to use the name, resources or facilities of CSU or any of its campuses.

Upon expiration of the term of this agreement, the parties shall have 30 days to enter into a new operating agreement which period may be extended by written mutual agreement.

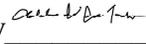
25. SEVERABILITY

If any section or provision of this Agreement is held illegal, unenforceable or in conflict with any law by a court of competent jurisdiction, such section or provision shall be deemed severed and the validity of the remainder of this Agreement shall not be affected thereby.

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

Approved: _____, 2023

San Diego State University

By  _____
Adela de la Torre, President

Executed on August 15th, 2023

Aztec Shops, Ltd.

By  _____
Todd Summer (Aug 15, 2023 13:06 PDT)
Todd Summer, Chief Executive Officer

Executed on _____, 2023

California State University
Office of the Chancellor
Business and Finance

By  _____
Bradley Wells (Aug 15, 2023 14:19 PDT)
Brad Wells, Associate Vice-Chancellor

Attachment 1- Conflict of Interest Policy

TITLE **EMPLOYEE CODE OF CONDUCT**

SUBJECT **AZTEC SHOPS, LTD. POLICIES AND PROCEDURES REGARDING CODE OF CONDUCT, HOSPITALITY, EMPLOYEE RELATIONS, PUBLIC RELATIONS AND CONFLICT OF INTEREST.**

GENERAL ISSUES CONCERNING ETHICS

This statement of Aztec Shops Corporate policy is set forth in order to establish standards for personal behavior within the organization and to provide guidance to all employees who:

- Regularly purchase supplies, services, equipment, materials and merchandise for resale on behalf of Aztec Shops Ltd.
- Are offered a gift by suppliers and vendors.
- Negotiate for services and goods or who work with vendors who provide services or goods to Aztec Shops.

Aztec Shops employees are expected to conduct themselves at all times in an exemplary manner while observing the highest degree of ethical standards in carrying out their assigned duties. Activities that are not verifiable or have the appearance of lacking the strictest degree of honesty must be avoided in every circumstance.

Questions that may help in the evaluation of an employee's behavior or activity are:

- Is it legal?
- Is it moral?
- Does it present or give the appearance of a conflict of interest?
- Is it good business over the long run?

It is an employee's responsibility and obligation to ensure that Aztec Shops maximizes full value derived from every transaction with respect to quality, price, and other benefits and terms. This may be restricted or impaired when suppliers attempt to either influence or affect the transaction by spending disproportionate sums of money upon entertainment, gratuities, gifts and the like. Acceptance of any of these, or even the appearance of such, may constitute a "quid pro quo" and, therefore, must be refused.

Fraternization at/or outside the workplace with regular suppliers and/or their representatives should be avoided when possible.

The following is guidance for **personal conduct** for Aztec Shops employees:

1. Gifts

The root issue with the giving and receiving of gifts is the creation of influence or obligation that may affect an employee's judgment in a later business transaction. Gifts are offered for a reason. Even token gifts or advertising, such as pens and calendars, are given with the expectation that they will yield a result for the giver.

No Aztec Shops employee or member of the employee's immediate family shall accept (or receive) any gifts or accommodations of more than nominal value from anyone with whom the employee does business on behalf of Aztec Shops. **Nominal value** is considered that which is so small as to avoid compromising the integrity of the employee and which would not place him or her in a difficult, prejudicial or embarrassing position or interfere in any way with the impartial discharge of his or her duties.

It is prudent to:

- Make suppliers aware of Aztec Shops' Code of Conduct policy before major holidays occur to avoid embarrassment.
- Send letters of appreciation acknowledging nominal gifts to suppliers to document what has occurred.
- Keep a record of the disposition of all premiums and gifts received by each buyer and/or office.
- Aztec Shops employees may wish to share such gifts with others in their department. When in doubt employees shall always consult with their department director.

2. **Hospitality, Employee & Public Relations**

Is defined as the provision of meals (catered or restaurant) or light refreshments (beverages, hors d'oeuvres, pastries, cookies), entertainment services, promotional items, awards, and service recognition. Hospitality includes expenses for activities that promote the university to the public, usually with the expectation of directly or indirectly benefitting the university.

Departmental budgets may be established for hospitality/employee & public relations expenditures provided they are in accordance with the policy established by San Diego State University regarding the expenditure of funds by auxiliary organizations for hospitality and public relations (**Page 6**).

PROHIBITED EXPENDITURES

- Company paid employee celebrations such as birthdays, weddings, anniversaries, showers, etc.
- Employee farewell gatherings that are not an official Aztec Shops function (official Aztec Shops' functions do **not** include off-site parties, dinners, or similar events organized by co-workers and friends). Designation of a farewell event as an official Aztec Shops function requires approval by the Director of Management Services. (**Retirement events** are distinct from "farewell gatherings" and **are** allowed. See "Allowable Expenditures and Activities".)
- Hospitality expenses that are of a personal nature, not related to the active conduct of official Shops business or with personal benefit derived by the official host or other employees.
- Memorial services, celebrations of retirement, and farewell gatherings for any employee separating with less than 5 years of service.
- Hospitality expenses for membership in social organization, activities or entertainment service that discriminate based on race, color, national origin, religion, sex (including pregnancy, childbirth, and related medical conditions), disability, age, citizenship status, genetic information, marital status, sexual orientation and identity, medical condition, or political activities or affiliations, and/or military/veteran status.
- Employee business meals or entertainment expenditures that are considered taxable under IRS regulations will not be reimbursed or paid by Aztec Shops. An employer's reimbursement of an Employee's business meal or entertainment expense may be considered taxable income to an employee if:
 - o The activity is not directly related to the employee's job
 - o The expense is lavish or extravagant under the circumstances
 - o The expense is not substantiated with supporting documentation

ALLOWED EXPENDITURES /ACTIVITIES

- Official Aztec Shops functions promoting employee morale, such as Staff Awards and retirement receptions for full time employees who retire with at least 5 years of service.
- Food and beverages when hosting non-Aztec Shops persons for the purpose of promoting the Aztec Shops organization. These employee business meals or entertainment expenses must conform to IRS regulations in order to be paid or reimbursed by Aztec Shops and be considered non-taxable income to the employee. Luncheon engagements during regular working hours shall be for the primary purpose of conducting business or with the approval of a department director in advance, for the promotion of employee morale.
- Meetings for business purposes attended by employees.
- Activities, other than dining, may be used as venues for establishing and building relationships with individuals or corporations, which are of benefit to Aztec Shops (i.e. golf or sporting events). **Documentation** for the expenditure must address and support the benefit to Aztec Shops and must be approved by the Director of Management Services.
- Promotional items (those bearing the San Diego State University or Aztec Shops Ltd. logo) that are of **nominal** value.

Entertainment of vendors must be carefully executed in order to avoid giving the appearance to other vendors of implied impartiality. Entertainment of vendors to solicit donor support should be restricted to those situations where:

- Aztec Shops already has, through contract or purchase order, established the business relationship with the vendor.
- Meals and social activities paid for by a vendor or supplier, whether they attend or not, shall take the form of what is usual and customary in business transactions and comparable to that received by enterprises of a similar nature to Aztec Shops.

Aztec Shops employees shall exercise discretion with respect to entertainment conducted in conjunction with trade shows, conferences, conventions and similar events. Normally, entertainment provided for all the registrants of the event is allowable. Entertainment for its own sake provided outside the official conference agenda which serves no business purpose is not authorized.

DOCUMENTATION

Aztec Shops employees must provide the following documentation for reimbursement of authorized expenditures:

- Original detailed receipts or invoices are required (establishes audit trail for type of expenditure and number of employees). If detailed receipts cannot be obtained or have been lost, a signed statement to that effect is required.
- Credit card receipts along with detailed itemized receipts are required (establishes that expense were incurred *and paid* for by the employee and not some other individual). **Payment in cash** is to be on an **exception basis** only because there is no proof that the individual requesting reimbursement actually was the payer of the expense.
- All expenditures must have the written approval of an Aztec Shops Director with authority over the individual submitting the request for expenditure or reimbursement.
- When declaring an expenditure, the name of the recipient for whom the expenditure was made **must** be included on the form and/or written on the credit card receipt in accordance with the appropriate account number, i.e.:

- o Entertainment: Account # 8672
- o Incentive: Account # 8679

See Financial Services for additional appropriate account numbers.

- The following forms are pertinent for expenditures and can be found at www.aztecshops.org:
 - o Travel: Overnight Pre-Authorized Travel www.aztecshops.org, FORMS
 - o Travel Expense Report www.aztecshops.org, FORMS
 - o Purchasing Card Forms www.aztecshops.org, P-CARD

CONFLICT OF INTEREST

A Conflict of Interest is defined as a relationship, transaction or other circumstance that enables, potentially enables, or appears to enable an individual to personally benefit from his/her association with Aztec Shops.

- A conflict of interest may arise whenever an Aztec Shops employee has a stake in the advancement of another company and may be offered extra discounts or benefits as an individual rather than to the company.
- Such vested interest may be a consequence of stock ownership, relatives employed with the other company, Shops' employee employed by the company as a consultant, employees who are reporting directly to a relative, or serving in the capacity of an officer or committee person of a club or association.
- In any dealings with Shops' suppliers or contractors, it should be made explicitly clear that all such dealings are conducted solely as business transactions for Shop. It is prudent to avoid such potential conflicts whenever possible.

In order to avoid the misconception that it would be acceptable for an individual to pass on knowledge to others from which they might benefit there from, the term "personally benefit" shall include any Aztec Shops employee, family or friends.

Avoiding Potential Conflicts

While in the employ and under the direction of Aztec Shops, any procedure, system, plan, etc. developed or invented by an employee of Aztec Shops shall remain the sole property and ownership of Aztec Shops.

In order to avoid situations that potentially give rise to a conflict of interest, Aztec Shops personnel shall not engage in any of the following activities, except as may be authorized by prior, written approval of the Director of Management Services:

1. Use their position as an employee of Aztec Shops, or any knowledge or information obtained from their position, for personal gain.
2. Directly or indirectly engage in any activity (whether as director, manager, supervisor, employee, agent, or consultant) or directly or indirectly own an ownership interest in any entity (whether as shareholder, member, partner, or sole proprietor) which competes with the existing, planned or potential business of Aztec Shops.
3. Have any ownership interest either directly (whether as a shareholder, member, partner or sole proprietor) or indirectly (whether through an immediate family member, trust or other arrangement) in any entity which supplies goods or services to Aztec Shops; provided, however, that stock ownership in a publicly traded corporation shall be permitted if the ownership does not exceed five percent of the outstanding stock of the corporation.

4. Accept any gift of goods or services which is intended to, or which may, influence or affect the judgment of any director, manager, supervisor or employee concerning Aztec Shops affairs.
5. Avoid utilizing company financial advisors for personal business dealings if the employee has fiduciary responsibility or is a member of the Oversight Committee.
6. Engage in any other activity, or take any other action not enumerated herein where the interests of the Aztec Shops employee may compete or conflict with the interest of Aztec Shops.
7. Enter any contests that are held for promotional purposes, which are sponsored by Aztec Shops, or sponsored by any of its vendors through Aztec Shops facilities.
8. Gratuities and service charges are part of our point-of-sale system in certain venues such as Snapdragon Stadium, Viejas Arena, Open Air Theatre, and Tony Gwynn Stadium. Management in those venues will provide procedures and guidance as to how gratuities and service charges are collected and distributed to employees. Our systems do not allow for tips and service charges in other areas primarily serving the students of San Diego State University. In instances for these other areas such as, but not limited to, dining halls, quick-serve-restaurants on the main campus, convenience stores on the main campus, catering on the main campus, and campus store operations where a customer may insist on leaving a gratuity, such gratuity belongs to the employee(s) who received it, but must be reported to your direct supervisor and to Human Resources.

PERSONAL PURCHASES

Buyers and other employees of Aztec Shops may not make personal purchases of any items discounted to cost or below cost from vendors, suppliers, and purveyors of goods with which Aztec Shops conducts business. Delivery of any item from a supplier to a buyer's home or off premises address is forbidden.

TRAVEL

Buyers and other employees of Aztec Shops shall seek approval from their supervisor/manager for any travel being provided by or paid for by vendors /suppliers.

SAMPLES AND PRIZES

All sample merchandise provided by the vendor is the property of Aztec Shops. Unwanted samples will be collected and used for promotions or employee raffle prizes at company events.

Should a buyer win a significant gift as the result of a drawing or raffle sponsored by one of his/her vendors, suppliers or purveyors, the prize may become the property of the recipient subject to the prior approval of his/her director.

RESPONSIBILITY

Buyers, managers, and all Aztec Shops employees need to be aware of:

- The primary ethics questions regarding the release of information as to whether and with whom it is appropriate to share a piece of information.
- Trust, integrity, and good business judgment are fundamental guides to the sharing or withholding of information regarding the business plans, forecasts, and financial activities of Aztec Shops.
- An area of particular concern is the quotation process. The primary issue is that price information submitted by one vendor may be used to help another vendor to unfairly obtain an order unfairly.

- No agreement or understanding may be made to fix or control prices, to allocate products or to boycott certain vendors or supplies.

Compliance with this policy shall be considered as an element of each employee's performance. Violations noted by any employee shall be reported to a director and/or other Human Resources.

DISCIPLINARY ACTION

Aztec Shops employees who violate the policy may be subject to disciplinary action up to and including termination.

ACKNOWLEDGMENT SIGNATURE

All employees are required to sign the "Code of Conduct" section of the *Policy Acknowledgement* form, which is administered annually, and reviewed at time of an employee's New Hire Orientation.

HOSPITALITY PAYMENT / REIMBURSEMENT OF EXPENSES

The following maximum rates are established to allow for hotel catered banquet style events and VIP entertaining. Departments are to use discretion when hosting routine or departmental events.

Maximum per Person Rates for Hospitality

Meal type	Routine/Departmental Events	Hotel Catered Banquets/VIP Entertaining
Breakfast	\$20	\$50
Lunch	\$30	\$75
Dinner	\$75	\$120
Hord'oeuvres	\$30	\$30
Light Refreshments	\$30	\$30

Attachment A



ACKNOWLEDGEMENT
EMPLOYEE CODE OF CONDUCT

As an employee of Aztec Shops Ltd., I understand that I _____,
Print Name

1. **Will not** accept any financial gratuity, products, or merchandise gratuities from vendors.

For service charges and customer gratuities in venues that are part of our point-of-sale system such as Snapdragon Stadium, Viejas Arena, Open Air Theatre and Tony Gwynn Stadium , I agree to follow service charge and tip pool procedures and guidance provided by management of those venues. For other areas, such as but not limited to, dining halls, quick-serve-restaurants on the main campus, convenience stores on the main campus, catering on the main campus, and campus store operations where a customer may insist on leaving a gratuity (even though gratuities are not requested), such gratuity belongs to the employee(s) who received it, but must be reported to your direct supervisor and to Human Resources.

2. **Will not** use my employee badge to enter Concessions or Catering events for which I am not scheduled to work.
3. **Will not** go backstage, on stage, on the floor of an event, or anywhere else deemed off limits to Aztec Shops employees before, during, or after a work shift.
4. **Will not** use video cameras, point and shoot cameras or cell phone cameras during work time.
5. **Will** be responsible for ensuring that all customers purchasing alcohol at a Concessions or Catering event have had their identification (ID) checked, and has a hand stamp or wrist band prior to being served alcoholic beverages.
 - o If there is no hand stamp or wrist band I must ask the customer if they are "21 years old or over", and check their ID, validating their picture and date of birth (noting any alterations). If not of age, **I will notify** the Concessions Stand Lead/ Catering Event Manager.

I have read and agree with the above policies/regulations. I understand that failure to comply with the above policies/regulations will be cause for disciplinary action up to and including termination of employment.

Employee Signature

Employee #

This signed agreement form will be placed in the employee's personnel file.

Travel Expense Report

Aztec Shops Ltd, San Diego State University

Name:		Purpose of Trip:							From:
Employee Number:		Location:							To:
Dept:		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Totals
Expense Items:		Day							
Transportation to Destination		Date							\$0
Registration/Conference Fee									\$0
Hotel/Motel									\$0
Breakfast									\$0
Lunch									\$0
Dinner									\$0
Internet									\$0
Parking									\$0
Destination Transportation Charges									\$0
Auto Rental									\$0
Mileage Reimbursement		Miles:							\$0
Other- Explain on page below		Rate:							\$0
Total Daily Expense			\$0	\$0	\$0	\$0	\$0	\$0	\$0

Submitted By
Director Approval

If travel expense is to be reimbursed by another entity check below

Travel Expense Summary	
A. Total Expense	\$0
B. Items Billed Directly to Company (Complete the Prepaid sheet below)	\$0
C. Travel Advance	
Recalculate total by entering zero	
(A-B-C = Balance)	
*Balance	
Due company	
Due employee	

Financial Services will complete	
Account	Travel 7910
	Mileage 7912
	Registration 7911
Total	

- Instructions:**
1. Make entries daily.
 2. Circle all items billed directly to Aztec Shops.
 3. Receipts are required for all expenses.
 4. Explain unusual expenses on a separate paper.
 5. Expense must be settled within 7 working days after trip.
 6. Explain other expenses on the form below.
 7. Expense Reports must be approved by your Division Director.
 8. Submit to Payroll.

*Must agree with total below

Aztec Shops Ltd.

Purchasing Card Receipt Transmittal Form

Instructions

- * Purchasing card receipts should be sent to Financial Services weekly after you have coded your purchases in Access Online
- * If a digital receipt has been saved in the P-Card_Holding folder, indicate by checking box after amount
- * Please fill in your name, cost center, phone, and receipt date range. List each receipt date and amount below
- * If expense is for employee incentive or business meal, note business purpose and attendees on receipt or attach details
- * Attach paper receipts securely to this form and send to Financial Services for scanning

Cardholder Name		Beginning Date	
Cost Center	10103_LOSS PREVENTION	Ending Date	
Extension or Cell		Total Count of Receipts	0
		Total Amount of Receipts	\$0.00

	Receipt Date	Receipt Amount	Check for Digital Receipt
1			<input type="checkbox"/> Digital
2			<input type="checkbox"/> Digital
3			<input type="checkbox"/> Digital
4			<input type="checkbox"/> Digital
5			<input type="checkbox"/> Digital
6			<input type="checkbox"/> Digital
7			<input type="checkbox"/> Digital
8			<input type="checkbox"/> Digital
9			<input type="checkbox"/> Digital
10			<input type="checkbox"/> Digital
11			<input type="checkbox"/> Digital
12			<input type="checkbox"/> Digital
13			<input type="checkbox"/> Digital
14			<input type="checkbox"/> Digital
15			<input type="checkbox"/> Digital
16			<input type="checkbox"/> Digital
17			<input type="checkbox"/> Digital
18			<input type="checkbox"/> Digital
19			<input type="checkbox"/> Digital
20			<input type="checkbox"/> Digital

Attachment 2 – Articles of Incorporation

0145420

1cc

**Certificate of Amended and Restated Articles of Incorporation
of Aztec Shops, Ltd.**

Carl Winston and Agnes Wong Nickerson certify that:

1. We are the Chairperson and Secretary/Treasurer, respectively, of Aztec Shops, Ltd., a California nonprofit public benefit corporation, registered with the California Secretary of State under number C0145420.
2. The following Amended and Restated Articles of Incorporation of the corporation have been approved by the Board of Directors:

ARTICLES OF INCORPORATION

ARTICLE I. Name

The name of this corporation is Aztec Shops, Ltd.

ARTICLE II. Purposes

This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public and charitable purposes.

This corporation is formed, and shall be operated, exclusively to support San Diego State University (University) by performing the authorized functions which carry out and enhance the mission and educational programs of the University. This corporation is organized exclusively for charitable purposes within the meaning of § 501(c)(3) of the Internal Revenue Code of 1986, as amended.

The corporation is and at all times hereafter shall be operated as an auxiliary organization under § 89900 *et seq.*, of the California Education Code, and within regulations adopted by the Board of Trustees of the California State University.

ARTICLE III. Exempt Status and Limitation of Activities

No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of, or in opposition to, any candidate for public office.

All corporate property is irrevocably dedicated to the purposes set forth in Article II. No part of the net earnings of this corporation shall inure to the benefit of any of its directors, trustees, officers, or to individuals.

ARTICLE IV. Principal Office

The principal office for the transaction of the business of this corporation will be located in San Diego County, State of California.

ARTICLE V. Dissolution

On the winding up and dissolution of this corporation, after paying or adequately providing for the debts, obligations, and liabilities of the corporation, net assets, other than trust funds, shall be distributed to the University or to one or more nonprofit corporations organized and operated for the benefit of the University, as approved by this corporation's Board of Directors, the University President and by the Chancellor of California State University. Such nonprofit corporation or corporations must be qualified for Federal income tax exemption under §§ 501(c)(3) and 509(a)(3) of the Internal Revenue Code of 1986, as amended, established its tax-exempt status under § 23701d of the California Revenue and Taxation Code, as amended, organized and operated exclusively for charitable or educational purposes, and meet the requirement for exemption specified in § 214 of the California Revenue and Taxation Code.

ARTICLE VI. Governance

Provisions relating to the governance of the corporation shall be set forth in the Bylaws.

ARTICLE VII. Applicable Law

This corporation elects to be governed by all the provisions of the Nonprofit Public Benefit Corporation Law, effective January 1, 1980, including any amendments subsequent thereto.

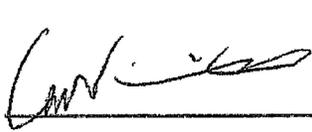
ARTICLE VIII. Amendments

The Articles of Incorporation of this corporation shall be amended by majority vote of the directors then in office, subject to the written approval of the University President.

3. The foregoing Amended and Restated Articles of Incorporation have been duly approved by the board of directors and by the University President.

4. The corporation has no members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.



DATE: 12/1/2021



Carl Winston, Chairperson

Agnes Wong Nickerson, Secretary/Treasurer





I hereby certify that the foregoing transcript of 3 page(s) is a full, true and correct copy of the original record in the custody of the California Secretary of State's office.

DEC 30 2021

A handwritten signature in blue ink, appearing to read "S. N. Weber".

AKK

SHIRLEY N. WEBER, Ph.D., Secretary of State

Attachment 3 – By Laws

BYLAWS
AZTEC SHOPS, LTD.

Preamble

The Articles of Incorporation under which Aztec Shops, Ltd. was incorporated on July 6, 1931 reflect conditions which then prevailed. Over the years Board membership, the titles of the Officers, even the name of the institution served have changed, but the basic purpose for incorporation remains the same. The Articles of Incorporation, on file with the California Secretary of State, remain substantively unchanged, but the Bylaws of Aztec Shops, Ltd. have been regularly amended as the working document of the Corporation. Therefore, the language used in the Bylaws is taken as definitive.

Article I

Name

The name of this corporation shall be Aztec Shops, Ltd.

Article II

Corporate Seal

This corporation shall have a corporate seal consisting of a circle having on its circumference the words "Aztec Shops, Ltd." and containing the date of the incorporation, July 6, 1931.

Article III

Corporate Powers

The corporate powers of Aztec Shops, Ltd. shall be vested in a Board of twelve Directors, six of who shall constitute a quorum for the transaction of business. If the Board membership shall fall temporarily below twelve, a quorum shall consist of at least half of the present Board membership. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is by the required majority of the quorum for that meeting.

Article IV

Directors

There shall be twelve members of the Board of Directors of Aztec Shops, Ltd.:

- a) the President of San Diego State University or her/his designee;
- b) the President of the Associated Students of San Diego State University or her/his designee;

- c) the Vice President of Business and Financial Affairs of San Diego State University:
- d) the Vice President for Student Affairs of San Diego State University:
- e) three directors elected by a majority of the existing Board from nominations made by the President of the University;
- f) five student directors elected by a majority of the existing Board from nominations made by the President of the Associated Students. Student directors must be in good academic standing with the University (i.e., not on academic probation) and must remain so throughout membership tenure. The President of Associated Students may opt to substitute an alum of San Diego State University for one of the five student director slots;
- g) The board composition shall include students, faculty, administration/staff, and non-campus personnel/community members required by the California Code of Regulations, Title 5, Section 42602(b) and by any amendments thereto

If the nominators fail to exercise their rights to nominate within a period of sixty days after being informed of a vacancy by the Chairperson of the Board of Directors, then the Board of Directors shall proceed to fill the vacancy. A vote of two-thirds of the present Board of Directors, even though less than a quorum, shall be necessary to elect an individual to the Board in the absence of a nomination by these nominators.

Elected directors shall serve staggered terms not to exceed three years or fill the remaining term of a vacated term or seat. All terms shall end on the last day of a fiscal year. There are no term limits.

The President of Associated Students of San Diego State University or her/his designee shall serve only one year terms to correspond with term in office with the Associated Students.

A vacancy or vacancies on the board shall be deemed to exist in case of death, resignation, or removal of any Director or if the authorized number of Directors is increased. No reduction of the authorized number of Directors shall have the effect of removing any Director before expiration of the Director's term in office. Any Director may resign from the Board at any time by giving written notice to the Chair or the Secretary of the corporation, and acceptance of such resignation shall not be necessary to make it effective.

All vacancies on the Board of Directors, except designated Directors, shall be filled in the manner described above. Vacancies occurring during a Director's term shall be filled as soon as possible. Directors elected to fill vacancies shall serve until the expiration of the term of the Director who vacated the position.

Board members with the authority to appoint a designee shall notify the Board of Directors by the Annual Meeting with any change in designee or shall notify the Board of Directors at any other time a change is made.

Article V

Meetings

The Board shall establish a regular meeting schedule for each fiscal year. The final regular meeting of the fiscal year shall be designated the Annual Meeting, at which Officers shall be elected.

The Chairperson shall call a special meeting upon request of any three members. In the absence of the Chairperson and Vice Chairperson, a meeting may be called by a quorum of Board members.

Directors may participate in a meeting through the use of conference telephone, electronic video screen, or other electronic communication methods. Participation in a meeting through the use of conference telephone, electronic video screen, or other electronic communication methods constitutes presence in person at that meeting as long as all directors participating in the meeting are able to hear one another.

Article VI

Responsibilities and Liabilities of Directors

The Directors shall conduct, manage, and control the business of Aztec Shops, Ltd. and to make for its rules and regulations consistent with the laws of the State of California, the regulations of California Administrative Code Title 5, and the policies of San Diego State University for the guidance of the Officers and management of the affairs of the corporation.

Directors shall exercise their powers in good faith, with a view to the interests of the corporation. Aztec Shops Ltd. shall not make any loan of money or property to, or guarantee the obligation of, any Director or Officer of the corporation. A Director shall not be considered negligent if she/he relies and acts in good faith upon a balance sheet or profit and loss statement of the corporation furnished or exhibited by management, or certified to be correct and according to the books of the corporation by a public accountant or firm of public accountants selected with reasonable care. Every Director of Aztec Shops, Ltd. is deemed to possess such knowledge of the affairs of this corporation as to enable her/him to act with due prudence.

The principal but not exclusive responsibilities of the Board of Directors shall be 1) to govern the organization and the relationship with the CEO of Aztec Shops, Ltd.; 2) a fiduciary responsibility to protect the organization's assets and manage the audit function; and 3) to determine the disposition of all surpluses or assets.

Aztec Shops, Ltd. shall defend any director who is party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation) by reason of the fact that such director is or was an agent of the corporation, and will indemnify any such director against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such director acted in good faith and in a manner such director reasonably believed to be in the best interest of the corporation and, in the case of a criminal proceeding, if such director had no reasonable cause to believe the conduct was unlawful.

Article VII

Committees

The Board of Directors shall appoint committees and/or task forces as may be needed to further the obligations and goals of the corporation. The following are standing committees:

- a) Audit committee

Article VIII

Officers

The Officers shall be a Chairperson, Vice Chairperson and Secretary/Treasurer. The Chairperson and Vice Chairperson shall be elected at the Annual Meeting by the Board of Directors. The Vice President of Business and Financial Affairs is designated the Secretary/Treasurer.

Article IX

Chairperson

The Chairperson shall:

- a) preside over all meetings of the Board of Directors;
- b) sign, as Chairperson, contracts and other instruments of writing, approved by the Board of Directors;
- c) call the Directors together whenever she/he deems it necessary.

In the event of the Chairperson's inability, refusal, or neglect to act, the Vice Chairperson shall assume her/his duties.

Article X

Vice Chairperson

The Vice Chairperson shall perform all duties of the Chairperson when the Chairperson is unable, refuses, or neglects to act. If both the Chairperson and the Vice Chairperson are unable, refuse or neglect to act, the Board of Directors shall appoint another member to act as Chairperson.

Article XI

Secretary/Treasurer

The positions of secretary and treasurer are combined. The Secretary/Treasurer shall:

- a) keep a record of the membership and of the proceedings of the Board of Directors;
- b) keep the corporate seal and affix said seal to all papers requiring such seal;
- c) serve all notices required either by law or by the Bylaws of the corporation; in the case of her/his absence, inability, refusal or neglect so to do, then such notices are to be served by any person thereunto directed by the Chairperson or Vice-Chairperson of the Corporation;
- d) keep proper account records, countersign checks, and discharge such other duties as pertain to her/his office and as are prescribed by the Board of Directors.

Article XII

The Manager/CEO

The Manager/CEO of Aztec Shops, Ltd. shall:

- a) be appointed by the Secretary/Treasurer in consultation with the Board of Directors;
- b) attend each Board meeting;
- c) maintain a full and accurate record of all Board actions;
- d) implement the decisions of the Board;
- e) direct the affairs of the enterprise;
- f) endeavor to maintain the fiscal viability of the enterprise;
- g) perform other duties delegated by the Board of Directors.

Article XIII

Surpluses or Assets

It shall be the duty of the Board to determine the disposition of all surpluses or assets, provided:

- a) said surpluses or assets shall be used solely for the benefit of the campus community of San Diego State University;
- b) said surpluses or assets shall never be distributed to any individual who has served or is serving on the Board of Directors for her/his personal use.

Article XIV

Emergency Powers

In anticipation of or during an emergency, the Secretary/Treasurer in consultation with the Board may, in accordance with Corporations Code Section 5140(n)(1), take necessary actions to conduct the corporation's ordinary business operation and affairs by modifying lines of succession to accommodate the incapacity of any director, officer, employee, or agent resulting from the emergency and may also relocate the principal office or designate alternative principal offices or regional offices.

Article XV

Amendments

These Bylaws may be repealed or amended, or new Bylaws may be adopted, by a two-thirds vote of the present Board membership at any meeting of the Board of Directors called for that purpose.

Adopted September 26, 1974
Revised November 4, 1976
Revised September 6, 1979
Revised July 18, 1983
Revised March 02, 2001
Revised June 22, 2007
Revised September 22, 2017

40135274 MOU Operating Agreement - Final 8.8.23

Final Audit Report

2023-08-15

Created:	2023-08-15
By:	Debbie Burchianti (debbie.burchianti@sdsu.edu)
Status:	Signed
Transaction ID:	CBJCHBCAABAAJHqLat2TuaA6Ga0XAI8HDbu3jn7mSMY

"40135274 MOU Operating Agreement - Final 8.8.23" History

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2023-08-15 - 8:06:01 PM GMT
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-  Document e-signed by Todd Summer (tsummer@sdsu.edu)
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Signature Date: 2023-08-15 - 9:19:58 PM GMT - Time Source: server

✔ Agreement completed.

2023-08-15 - 9:19:58 PM GMT

**OPERATING AGREEMENT
BETWEEN CALIFORNIA STATE UNIVERSITY AND AZTEC SHOPS**

THIS AMENDMENT TO THE OPERATING AGREEMENT ("**Amendment**"), is dated as of September 18, 2023, between California State University by their duly qualified Chancellor ("**CSU**") and Aztec Shops, Ltd. ("**Auxiliary**") serving San Diego State University (Campus). Auxiliary and CSU are the current parties to that certain Operating Agreement effective July 1, 2023 ("**Operating Agreement**"), pursuant to which Auxiliary may operate as an auxiliary organization pursuant to California Education Code §89900 et seq. and California Code of Regulations (CCR) Title 5, § 42400 et seq. The parties wish to amend Section 23 of the Operating Agreement as provided below:

THE PARTIES AGREE AS FOLLOWS:

1. **Amendment to Agreement.** Section 23 of the Operating Agreement is amended and restated in its entirety to read as follows:

Section 23. TERMINATION

CSU may terminate this agreement upon Auxiliary's breach of or failure to comply with any term of this agreement by providing Auxiliary with a minimum of ninety (90) days advance written notice. Auxiliary may use the ninety-day advance notice period to cure the breach. If, in the judgment of CSU, the breach has been cured, the termination notice will be canceled.

The President of San Diego State University may terminate this Agreement upon at least ninety (90) days' advance written notice at any time if CSU determines that it or another Auxiliary will instead perform the functions of Aztec Shops, Ltd. under this Agreement or that such functions can be provided more satisfactorily or cost effectively by another party. If dissolution is a result of such decision, dissolution shall be subject to terms outlined in the Aztec Shops, Ltd Articles of Incorporation in Attachment 2 and to paragraph 12 of this contract, Disposition of Assets.

2. **Scope of Agreement.** Except as expressly set forth herein, this Amendment shall not affect or impair any other covenants or conditions of the Operating Agreement, and all provisions thereof shall remain in full force and effect.

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

Approved: Sep 19, 2023, 2023

San Diego State University

By 
Adela de la Torre, President

Executed on Sep 19, 2023, 2023

Aztec Shops, Ltd.

By 
Todd Summer (Sep 19, 2023 09:18 PDT)
Todd Summer, Chief Executive Officer

Executed on Sep 19, 2023, 2023

California State University
Office of the Chancellor
Business and Finance

By 
Bradley Wells (Sep 19, 2023 09:28 PDT)
Brad Wells, Associate Vice-Chancellor

SDSU - Operating Agreement - Amend

Final Audit Report

2023-09-19

Created:	2023-09-19
By:	Debbie Burchianti (debbie.burchianti@sdsu.edu)
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"SDSU - Operating Agreement - Amend" History

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2023-09-19 - 6:21:23 PM GMT