

**AGREEMENT
BETWEEN
HUDSON VALLEY COMMUNITY COLLEGE
and the
FACULTY STUDENT ASSOCIATION
OF
HUDSON VALLEY COMMUNITY COLLEGE, INC.**

This AGREEMENT, made this 24th day of March, 2005, by and between the Board of Trustees of Hudson Valley Community College, an educational institution organized and existing under Article 126 of the Education Law of the State of New York, hereinafter referred to as the “College”, and the Faculty Student Association of the Hudson Valley Community College, Inc., a not for profit corporation organized and existing under the laws of the State of New York, with an office or place of business at 80 Vandenberg Avenue, Troy, New York, hereinafter referred to as the “Association”.

WITNESSETH:

WHEREAS, the College has been established by Rensselaer County under the program of the State University of New York and operates as Hudson Valley Community College; and

WHEREAS, the Association is a not for profit corporation having a general purpose clause which reads as follows:

“The general purposes of this Association are educational within the meaning of Section 501(c) (3) of the Internal Revenue Code and its regulations, and, within this meaning the general purposes shall be to establish, operate, manage, promote, and cultivate educational activities and relationships incidental thereto by, between and among the students and faculty of the College and to aid the campus community in the furtherance of their education and studies, work, living, and cocurricular activities incidental thereto, in collaboration and coordination with the educational goals of the “College”; and

WHEREAS, none of the Association's officers, members or employees receives or is lawfully entitled to receive any part of the net earnings thereof or any pecuniary profit from its operations except reasonable expenses, as approved by the Board of Directors, in effecting one or more of its purpose, or as a proper beneficiary of its charitable purposes, and any income, monies, gifts, devices or requests received must be used to advance and promote the educational and benevolent purposes of the Association and the College; and

WHEREAS, the Association has in the past provided, and intends to continue to provide, auxiliary services and activities in furtherance of its purposes to aid students and faculty in achieving the overall educational objectives of the College; and

WHEREAS, the operation of these services and activities by the Association as provided for herein permits the necessary supervision by an accommodation to the needs of the College so as to benefit the students and faculty in the educational program, and is intended to result in a lower cost and/or better quality of such service or activity to the students and faculty of the College; and

WHEREAS, surpluses created in operation of these services have been and will continue to be used for the benefit of the Association either directly or indirectly in accordance with the purposes of the Association expressed in its general purchase clause,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained; the parties hereto agree as follows:

ARTICLE I

The Association will operate the activities and services enumerated below, utilizing physical facilities of the College for such purposes. The College shall set forth the physical facilities provided to the Association for office quarters pursuant to Article V herein. The physical space areas specified for Association use shall reflect current needs, but shall not prevent the College from designating additional space or restricting space designated for the

requirements of a particular service as the College may from time to time determine and so designate in writing to the Association. However, the Association's Board of Directors shall be consulted prior to any change made in the space allocation for a particular service. The initial space requirements shall be determined by and periodically reviewed by the College and its determination shall be related to the total space needs of the College community and its educational program.

ARTICLE II

The Association shall occupy and use the premises so designated for the stated purposes. The foregoing shall not be construed to prevent the Association from arranging with the President of the College, or any duly authorized member of the staff or faculty of the College he or she may designate, to utilize additional space from time to time, provided the expanded space is needed to provide adequately for the auxiliary services set forth in Article III herein during such periods.

ARTICLE III

The Association will operate the following auxiliary services:

- (a) Food services, within the Campus Center and other campus areas which shall consist of conducting and operating the cooking facilities, dining areas, snack bar, service areas and all other operations related to or connected with the preparation and sale of food, including the operation of food and beverage vending machines.
- (b) Bookstore for the sale of books, stationery and the normal academic or academically related supplies and other articles, items and sundries, inclusive of confectionery items and tobacco products, as may be desired in serving the needs of the College community.
- (c) Funeral Service, to serve as licensee of the Mortuary Science Curriculum.
- (d) Development Foundation, to collect and distribute funds to supplement operational and scholarship accounts.
- (e) Child Care Center, to provide safe, reliable and fully licensed child care services, to meet the needs of the College community.
- (f) Other services, to provide such other auxiliary services and functions as may be agreed upon from time to time with the College.

The Association may, at its option, provide the auxiliary services described in (a), (b), and (f) when agreed upon by the College by contracting with outside vendors and/or concessionaires upon terms and conditions acceptable to the College.

ARTICLE IV

The President of the College may request or authorize the Association: (a) through its own employees, to furnish auxiliary services for the accommodation of the College community in or with designated premises and facilities of the College. Such auxiliary services may include the operation of campus radio stations, college camps, bowling lanes and other recreational equipment (skill games), community service programs and like services and activities; (b) to furnish auxiliary services and facilities for students and College staff in designated premises of the College by means of equipment owned or leased by the Association and maintained and operated under arrangements or agreements made by it. Such services may include washing machines, dryers and other similar facilities; (c) to present a comprehensive cocurricular program including intramural and intercollegiate athletics, student government, clubs and organizations, concerts, recitals, readings, dramatic and musical productions, speakers and other like cultural and educational presentations of benefit to the College community in appropriate premises or facilities of the College; (d) to render services to persons, firms or corporations licensed by the College to collect and deliver laundry and/or dry cleaning on College premises.

If the Association shall undertake or be permitted to operate any such activity or to render any such service, it shall be consistent with needs and interests of the College as recognized and acknowledged by the College. The operation of the activities and services contemplated by this Article shall be programmed and budgeted in a manner which is not designed to produce aggregate net income there from.

The President of the College, or any duly authorized member of the faculty or staff of the College he/she may designate, may, from time to time, allow or permit the Association to use college facilities, fields, spaces, rooms, halls, or other areas to operate the activities or render the services contemplated by this Article subject to any applicable rules or policies of the College. In the event the activity or services requires the full time continuing use of particular premises, the initial space requirements or any change thereof, as determined, shall periodically be reviewed by the College and its determinations on the space requirements of activity or service shall be based on the total needs of the College community and its educational program. Prior to any change in the authorization of space allocation, the Board of Directors of the Association shall be consulted.

ARTICLE V

The College shall furnish to the Association quarters for the conduct and operation of an office for the fiscal affairs, business functions and purposes of the Association.

ARTICLE VI

At least quarterly in each year, the Association shall provide the College with a summary itemization of monies expended for and of the receipts from each activity or service authorized pursuant to the provisions of this Article. In the event that net income is produced by any activity or service provided for by this Article, it may be used to provide for other services and activities authorized pursuant to this Article which produced little or no income or to meet the expenditures of the Association for any other such activity or service which is in excess of the receipts therefrom.

The provisions of this Article shall not apply to programs or projects conducted by students through duly organized student clubs, groups or association and as to which the Association acts only as a custodial and disbursing agent of student funds; such as Student Activity and the Athletic Fund.

ARTICLE VII

The Association shall prepare each year a budget for the operation of each service specified in Article III and/or authorized pursuant to Article IV hereof showing the total income and expense reasonably anticipated from the operation thereof. The services specified in Article III, and authorized pursuant to Article IV of this Agreement, may be budgeted so as to produce a net income commensurate with the work, labor and services actually performed and rendered by the Association, its officers, employees, servants and agents in the provision of such services for students and employees of the College in carrying out its educational purposes and in consideration of the other services and activities of benefit to such educational purposes to be provided by the Association by use of such income. In addition to the budget for the operation of the services provided for in Article III and authorized pursuant to Article IV of this Agreement, the Association shall prepare a budget showing its usable net income from such services and the anticipated expenditures to be made therefrom for services and activities within the purposes of the Association. These budgets, in summary format, shall be submitted to the President of the College for review and approval at least sixty (60) days prior to the commencement date of the Association's fiscal year. If approved, the President of the College will submit said budgets to the College's Board of Trustees for final consideration at least thirty (30) days prior to the start of the Association's fiscal year for which the budget is prepared. The review and notification of approval of the budget or of any objections and/or recommendations by the Trustees shall be complete at least fifteen (15) days prior to the commencement of the Association's fiscal year.

No net income shall be available to the Association for any purpose until the budget has been approved as hereinabove provided nor shall any part of such approved net income be expended for any purpose not set forth in such proposed plan of expenditure without approval in advance by the College on recommendation of the President of the College or his/her designee.

ARTICLE VIII

The amount of any charge or contribution to be paid to the Association by any person or organization attending or participating in a particular activity or utilizing a particular service of the Association and the schedules of prices for food and other items sold in operation and services pursuant to Article III or Article IV hereof shall be based upon the program budget of the activity or service concerned and shall be approved in advance by the Association's Board of Directors and reviewed by the President of the College or his/her designee. The Board of Trustees may review such approved charges and prices at any time and require any changes therein necessary to effectuate the provisions of this Agreement.

In the operation of food services pursuant to Article III hereof, the Association shall serve nutritious, wholesome and palatable food. Any matter relating to the quality or adequacy of the food services shall be subject to review and approval by the Association's Board of Directors and the President of the College or his/her designee.

In the operation of the bookstore pursuant to Article III hereof, the Association shall undertake to make available all items which students are required to have for purposes of their instructional programs at prices as low as practicable in the light of the terms and purposes of this Agreement. Other items made available to meet the desires of the College community shall be sold at prices generally prevailing in the community.

In the operation of the Child Care Center pursuant to Article III hereof, the Association will make available a fully licensed facility that will meet the developmental needs of each child. Further, every attempt will be made to provide affordable and accessible service to the College community while maintaining the staff ratio dictated by New York State licensing requirements.

The Bookstore, Food Service and the Child Care Center shall be operated primarily for the benefit of the students and employees of the College and the Association, official guests of the College, and as approved by the Association's Board of Directors, the community.

ARTICLE IX

The Association shall keep books of account and records of all its operations applicable to the performance of this Agreement, shall maintain systems of bookkeeping and accounting acceptable to the College and the State Comptroller, and shall permit inspection of said books and records by the College and the Comptroller of the State of New York. At the end of each fiscal year the Association shall submit full accounting information for each service or activity listed in Article III and authorized pursuant to Article IV and for any other activity or service requested or permitted by the College under this Agreement. Additions or changes may be made by mutual consent of the parties hereto without requiring amendment of this Agreement.

Additionally, the Association shall make provisions for an independent audit of its accounts annually by a certified public accountant and shall promptly forward a copy thereof to the College which may in its sole discretion, accept the independent audit report as fulfilling the requirements of the preceding paragraph of this Article relative to the furnishing of accounting information to the Board of Trustees. It is anticipated that the Association will use the same accounting firm as the College.

The Association shall assume supervisory responsibility for and shall require the independent auditing of (a) student activity fee receipts and expenditures, and (b) athletic fund receipts and expenditures and promptly forward copies of such audits to the College which may, in its sole discretion, accept the independent audit reports thereby fulfilling the requirements of paragraph one of this Article, relative to furnishing accounting information to the Board of Trustees. The Board of Trustees shall provide a protective interest over the physical property assigned to the Association and funds thereto collected, including the Activity Fee and the Athletic Fee.

ARTICLE X

The College may, at its own expense, retain and furnish a consultant to review and analyze any particular service or activity of the Association for the purpose of assisting in the improvement thereof. The College agrees to submit the report of such consultant, together with any recommendations, to the Association and may require the Board of Directors of the Association to give appropriate comments on such report and recommendations. The College shall be provided with a copy of any report or study produced by any consultant retained or otherwise employed by the Association and may require the Board of Directors of the Association to provide appropriate comments and recommendations on such report or study.

ARTICLE XI

The Association shall take reasonable care of the specified premises allocated pursuant to the provisions of Article II of this Agreement and shall maintain the same in a clean, sanitary and orderly condition. The College shall keep such specified premises in good repair and make improvements thereto. The Association shall not be liable or responsible for such repairs and improvements unless necessitated by the negligence of the Association, its employees or agents or unless otherwise specifically agreed upon by the parties in writing. All alterations or improvements to premises or fixtures that may be paid for by the Association or any other party shall become the property of the College to be surrendered to it upon termination of this or the otherwise appropriate Agreement. Such alterations and improvement may only be made upon the authorization of the College.

The College shall be reimbursed for direct expenses incurred in providing to the Association custodial services that are above the mutually agreed upon services, trash and garbage removal on an actual or mutually agreed upon estimated cost and any other cost incurred by the College in providing additional College or Association requested services to the operations.

ARTICLE XII

The original equipment used in a particular activity or service operation, shall be provided by the College but adequate funded reserves shall be established by the Association for replacement thereof. The amount of contribution to such fund shall be established each year by the Board of Directors of the Association and be a line item in the Association's annual budget. Maintenance, repair and replacement of such equipment shall be the responsibility of the Association. Any replacements of the equipment furnished by the College which are purchased or provided by the Association shall become the property of the College to be surrendered to it upon termination of this or the otherwise appropriate Agreement.

ARTICLE XIII

The Association shall protect, indemnify and forever save and keep harmless the College Board of Trustees, Rensselaer County, State of New York and their agents, servants, and employees from and against any damage, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation or breach of any law, ordinance, order, rule or regulation or occasioned by any act, neglect, or omission of the Association, its servants, employees, agents, visitors and licensees. The Association shall obtain, in cooperation with the College, general comprehensive public liability insurance, sale or product insurance, fire and burglary insurance with extended coverage on inventory and equipment, and insurance bonding its employees who deal with finances, and the Association shall keep the same in force during the term of this Agreement, designating the College, Board of Trustees, Rensselaer County and State of New York as additional named insureds and covering also the liability of the College from any and all claims whatsoever of any kind or nature which may arise in connection with the use of premise under the control and/or supervision of the Association in accordance with this Agreement. Such policies shall be standard form policies authorized by the New York State Department of Insurance, with coverage and minimum limits as approved by the College.

ARTICLE XIV

This Agreement shall be void and of no force and effect unless the Association shall secure and keep in force during the life of this Agreement employees' Workers' Compensation and Disability Insurance to the extent required by the laws of the State of New York. The Association shall also provide for Social Security and unemployment insurance coverage for its employees to the extent required by applicable New York State and/or Federal Law.

ARTICLE XV

Upon termination of this or any otherwise appropriate Agreement, the Association shall quit and surrender the whole of the premises or any divisible portion thereof relating to a particular activity or service to the College in good condition, ordinary wear and tear excepted.

ARTICLE XVI

This Agreement, or any divisible portion thereof, may be terminated by either party on May 31 of any year provided that at least six (6) months notice in writing of such impending termination has been given to or served upon the other party, provided that if the Agreement or any divisible portion thereof is terminated by either party, the party terminating the Agreement shall either assume obligations of the other related to or caused by the termination or indemnify the other for such costs.

ARTICLE XVII

The Association shall not assign, transfer, convey, or otherwise dispose of this contract, or any portion thereof, or of its right, title, or interest therein, nor amend its certificate of incorporation or bylaws without the consent in writing of the Board of Trustees of the College.

ARTICLE XVIII

All notices to either party hereunder must be in writing and signed by the party giving it, and shall be served either personally or by registered mail addresses as follows:

TO THE COLLEGE: Chairman, Board of Trustees
Hudson Valley Community College
80 Vandenberg Avenue
Troy, NY 12180

and also a copy to the: President of the College
Hudson Valley Community College
80 Vandenberg Avenue
Troy, NY 12180

TO THE ASSOCIATION: President, Board of Directors
Faculty Student Association of
Hudson Valley Community College, Inc.
80 Vandenberg Avenue
Troy, NY 12180

and also a copy to the: President, Student Senate
Hudson Valley Community College
80 Vandenberg Avenue
Troy, NY 12180

A copy of such notice shall also be mailed to other such person or corporation as may hereafter be designated in writing by either party.

All notices served or mailed hereunder shall be effective as of the date of the service thereof, if served personally, or of the date of the receipt thereof if mailed.

ARTICLE XIX

With respect to the obligations of the College herein contained, this Agreement shall be deemed executory to the extent of the monies available to the College and no liability shall be incurred by the College Board of Trustees, Rensselaer County or the State of New York beyond the monies available for the purpose hereof.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

HUDSON VALLEY COMMUNITY COLLEGE

BY _____
Chairman, Board of Trustees

BY _____
President

FACULTY STUDENT ASSOCIATION OF
HUDSON VALLEY COMMUNITY COLLEGE, INC.

BY _____
President, Faculty Student
Association Board of Directors

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