
**Agreement for Bookstore Services
between
Kern Community College District
and
Barnes & Noble College Booksellers, LLC**

1. Engagement of Barnes & Noble:

Kern Community College District (“KCCD”) hereby engages Barnes & Noble College Booksellers, LLC (“Barnes & Noble”) to operate and provide services for the bookstore of Kern Community College District (the “Bookstore”) on the terms and subject to the conditions set forth herein, and Barnes & Noble hereby accepts such engagement.

2. Term, Amendment and Notices:

This Agreement shall govern the relationship between Kern Community College District and Barnes & Noble with regard to the Bookstore for the period July 1, 2017 through June 30, 2022 (“Initial Term”). Upon expiration of the Initial Term, this Agreement shall automatically renew for successive additional terms of one (1) year unless either party provides notice of nonrenewal no later than one hundred twenty (120) days prior to expiration of the Initial Term or any successive renewal term.

No change, modification or amendment of this Agreement shall be valid unless the same shall be in writing and signed by both parties hereto. All notifications shall be sent to the following individual by certified mail: Tom Burke, Chancellor for Kern Community College District located at 2100 Chester Avenue, Bakersfield, CA 93301 and Kimberly Otte, Vice President, Stores for Barnes & Noble College Booksellers, LLC located at 120 Mountain View Blvd, Basking Ridge, NJ 07920.

Kern Community College District and Barnes & Noble shall have the right to terminate this Agreement at any time by giving one hundred and twenty (120) days written notice to the other party.

3. Kern Community College District Shall Provide to Barnes & Noble at Kern Community College District’s Expense:

- a) Heat, light, utilities, and air conditioning as is reasonably required for operation of the Bookstore.
- b) Office equipment (including computer equipment, cash registers and safes), furniture and fixtures, file cabinets, telephone equipment and wiring and telephone service (including campus telephones, Wi-Fi, and telephone service), and office machines currently available for Bookstore use.
- c) All repairs and maintenance for the building and the physical structure in which the Bookstore is located.
- d) Trash removal and extermination services for the Bookstore.
- e) All debit or credit card or other financial services made available by Kern Community College District to its students.
- f) The placement of an electronic link to the Bookstore’s web site on Kern Community College District’s home page.

4. Environmental Matters:

To the best of its knowledge, Kern Community College District is not aware of any health or environmental problems which currently exist or are likely to develop in the building or physical facility which houses the Bookstore. Kern Community College District shall be responsible for remedying promptly any health or environmental problem at the Bookstore, other than those caused by Barnes & Noble, and notifying Barnes & Noble accordingly.

5. Barnes & Noble Shall Provide to Kern Community College District at Barnes & Noble's Expense:

All operating expenses of the Bookstore including those related to:

- a) Employees, including payroll and payroll system costs, and employee benefits.
- b) Bill paying and accounting, including sales tax collection, reporting and payment for merchandise sold, except any property, excise or municipal taxes on the Bookstore.
- c) Office equipment maintenance and repair.
- d) General custodial services.
- e) Loss prevention services.
- f) Long distance telephone services, through a vendor selected by Barnes & Noble.

6. Insurance:

Barnes & Noble shall procure at its own expense, and maintain during the existence of this Agreement, the following policies of insurance in connection with the operation of the Bookstore:

- a) Worker's Compensation and Employer's Liability Insurance and such other insurance as may be required under applicable state statutes.
- b) Comprehensive General Liability Insurance subject to \$3,000,000 limits.
- c) Property Damage Liability Insurance in the amount of \$1,000,000.
- d) Motor Vehicle Liability Insurance with limits of \$100,000 per person, \$300,000 per occurrence, and \$50,000 property damage.

At the request of Kern Community College District, Barnes & Noble shall obtain and deliver certificates evidencing such insurance from its insurers. Barnes & Noble shall save Kern Community College District harmless from claims which may arise in connection with the operation of the Bookstore facilities specified herein and sales of products or performance of any service under this contract or injuries or death caused by Barnes & Noble vehicles on the Bookstore premises, except for claims caused by Kern Community College District or any of its employees, agents or representatives, for which Kern Community College District shall save Barnes & Noble harmless.

Barnes & Noble's insurance policies for the Bookstore shall name Kern Community College District as an additional insured, but only with respect to liability arising out of operations performed for such insured by or on behalf of the name insured.

7. Indemnity

Barnes & Noble will defend, indemnify, and save harmless KCCD, its employees, officers, and agents from any and all third party claims, damages, costs, expenses (including reasonable attorneys' fees), and judgments' arising from or related to the services performed by Barnes & Noble hereunder, or any intentional misconduct or acts of negligence, except for claims, demands, damages, costs, expenses, or judgments' resulting from the negligence or willful misconduct of KCCD.

KCCD will defend, indemnify, and save harmless Barnes and Noble, its employees, officers, and agents from any and all third party claims, damages, costs, expenses (including reasonable attorneys' fees), and judgments' arising from or related to the services performed by KCCD hereunder, or any intentional misconduct or acts of negligence, except for claims, demands, damages, costs, expenses, or judgments' resulting from the negligence or willful misconduct of Barnes and Noble.

Compliance with all Laws:

Barnes & Noble and Kern Community College District shall comply with all laws, ordinances, rules, orders, and regulations of federal, state and municipal governments, and of any and all of their departments, divisions, bureaus, and subdivisions, applicable to their performance under this Agreement.

8. Management and Staff:

Barnes & Noble shall staff the Bookstore with experienced and qualified managerial and clerical personnel. During peak "rush" periods, Barnes & Noble shall utilize sufficient additional employees at the Bookstore to avoid unnecessary lines and to expedite making educational materials available to students.

Kern Community College District Bookstore personnel shall continue service only so long as their work and personal behavior are acceptable to Barnes & Noble and Kern Community College District. Barnes & Noble will comply with written requests by Kern Community College District to remove or reassign store personnel for good cause.

9. Staff Relations, Wages, and Benefits:

Barnes & Noble shall be responsible for the wages and benefits of all of its employees at the Bookstore. Barnes & Noble has the right to set its own wages and benefits. Barnes & Noble will employ students of Kern Community College District at the Bookstore whenever reasonably possible.

10. Calendar of Operating Hours:

Barnes & Noble shall maintain a schedule of operating hours and weeks of business for the Bookstore in accordance with the official Kern Community College District calendar and in mutual agreement with Kern Community College District in meeting the needs of the students, faculty and staff. Bookstore hours will be extended during each registration period, during the first two weeks of the fall and spring semesters, and the first week of each summer session.

11. Book Orders and Deadlines:

Barnes & Noble shall fill orders for books and required supply items from term to term in accordance with textbook and supply adoptions by the faculty. The Bookstore manager shall be given notice by the faculty or authorized department designees of the textbook and supply adoptions for all courses offered as follows:

- a) On or before October 1 for the spring semester.
- b) On or before March 1 for the summer sessions.
- c) On or before April 1 for the fall semester.

Barnes & Noble shall be responsible, at its cost and expense, for contacting in a timely manner all faculty members for their textbook and supply adoptions. Kern Community College District shall not be responsible for compiling, nor shall it maintain, a list of such adoptions.

12. Services Expected:

Barnes & Noble shall operate the Bookstore as an independent contractor and with its own credit and preferred vendors, with the facility and equipment agreed upon. Services of the Bookstore shall include the following:

- a) The Bookstore shall be Kern Community College District's exclusive buyer and seller of all required, recommended or suggested course materials and supplies, including books, course packs, courseware, computer software, textbook rentals, open educational resources and materials published or distributed electronically and/or through learning management systems ("LMS"), or sold over the Internet. Barnes & Noble will provide exclusive on-line services through the Bookstore web site and have first right of refusal to fulfill any distance learning material needs during the term of this Agreement.
- b) The Bookstore shall be designated the exclusive agent to accept all campus debit card and financial aid transactions for Bookstore merchandise typically sold in college bookstores. Payments for charge sales will be guaranteed by Kern Community College District and are payable within 30 days of invoice date.
- c) The Bookstore shall also be Kern Community College District's exclusive "on-campus" and Internet seller of other items typically sold in college bookstores, such as books in addition to those described in (a) above, educational supplies, notebooks, stationery, desk and room accessories, gift items, class and alumni rings and jewelry, and clothing, including any and all such items bearing a Kern Community College District emblem, logo, insignia or other identifying mark.
- d) In order to provide affordability to students, Kern Community College District and Barnes & Noble shall work together, in conjunction with Kern Community College District faculty, to negotiate publishers' pricing of textbooks and course materials. By working in unison to negotiate such pricing directly with publishers, or, at Kern Community College District's option, Barnes & Noble negotiating directly with publishers on Kern Community College District's behalf, the parties shall extend best efforts to ensure the greatest possible cost savings and improve student outcomes. Additionally, the parties acknowledge and agree (i) Barnes & Noble shall be the only retail entity permitted to either place a link on the LMS or accept sales directly from Kern Community College District students and faculty through the LMS and (ii) Kern Community College District shall prohibit all third parties, including but not limited to publishers, sellers of textbooks and course materials, and providers of open educational resources, from placing direct links to their retail sites on the LMS or soliciting sales directly from Kern Community College District students and faculty through the LMS. Finally, in the event any such third parties place a

link on the LMS permitting direct sales of textbooks or course materials to Kern Community College District students, Kern Community College District shall immediately remove and disable such links and retail functionality.

- e) Kern Community College District shall not contract with any third party to provide any services of the type outlined in this Agreement whether on or off campus, through e-commerce sites, hyperlinks to alternate sources, or otherwise endorsed or supported by Kern Community College District. Kern Community College District acknowledges and agrees any attempt to circumvent Barnes & Noble by entering into an agreement, partnership, joint venture, memorandum of understanding, or any other verbal or written arrangement with a third party could materially and detrimentally impact the revenue stream of this Agreement and the assumptions and circumstances on which this Agreement is based. In such event, the guarantee shall be eliminated immediately and the parties agree to discuss the renegotiation of the financial terms of the Agreement.
- f) The Bookstore shall be the exclusive agent for the rental and/or sale of graduation caps and gowns and commencement invitations.
- g) The Bookstore shall also have a non-exclusive right to sell convenience store items such as food, health and beauty items, and other sundries.
- h) Barnes & Noble shall be Kern Community College District's agent for the collection and compilation of course materials adoptions and provide course materials to students at each institution. Such services will include the development of course packs for faculty members, securing the appropriate copyright clearances, printing and binding of course packs and distribution and sale of the course packs in the Bookstore. Complimentary desk copies of course packs will be provided to faculty members.
- i) Barnes & Noble shall provide a non-exclusive digital delivery program that addresses the changing types of course materials, including providing digital course materials, digital textbooks. Throughout the contract, KCCD will continually evaluate digital delivery programs in the marketplace and will have the right to select alternate digital delivery programs at any time during the contract, if it is determined that such programs are in the best interest of KCCD.
- j) Barnes & Noble shall provide special book order services for students, faculty, and staff and make every effort to obtain the earliest possible delivery of such books.
- k) Barnes & Noble shall provide charge sales for supplies for Kern Community College District departments and offices. Payments for such charge sales shall be guaranteed by Kern Community College District and payable within 30 days.
- l) Barnes & Noble will allow full-time faculty and staff of Kern Community College District a 10% discount on all merchandise available at the Bookstore except adopted textbooks, special orders, sale books, class and alumni rings, computer software, periodicals, discounted merchandise, computer hardware, stamps, health and beauty aids, food snacks, and beverages.
- m) Barnes & Noble will offer a 20% discount on all authorized departmental purchases except adopted textbooks, special orders, sale books, class and alumni rings, computer software, periodicals, discounted merchandise, computer hardware, stamps, health and beauty aids, food snacks, and beverages.
- n) Kern Community College District shall not accept advertising, permit tabling or other promotional activities by any seller of college textbooks and/or course supplies other than the Bookstore at any event sponsored by Kern Community College District or located on the Kern Community College District campus.

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- o) Barnes & Noble will act as the Kern Community College District's partner in new student orientation, alumni and faculty outreach through the Igniting the New Student Connection, Igniting the Alumni Connection and Igniting the Faculty Connection programs. To facilitate these programs the Kern Community College District will provide Barnes & Noble with all enrolled student, parent, alumni and faculty email lists on an annual basis.
 - p) Barnes & Noble in conjunction with Kern Community College District will implement Barnes & Noble's Campus Connect Technologies, including but not limited to registration, student financial aid, and LMS integration, FacultyEnlight, and enrollment feeds.
 - q) Barnes & Noble will operate the Bookstore in conformance with the specifications outlined in RFP # DO 170323 and its response to RFP # DO 170323 submitted on May 2, 2017, the Vendor Follow-up Questions dated May 15, 2017 and its Best and Final Offer (BAFO) dated May 19, 2017 (the "RFP Documents"). In the event of a conflict between the provisions of this Agreement and the RFP Documents, the provisions of the RFP Documents shall control only to the extent reasonable necessary to resolve the conflict.

13. Booklist:

In the course of providing the services contracted for in this Agreement, Barnes & Noble collects certain information from the faculty through its online research and adoption tool, FacultyEnlight, and/or on its Course Book Information forms. Barnes & Noble also creates a computer database containing, among other things, course book information (all such information, the "Booklist"). These forms and the database are Barnes & Noble's proprietary information, created at substantial cost and expense to Barnes & Noble and used in connection with its business, the retail sale of textbooks.

Should Kern Community College District require any information that may be contained within the forms or the database either for its educational purposes, or in order to comply with any public records request where no exemption is available (such as an exemption for commercial information), Kern Community College District understands that it will be responsible for collecting that information from the faculty.

Subject to the "exclusive campus bookseller provision" set forth above, nothing set forth in this paragraph shall be construed to limit in any manner the right of any other off-campus vendor to use its own course book information form to obtain this information from the faculty.

14. Used Book Purchase and Resale:

Barnes and Noble shall buy books from Kern Community College District faculty, staff and students at the following prices:

- a) When the Bookstore has been notified that the book will be used at Kern Community College District the following semester: 50% of the customer's purchase price (provided the book is a good used copy) until the Bookstore has filled its quota.
- b) In the absence of such notification, or if the book will not be used for the following semester, or is to be replaced shortly by a revised edition according to an announcement of the publisher, the book will be purchased at the wholesale price.
- c) Used books in good condition will be sold by Barnes & Noble at 25% less than the new selling price.

15. Refunds and Exchanges:

Barnes & Noble shall offer refunds and exchanges as follows:

a) Textbooks

The Bookstore will issue refunds in the original form of payment for textbooks purchased at the Bookstore if returned in the original condition, with an original receipt and within the first week of classes. Within 30 days of the first day of classes, textbooks will be refunded with an original receipt and with a valid proof of add/drop.

b) General Reading Books, Medical and Specialty Reference Books, Software, Audio, Video, & Small Electronics

The Bookstore will issue refunds in the original form of payment if returned in the original condition, with an original receipt and within fourteen (14) days of purchase. Opened software, audio books, DVDs, CDs, music and small electronics may not be returned for a refund but can be exchanged for the same item if defective.

c) All Other Merchandise

The Bookstore will issue refunds in the original form of payment any time during the semester for other merchandise purchased at the Bookstore if returned in the original condition and with the original receipt. If without a receipt, a store credit will be issued at the current selling price.

Refunds or Exchanges will not be issued for the following items: food and beverages, unwrapped loose leaf books, or shrink wrapped titles which do not have the wrapping intact, digital content once accessed or activated, custom course materials, outlines, study guides, school guides, magazines, gift cards, phone cards, newspapers, and prepaid cards.

16. Policy Posting:

Barnes & Noble shall post conspicuously Bookstore policies concerning refunds, buybacks, and exchanges.

17. Repurchase of Inventory (On hand):

Kern Community College District shall repurchase, or require a successor contractor to purchase, Barnes & Noble's inventory at cost in the event of cancellation of this Agreement, in the same manner as purchased by Barnes & Noble.

Should Kern Community College District change logo or contracted athletic apparel provider/licensee, Kern Community College District will either give Barnes & Noble six months written notice or will allow Barnes & Noble to automatically deduct from commissions due the cost of unsold emblematic merchandise.

18. Repurchase of Inventory (Outstanding rentals):

In the event of cancellation of this Agreement, Kern Community College District shall purchase, or require a successor contractor to purchase, Barnes & Noble's rental inventory outstanding at the time of the transition, at the buyback value (50% of the retail price).

19. Sales Markup Basis:

Barnes & Noble represents that the sale markup basis at the Bookstore will be as follows:

- a) New textbooks will be sold at no greater than (i) the publisher's list price or (ii) a **25 %** gross margin on net priced books, inclusive of restocking fees. Net priced books are defined as books purchased from publishers that do not have a publisher's suggested list price or when the publisher's discount to the bookstore is less than 20%.
- b) Used textbooks will be sold at 25% less than the new selling price.
- c) Course packs and textbooks purchased from publishers with restrictive or non-returnable text policies or are single use products will be priced at up to a 25% gross margin.
- d) Barnes & Noble will be setting rental fees for each title, and any given title's fee may vary as a percentage of the retail selling price.
- e) School supplies will be priced at or below manufacturers' suggested retail prices.

Barnes & Noble shall, upon request, provide proof of conformity to pricing policies as specified herein.

20. Financial:

1. Financial Projections. The Contractor shall provide detailed analysis showing it is making best efforts within market conditions to meet the financial projections given to the District during the selection process, along with proposals for curing and failures to meet any such projections, including the following:
 - Sales by Category/Department for each Bookstore (Note: The Contractor must submit sales projections by category/department for Bakersfield, Cerro Coso, and Porterville.)
 - Total Sales
 - Cost of Goods Sold
 - Gross Margin
 - Personnel Expenses
 - Direct Operating Expenses
 - Indirect Expenses (e.g., Management Fee, Company Overhead Charges)
 - Rent/Commission to KCCD
 - Profit/Loss
 - Website Sales
2. Financial Return To KCCD. The Contractor shall make the following payments to District:
 - a. One-Time Signing Bonus Payment. The Contractor shall provide a One-Time Signing Bonus Payment of Seven Hundred and Fifty Thousand Dollars (\$750,000) (hereinafter, referred to as the "One-Time Signing Bonus Payment"). The One-Time Signing Bonus Payment shall be made by the Contractor to KCCD in its entirety at the commencement of this Agreement.
Payment of the one-time signing bonus is contingent upon, and shall be made within ninety (90) days after, the successful implementation of Barnes & Noble College's Campus Connect Technologies, including but not limited to registration, and LMS and FacultyEnlight integrations,

and enrollment feeds, and Kern Community College District providing Barnes & Noble College all student email addresses (including incoming students) by agreed upon dates.

Barnes & Noble College will amortize the one-time signing bonus on a straight-line basis over the year period of this Agreement. Should Kern Community College District cancel or fail to renew this Agreement before the end of that period, then Kern Community College District shall reimburse Barnes & Noble College for any amount of the investment not yet amortized.

- b. **Payment Formula.** During each Agreement Year, the Contractor shall pay KCCD a minimum annual guaranteed payment ("Minimum Annual Guarantee" as hereinafter defined), or the applicable percentage of commissionable sales ("Percentage Of Commissionable Sales" as hereinafter defined) of the Bookstores, whichever is greater, according to the following schedule:

Minimum Annual Guarantee:

- Agreement Year July 1, 2017 - June 30, 2018: One Million And Fifty Dollars (\$1,000,050)
- For the Agreement Year beginning July 1, 2018 and each subsequent Agreement Year, the Minimum Annual Guarantee shall be ninety percent (90%) of the calculated Percentage Of Commissionable Sales by the Contractor to KCCD of the immediately preceding Agreement Year.

Percentage Of Commissionable Sales:

- Fourteen and one-half of a Percent (14.5%) of Commissionable Sales up to and including Seven Million Dollars (\$7,000,000) per Agreement Year, plus;
- Fifteen and one-half of a Percent (15.5%) of Commissionable Sales greater than Seven Million Dollars (\$7,000,000) per Agreement Year, plus;
- Six Percent (6.0%) on *Digital Textbook Sales with less than a 20% gross margin.

*Digital Textbook Sales shall not include Net-Priced Bundled Packages of Course Materials (e.g., textbook, workbook, CD, passcode, etc., bundled together). The Contractor shall pay the full commission rate on Net-Priced Bundled Packages.

In any Agreement Year which is less than a complete year, and any year in which a termination of this Agreement occurs whether with or without cause, the payments shall be based upon the Percentage Of Commissionable Sales, and the Minimum Annual Guarantee shall not apply.

- c. Without changing the obligation to pay the foregoing amounts, should the Contractor claim inability to make the required payments to District, The Contractor shall provide detailed analysis showing why it cannot meet the projected financial returns, along with proposals for curing any failures to meet any such projections.

d. For purposes of this Agreement:

- Gross sales is defined as all collected sales at the Bookstore, including textbook rentals and sales from your bookstore website, less voids, refunds, sales tax, discounted departmental sales, handling fees associated with non-return of rental textbooks, campus debit card fees, discounted faculty/staff sales, pass-through income, merchandise sales at less than a 20% initial gross margin, and other merchandise mutually designated as non-commissionable.
- "**Gross Sales**" shall be defined as all sales of the Contractor and revenue received by the Contractor based upon all business conducted in or from the Bookstore for any product or service offered by the Bookstore, including revenue received from textbook rentals. This includes all orders taken or received at the Bookstore, whether such orders are placed at the Bookstore, via the internet (i.e., "on-line sales"), orders received through the Bookstore Websites, or elsewhere. Gross Sales shall include any commissions, and rebates received by the Contractor (whether such commissions and/or rebates are received at the store level or at the

corporate office) from products such as class rings, clothing, general merchandise, etc.; and commissions and rebates received by the Contractor (whether such commissions and/or rebates are received at the store level or at the corporate office) for authorized sales by other companies or organizations on the Bookstore Websites.

- **"Commissionable Sales"** shall be defined as Gross Sales less:
 - Voids
 - Customer refunds
 - Handling fees associated with the non-return of rental textbooks
 - Digital Textbook Sales, whether such orders are placed at the Bookstore, via the internet (i.e., "on-line sales"), orders received through the Bookstore Websites, or elsewhere.
 - Discounted Faculty/Staff sales
 - Discounted sales to authorized KCCD Departments
 - Discounts (provided that the discount amount thereof was included in Gross Sales)
 - Sales tax paid by the Contractor to any government agency which was collected from customers
 - Computer hardware sales
 - Sales made at no margin by the Contractor at the request of KCCD
- The Contractor shall pay KCCD the greater of either (i) the financial return based on the commission schedule, or, (ii) the minimum annual guarantee.
- Payments shall be made to KCCD based on the Bookstore's Commissionable Sales on a monthly basis via electronic funds transfer (EFT). Payment of any amount due in excess of payments already received shall be made annually, within thirty (30) days following the end of each contract year.
- The Contractor shall be solely responsible for the collection of any debts resulting from checks, credit cards, charge cards, debit cards, etc.
- The Contractor shall maintain complete and accurate records of all transactions in accordance with generally accepted accounting standards and principles. The Contractor shall make all records available for inspection by authorized KCCD representatives.

e. Annual Textbook Scholarships. The Contractor shall provide Annual Textbook Scholarships of Ten Thousand Dollars (\$10,000) to KCCD (hereinafter, referred to as the "Textbook Scholarships"). The Textbook Scholarships Payments shall be made by the Contractor annually on July 1 of each Agreement Year, beginning July 1, 2017.

21. Force Majeure:

Barnes & Noble and Kern Community College District shall be excused for the period of any delay in performance of any obligations hereunder when prevented from doing so by the wrongful or negligent acts or omissions of the other party or by causes beyond either party's control, which shall include all labor disputes, civil disturbance, reasonably unforeseeable weather conditions, war, invasions, military or usurped power, sabotage, governmental regulations or controls (including bona fide delays in obtaining building and similar permits and approvals), fires or other casualty, or acts of God.

22. Access to Point of Sale (POS) Financial and Accounting Information:

Kern Community College District shall be provided access, with sufficient notice, to the Bookstore accounting records. This may include sales information captured by our POS system. This will be done in compliance with PCI guidelines that protect card holder information. Store POS reports are available by register. All POS activity is verified daily by the Home Office Sales Audit system. In addition, all registers have:

- a) Transaction number controls with further security level restrictions by cashier type.

- b) Electronic Journal, receipt and detail tape provisions, with required PCI protection.
- c) Display window for customer viewing.

23. Benefit and Binding Effect:

This Agreement shall be binding upon and shall inure to the benefit of Kern Community College District and Barnes & Noble and their successors and assigns.

24. Headings; Interpretation:

The headings used in this Agreement are for convenience only and do not constitute substantive matter to be considered in construing its terms. The use in this Agreement of the terms “include”, “includes”, “including”, and “such as” shall be deemed in all cases to be followed by the words “without limitation”.

When used in this Agreement Kern Community College District includes all segments of the institution including all alumni, athletic and academic departments.

25. Severability:

The presence in the text of this Agreement of any clause, sentence, provision, paragraph or article held to be invalid, illegal or ineffective by a court of competent jurisdiction shall not impair, invalidate or nullify the remainder of this Agreement. The effect of any such holding shall be confined to the portion so held invalid.

26. Confidentiality:

Each party agrees that the financial and other terms of this Agreement shall be kept confidential and such terms may be disclosed to a third party only as required by law, including any public record disclosure law (but only after giving effect to all applicable exemptions), or as necessary to perform the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands as at the day and year written below.

Kern Community College District

Barnes & Noble College Booksellers, LLC

By: Deborah A. Martin
 Name: ~~Mr. Tom Burke~~ Deborah A. Martin
 Title: ~~Chancellor~~ Interim CFO
 Date: 10/5/17

By: Kimberly Ote
 Name: Kimberly Ote
 Title: Vice President, Stores
 Date: 2 October 2017

