Agreement for Bookstore Services
between
Ventura County Community College District
and
Barnes & Noble College Booksellers, LLC

1. Engagement of Barnes & Noble:

Ventura County Community College District hereby engages Barnes & Noble College Booksellers, LLC ("Barnes & Noble") to operate and provide services for the bookstores (the "Bookstores") of Ventura County Community College District (the "District") per the terms and conditions of the Ventura County Community College District Request for Proposal 460, Management of Ventura County Community College District Bookstores, Barnes & Noble's response dated November 15, 2013, and Barnes & Noble's December 19, 2013 response to the District's "Vendor Follow-up questions" dated December 13, 2013, unless otherwise agreed to in this Agreement, and on the terms and subject to the conditions set forth herein. Barnes & Noble hereby accepts such engagement.

Barnes & Noble shall report directly to the Vice Presidents at each college of any change in store appearance and hours of operation, and shall have prior approval from each college Vice President of any changes.

2. Term, Amendment and Notices:

Initial Term of Agreement / Period of Performance. The term of this Agreement shall commence on April 1, 2014 and shall terminate on June 30, 2019 (the "Initial Term"). This Agreement shall renew automatically for three (3) one-year periods (each a "Renewal Term") beginning on the day after the last day of the Initial Term and thereafter on the anniversary of said date, unless the District provides Barnes & Noble with one hundred twenty (120) days written notice of non-renewal prior to the expiration of the Initial Term or Renewal Term.

An "Agreement Year" as used in this Agreement shall be July 1 through June 30 of each year during the Initial Term or Renewal Term, with the exception of the first agreement year ("First Agreement Year") which shall be for the months of April 1, 2014 through June 30, 2014.

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: Terry Cobos, Director of General Services for Ventura County Community College District located at 255 W. Stanley Ave., Suite 150, Ventura, CA 93001 and Janine von Juergensonn, National Vice President of Marketing, for Barnes & Noble College Booksellers, LLC located at 120 Mountain View Blvd, Basking Ridge, NJ 07920.

Ventura County 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. Ventura County Community College District Shall Provide to Barnes & Noble at Ventura County Community College District’s Expense:

a) Heat, light, utilities, and air conditioning as reasonable required.
b) Office equipment (including safes), furniture and fixtures, file cabinets, telephone equipment and wiring and telephone service (including campus telephones and campus 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 Bookstores are located.

d) All debit or credit card or other financial services made available by Ventura County Community College District to its students.

e) The placement of an electronic link to your bookstore's web site on your school's home page.

4. Environmental Matters:

To the best of its knowledge, Ventura County Community College District is not aware of any health or environmental problems, except possible asbestos if floor tiles are removed at Ventura College, which currently exist or are likely to develop in the building or physical facility which houses the Bookstores. Ventura County Community College District shall be responsible for remedying promptly any health or environmental problem at the Bookstores, other than those caused by Barnes & Noble, including removal of tiles or any remodel work under the direction of Barnes & Noble they may cause health and environmental problems, and notifying Barnes & Noble accordingly.

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

All operating expenses of the Bookstores 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 or municipal taxes on the Bookstores.

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.

g) Emergency Key to be left with the VCCCD Police Department and Facilities, Maintenance & Operations Department at each campus. In addition, if a campus has knox boxes currently installed or installed in the future for use by a public agency (i.e., fire, police), a Barnes & Noble key must be included in a knox box to allow access in case of an emergency.

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 $1,000,000 combined single limit per accident or bodily injury and property damage.

Barnes & Noble shall obtain and deliver certificates evidencing such insurance from its insurers. Barnes & Noble shall save Ventura County 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 Agreement or injuries or death caused by Barnes & Noble vehicles on the Bookstores premises, except for claims caused by Ventura County Community College District or any of its employees, agents or representatives, for which Ventura County Community College District shall save Barnes & Noble harmless.

Barnes & Noble's insurance policies for the Bookstores shall name Ventura County 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. Compliance with all Laws:

Barnes & Noble shall comply with all laws, ordinances, codes, rules, orders, and regulations of federal, state and municipal governments, and of any and all of their departments, divisions, bureaus, and subdivisions, applicable to the operation of the Bookstore.

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.

a) Ventura County Community College District Bookstore personnel shall continue service, as outlined in the RFP, only so long as their work and personal behavior are acceptable to Barnes & Noble and Ventura County Community College District. Barnes & Noble will comply with written requests by Ventura County Community College District to remove or reassign store personnel for good cause.

b) The eight current employees presently working for the Bookstores will remain on VCCCD's payroll, and their salaries and benefits will be reimbursed by Barnes & Noble. The eight employees are subject to any applicable salary increases per District procedures, policies, and agreements. Barnes & Noble is not responsible for reimbursing wages and benefits earned prior to the Initial Term.

c) During the first five years of this Agreement, all changes (e.g., changes in position, reporting structure, compensation, termination, etc.) regarding SEIU employees who are VCCCD employees at the time of transition and remain on the VCCCD payroll, working at the Bookstore,
will require prior consultation with, and approval by, the District. All current SEIU employees shall continue to be protected and governed by the SEIU Agreement.

d) During the first three years of this Agreement, all changes (e.g., changes in position, reporting structure, compensation, termination, etc.) regarding the current Bookstore Managers who are VCCCD employees at the time of transition and remain on the VCCCD payroll, working at the Bookstore, will require prior consultation with, and approval by, the District.

e) Bookstore Managers hired by Barnes & Noble, assigned to the District bookstores, must be approved in advance by the campuses and the District. Subsequent changes in assignments will be made by the contractor only after prior consultation with the District. The District expects management continuity (i.e., limited turnover of the Manager) in order for the contractor to meet the expectations and requirements of the District.

9. Staff Relations, Wages, and Benefits:

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

Should any of the eight current reimbursed employees leave during the term of this Agreement, the position will be vacant and the District will not fill the position.

10. Calendar of Operating Hours:

Barnes & Noble shall maintain a schedule of operating hours and weeks of business for the Bookstores in accordance with the official Ventura County Community College District calendar and in mutual agreement with Ventura County Community College District and campuses 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, and as approved by the Campus Vice Presidents, Business Services.

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 managers 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. Ventura County 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 Bookstores as an independent contractor and with its own credit and preferred vendors, with the facility and equipment agreed upon. Services of the Bookstores shall include the following:

a) The Bookstores shall be Ventura County Community College District's exclusive retail buyer and seller of all required, recommended or suggested course materials and supplies, including books, course packs, computer software, textbook rentals, and materials published or distributed electronically and/or through learning management systems, or sold over the Internet. As used in this Agreement, "Internet" includes the World Wide Web and any proprietary on-line service. Barnes & Noble will provide exclusive on-line services through our web site and have first right of refusal to fulfill any distance learning material needs during the term of this Agreement.

b) The Bookstores 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 Ventura County Community College District and are payable within 30 days of invoice date.

c) The Bookstores shall also be Ventura County 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 Ventura County Community College District emblem, logo, insignia or other identifying mark; except those clothing or items sold at Athletic events or student club fundraising.

d) Ventura County 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 Ventura County Community College District.

e) The Bookstores shall be the exclusive agent for the rental and/or sale of graduation caps and gowns and commencement invitations, if the campus agrees to sell such items through the bookstore operations.

f) The Bookstores shall also have a non-exclusive right to sell convenience store items such as snacks, health and beauty items, and other sundries.

g) Barnes & Noble will provide exclusive custom publishing services for Ventura County Community College District. 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 Bookstores. Complimentary desk copies of course packs will be provided to faculty members.

h) 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.

i) Barnes & Noble shall provide charge sales for supplies for Ventura County Community College District departments and offices. Payments for such charge sales shall be guaranteed by Ventura County Community College District and payable within 30 days.
j) Barnes & Noble will allow full-time faculty and staff of Ventura County Community College District a 10% discount on all merchandise available at the Bookstores except adopted textbooks, special orders, class and alumni rings, computer software, periodicals, discounted merchandise, computer hardware, stamps, health and beauty aids, food snacks, and beverages.

k) Barnes & Noble will offer a 20% discount on all authorized departmental purchases except adopted textbooks, special orders, class and alumni rings, computer software, periodicals, discounted merchandise, computer hardware, stamps, health and beauty aids, food snacks, and beverages.

l) If Ventura County Community College District accepts advertising for any of its materials or publications that it distributes or makes available to its students, including without limitation any course offering list, or if Ventura County Community College District permits tabling or other third-party promotional activities at any event sponsored by Ventura County Community College District or located on the Ventura County Community College District campus, Ventura County Community College District agrees that:

(a) it shall give the Bookstores reasonable advance notice of the deadline for placing such advertising or participating in such tabling or other promotional activities;

(b) the Bookstores shall have the right to place its desired advertising in such materials and to participate in such tabling or other promotional activities, upon approval of the college Vice Presidents; and

(c) Ventura County Community College District shall not accept advertising in such material from, or permit tabling or other promotional activities at any of such events by any seller of college textbooks and/or course supplies other than the Bookstores, unless prohibited by laws or regulations.

13. Booklist:

In the course of providing the services contracted for in this Agreement, Barnes & Noble collects certain information from the faculty on its Course Book Information forms. Barnes & Noble also creates a computer database containing, among other things, course book information. 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.

Textbook adoption data whether received in paper form, electronically, or otherwise, provided to Barnes & Noble by VCCCD’s faculty or staff are the property of the District. Barnes & Noble shall provide textbook/course materials adoption data to the campuses within twenty four (24) hours of the campuses request for copies of such adoption data and/or adoption forms. The textbook adoption processes are local and within the purview of each campus 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 Ventura County Community College District faculty, staff and students at the following prices:
The Bookstore shall buy back books from students at not less than 50% of the original textbook retail price for textbooks that have been adopted for an ensuing semester (provided the book is a good used copy) and until the Bookstore has filled its need. If a textbook was purchased new and has been readopted, then the Bookstore shall pay the student not less than 50% of the original new textbook retail price during buyback. If a textbook was purchased used and has been readopted, then the Bookstore shall pay the student not less than 50% of the original used textbook retail price during buyback. Textbooks that have not been adopted for an ensuing semester shall be purchased at a minimum of the current wholesale price, established by national used book wholesalers and published in one of the current national used book wholesale buying guides.

15. Refunds and Exchanges:

Barnes & Noble shall offer refunds and exchanges as follows:

a) Textbooks

The Bookstores will issue refunds in the original form of payment for textbooks purchased at the Bookstores 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 Bookstores 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 Bookstores will issue refunds in the original form of payment any time during the semester for other merchandise purchased at the Bookstores 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, activated eBooks, custom course materials, outlines, study guides, school guides, magazines and prepaid cards.

16. Policy Posting:

Barnes & Noble shall post conspicuously and without equivocation Bookstore policies concerning refunds, buybacks, and exchanges.

17. Purchase of Retail Inventory and Operating Supplies:

a) Prior to the commencement of this Agreement, a complete physical inventory, with audit trail by item and location, shall be conducted jointly by a professional retail inventory service company under the direction and supervision of the District and Barnes & Noble. The professional retail
inventory service company will be jointly selected by the District and Barnes & Noble. Barnes & Noble shall incur the entire expense for the professional retail inventory service company. The District and Barnes & Noble shall have the right to audit the physical inventory. The Bookstores will remain closed until such time as both parties concur with the accuracy of the physical counts Barnes & Noble shall be required to purchase the Bookstore inventory at cost from the District. Barnes & Noble shall purchase the Bookstore physical inventory based on those physical counts as follows:

- New textbooks that have been adopted for an upcoming semester shall be purchased by Barnes & Noble up to the quantity of anticipated enrollment at the actual cost to the District (i.e., publisher’s invoice cost).

- Used textbooks that have been adopted for an upcoming semester shall be purchased by Barnes & Noble up to the quantity of anticipated enrollment at the Bookstore’s current new textbook retail price, less the standard industry purchase cost factor (i.e., fifty percent (50%) as of September 2013).

- All general books (trade books, reference books, technical books, etc.) in clean and saleable condition shall be purchased at invoice cost.

- All general merchandise in clean and saleable condition shall be purchased at invoice cost. General merchandise includes, but is not limited to; art supplies, school and office supplies, computer software, computer/technology supplies, emblematic clothing, gifts, greeting cards, convenience items, health and beauty aids (HBA’s), special order services, graduation merchandise, etc.

b) Operating Supplies Purchase

Barnes & Noble shall purchase Bookstore operating supplies, shopping bags, gift boxes, etc., at cost from the District.

c) Inventory Payment

Barnes & Noble shall pay the District for Bookstore inventory and operating supplies within thirty (30) days from the commencement of this Agreement.

d) Credit Memo Purchase

Barnes & Noble shall purchase from, and pay to the District, the total amount of current, verified, and unapplied credit memos due to the District from publishers, wholesalers, distributors, and other vendors for Bookstore transactions.

e) Credit Memo Payment

Barnes & Noble shall pay the District for Bookstore credit memos within sixty (60) days from the commencement of this Agreement.

f) Inventory Purchase At End Of Agreement

At the termination or cancellation of this Agreement, or any extensions thereto, the District or a subsequent contractor shall purchase Bookstore inventory from Barnes & Noble in the same manner as outlined in the RFP and Section 17a of this agreement.

Date: March 25, 2014
All national textbook rental titles shall be collected by Barnes & Noble at the termination of this Agreement and will be the property of Barnes & Noble.

If the District cancels this Agreement by giving Barnes & Noble 120 day notice, and the cancellation occurs prior to the end of the academic term, the District shall purchase, or require a successor contractor to purchase Barnes & Noble's outstanding rental inventory at a mutually agreed upon price.

18. Sales Markup Basis:

a) Barnes & Noble shall adhere to the following textbook/course materials pricing policy:

- "List-Priced" new textbooks shall be sold at no higher than list price.
- "Pre-Priced" new textbooks shall be sold at no higher than the pre-price.
- "Net-Priced" new textbooks shall be sold at no higher than a twenty-five percent (25%) gross profit margin.
- "Net-Priced" bundled packages of course materials (e.g., textbook, workbook, CD, passcode, etc., bundled together) shall be sold at no higher than a twenty-five percent (25%) gross profit margin.
- Digital course materials sold by publishers to Barnes & Noble at net-price shall be sold by the Bookstore at no higher than a twenty-five percent (25%) gross profit margin.
- Digital course materials sold by publishers to Barnes & Noble via the agency fee pricing model shall be sold by the Bookstore at no higher than the retail price established by the publisher.
- Used textbooks shall be sold at no higher than seventy-five percent (75%) of the current new textbook retail price.
- Coursepacks and custom published materials (i.e., materials requiring copyright permissions) shall be sold at no higher than a twenty-five percent (25%) gross profit margin.
- Barnes & Noble will set rental prices for each title used at the District's Colleges. Pricing will be based on factors such as competitive market analysis and inventory position and will vary from title to title. Rental prices typically range from 30% off the new selling price to 80% off the new selling price. On average, students will save 35% (off the new selling price) on new rentals and 55% off on used rentals (off the used selling price). The average saving for all rentals will be 50% off the new selling price.
- There shall be no add-ons or surcharges to cover freight, handling, publisher re-stocking fees, etc. (i.e., The above formulas shall be applied to the actual price listed on the publisher's invoice in order to determine the selling price of a particular textbook/course material.)

b) Barnes & Noble shall sell trade books, reference books, and other non-textbooks at no more than the publisher's list price, or if there is no list price, at prices competitive in the local area and competitive in the college bookstore industry.

c) Barnes & Noble shall sell all other merchandise (clothing, giftware, supplies, etc.) at prices competitive in the local area and competitive in the college bookstore industry. Barnes & Noble shall make a significant effort to provide emblematic/logo merchandise at multiple price points.

d) The District has the right to audit Barnes & Noble's records, vendor invoices, publisher invoices, etc., to verify adherence to the established pricing policies.
19. Minimum Annual Guarantee / Percentage of Net Sales:

Payment Formula. During each Agreement Year, Barnes & Noble shall pay the District a minimum annual guaranteed payment ("Minimum Annual Guarantee" as hereinafter defined), or the applicable percentage of net sales ("Percentage Of Net Sales" as hereinafter defined) of the Bookstores, whichever is greater, according to the following schedule:

Minimum Annual Guarantee:
- Agreement Year Dated July 1, 2014 - June 30, 2015: Eight Hundred Thousand Dollars ($800,000)
- For the Agreement Year beginning July 1, 2015 and each subsequent Agreement Year, the Minimum Annual Guarantee shall be ninety percent (90%) of the calculated Percentage Of Net Sales by Barnes & Noble to the District in the immediately preceding Agreement Year.

Percentage Of Net Sales:
- Thirteen and One Half Percent (13.5%) of Net Sales up to and including Seven Million Dollars ($7,000,000) per Agreement Year, plus;
- Fourteen and One Half Percent (14.5%) of Net Sales greater than Seven Million Dollars ($7,000,000) per Agreement Year.

In any Agreement Year which is less than a complete year, including the First Agreement 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 Net Sales, and the Minimum Annual Guarantee shall not apply.

- "Gross Sales" shall be defined as all sales of Barnes & Noble and revenue received by Barnes & Noble based upon all business conducted in or from the Bookstores for any product or service offered by the Bookstores, including revenue received from textbook rentals. This includes all orders taken or received at the Bookstores, whether such orders are placed at the Bookstores, via the internet (i.e., "on-line sales"), orders received through the VCCCD Bookstores Web site, or elsewhere. Gross Sales shall include any commissions received by Barnes & Noble from products such as class rings, graduation regalia, and commissions received by Barnes & Noble for authorized sales by other companies or organizations on the VCCCD Bookstores Web site.

- "Net Sales" shall be defined as Gross Sales less voids, less customer refunds, less handling fees associated with the non-return of rental textbooks, less discounted sales to authorized VCCCD Departments, less discounts (provided that the discount amount thereof was included in Gross Sales), less sales tax paid by Barnes & Noble to any government agency which was collected from customers, less computer hardware sales, less sales made at no margin by Barnes & Noble at the request of the District.

- Barnes & Noble shall be solely responsible for the collection of any debts resulting from checks, credit cards, charge cards, debit cards, etc.

- Barnes & Noble shall maintain complete and accurate records of all transactions in accordance with generally accepted accounting standards and principles. Barnes & Noble shall make all records available for inspection by authorized District representatives.

The Percentage Of Net Sales shall be paid by Barnes & Noble to the District by the thirty-first (30th) day of each month via electronic funds transfer (EFT) for business transacted during the previous month, beginning May 31, 2014. The calculation of the Minimum Annual Guarantee shall be
made at the end of each Agreement Year (July 1 - June 30) and payment of any additional amount due to bring the payments of the Percentage Of Net Sales for the Agreement Year up to the Minimum Annual Guarantee shall be made annually by July 31, beginning in 2015.

Barnes & Noble shall coordinate EFT payments and deliver or mail all payments or remittance information to the following address:

Accounting Department  
Ventura County Community College District  
255 West Stanley Avenue, Suite 150  
Ventura, CA  93001

A detailed statement of its computation shall accompany each payment, and Barnes & Noble shall furnish additional supporting documentation to the District upon request.

20. Scholarships:

Barnes & Noble will provide $15,000 for annual scholarships to be paid in full to the District on July 1 of each Agreement Year beginning July 1, 2014 and to be awarded at the discretion of Ventura County Community College District.

21. Sales Representation:

Ventura County Community College District has represented to Barnes & Noble that sales for the fiscal year ending 2013 were $7,148,416 net of all refunds, voids, sales tax, low or no margin sales, and discounts provided to customers, as provided by Ventura County Community College District in the RFP. This figure includes sales in all locations for which Barnes & Noble will assume operations. Since the Barnes & Noble financial offer is based on this figure and maintaining the existing business and programs, Barnes & Noble would expect to renegotiate its financial offer if the reported sales are found to be in error or materially inaccurate or if they are negatively impacted by a change in Ventura County Community College District’s policy.

22. Renovations:

Barnes & Noble will spend $300,000 to renovate and fixture the Bookstores. Barnes & Noble will depreciate this investment on a straight-line basis over the 5 year period of this Agreement. All capital investments in Bookstore fixtures and facilities of the Bookstore facilities shall become the property of the District at the termination, expiration, or non-renewal of this Agreement.

a) Facility Investment. Barnes & Noble will be required to provide state-of-the-art retail bookstore facilities and fixtures throughout the term of this Agreement.

b) Ownership Of Facility Investment And Fixtures. All capital investments and fixtures in the Bookstore facility shall become the property of the District at the termination, expiration, or non-renewal of this Agreement.

If this Agreement, or extensions thereto, ends for reasons other than poor performance (as outlined in the RFP) or bankruptcy by Barnes & Noble (as outlined in the RFP) prior to the capital investment being fully depreciated, then the District will reimburse Barnes & Noble
for the undepreciated portion of the capital investment in the Bookstore facility, and all capital investments and fixtures shall become the property of the District.

If this Agreement is terminated for poor performance as outlined in the RFP or for bankruptcy as outlined in the RFP, then the District shall not reimburse Barnes & Noble for the undepreciated portion of the capital investment, and all capital investments and fixtures shall become the property of the District.

c) Depreciation. The capital investment by Barnes & Noble in the VCCCD Bookstore facilities shall be depreciated on a straight-line basis over five (5) years.

d) The facility investment for the VCCCD Bookstore must meet District and State standards; must be approved in advance by the District; must comply with all procurement, contracting, and permitting regulations and all laws; and must be coordinated by Barnes & Noble. Any third party contractor used by Barnes & Noble to assist with making facility improvements must be approved in advance by the District.

e) Accounting Of Facility Investment. Barnes & Noble shall provide the District with a full accounting of its facility investment, including copies of invoices paid to vendors for the facility investment.

f) Investment Difference. If the actual amount spent by Barnes & Noble on the facility investment is less than $300,000, then Barnes & Noble shall provide the District with the difference between the actual amount spent and the $300,000, payable by September 30, 2015. If the actual amount spent by Barnes & Noble on the facility investment is more than the amount offered in their proposal, then Barnes & Noble shall be solely responsible for all costs necessary to complete the facility improvements.

g) Design Fees. All Bookstore design fees and planning fees associated with facility improvements shall be incurred solely by Barnes & Noble and Barnes & Noble shall treat all design and planning fees as their operating expenses. Design fees and planning fees shall not be included as part of the capital investment to be depreciated.

h) Signage. All exterior signage, banners, etc., must adhere to College/District requirements, and Barnes & Noble must obtain prior written approval from the College/District.

i) Timing Of Facility Investment. The timing of the facility investment for the Bookstore facilities will be determined by the District and Barnes & Noble.

23. Technology Investment

Barnes & Noble will spend up to $160,000 for computer and point-of-sale systems. At the termination or cancellation of the agreement, the computer and point-of-sales systems should remain the property of Barnes & Noble.

24. Final Approval of Renovations:

In order to provide the best possible service for Ventura County Community College District's students, faculty and other customers, final approval and necessary alterations of any bookstore plans will be granted to Barnes & Noble to ensure they meet with Barnes & Noble's minimum operational and retailing standards. Facility investment for the VCCCD Bookstores must meet District and State
25. **Force Majeure:**

Barnes & Noble and Ventura County 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.

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

Ventura County Community College District shall be provided access, with sufficient notice, to the Bookstores accounting records. This may include sales information captured by the 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.

27. **Financial Reporting:**

On a monthly basis, the contractor shall submit a sales report to the District, including sales by category and total sales for the Bookstore (by location, and consolidated). On an annual basis, Barnes & Noble shall submit a detailed VCCCD Bookstore financial statement to the District. At a minimum, the VCCCD Bookstore financial statement shall include the following:

- Sales by Category/Department including commissionable and non-commissionable sales (by location, and consolidated)
- Total Sales (by location, and consolidated)
- Cost of Goods Sold
- Gross Margin
- Personnel Expenses
- Direct Operating Expenses
- Indirect Expenses (e.g., Management Fee, Contractor Overhead Charges)
- Rent/Commission Paid to the District
- Profit/Loss
- Dollar Amount of "Retail Textbook Buyback"
- Dollar Amount of "Wholesale Textbook Buyback"
- Number of Class Rings Sold
- Web Site Sales

Barnes & Noble shall provide the District with a copy of its certified company financial statement on
an annual basis.

28. **Benefit and Binding Effect:**

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

29. **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 Ventura County Community College District includes all segments of the institution including all alumni, athletic and academic departments.

30. **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.

31. **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.

Ventura County Community College District

By: 
Name: Brian Fahnestock
Title: VICE CHANCELLOR, BUSINESS
Date: 3.26.14

Barnes & Noble College Booksellers, LLC

By: 
Name: Janine von Juergenson
Title: National Vice President of Marketing
Date: March 26, 2014

Date: March 25, 2014