Agreement for Bookstore Services
Between
The University Corporation at Monterey Bay
And
Barnes & Noble College Booksellers, LLC

1. Engagement of Barnes & Noble:

The University Corporation at Monterey Bay hereby engages Barnes & Noble College Booksellers, LLC ("Barnes & Noble") to operate and provide services for the bookstore of The University Corporation at Monterey Bay (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 The University Corporation at Monterey Bay and Barnes & Noble with regard to the Bookstore for the period January 1, 2011 through December 31, 2015 and from year to year thereafter. 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: Maria A.Y. Garcia for The University Corporation at Monterey Bay located at 100 Campus Center, Building 201, Suite 107, Seaside, CA 93955-8001 and Kimberly Otte for Barnes & Noble College Booksellers, LLC located at 120 Mountain View Blvd, Basking Ridge, NJ 07920.

The University Corporation at Monterey Bay 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. The University Corporation at Monterey Bay Shall Provide to Barnes & Noble at The University Corporation at Monterey Bay's Expense:

a) Heat, light, and utilities, 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 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 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 The University Corporation at Monterey Bay to its students.

Date: 2/11/11
4. **Environmental Matters:**

To the best of its knowledge, The University Corporation at Monterey Bay 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. The University Corporation at Monterey Bay 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 The University Corporation at Monterey Bay 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 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 The University Corporation at Monterey Bay, Barnes & Noble shall obtain and deliver certificates evidencing such insurance from its insurers. Barnes & Noble shall save The University Corporation at Monterey Bay 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 The University Corporation at Monterey Bay or any of its employees, agents or representatives, for which The University Corporation at Monterey Bay shall save Barnes & Noble harmless.
Barnes & Noble’s insurance policies for the Bookstore shall name The University Corporation at Monterey Bay 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, and shall contain covenants requiring thirty (30) days written notice to The University Corporation at Monterey Bay before cancellation of such coverage. These policies shall be primary and noncontributing with any insurance carried by The University Corporation at Monterey Bay.

7. **Compliance with all Laws:**

Barnes & Noble 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 the operation of the Bookstore.

8. **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 California State University, Monterey Bay at the Bookstore whenever reasonably possible.

9. **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 California State University, Monterey Bay calendar and in mutual agreement with The University Corporation at Monterey Bay 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.

10. **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.

a) 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. The University Corporation at Monterey Bay shall not be responsible for compiling, nor shall it maintain, a list of such adoptions.
11. 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 The University Corporation at Monterey Bay’s exclusive buyer and seller of all required, recommended or suggested course materials and supplies, including books, course packs, computer software, and materials published or distributed electronically, 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 Bookstore shall be designated the exclusive agent to accept all campus debit card and financial aid transactions for Bookstore purchases. Payments for charge sales will be guaranteed by The University Corporation at Monterey Bay and are payable within 30 days of invoice. Any unpaid balances will be subject to 1% interest per month.

c) The Bookstore shall also be The University Corporation at Monterey Bay’s exclusive “on-campus” and Internet seller of other items typically sold in college bookstores (with the exception of items sold by the Athletic Department and the Alumni Association), 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 the California State University, Monterey Bay emblem, logo, insignia or other identifying mark. The University Corporation at Monterey Bay 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 the University Corporation at Monterey Bay.

d) The Bookstore shall be the exclusive agent for the rental and/or sale of graduation caps and gowns and commencement invitations.

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

f) Barnes & Noble will provide exclusive custom publishing services for The University Corporation at Monterey Bay. 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.

g) 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.

h) Barnes & Noble shall provide charge sales for supplies for The University Corporation at Monterey Bay and California State University, Monterey Bay departments and offices. Payments for such charge sales shall be guaranteed by The University Corporation at Monterey Bay and payable within 30 days. Any unpaid balances will be subject to 1% interest per month.
i) Barnes & Noble will allow full-time faculty and staff of the Corporation and The California State University, Monterey Bay a _____ 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.

j) Barnes & Noble will offer a _____ discount on all authorized departmental purchases
   a. 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.

k) If The University Corporation at Monterey Bay 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 The University Corporation at Monterey Bay permits tabling or other third-party promotional activities at any event sponsored by The University Corporation at Monterey Bay or located on The California State University, Monterey Bay campus, The University Corporation at Monterey Bay agrees that:

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

   (b) the Bookstore shall have the right to place its desired advertising in such materials and to participate in such tabling or other promotional activities; and

   (c) The University Corporation at Monterey Bay 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 Bookstore.

12. Booklist:

In the course of providing the services contracted for in this contract, 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.

Should The University Corporation at Monterey Bay 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), The University Corporation at Monterey Bay 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.
13. Used Book Purchase and Resale:

Barnes and Noble shall buy books from The University Corporation at Monterey Bay faculty, staff and students at the following prices:

a) When the Bookstore has been notified that the book will be used at The University Corporation at Monterey Bay the following semester: [redacted] 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 [redacted] less than the new selling price.

14. 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 a valid receipt and within the first (one) week of classes. Within 30 days of the first day of classes, textbooks will be refunded with a valid receipt and a signed add/drop slip.

b) General Merchandise

The Bookstore will issue refunds in the original form of payment any time during the semester for general merchandise purchased at the Bookstore if returned in the original condition and with a valid receipt. If without a receipt, a merchandise credit will be issued at the lowest selling price. Cash back on merchandise credits will not exceed $10.00.

Refunds or Exchanges will not be issued for the following items: custom course materials, outlines, study guides, school guides, magazines and prepaid cards. Software must be unopened for exchange or refund. Opened software may be exchanged for the identical item only.

15. Policy Posting:

Barnes & Noble shall post conspicuously and without equivocation Bookstore policies concerning refunds, buybacks, and exchanges.
16. Repurchase of Inventory:

The University Corporation at Monterey Bay 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 school change logo or contracted athletic apparel provider/licensee, school 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.

17. 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 _______ gross margin on net priced books, inclusive of restocking fees, return penalties and freight surcharges. 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 _______.

b) Used textbooks will be sold at _______ less than the new selling price.

c) Course packs and textbooks purchased from publishers with restrictive or non-returnable text policies will be priced at up to a _______ gross margin.

d) 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.

18. Percentage of Sales:

Barnes & Noble will pay The University Corporation at Monterey Bay the applicable percentage of gross sales at the Bookstore.

(Gross sales shall be defined as all collected sales at the Bookstore, including all sales from your bookstore website, less voids, refunds, sales tax, discounted departmental sales, campus debit card fees, computer hardware, eBook readers, discounted faculty/staff sales, pass-through income and other merchandise mutually designated as non-commissionable, etc.)
If annual gross sales of the Bookstore shall materially decline as a result of declining enrollment (i.e., decrease 50% or more), public legislation, other conflicting campus agreements, material changes in school policies or the business model of the industry, such as digital books, sales directly from the publisher, or other reasons outside of the control of Barnes & Noble, The University Corporation at Monterey Bay agrees to negotiate in good faith with Barnes & Noble an appropriate reduction in the payments set forth above.

19. Payment Schedule:

Applicable payments as set forth above hereof shall be made quarterly by Barnes & Noble to The University Corporation at Monterey Bay and shall be paid within thirty (30) days after the close of the quarter in which they were earned.

Each payment shall be accompanied by a detailed statement of its computation and Barnes & Noble shall furnish supporting documentation to The University Corporation at Monterey Bay upon request.

20. One-Time Unrestricted Donation

To demonstrate our deep commitment to the University Corporation at Monterey Bay, Barnes & Noble will make a one-time unrestricted donation of $50,000 to the University Corporation at Monterey Bay.

21. Renovations:

Barnes & Noble will spend up to $30,000 to install new fixtures and equip the bookstore with state of the art computer systems. Barnes & Noble will amortize this investment on a straight-line basis over the five year period of this agreement. Should The University Corporation at Monterey Bay cancel or fail to renew this agreement before the end of that period, then The University Corporation at Monterey Bay shall reimburse Barnes & Noble for any amount of the investment not yet amortized.

22. Final Approval of Renovations

In order to provide the best possible service for The University Corporation at Monterey Bay’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.

23. Force Majeure

Barnes & Noble and The University Corporation at Monterey Bay 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.
24. Access to Accounting Records and Cash Registers:

The University Corporation at Monterey Bay shall have full access at all times to the Bookstore accounting records, including all cash registers at the Bookstore being used by Barnes & Noble, with or without notice. Cash register control totals will be used to verify the cash sales reported. In addition, all registers shall have:

a) Cumulative, non-resettable counters of either the total reset-clearings or the total cumulative activity.

b) Receipt and detail tape provisions.

c) Display window for customer viewing.

25. Benefit and Binding Effect:

This agreement shall be binding upon and shall inure to the benefit of The University Corporation at Monterey Bay and Barnes & Noble and their successors and assigns.

26. 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 The University Corporation at Monterey Bay includes all segments of the institution including all alumni, athletic and academic departments.

27. 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.

28. 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.

The University Corporation at Monterey Bay

By: [Signature]
Name: MARIA A.Y. GARCIA
Title: DIRECTOR OF OPERATIONS
Date: 16 February 2011

Barnes & Noble College Booksellers, LLC

By: [Signature]
Name: Kimberly Otte
Title: Vice President, Stores
Date: 11 February 2011