

**Amendment No. 1 to
Agreement for Bookstore Services
Between
Chabot College
And
Barnes & Noble College Booksellers, LLC**

Effective July 1, 2019 (“Effective Date”), this Amendment No. 1 (“Amendment”) to the Agreement for Bookstore Services dated July 1, 2016 (“Agreement”) is hereby entered into by and between Chabot College and Barnes & Noble College Booksellers, LLC according to the following terms and conditions.

1. **Section 2) Termination of Agreement** of the Agreement is hereby amended by adding the following to the end of the section:
 - f) In the event of termination of this Agreement for any reason, Chabot College shall provide (1) a secure space in or near the Bookstore during the last two weeks of the then-current term or semester to allow Barnes & Noble to collect from students outstanding textbooks on consignment owned by the publishers and (2) support related to such returns, including but not limited to communications to students. Alternatively, if Chabot College chooses not to provide such space and support, Chabot College shall assume and be wholly responsible for all of Barnes & Noble’s liability to the publishers related to the textbooks on consignment during the applicable term or semester, including but not limited to financial obligations with regard to the returns or non-returns of textbooks.

2. **Subsection i) under Section 5. Exclusivity** of the Agreement is hereby amended by deleting such subsection in its entirety and replacing it with the following:
 - i) The placement of an electronic link on the Chabot College’s home page, registration system, and within the Chabot College’s learning management system (“LMS”) to the Bookstore’s website.

3. **Section 5) Exclusivity** of the Agreement is hereby further amended by adding the following at the end of the section:
 - m) In order to expand affordability to students, Barnes & Noble will work with Chabot College if it opts to provide a “First Day” (inclusive access) program to its students. In such event, Chabot College and Barnes & Noble shall work together to negotiate publishers’ pricing of textbooks and course materials. Barnes & Noble will be responsible for the procurement of desired textbooks and course materials and will manage the First Day program on behalf of Chabot College. Additionally, the parties acknowledge and agree (i) Barnes & Noble shall be the exclusive retail (e-commerce) entity permitted to either place a link on the LMS or accept sales directly from Chabot College students and/or as part of a course fee through the LMS and (ii) Chabot College shall prohibit all third parties, including but not limited to publishers and sellers of textbooks and course materials, from placing direct links within the LMS or soliciting sales directly from Chabot College 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 Chabot College students, Chabot College shall remove and disable such links and retail functionality.

 - n) Barnes & Noble, in conjunction with Chabot College, will implement Barnes & Noble’s Campus Connect Technologies, including but not limited to registration, student financial aid, LMS and FacultyEnlight integrations, and enrollment feeds.

4. **Section 9) Revenue to DISTRICT** of the Agreement is hereby amended by deleting from “On an annualized basis,” through “designated as non-commissionable” in its entirety and replacing it with the following:

On an annualized basis, Barnes & Noble will pay Chabot College the following Calculated Commission:

5.0% of all Gross Sales up to **\$3,000,000**
7.0% of all Gross Sales over **\$3,000,000**

AND

5.0% of all Gross Sales of First Day™ and Digital Products

“Gross Sales” is defined as all collected in-store and online/website sales and Barnes & Noble-owned textbook rentals at the Bookstore, including the amounts earned from (i) processing transactions for publishers related to the consignment of their rental property and (ii) Barnes & Noble’s marketing programs and relationships with its brand partners, less voids, refunds, sales tax, handling fees associated with non-return of rental textbooks, campus debit card fees, computer hardware sales, contractually discounted sales (such as discounted department and faculty/staff sales), pass-through income, merchandise sales at less than a 20% initial gross margin, Gross Sales of First Day™ and Digital Products, and other merchandise mutually designated as non-commissionable.

“Gross Sales of First Day™ and Digital Products” is defined as all collected in-store, online/website sales, and sales of (i) eTextbooks. (ii) pure digital products and (iii) course materials within the LMS through the First Day™ model less voids, refunds, sales tax, and handling fees associated with non-return of rental textbooks.

If annual Gross Sales shall materially decrease as a result of legislation, conflicting or other campus agreements, material changes in Chabot College policy or the business model of the industry (such as digital books or direct publisher sales), removal by Chabot College of significant programs or departments, declining enrollment at Chabot College (defined as decreased full- and part-time student enrollment of 5% or more over the prior year), or other reasons outside the reasonable control of Barnes & Noble, Chabot College agrees to negotiate in good faith with Barnes & Noble on an appropriate reduction or other change to the Calculated Commission.

5. **Subsection b.) under Section 13) Purchase of Inventory** of the Agreement is hereby amended by adding the following to the end of the section:

In the event of termination of this Agreement for any reason, Chabot College shall provide (1) a secure space in or near the Bookstore during the last two weeks of the then-current term or semester to allow Barnes & Noble to collect from students outstanding textbooks on consignment owned by the publishers and (2) support related to such returns, including but not limited to communications to students. Alternatively, if Chabot College chooses not to provide such space and support, Chabot College shall assume and be wholly responsible for all of Barnes & Noble’s liability to the publishers related to the textbooks on consignment during the applicable term or semester, including but not limited to financial obligations with regard to the returns or non-returns of textbooks.

6. The Agreement is hereby amended by deleting **Subsection c) under Section 25) Retail Selling Prices** in its entirety.

7. **Section 41) Compliance with Laws** of the Agreement is hereby amended by deleting it in its entirety and replacing it with the following:

Barnes & Noble and Chabot College each 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 each as well as to their respective performance under this Agreement.

8. **Section 62b)** of the Agreement is hereby amended by replacing “\$300,000” with “\$216,000”.

9. Except as expressly modified above, all other terms and conditions of the Agreement shall remain the same.

10. This Amendment may be signed and sent electronically by the parties. All signed counterparts will be deemed originals and together shall constitute the entire Amendment.

Agreed as of the Effective Date:

Chabot College

Barnes & Noble College Booksellers, LLC

Name: _____

Name: Kimberly Otte

Title: _____

Title: Vice President of Stores

Date: _____

Date: _____