

*R. Hallworth**copy to  
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**Agreement for Bookstore Services  
between  
University of Central Florida  
and  
Barnes & Noble College Bookstores, Inc.**

**COPY****1. Engagement of Barnes & Noble:**

University of Central Florida, on behalf of its Board and Trustees, hereby engages Barnes & Noble College Bookstores, Inc. ("Barnes & Noble") to operate and provide services for the bookstore of University of Central Florida (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 University of Central Florida and Barnes & Noble with regard to the Bookstore for the period July 1, 2003 through June 30, 2008 with automatic renewals for four (4) consecutive one-year periods (July 1, 2008 – June 30, 2012), followed by one (1) three-month period (July 1, 2012 – September 30, 2012).

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: William F. Merck, II, Vice President of Administration and Finance for University of Central Florida located at P.O. Box 160020, Orlando, Florida 32816-0020 and Kimberly Otte, Regional Vice President for Barnes & Noble College Bookstores, Inc. located at 120 Mountainview Boulevard, Basking Ridge, NJ 07920.

**3. University of Central Florida Shall Provide to Barnes & Noble at University of Central Florida's Expense:**

- a) All repairs and maintenance for the building and the physical structure in which the Bookstore is located.
- b) Trash removal and extermination services for the Bookstore.
- c) All debit or credit card or other financial services made available by University of Central Florida to its students.

**4. Environmental Matters:**

To the best of its knowledge, University of Central Florida 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. University of Central Florida 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.

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5. **Barnes & Noble Shall Provide to University of Central Florida at Barnes & Noble's Expense:**

All operating expenses of the Bookstore other than those described in Section 3 above, including those related to:

- a) Employees, including payroll and payroll system costs, and employee benefits.
- b) Bill paying and accounting, including sales tax reporting and payment, except any property or municipal taxes on the bookstore.
- c) Office equipment maintenance and repair.
- d) General custodial services.
- e) Loss prevention services.
- f) Heat, light, utilities, and air conditioning as is reasonably required for operation of the Bookstore in an amount up to \$75,000 annually or Consumer Price Index (CPI).

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 **University of Central Florida**, Barnes & Noble shall obtain and deliver certificates evidencing such insurance from its insurers. Barnes & Noble shall save **University of Central Florida** 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 **University of Central Florida** or any of its employees, agents or otherwise in conjunction with the performance hereunder, for which **University of Central Florida** shall be liable to Barnes & Noble to the extent expressly authorized by Florida's Constitution and Laws, including but not limited to section 768.28, Florida Statutes.

Barnes & Noble's insurance policies for the Bookstore shall name **University of Central Florida**, and its Board of Trustees, as an additional insured and loss payee, but only with respect to liability arising out of operations performed for such insured by or on behalf of the named insured, and shall contain covenants requiring thirty (30) days written notice to **University of Central Florida** before cancellation, of such coverage. These policies shall be primary and noncontributing with any insurance carried by **University of Central Florida**.

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**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. 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.

**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 **University of Central Florida** 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 **University of Central Florida** calendar and in mutual agreement with **University of Central Florida** 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. **University of Central Florida** shall not be responsible for compiling, nor shall it maintain, a list of such adoptions.

**12. Booklist (Course Book Adoptions):**

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 Request forms (COBIR Adoption Forms). Barnes & Noble also creates a computer database containing, among other things, course book adoption 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 **University of Central Florida** 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), **University of Central Florida** 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 adoption information form to obtain this information from the faculty.

**13. 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 **University of Central Florida's** exclusive University owned property buyer and seller of all required, recommended or suggested course materials and tools, including books and course packs, including any of these materials which are published or distributed electronically, or sold over the Internet through any links associated with the University of Central Florida..
- b) The Bookstore shall be designated the University of Central Florida's exclusive agent to process all debit card and financial aid transactions for the Bookstore.
- c) The Bookstore shall also be **University of Central Florida'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, class and alumni rings and jewelry, and clothing, all of which bear a **University of Central Florida** emblem, logo, insignia or other identifying mark. "On-campus" shall mean the campus grounds (inclusive of the Rosen School of Hospitality Management) and any University owned property.
- d) The Bookstore shall be the exclusive agent for the rental and/or sale of graduation caps and gowns and commencement invitations.
- e) Barnes & Noble shall stock, in sufficient quantity, display and sell all required, recommended and suggested course books, whether new or used, and all other education supplies, course packs, tools and materials used by the students of the University of Central Florida in pursuing their courses.
- f) The Bookstore shall have non-exclusive rights to manage all service programs customarily handled by college bookstores such as magazine subscription, telecommunication and credit card application programs. Revenue generated from all such programs shall be commissionable.

- 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 will provide exclusive course pack publishing services for **University of Central Florida**. 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 special book order services for students, faculty, and staff and make every effort to obtain the earliest possible delivery of such books.
- j) Barnes & Noble shall provide charge sales for supplies for **University of Central Florida** departments and offices. Payments for such charge sales shall be guaranteed by **University of Central Florida** and payable within **40** days. Any balances over 90 days will be subject to 1% interest per month. Any balances over 90 days owed by Barnes & Noble to the University of Central Florida shall be subject to 1% interest per month.
- k) Barnes & Noble will allow full-time faculty and staff of **University of Central Florida** 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, café items and beverages.
- l) Barnes & Noble will allow departments of **University of Central Florida** a **20%** discount on all merchandise available at the Bookstore except adopted textbooks, special orders, sale books, rings, computer software, periodicals, discounted merchandise, computer hardware, stamps, health and beauty aids, food snacks, café items and beverages.
- m) Barnes & Noble will offer a **10%** discount to full-time faculty and staff of **University of Central Florida** at the Barnes & Noble Superstore on Colonial Drive as per the provisions stated on page 127 of our Proposal.
- n) **University of Central Florida** shall not accept advertising in such material from, or permit tabling or other promotional activities at any UCF sponsored events or on any University of Central Florida owned property by any seller of college textbooks and/or course supplies other than the Bookstore on campus.

#### 14. Scholarships

Barnes & Noble will provide ten (10) textbook scholarships annually to deserving University of Central Florida students as selected by the University of Central Florida to meet those students' annual textbook requirements.

**15. Used Book Purchase and Resale:**

Barnes and Noble shall buy books from **University of Central Florida** faculty, staff and students at the following prices:

- a) When the Bookstore has been notified that the book will be used at **University of Central Florida** the following semester: 50% of the selling 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 at the national wholesale price.
- c) Used books in good condition will be sold by Barnes & Noble at 25% less than the new selling price.
- d) Implement the Guaranteed Buyback and Price Matching Plus Programs as defined in our original Proposal on page 134.

**16. Policy Posting:**

Barnes & Noble shall post conspicuously and without equivocation Bookstore policies concerning refunds, buybacks, and exchanges and changes will be reviewed by the University.

**17. Repurchase of Inventory:**

**University of Central Florida** shall repurchase, or require a successor contractor to purchase, a maximum of 12 months of Barnes & Noble's inventory at cost in the event of cancellation of this agreement, in the same manner as purchased by Barnes & Noble.

In the event **University of Central Florida** changes any name or logo used on its insignia merchandise, the **University of Central Florida** shall inform the Bookstore of any such change prior to implementation. The University of Central Florida agrees to engage in good faith negotiations with the Bookstore regarding the disposition of the merchandise bearing the old name or logo.

**18. 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, 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 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 will be priced at up to a 30% 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.

#### 19. Management Fees

Each contract year, **University of Central Florida** shall pay to Barnes & Noble fees for its management services pursuant to this Agreement consisting of (i) a Fixed Fee, and (ii) a Variable Fee, both as set forth in Schedule I hereto. In no event, however, shall the Variable Fee for any Contract Year exceed an amount equal to the Fixed Fee for such period.

"Gross Sales" shall be defined as all collected sales at the Bookstore less voids, refunds, sales tax, discounted sales, such as departmental sales, discounted faculty/staff sales, pass-through income, uncollected sales, etc.

At the end of each business day, Barnes & Noble, as agent for **University of Central Florida**, shall deposit in a bank account (the "Account") the aggregate amount of non-credit card Gross Sales collected for that day from operation of the bookstore. Such Account shall be established, accessed, and maintained by Barnes & Noble on behalf of University of Central Florida. On a regular basis, all funds on deposit in the Account shall be paid to Barnes & Noble on account of all Fixed Fees and Variable Fees. For purposes of this Agreement, the Fixed Fee shall accrue on a daily basis (i.e., the Fixed Fee for a given Contract Year divided by the number of days in such Contract Year shall accrue each day of such Contract Year) and the Variable Fee shall accrue daily based on the actual cumulative Gross Sales to date for the contract year and formula described in Schedule 1. On or before the 30<sup>th</sup> day after the close of the last day of the months of June, September, December and March of each Contract Year or, if this Agreement shall terminate, the last day of the month in which such termination occurs (each such last day a "Quarter End Date"), Barnes & Noble shall provide to University of Central Florida a report of total Gross Sales, adjustments to Gross Sales, Account deposits and payments of management fees. On or before the 30<sup>th</sup> day after the close of each Quarter End Date, the remaining amount of the Fixed Fee, if any, and the Variable Fee, if any, shall be paid to Barnes & Noble from the Account, and all amounts due **University of Central Florida** shall be paid to **University of Central Florida**.

#### 20. Renovations:

Barnes & Noble will spend \$200,000 to design, construct, equip, and install fixtures in the Bookstore.

#### 21. Necessary Alterations

In order to provide the best possible service for **University of Central Florida's** students, faculty and other customers, necessary alterations of any bookstore plans will be discussed by and between Barnes & Noble and an appropriate University of Central Florida representative to ensure they meet with Barnes & Noble's minimum operational and retailing standards.

**22. Access to Accounting Records and Cash Registers:**

University of Central Florida 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.

**23. Benefit and Binding Effect:**

This agreement shall be binding upon and shall inure to the benefit of University of Central Florida 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".

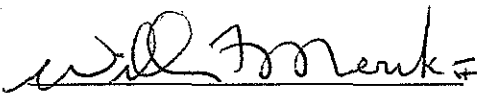
**25. Severability:**

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.



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

**University of Central Florida**

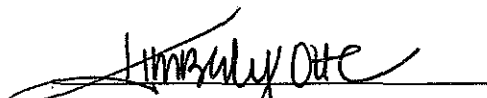
By: 

Name: William F. Merck II

Title: Vice President, Administration and Finance

Date: 7/14/06

**Barnes & Noble College Bookstores, Inc.**

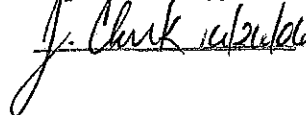
By: 

Name: KIMBERLY OTTE

Title: VP, Stores

Date: 17 July 2006

Legal Content Approved



BN: ver. MSW. 06/27/02

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**Schedule 1**

1. Quarter payments of net proceeds are due at the end of each quarter.  
(September, December, March and June)

Net proceeds are defined as follows:

Year-to-date sales

- Fixed Management Fee (see 2 below)
  - Variable Management Fee (see 3 below)
- = Net Proceeds

2. The fixed management fee is as follows:

<u>Contract Period</u>	<u>Fixed Fee</u>
7/1/03 – 6/30/03	\$ 7,740,335
7/1/04 – 6/30/05	\$ 8,125,396
7/1/05 – 6/30/06	\$ 8,525,665
7/1/06 – 6/30/07	\$ 8,945,949
7/1/07 – 6/30/08	\$ 9,387,246
7/1/08 – 6/30/09	\$ 9,850,609
7/1/09 – 6/30/10	\$10,337,139
7/1/10 – 6/30/11	\$10,847,996
7/1/11 – 6/30/12	\$11,384,396
7/1/12 – 9/30/12	\$ 3,007,020

3. The variable management fee is calculated as follows:

YTD sales – up to \$9.0 million

- Variable Amount (see 4 below)
  - = Excess Amount
  - \* 89.5%
- = Variable Fee I

**Plus**

YTD sales in excess of \$9.0 million

- \* 88.5%
- = Variable Fee II

## 4. Variable Amount is as follows:

<u>Contract Period</u>	<u>Variable Amount</u>
7/1/03 – 6/30/04	\$ 8,614,900
7/1/04 – 6/30/05	\$ 9,045,645
7/1/05 – 6/30/06	\$ 9,497,927
7/1/06 – 6/30/07	\$ 9,972,824
7/1/07 – 6/30/08	\$10,471,465
7/1/08 – 6/30/09	\$10,995,039
7/1/09 – 6/30/10	\$11,544,790
7/1/10 – 6/30/11	\$12,122,030
7/1/11 – 6/30/12	\$12,728,131
7/1/12 – 9/30/12	\$ 3,341,134

5. In addition to the \$925,000 in capital commitment already given (which is being depreciated over a fifteen year period from July 1, 1998), Barnes & Noble will remit the following payments on sales or guaranteed payment amount, whichever is greater:

<u>Contract Year</u>	<u>Guaranteed Amount</u>
1	\$750,000
2	\$800,000
3 – 5	\$850,000

**OR**

10.0% gross sales up to \$6,000,000  
 10.5% gross sales \$6,000,000 - \$8,000,000  
 11.5% gross sales over \$8,000,000

# Barnes & Noble College Booksellers, Inc.



## Agreement for the Addendum and Extension of the Contract Between University of Central Florida and Barnes & Noble College Booksellers, Inc.

The contract between University of Central Florida and Barnes & Noble College Booksellers, Inc. for bookstore services dated July 14, 2006 is hereby amended and extended under the following conditions:

1. The contract will be extended for a five (5) year period from September 30, 2012 to September 29, 2017 and from year-to-year thereafter.
2. Either party reserves the right to cancel, with or without cause, upon one hundred twenty (120) day written notice.
3. Barnes & Noble has invested \$1,000,000 into designing, constructing, equipping, and installing fixtures at the Barnes & Noble @ UCF Bookstore. Barnes & Noble will depreciate this capital investment on a straight-line basis over a ten (10) year period from September 30, 2012. Should University of Central Florida cancel or fail to renew this agreement before the end of that period, then University of Central Florida shall reimburse Barnes & Noble for any amount of the investment not yet depreciated.
4. All other terms and conditions of the contract will remain the same.

Agreed:

University of Central Florida

By: *William F. Merck II*

Name: William F. Merck II

Vice President

Title: Administration and Finance

Date: 9/14/07

Barnes & Noble Booksellers, Inc.

By: *Patrick Maloney*

Name: PATRICK MALONEY

Title: EXECUTIVE VICE PRESIDENT

Date: 9.22.07