

**CUESTA COLLEGE
CONTRACTED BOOKSTORE MANAGEMENT
AGREEMENT**

This agreement (“Agreement”) is made this first (1st) day of March 2019 by and between Cuesta College, Highway 1, San Luis Obispo, CA 93403, (hereinafter, referred to as "CUESTA COLLEGE" or "College" or "District"), and Barnes & Noble College Booksellers, LLC, 120 Mountain View Blvd., Basking Ridge, NJ 07920, (hereinafter, referred to as "BARNES & NOBLE").

In consideration of the mutual promises and covenants contained in this Agreement and intending to be legally bound, CUESTA COLLEGE and BARNES & NOBLE agree as follows:

ARTICLE I - SCOPE OF SERVICES / PERFORMANCE

1.1 Scope of Services. CUESTA COLLEGE hereby enters into this Agreement with BARNES & NOBLE for purposes of providing contracted bookstore management services for the CUESTA COLLEGE Bookstore (“Bookstore”) at CUESTA COLLEGE. BARNES & NOBLE agrees to provide to CUESTA COLLEGE, services as are described in this Agreement and in Exhibits A-J attached hereto, each of which is incorporated by reference as if fully set forth herein. The CUESTA COLLEGE Bookstores that are party to this Agreements are as follows:

BOOKSTORE / SERVICES
Bookstore, currently located in the Student Center on the SLO Campus
Bookstore, currently located on the North County Campus in Paso Robles
Course Materials Services provided (as necessary) at the South County Center located in Arroyo Grande
Bookstore Websites

(Note: Throughout this Agreement, the Bookstores, and Websites are referred to, collectively, as the “Bookstore” or the “Bookstores.”)

1.2 Standard of Performance. BARNES & NOBLE agrees to perform the services specified under this Agreement with that standard of care, skill, and diligence normally provided by a first class, professional organization in the performance of similar services provided to other private universities, and to perform the services in a timely manner as required by this Agreement. BARNES & NOBLE shall operate the Bookstore in a manner which reflects the College’s reputation for academic excellence and supports the academic mission of the College. BARNES & NOBLE shall provide the College community with a full range of merchandise and services as expected from a quality, full-service College bookstore.

1.3 Agreement Requirements. BARNES & NOBLE shall comply with all Agreement Requirements set forth in the following Exhibits “A”-“J” attached hereto and incorporated herein by reference (the “Agreement Requirements”):

- Exhibit A: Operational Requirements
- Exhibit B: Customer Service Requirements
- Exhibit C: Course Materials Requirements
- Exhibit D: Technology Requirements
- Exhibit E: Tender Types / Discounts Requirements
- Exhibit F: General Merchandise and Marketing Requirements
- Exhibit G: Financial Reporting Requirements
- Exhibit H: Facility and Equipment Requirements
- Exhibit I: Inventory Purchase Requirements
- Exhibit J: Insurance and Indemnification Requirements

ARTICLE II - TERM / TERMINATION

2.1 Initial Term of Agreement / Period of Performance. The term of this Agreement shall commence on April 23, 2019 and, subject to termination as provided by Paragraph 2.2 herein, shall terminate on June 30, 2024 (the “Initial Term”). CUESTA COLLEGE shall have the option to renew the Agreement for one-year (1) renewal terms (each a “Renewal Term”) by providing BARNES & NOBLE with one hundred twenty (120) days written notice of 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 a partial year, beginning April 23, 2019 and ending June 30, 2019.

2.2 Termination With Cause.

A. CUESTA COLLEGE may immediately terminate this Agreement by providing BARNES & NOBLE with written notice without any right of cure by BARNES & NOBLE in the following cases:

- a. Conviction of BARNES & NOBLE for willful misconduct including, but not limited to, criminal conduct;
- b. If BARNES & NOBLE becomes (i) insolvent; (ii) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding; or (iii) proceedings in bankruptcy or insolvency are instituted against BARNES & NOBLE, a receiver is appointed, or if any substantial part of BARNES & NOBLE’s assets is the object of attachment, sequestration or other type of comparable proceeding, and such proceeding is not vacated or terminated within thirty (30) days after its commencement or institution; or

- c. Material misrepresentation of Gross Sales or Commissionable Sales, as hereinafter defined.

B. In all other instances of noncompliance with this Agreement, except for reasons stated in Section 2.2A, CUESTA COLLEGE may cite grounds for termination of this Agreement for cause, at any time, by providing BARNES & NOBLE with written notice citing the instance(s) of BARNES & NOBLE's noncompliance with this Agreement. BARNES & NOBLE shall then have thirty (30) days from the date of the written notice to cure its noncompliance to the satisfaction of CUESTA COLLEGE. Notwithstanding the above, in the event that the same event of non-compliance occurs more than once during this Agreement, CUESTA COLLEGE may terminate this Agreement immediately without the right of cure to BARNES & NOBLE for such non-compliance.

In the event BARNES & NOBLE should fail to cure said non-compliance within such thirty (30) day period (or in the case of a non-compliance which cannot be cured within thirty days, should fail to diligently commence such cure within fifteen days and diligently continue to pursue such cure thereafter) then CUESTA COLLEGE, in addition to all other remedies allowed to it, may terminate this Agreement immediately by providing BARNES & NOBLE with written notice.

C. BARNES & NOBLE may terminate this Agreement for cause, by providing CUESTA COLLEGE with written notice citing CUESTA COLLEGE's noncompliance with this Agreement. CUESTA COLLEGE shall then have thirty (30) days from the date of the written notice to cure its noncompliance to the satisfaction of BARNES & NOBLE. In the event CUESTA COLLEGE should fail to cure said noncompliance within such thirty (30) day period, then BARNES & NOBLE, in addition to all other remedies allowed to it, may terminate this Agreement immediately by providing CUESTA COLLEGE with written notice.

- 2.3 Termination Without Cause. CUESTA COLLEGE may terminate this Agreement, without cause, by providing one hundred-eighty (180) days written notice to BARNES & NOBLE. BARNES & NOBLE may terminate this Agreement, without cause, by providing one hundred eighty (180) days written notice to CUESTA COLLEGE.
- 2.4 Default. BARNES & NOBLE shall be responsible for any attorney and/or court fees incurred by CUESTA COLLEGE in the event BARNES & NOBLE defaults and court action is required.

ARTICLE III - PAYMENTS TO CUESTA COLLEGE

- 3.1 Payment Formula. During each Agreement Year, BARNES & NOBLE shall pay CUESTA COLLEGE a minimum annual guaranteed payment ("Minimum Annual Guarantee" as hereinafter defined), or the applicable sum of the Percentage Of Commissionable Sales plus the Percentage Of Pure Digital Course Materials Sales

(as hereinafter defined) of the Bookstore, whichever is greater, according to the following schedule:

Minimum Annual Guarantee:

- Agreement Year July 1, 2019 - June 30, 2020: One Hundred Fifty Thousand Dollars (\$150,000)
- For the Agreement Year beginning July 1, 2020 and each subsequent Agreement Year, the Minimum Annual Guarantee shall be ninety percent (90%) of the calculated sales commissions by BARNES & NOBLE in the immediately preceding Agreement Year.

From April 23, 2019 through June 30, 2020 (or until such time that the number of full-time Bookstore employees who remain on the College's payroll with salary and benefits reimbursed to CUESTA COLLEGE by BARNES & NOBLE is reduced to one, per Section 7.7 of this Agreement), the Percentage Of Commissionable Sales and the Percentage Of Pure Digital Course Materials Sales shall be as follows:

Percentage Of Commissionable Sales:

- Six and One-Quarter Percent (6.25%) of Commissionable Sales up to and including Two Million Dollars (\$2,000,000), plus;
- Ten and One-Quarter Percent (10.25%) of Commissionable Sales greater than Two Million Dollars (\$2,000,000), plus;

Percentage Of Pure Digital Course Materials Sales:

- Six and One-Quarter Percent (6.25%) of Pure Digital Course Materials Sales

For the Agreement Year beginning July 1, 2020 (or beginning at the time that the number of full-time Bookstore employees who remain on the College's payroll with salary and benefits reimbursed to CUESTA COLLEGE by BARNES & NOBLE is reduced to one, per Section 7.7 of this Agreement) and each subsequent Agreement Year, the Percentage Of Commissionable Sales and the Percentage of Pure Digital Course Materials Sales shall be as follows:

Percentage Of Commissionable Sales:

- Thirteen and One-Quarter Percent (13.25%) of Commissionable Sales up to and including Two Million Dollars (\$2,000,000) per Agreement Year, plus;
- Fifteen and One-Quarter Percent (15.25%) of Commissionable Sales greater than Two Million Dollars (\$2,000,000) per Agreement Year, plus;

Percentage Of Pure Digital Course Materials Sales:

- Seven Percent (7.0%) of Pure Digital Course Materials Sales

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 sum of the

Percentage Of Commissionable Sales plus the Percentage Of Pure Digital Course Materials 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 Bookstore for any product or service offered by the Bookstore, including revenue received from textbook rentals. This includes all orders taken or received at the Bookstore, whether such orders are placed at the Bookstore, via the internet (i.e., "on-line sales"), orders received through the Bookstore website, or elsewhere. Gross Sales shall include any commissions received by BARNES & NOBLE from products such as class rings, clothing, general merchandise, etc.; and commissions received by BARNES & NOBLE that are allocated to the stores for authorized sales by other companies or organizations on the Bookstore Website. Gross Sales shall also include the amounts earned from processing transactions for publishers related to the consignment of their rental inventory.

"Commissionable Sales" shall be defined as Gross Sales less:

- Voids
- Customer refunds
- Handling fees associated with the non-return of rental textbooks
- Pure Digital Course Materials Sales
- Discounted sales to authorized College Departments and Faculty/Staff
- Discounted sales of textbooks to the College's Reserve Desk in the Library
- Discounts (provided that the discount amount thereof was included in Gross Sales)
- Sales tax paid by BARNES & NOBLE to any government agency which was collected from customers
- Computer hardware sales
- Sales made at no margin by BARNES & NOBLE at the request of the College

"Pure Digital Course Materials" shall be defined as digital-only content that is adopted by CUESTA COLLEGE Faculty as course materials for academic instruction, and sold at a gross margin less than twenty percent (20%). Pure Digital Course Materials Sales, regardless of margin amount, shall not include sales of Net-Priced Bundled Packages or any other bundled packages of Course Materials adopted by CUESTA COLLEGE Faculty that include physical content and digital content, including, but not limited to, textbook, workbook, course packets, CD/DVD, custom published printed materials or other physical course materials bundled with a passcode for access to digital content. These bundled course materials of physical and digital content as well as Pure Digital Course Materials with a gross margin exceeding 20% shall be included in the calculation of Commissionable Sales for the full commission rates.

- 3.2 Payment Schedule / Terms. The sum of the Percentage Of Commissionable Sales plus the Percentage Of Pure Digital Course Materials Sales shall be paid by BARNES & NOBLE to the College by the thirtieth (30th) day of each month via

electronic funds transfer (EFT) for business transacted during the previous month, beginning May 31, 2019. The calculation of the Minimum Annual Guarantee shall be made at the end of each Agreement Year, with the exception of the First Agreement Year. Payment of any additional amount due to bring the payments of the Percentage Of Commissionable Sales for the Agreement Year up to the Minimum Annual Guarantee shall be made annually by July 31, beginning in 2020.

BARNES & NOBLE shall coordinate EFT payments and deliver or mail all payments to the following address:

Mr. Dan Troy
Vice President, Administrative Services
Cuesta College
Highway 1
San Luis Obispo, CA 93403

A detailed statement of its computation shall accompany each payment, and BARNES & NOBLE shall furnish additional supporting documentation to CUESTA COLLEGE upon request.

- 3.3 Signing Bonus Payment. BARNES & NOBLE shall provide a one-time payment of Ten Thousand Dollars (\$10,000) to CUESTA COLLEGE (hereinafter, referred to as the “Signing Bonus Payment”). The Signing Bonus Payment shall be paid by BARNES & NOBLE to CUESTA COLLEGE within sixty (60) days of execution of this Agreement, but no later June 1, 2019. The Signing Bonus Payment shall be amortized over a five (5)-year period, beginning July 1, 2019. If CUESTA COLLEGE terminates this Agreement without cause (per Section 2.3 of this Agreement) or if BARNES & NOBLE terminates this Agreement with cause (per Section 2.2C of this Agreement), then CUESTA COLLEGE shall reimburse BARNES & NOBLE for any portion of the Signing Bonus not yet amortized.
- 3.4 Annual Student Pledge Payments. BARNES & NOBLE shall provide annual student pledge payments of Ten Thousand Dollars (\$10,000) to CUESTA COLLEGE (hereinafter, referred to as the “Annual Student Pledge Payments”). The Annual Student Pledge Payments shall be made by BARNES & NOBLE annually on July 1 of each Agreement Year, beginning July 1, 2019. Distribution of the Annual Student Pledge Payments to CUESTA COLLEGE Students shall be at the sole discretion of the College.
- 3.5 Annual Textbook Scholarships. BARNES & NOBLE shall provide annual textbook scholarships of Five Thousand Dollars (\$5,000) to CUESTA COLLEGE (hereinafter, referred to as the “Annual Textbook Scholarships”). The Textbook Scholarships payments shall be made by BARNES & NOBLE annually on July 1 of each Agreement Year, beginning July 1, 2019. Distribution of the Annual Textbook Scholarships to CUESTA COLLEGE Students shall be at the sole discretion of the College.

- 3.6 Financial Reporting Requirements. BARNES & NOBLE shall comply with all financial reporting requirements set forth in Exhibit “G” attached hereto and incorporated herein by reference (the “Financial Reporting Requirements”).
- 3.7 Interest: Attorneys’ Fees. Any sums due hereunder and not paid by BARNES & NOBLE when due shall bear interest at the rate of one percent (1%) per month until paid. CUESTA COLLEGE shall be entitled to recover from BARNES & NOBLE all costs and expenses, including reasonable attorneys’ fees, incurred by CUESTA COLLEGE in enforcing this Agreement, in addition to any damages to CUESTA COLLEGE. CUESTA COLLEGE shall also have the right to seek and obtain an injunction against any breach of any provision of this Agreement.

ARTICLE IV - BOOKSTORE FACILITY / FACILITY INVESTMENT

- 4.1 BARNES & NOBLE shall provide state-of-the-art retail Bookstore facilities at CUESTA COLLEGE throughout the Initial Term and any Renewal Terms.
- 4.2 Bookstore Facilities / Store Improvements. BARNES & NOBLE shall work closely with personnel designated by CUESTA COLLEGE to develop plans to make store improvements (“Store Improvements”) to the existing Bookstore facilities in order provide state-of-the-art Bookstore facilities.
- 4.3 Facility Investment. BARNES & NOBLE shall invest One Hundred Fifty Thousand Dollars (\$150,000) (the “Facility Investment”) for Store Improvements in the Bookstore facilities.

BARNES & NOBLE’s Facility Investment may include, but not be limited to, the following:

- Wall treatment/Slatwall
- Floor treatment
- Furniture
- Fixtures
- Graphics/Signage
- Window treatments
- Décor items
- Merchandise accent lighting
- Paint
- Ceiling
- Lighting

- 4.4 Facility Investment Depreciation. The Facility Investment by BARNES & NOBLE shall be depreciated on a straight-line basis over five (5) years. CUESTA COLLEGE shall not have a payback obligation for any undepreciated portion of the Facility Investment beyond June 30, 2024.

- 4.5 College Approvals. The Store Improvements for the Bookstore must meet CUESTA COLLEGE standards; must be approved in advance by CUESTA COLLEGE; must comply with all CUESTA COLLEGE regulations and requirements; must comply with all procurement and permitting regulations and all applicable laws; and must be coordinated by BARNES & NOBLE in conjunction with CUESTA COLLEGE. Any third-party contractor used by BARNES & NOBLE to assist with making Store Improvements must be approved in advance by CUESTA COLLEGE.
- 4.6 Finishes. All wall colors, carpeting and complementing finishes must conform to CUESTA COLLEGE's brand design guidelines and be approved by CUESTA COLLEGE.
- 4.7 Design Fees. All design fees and planning fees associated with the Store Improvements shall be incurred solely by BARNES & NOBLE, and BARNES & NOBLE shall treat all design and planning fees as BARNES & NOBLE's operating expenses. Design fees and planning fees shall not be included as part of the Facility Investment to be depreciated.
- 4.8 Obligations Re: Termination With Cause. If this Agreement is terminated by CUESTA COLLEGE with cause (per Section 2.2A or 2.2B of this Agreement) prior to the Facility Investment being fully depreciated, then CUESTA COLLEGE shall not reimburse BARNES & NOBLE for any portion of the approved Facility Investment not yet depreciated, and the Store Improvements shall remain the property of CUESTA COLLEGE.

If this Agreement is terminated by BARNES & NOBLE with cause (per Section 2.2C of this Agreement) prior to the Facility Investment being fully depreciated, then CUESTA COLLEGE shall reimburse BARNES & NOBLE for any portion of the approved Facility Investment not yet depreciated, and the Store Improvements shall remain the property of CUESTA COLLEGE.

- 4.9 Obligations Re: Termination Without Cause. If this Agreement is terminated by CUESTA COLLEGE without cause (per Section 2.3 of this Agreement) prior to the Facility Investment being fully depreciated, then CUESTA COLLEGE shall reimburse BARNES & NOBLE for any portion of the approved Facility Investment not yet depreciated, and the Store Improvements shall remain the property of CUESTA COLLEGE.

If this Agreement is terminated by BARNES & NOBLE without cause prior to the Facility Investment being fully depreciated, then CUESTA COLLEGE shall not reimburse BARNES & NOBLE for any portion of the approved Facility Investment not yet depreciated, and the Store Improvements shall remain the property of CUESTA COLLEGE.

- 4.10 Accounting of Facility Investment. BARNES & NOBLE shall provide CUESTA COLLEGE with a full accounting of its Facility Investment, including copies of invoices paid to vendors for the Store Improvements. Copies of invoices shall be provided to CUESTA COLLEGE within sixty days of completion of the Store Improvements, or earlier if requested by CUESTA COLLEGE.
- 4.11 Investment Difference. If the actual amount spent by BARNES & NOBLE on the Store Improvements is less than One Hundred Fifty Thousand Dollars (\$150,000), then BARNES & NOBLE shall pay to CUESTA COLLEGE the difference between the actual amount spent and \$150,000, payable within ninety (90) days of the completion of the Store Improvements (the "Investment Difference"). If the actual amount spent by BARNES & NOBLE on the Store Improvements is more than One Hundred Fifty Dollars (\$150,000), then BARNES & NOBLE shall be solely responsible for all costs necessary to complete the Store Improvements.
- 4.12 Property Upon Termination. BARNES & NOBLE agrees that upon expiration, termination, or non-renewal of this Agreement, the Store Improvements shall remain the property of CUESTA COLLEGE.
- 4.13 Signage. Any proposed exterior signage, including but not limited to, banners and window usage, must be approved by CUESTA COLLEGE, and must adhere to CUESTA COLLEGE standards and requirements.
- 4.14 Timing of Facility Investment and Store Improvements. The Facility Investment shall be made and Store Improvements shall be completed prior to July 15, 2019.
- 4.15 Notice. Notice is hereby given that CUESTA COLLEGE shall not be liable for any labor, services or materials furnished to BARNES & NOBLE pursuant to this Article IV, and that no mechanics' or other liens for any such labor or materials shall attach to or affect the interest of CUESTA COLLEGE in and to the property occupied by the Bookstore. All contracts or other written agreements relative to any labor or services shall provide explicitly that the provider of all such labor or services waives any right to assert any mechanic's or materialman's claim or lien against the property occupied by the Bookstore. In addition, BARNES & NOBLE shall, within thirty (30) calendar days of the filing of any claim for a mechanic's lien or materialman's lien, cause the property occupied by the Bookstore to be released from any such lien or claim.

ARTICLE V – FACILITIES

- 5.1 Use of CUESTA COLLEGE's Facilities / Services. BARNES & NOBLE and its employees or agents shall have the right to use those facilities of CUESTA COLLEGE that are necessary to perform services under this Agreement and shall have no right of access to any other facilities of CUESTA COLLEGE.

- 5.2 BARNES & NOBLE Bookstores Premises License. The District grants BARNES & NOBLE a license to use the portion of the Cuesta College Student Center building and the portion of the North County Campus as described in Exhibit H for the sole and exclusive purpose of operating bookstores therein pursuant to this Agreement. BARNES & NOBLE acknowledges that: (i) prior to entering into this Agreement, BARNES & NOBLE has conducted such inspections of the Premises it deems prudent, necessary or appropriate; and (ii) BARNES & NOBLE accepts the Premises in their “AS IS” condition with all faults and defects whether known, unknown, latent or patent. BARNES & NOBLE use and occupancy of the Bookstores Premises is subject to the terms and conditions set forth in Exhibit H hereto. Notwithstanding any other provision in this Agreement to the contrary or otherwise, to the best of its knowledge, CUESTA COLLEGE is not aware of any health or environmental problems that currently exist or are likely to develop in the building or physical facility that houses the Bookstore. CUESTA COLLEGE 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.
- 5.3 Presence on CUESTA COLLEGE’s Premises. BARNES & NOBLE agrees that all persons working for or on behalf of BARNES & NOBLE whose duties require their presence on the College’s premises shall obey all rules and regulations that are established by CUESTA COLLEGE and shall comply with the reasonable directions of CUESTA COLLEGE’s officers, employees, or agents. Further, BARNES & NOBLE shall be responsible for the acts of its employees, contractors, and agents while on the College’s premises and while they are acting in the course and scope of their employment of BARNES & NOBLE, or under its authority as agents, as the case may be. Accordingly, BARNES & NOBLE agrees to take all reasonable measures to prevent injury and loss to persons or property located on the College’s premises. BARNES & NOBLE shall be responsible for all damage to persons or property caused by BARNES & NOBLE or any of its employees, contractors, or agents when acting in the course and scope of their employment or agency, as the case may be. BARNES & NOBLE shall promptly repair, to the reasonable satisfaction of CUESTA COLLEGE, any damage that it, or its employees, contractors, or agents may cause to the College’s premises or equipment when acting in the course and scope of their employment or agency, as the case may be. On BARNES & NOBLE’s failure to do so, CUESTA COLLEGE may repair such damage and BARNES & NOBLE shall reimburse CUESTA COLLEGE on demand for all costs relating to the repair. BARNES & NOBLE shall perform the services identified in this Agreement without interfering in any way with the activities of the College’s faculty, students, staff, or visitors.

BARNES & NOBLE shall verify that all subcontractors dealing with BARNES & NOBLE performing any work pursuant to this Agreement have sufficient liability and workmens compensation insurance and shall obtain certificates evidencing such insurance. In addition, BARNES & NOBLE shall verify that all subcontractors dealing with BARNES & NOBLE performing any work pursuant to

this Agreement are properly licensed under the laws of the state of California or any other applicable laws to do the work that such subcontractor is hired to complete. Finally, BARNES & NOBLE shall provide CUESTA COLLEGE with a written list of all subcontractors who are performing work on the College's campus and such contractors must be approved in writing by CUESTA COLLEGE prior to entering onto the College's campus. Such approval of subcontractors shall not be unreasonably withheld and failure of CUESTA COLLEGE to object to any subcontractor within ten (10) days of receipt of such list shall be deemed to be an approval of such subcontractor.

- 5.4 Facility and Equipment Requirements. BARNES & NOBLE shall comply with all facility and equipment requirements set forth in Exhibit "H" attached hereto and incorporated herein by reference (the "Facility and Equipment Requirements").

ARTICLE VI - LIABILITY / INSURANCE / INDEMNIFICATION

- 6.1 Independent Contractor. All of BARNES & NOBLE's employees furnishing services to CUESTA COLLEGE shall be deemed employees solely of BARNES & NOBLE and shall not be deemed for any purposes whatsoever employees or agents of, acting for or on behalf of, CUESTA COLLEGE. BARNES & NOBLE shall perform all services pursuant to this Agreement as an independent contractor and with its own credit. BARNES & NOBLE shall discharge all its duties and liabilities as such. No acts performed or representations, whether oral or written, made by BARNES & NOBLE with respect to third parties shall be binding on CUESTA COLLEGE or vice-versa. BARNES & NOBLE shall operate the Bookstore as an independent contractor, and with its own credit.
- 6.2 Indemnification Requirements. BARNES & NOBLE shall comply with all indemnification requirements set forth in Exhibit "J" attached hereto and incorporated herein by reference (the "Insurance and Indemnification Requirements").
- 6.3 Insurance Requirements. BARNES & NOBLE shall comply with all insurance requirements set forth in Exhibit "J" attached hereto and incorporated herein by reference (the "Insurance and Indemnification Requirements").

ARTICLE VII – PERSONNEL

- 7.1 Management and Staffing. BARNES & NOBLE shall be responsible, at its sole cost and expense, to employ all personnel necessary for the efficient operation of a full-service Bookstore in accordance with the requirements established by CUESTA COLLEGE.
- 7.2 Employee Conduct. BARNES & NOBLE shall be responsible for the payment of all taxes, wages, benefits and other costs associated with its employees, agents, and independent contractors. BARNES & NOBLE shall be required to remove any

such employee, agent, or independent contractor from the Bookstore at CUESTA COLLEGE's request. Such request shall be provided in writing, be for good cause and shall not violate any law.

7.3 Compliance with Laws, Campus Rules and Regulations. BARNES & NOBLE is aware, and shall make its employees, subcontractors, and agents aware, of applicable College rules, regulations, and policies. During the performance of this Agreement, BARNES & NOBLE's employees, subcontractors, and agents agree to follow the directions of College officers and be bound by applicable College policies, rules and regulations, as well as applicable federal and state nondiscrimination laws.

7.4 Background Checks. BARNES & NOBLE will conduct background checks on all non-CUSETA COLLEGE reimbursed full-time employees, non-temporary part-time new hires and rehires after an offer has been extended, and before work begins. The check for full-time and non-temporary part-time positions will include:

- Enhanced Nationwide Criminal Search
- DOJ Sex Offender Search
- Social Security Number Search
- County Criminal Search for all identified counties.

The check for seasonal positions will include:

- Enhanced Nationwide Criminal Search
- DOJ Sex Offender Search

Convictions discovered in the background check will be reviewed by BARNES & NOBLE Loss Prevention and/or Human Resources. Consideration must be given to the relationship to the job, how long ago the conviction occurred, the potential risk posed to employees, customers, campus and any other circumstances deemed relevant to the final determination of whether to employ or retain the employee. Conviction information is maintained as confidential and is not revealed to the hiring site.

7.5 Employment of Workers. BARNES & NOBLE shall employ only workers for duties under this Agreement that are eligible for such employment under applicable law (including but not limited to U.S. immigration law).

7.6 Student Employment. BARNES & NOBLE shall fill employment opportunities with CUESTA COLLEGE Students, when appropriate.

7.7 Current CUESTA COLLEGE Bookstore Employees. Not more than three (3) CUESTA COLLEGE Bookstore full-time employees will remain on the CUESTA COLLEGE payroll for not greater than eighteen (18) months from the commencement of this Agreement. BARNES & NOBLE will reimburse CUESTA COLLEGE for the actual amount of College salaries and benefits of the three Bookstore employees for the time they continue to work in the Bookstore, but for

no longer than the 18-month period. Payments for reimbursement shall be made by BARNES & NOBLE to CUESTA COLLEGE on a monthly basis via electronic funds transfer (EFT). Day-to-day supervision of the Bookstore employees will be completed by BARNES & NOBLE, and evaluations will be completed by the College. BARNES & NOBLE shall not be responsible for any paid time off for the three noted employees if that time accrued prior to the effective date of this Agreement.

- 7.8 Bookstore Manager. The Bookstore Manager assigned to the CUESTA COLLEGE Bookstore by BARNES & NOBLE must be approved in advance by CUESTA COLLEGE. Subsequent changes in assignments will be made by BARNES & NOBLE only after prior consultation with, and approval by, CUESTA COLLEGE. CUESTA COLLEGE expects management continuity (i.e., limited turnover of the Manager) in order for BARNES & NOBLE to meet the expectations and requirements of CUESTA COLLEGE.
- 7.9 Organization Chart / Staffing Level. BARNES & NOBLE shall present its organization chart/staffing level to CUESTA COLLEGE for discussion and approval to ensure there will be sufficient on-site staff to provide the required level of service. Changes or reductions to the agreed-upon staffing level shall require discussion with, and approval by, the College.
- 7.10 Equal Employment Opportunity. The San Luis Obispo County Community College District is committed to the principles of equal employment opportunity and will implement a comprehensive program to put those principles into practice. It is the District's policy to ensure that all qualified applicants for employment and employees have full and equal access to employment opportunity, and are not subjected to discrimination in any service, class, or program with regard to, national origin, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or because he/she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one of more of these actual or perceived characteristics. The District will provide an environment that fosters cultural competency, cooperation, equity and free expression of ideas. An Equal Employment Opportunity Plan is maintained to ensure the implementation of equal employment opportunity principles that conform to federal and state laws.
- 7.11 ADA. BARNES & NOBLE shall comply with the applicable employment-related provisions of the Americans with Disabilities Act (ADA).

ARTICLE VIII - MISCELLANEOUS

- 8.1 Changes. This Agreement shall not be modified, altered, or changed except by mutual agreement confirmed in writing by an authorized representative of each party to this Agreement.

- 8.2 Point of Contact. Point of contact for administrative issues for CUESTA COLLEGE shall be Mr. Dan Troy, Vice President, Administrative Services, Cuesta College, Highway 1, San Luis Obispo, CA 93403, Telephone # 805-546-3120, e-mail- daniel_troy1@cuesta.edu. Point of contact for administrative issues for BARNES & NOBLE shall be Kimberly Otte, BARNES & NOBLE's Vice President, 2605 Sagebrush Drive, Suite 102, Flower Mound, TX 75028 of Stores, email kotte@bncollege.com.
- 8.3 Assignment. BARNES & NOBLE shall not assign any rights or delegate any obligations created by this Agreement without prior written consent of CUESTA COLLEGE. Consent to assign shall be in sole discretion of the District. Any assignment in violation of this Agreement is void. This Agreement shall be binding upon the successors, legal representatives and permitted assigns of the parties and is made for the exclusive benefit of the parties and no benefit to any third party is intended.
- 8.4 Force Majeure. In the event that either party is unable, wholly or in part, to carry out its obligations under this Agreement, by reason of acts of God or public enemy, wars, blockades, insurrections, civil disturbances, epidemics, landslides, lightning, earthquakes, fires, storms, floods and washouts, and any other causes, whether of the kind enumerated herein or otherwise, not within the control of the party unable to perform, then the obligations of this Agreement shall be suspended during the reasonable continuance of any inability so caused. Work stoppages shall not be considered "force majeure" for which obligations of this Agreement may be suspended.
- Each of the parties understands that the operation of the College Bookstore is essential to the operation of CUESTA COLLEGE, and to that end, in the event of the occurrence of an act of force majeure as set forth previously, each party to this Agreement shall diligently pursue the removal of the force majeure so as to resume the performance of this Agreement as soon as possible after the act of force majeure so as to minimize the interference with the provisions set forth in this Agreement.
- 8.5 Waiver. Failure to insist upon strict compliance with any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.
- 8.6 Confidentiality. BARNES & NOBLE shall not publish or otherwise disclose, except to CUESTA COLLEGE, any information or data obtained hereunder or disclosed in connection herewith, except with the prior written consent of CUESTA COLLEGE.

CUESTA COLLEGE shall not publish or otherwise disclose, except to BARNES & NOBLE, any information or data obtained hereunder or disclosed in connection herewith, except with the prior written consent of BARNES & NOBLE.

The parties shall abide by the state of California's Public Records Act.

- 8.7 Conflict of Interest. BARNES & NOBLE affirms that to the best of its knowledge, there exists no actual or potential conflict of interest between BARNES & NOBLE's business or financial interests, and its services under this Agreement, and in the event of change in either its private interests or service under this Agreement, BARNES & NOBLE shall inform CUESTA COLLEGE regarding a possible conflict of interest which may arise as a result of such change. BARNES & NOBLE also affirms that there exists no actual or potential conflict between CUESTA COLLEGE's employees and BARNES & NOBLE.
- 8.8 Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable or invalid in whole or in part for any reason, such illegal, unenforceable or invalid provision shall not affect the legality, enforceability or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision that is as similar in tenor to the stricken provision as is legally possible.
- 8.9 Governing Law, Jurisdiction, and Venue. The Agreement shall be governed by the laws of the state of California and jurisdiction for any dispute shall be within the state of California. Appropriate venue in the state of California will be at the option of CUESTA COLLEGE in San Luis Obispo County.
- 8.10 Compliance with Laws. BARNES & NOBLE and CUESTA COLLEGE each shall comply with all applicable national, state and local laws and regulations, including but not limited to relevant employment laws, in the course of providing services under this Agreement, including but not limited to the Family Educational Rights and Privacy Act.
- 8.11 Regulatory and Other Notices. BARNES & NOBLE and CUESTA COLLEGE each shall immediately forward to the other party, by electronic mail or overnight delivery, all correspondence, complaints and notices pertaining to this Agreement or performance hereunder received from any attorney, court or government regulatory agency applicable to the other party or the other party's performance hereunder.
- 8.12 Accounting, Inspections, and Audit. BARNES & NOBLE shall keep books and records in connection with its Bookstore operations at CUESTA COLLEGE including, but not limited to, records of all financial transactions, inventory records, bank records and employee records. Such relevant books and records

- (including, without limitation, any electronic processing files used by BARNES & NOBLE in analyzing data and for recording purposes) shall be open for inspection and audit by CUESTA COLLEGE and/or its authorized representatives at reasonable hours at CUESTA COLLEGE's or BARNES & NOBLE's offices, if necessary. Such records, as described herein, shall be retained by BARNES & NOBLE for a period of five (5) years, except that if any litigation, claim or audit is started before the expiration date of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
- 8.13 Entire Agreement. This Agreement and the Exhibits attached hereto constitute and express the whole agreement of the parties hereto with reference to the subject matter hereof and to any of the matters or things herein provided for or hereinbefore discussed or mentioned in reference to the subject matter hereof all prior promises, undertakings, representations, agreements, understandings and arrangements relative thereto being herein merged.
- 8.14 Marks. The names, trademarks, and logos of each party are the exclusive property of such party, and each party reserves all rights in and to its own marks. Each party shall use the marks of the other party only in connection with its performance under this Agreement, provided, however, BARNES & NOBLE may use CUESTA COLLEGE's name in any of its required public filings.
- 8.15 Headings and 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 (a) "include", "includes", "including", and "such as" shall be deemed in all cases to be followed by the words "without limitation" and (b) "shall", "must", and "will" are equivalent and indicate mandatory and definitive requirements in all cases. When used in this Agreement, "CUESTA COLLEGE" includes all segments of the institution, including all alumni, athletic and academic departments.
- 8.16 Authority. Each party represents and warrants (a) it has all right, power, and authority to enter into this Agreement and to fully perform its obligations hereunder and (b) the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by all necessary action.
- 8.17 Signatures and Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but which together will constitute one and the same agreement. Counterparts and signed copies may be transmitted via electronic means and shall constitute originals for all purposes.

Signatures appear on the following page.

Authorized Signature:	
Signer's Printed Name:	
Title:	
Date:	

	CUESTA COLLEGE
Authorized Signature:	
Signer's Printed Name:	Daniel Troy
Title:	Vice President, Administrative Services
Date:	

EXHIBIT "A"

OPERATIONAL REQUIREMENTS

1. Right To Operate Bookstore. BARNES & NOBLE shall have the right to operate the Bookstore (and the products/services currently offered) on the campuses of CUESTA COLLEGE in San Luis Obispo County. However, the College may authorize the sale of certain items by approved vendors, student groups, or by the College organizations.
2. Bookstore Name. The name of the Bookstores shall be as follows:
 - San Luis Obispo Campus Bookstore
 - North County Campus Bookstore

CUESTA COLLEGE and/or BARNES & NOBLE may determine another name that is mutually agreed upon.
3. Bookstore Operation. BARNES & NOBLE shall operate the following entities:
 - Cuesta College San Luis Obispo (SLO) Campus Bookstore, located in the Student Center on the SLO Campus
 - Cuesta College North County (NC) Campus Bookstore, located on the North County Campus in Paso Robles, CA
 - Course Materials Services provided (as necessary) at the South County Center, located in Arroyo Grande, CA
 - Cuesta College Bookstore Website
4. Bookstore Locations. CUESTA COLLEGE shall have the right to add or remove Bookstore locations if CUESTA COLLEGE deems such additions or removals are in the best interests of CUESTA COLLEGE.
5. Products And Services. BARNES & NOBLE shall provide the CUESTA COLLEGE community with a full range of course materials, new textbooks, used textbooks, digital textbooks, custom published materials, Open Educational Resources (OER), Inclusive Access/Course Fee-Based course materials, textbook rentals, general books, bestsellers, reference books, supplies, art supplies, technology center, including but not limited to, computer/technology products, computer supplies, and peripherals, course related supplies, general merchandise, emblematic clothing, emblematic gifts, greeting cards, convenience items, health and beauty aids (HBA's), special order services, graduation related merchandise, and other services expected from a full-service Bookstore.
6. Permits And Licenses. BARNES & NOBLE shall, at its sole expense, procure and keep in effect all necessary permits and licenses required for its performance under this Agreement, and shall post or display in a prominent place such permits and/or

notices as are required by law. BARNES & NOBLE shall pay for any and all taxes and assessments attributable to the operation of the Bookstore provided herein, including, but not limited to, sales taxes, excise taxes, payroll taxes, and federal, state, and local income taxes, except any property, excise, or municipal taxes on the Bookstore.

7. Credit And Operating Expenses. BARNES & NOBLE shall operate the Bookstore on its own credit, and shall furnish at its own expense, all merchandise, equipment, labor, supplies and services required to perform its duties and responsibilities as required by CUESTA COLLEGE under this Agreement.
8. Agreement Administrator. CUESTA COLLEGE's Agreement Administrator ("Agreement Administrator") shall oversee the management and operations of BARNES & NOBLE's activities at CUESTA COLLEGE. The BARNES & NOBLE Regional Manager shall meet at least once per quarter with CUESTA COLLEGE's Agreement Administrator to discuss BARNES & NOBLE's performance. BARNES & NOBLE's Vice President For Operations shall visit CUESTA COLLEGE at least once per Agreement Year to meet with CUESTA COLLEGE's Agreement Administrator. At the commencement of this Agreement, the Agreement Administrator shall be the College's Vice President, Administrative Services.
9. Bookstore Policies Pertaining To Customer Service. Establishment of Bookstore policies pertaining to customer service or changes to Bookstore policies pertaining to customer service (e.g., refund policy, hours of operation) shall require the prior written approval of CUESTA COLLEGE's Agreement Administrator.
10. CUESTA COLLEGE Authority Re: Product Offerings. BARNES & NOBLE shall withdraw from display or sale, any item or items, which CUESTA COLLEGE requests not be displayed or sold.

EXHIBIT “B”

CUSTOMER SERVICE REQUIREMENTS

1. Customer Service Expectations. BARNES & NOBLE shall provide excellent customer service at the Bookstore, including processing customers efficiently during Rush periods and other peak periods.
2. Nametags/Identification Tags. BARNES & NOBLE shall ensure that all Bookstore employees wear nametags/identification tags, at the request of CUESTA COLLEGE.
3. Image Of The Bookstore. BARNES & NOBLE shall operate the Bookstore in a manner that reflects the image and reputation, and supports the mission of CUESTA COLLEGE. BARNES & NOBLE shall become involved in the academic, cultural, and social environment at CUESTA COLLEGE and take advantage of opportunities to offer special merchandising, marketing, and/or assistance based upon the ongoing and unique activities of CUESTA COLLEGE. BARNES & NOBLE shall create temporary selling points at various sites around campus in connection with special events and programs.
4. Support Of Student Organizations. BARNES & NOBLE shall cooperate to whatever reasonable extent possible to assist and support student organizations and student activities with respect to Bookstore services and merchandise.
5. Customer Feedback. BARNES & NOBLE shall seek customer feedback on a regular basis through methods that include, but are not limited to, customer surveys, student focus groups, customer comment cards. Customer feedback results shall be shared with the CUESTA COLLEGE Administration for evaluation and input.
6. Hours Of Operation. Hours of operation shall be defined by CUESTA COLLEGE in conjunction with BARNES & NOBLE. Hours of operation shall be extended during the beginning of each semester, and to support special programs and events as necessary including but not limited to, open houses, orientation, and athletic events. Changes to the defined hours of operation must be approved by the College. During all hours of operation, including peak business hours and extended hours of operation, BARNES & NOBLE shall staff the Bookstore adequately to provide the level of service required by the College.
7. Refund Policy. BARNES & NOBLE’s refund policy shall be sensitive to the needs of CUESTA COLLEGE Students and customers.
8. Bookstore Committee. The College shall have the option to establish a Bookstore Committee. In the event the College establishes a Bookstore Committee, the following requirements shall apply:

- BARNES & NOBLE's Bookstore Manager shall meet up to four times per year with the Bookstore Committee and with the College Administration to review Bookstore operations and merchandise selection. BARNES & NOBLE's Regional Manager shall attend at least one Bookstore Committee meeting per semester.
- BARNES & NOBLE's Bookstore Manager shall work cooperatively with the Committee, and with the College Administration in the development and improvement of Bookstore programs, merchandise selection, services, and policies.
- BARNES & NOBLE shall make every reasonable effort to comply with requests from the Committee and from the CUESTA COLLEGE Administration to improve the program, services, and policies.
- BARNES & NOBLE's Bookstore Manager or his/her designee are expected to meet periodically with deans, department heads, and other faculty members.

EXHIBIT “C”

COURSE MATERIALS REQUIREMENTS

Course Materials

1. Comprehensive Course Materials Services. BARNES & NOBLE shall provide comprehensive course materials services and shall work closely with the College to support all Academic Programs.
2. Agent For The Collection Of Course Materials Adoptions. BARNES & NOBLE shall be the College’s agent for the collection and compilation of course materials adoptions from the College’s Faculty. BARNES & NOBLE shall provide course materials, including all required, recommended, or suggested course materials and supplies, including textbooks, OER course materials, Inclusive Access/Course Fee-Based course materials, coursepacks, software, and materials published or distributed electronically.
3. Course Materials Adoption Tool. BARNES & NOBLE shall provide CUESTA COLLEGE with a comprehensive state-of-the-art course materials adoption tool. The adoption tool shall include, but not be limited to, (i) providing faculty the ability to submit textbook adoptions online and (ii) the ability for CUESTA COLLEGE students to obtain their complete list of textbooks, course materials, and course related supplies.

Database Search. The adoption tool shall include a robust search capability to locate books and other materials from all sources, and display information (i.e., availability, formats, price, etc.) about course materials to the user.

Adoption Reporting Capabilities. The adoption tool shall include the following reporting capabilities, at a minimum:

- Historical adoption data and reports
 - Overall adoption numbers and percentages for a term/semester
 - Adoption numbers and percentages per subject for a term/semester
 - Adoptions without required course materials
 - Adoption compliance reports (with ability to sort by date, course, department, etc.)
 - Other course materials reports as requested by the College
4. Course Materials Quantities. BARNES & NOBLE shall provide sufficient quantities of course materials, custom-published materials, OER course materials, software, access codes, and related academic supplies and materials, as required by the faculty for course work, to be available for purchase by students according to the schedule established by the College.

5. College Rights Re: Adoption Data. Course materials adoption data, whether received in paper form, electronically, or otherwise, provided to BARNES & NOBLE by the College's Faculty or Staff, is the property of the College. BARNES & NOBLE shall provide course materials adoption data and/or adoption forms to the College within twenty-four (24) hours of the College's request for copies of such adoption data and/or adoption forms.
6. Early Course Materials Adoptions. BARNES & NOBLE, working with the College's Faculty, shall make every effort to obtain early course materials adoption commitments in order to ensure course materials availability and to maximize the quantity of textbooks purchased from students for resale at the Bookstore. BARNES & NOBLE shall provide timely reports to faculty members concerning the status of their adoptions.

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 shall be given notice by the faculty or authorized department designees of the textbook and supply adoptions for all courses offered, and the faculty or authorized department designees shall make a good faith effort to adhere to the following adoption due dates:

- On or before October 15th for the spring term.
- On or before March 15th for the summer sessions.
- On or before April 15th for the fall term.

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. CUESTA COLLEGE shall not be responsible for compiling, nor shall it maintain, a list of such adoptions.

7. Distance Learning/Online Courses. BARNES & NOBLE shall provide course materials services for the College's current or future distance learning/online courses and other programs, as desired by the College.
8. Custom-Published Materials. BARNES & NOBLE shall provide custom-published materials (i.e., coursepacks). This includes the securing of copyright clearances in compliance with all copyright laws, production/printing, and sales.
9. Textbook Rental Program. CUESTA COLLEGE is extremely committed to providing a strong textbook rental program in order to reduce the cost of course materials to students. BARNES & NOBLE shall maximize the availability of textbook rentals for CUESTA COLLEGE Students and shall provide a comprehensive textbook rental program at the Bookstore.
10. Used Textbook Program. CUESTA COLLEGE is extremely committed to providing a strong used textbook program in order to reduce the cost of course

materials to students. BARNES & NOBLE shall maximize the availability of used textbooks for CUESTA COLLEGE Students.

11. Digital Course Materials/Innovative Course Materials Delivery Mechanisms. BARNES & NOBLE shall provide a non-exclusive digital delivery program that addresses the changing types of course materials, including providing digital course materials and digital textbooks. BARNES & NOBLE shall work with the administration and faculty to determine the best possible options for the introduction of new technology and delivery mechanisms. Throughout the Agreement, the College shall continually evaluate digital delivery programs in the marketplace and maintain the right to select alternate digital delivery programs at any time during the Agreement, if it is determined that such programs are in the best interests of the College.
12. Open Educational Resources. BARNES & NOBLE shall provide access to OER course materials to support academic programs as needed/required as well as accommodate the adoption of OER as requested by CUESTA COLLEGE Faculty.
13. Inclusive Access/Course Fee Program. BARNES & NOBLE shall provide an inclusive access/course fee program at CUESTA COLLEGE, if required by the College. Inclusive access/course fee programs must include the ability for students to “opt-out” of the program.
14. Online Course Materials Ordering. BARNES & NOBLE’s Bookstore website shall include but not be limited to, the ability for customers to order and reserve textbooks/course materials.
15. Students With Disabilities. BARNES & NOBLE shall provide required course materials services to students with disabilities through collaboration with the College.
16. HEOA/Other Laws. BARNES & NOBLE shall work with CUESTA COLLEGE to help ensure CUESTA COLLEGE’S compliance with the Higher Education Opportunity Act (HEOA) and all other relevant state, federal, and local laws, rules, and regulations pertaining to course materials, affordability, and other issues.
17. Desk Copies. CUESTA COLLEGE prohibits the purchase and sale of complimentary/desk copies by the Bookstore.
18. Buyback. BARNES & NOBLE 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. (i.e., If a textbook was purchased new and has been readopted, then BARNES & NOBLE 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 BARNES & NOBLE 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.

19. The Bookstore shall be CUESTA COLLEGE'S Exclusive retail buyer and seller of all required, recommended or suggested course materials and supplies, including books delivered in rental, new, or used, course packs, interactive or other courseware, textbook rentals, open educational resources ("OER") available for purchase, and materials published or distributed electronically, through the LMS, sold over the Internet, or through hosted e-commerce links. BARNES & NOBLE will provide exclusive on-line services through the Bookstore website including fulfillment of any distance learning material needs during the term of this Agreement.

Course Materials Affordability / Pricing Policies

20. Course Materials Affordability. CUESTA COLLEGE is extremely committed to making course materials affordable to CUESTA COLLEGE Students. BARNES & NOBLE's course materials pricing policies shall be innovative and prices cannot exceed the pricing policy requirements as described in Exhibit C20 of this Agreement.
21. Pricing Policy- Course Materials. BARNES & NOBLE shall adhere to the following 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 (i.e., 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.
(Note: Some digital course materials shall be sold at less than a 20% gross margin. See definition of Pure Digital Course Materials, Article III, 3.1 of this Agreement.)
 - 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.
 - Textbook rentals shall be rented at competitive national prices, and on average, shall not exceed fifty percent (50%) of the purchase price.

22. Inclusive/Course Fee Model Course Materials. Inclusive/course fee model course materials, if authorized by CUESTA COLLEGE, shall be sold by BARNES & NOBLE at no higher than a fifteen percent (15%) gross profit margin.
23. Surcharges. There shall be no add-ons or surcharges to cover freight, handling, or publisher re-stocking fees (i.e., the formulas in EXHIBIT C20 of this Agreement 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).
24. Price Match Guarantee. BARNES & NOBLE shall implement a price match guarantee program which will match prices of course materials advertised or offered from: (a) a brick and mortar bookstore within fifteen (15) miles of CUESTA COLLEGE, or (b) amazon.com or b&n.com, with the exception of online marketplaces including “other sellers” on Amazon and B&N.com and peer-to-peer markets. Price matching shall be honored within seven days of the original purchase date. Any price difference will be refunded to the customer via the original form of payment. CUESTA COLLEGE shall price match all course materials, including new course materials, used course materials, and rented course materials, provided the rental term period of the rented BARNES & NOBLE course materials is the same as the rental term period of the price-matched materials.
25. CUESTA COLLEGE Audit Rights. In accordance with Section 8.12 of the Agreement, CUESTA COLLEGE shall have the right to audit BARNES & NOBLE’s records, vendor invoices, and publisher invoices to verify adherence to the established pricing policies.

EXHIBIT "D"

TECHNOLOGY REQUIREMENTS

1. Technology Investment. At the commencement of this Agreement, BARNES & NOBLE shall invest Fifty-Five Thousand Dollars (\$55,000) to provide state-of-the-art technology (the "Technology Investment") including, but not limited to, Bookstore computer system, point-of-sale system, computerized textbook management system, technology to assist with CUESTA COLLEGE'S compliance with HEOA, and alternative technology for textbooks/course materials, to deliver the desired level of service. BARNES & NOBLE's systems shall have the ability to interface with current or future CUESTA COLLEGE systems. CUESTA COLLEGE will not buy out the undepreciated portion of BARNES & NOBLE's Technology Investment at the termination, expiration, or non-renewal of this Agreement.
2. Website. BARNES & NOBLE shall manage and operate a unique full-service Bookstore Website. The website shall conform to CUESTA COLLEGE design guidelines and link to and from the College's Website. The Website shall include, but not be limited to, the ability for customers to order and reserve textbooks, general books, and general merchandise. The Website shall offer registration integration, online buyback, and the ability for faculty to submit textbook adoptions online. BARNES & NOBLE shall remove any product of advertising from the CUESTA COLLEGE Bookstore website upon written request from the College's Agreement Administrator.
3. Technology Integration. BARNES & NOBLE systems shall have the ability to interface, at BARNES & NOBLE's sole expense, with current or future CUESTA COLLEGE systems.
4. College Campus Card. BARNES & NOBLE shall accept any current and/or future Cuesta College Campus Card as a tender type, which includes, at BARNES & NOBLE's sole expense, integration with the CalCard and BankMobil Campus Card system and processing of financial aid transactions, including third-party agency vouchers.
5. PCI Compliance. To ensure all possible steps are taken to secure student, faculty, staff, and customer personal data, all in-store technology and e-commerce processing shall be PCI compliant with the current PCI Data Security Standard. Upon written request from CUESTA COLLEGE, BARNES & NOBLE shall provide a statement acknowledging they are in PCI Compliance and going forward will continue to provide PCI certification documentation requested by the College. Credit card processing shall be through a 3rd party and must be encrypted.

BARNES & NOBLE shall ensure that its employees do not write credit card information down on paper, or keep files of credit card information and that no credit card information is stored in any system on campus.

6. FERPA Compliance. BARNES & NOBLE shall comply with FERPA and College privacy policies.
7. Europay, Mastercard, And Visa (EMV) Compliance. BARNES & NOBLE shall ensure that all transaction terminals in the Bookstore are compliant with current EMV standards for authorizing credit and debit card transactions.
8. Customer Data. Customer data shall not be shared or sold by BARNES & NOBLE without the express written approval of the customer.

BARNES & NOBLE shall notify CUESTA COLLEGE promptly of any security breach that results in the unauthorized access, disclosure, or misuse of customer data. To the extent permissible by law, BARNES & NOBLE shall promptly report to the College any use or disclosure of customer data not authorized in writing by the customer. BARNES & NOBLE's report to the College shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the customer data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, if known (iv) what BARNES & NOBLE has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, (v) what corrective action BARNES & NOBLE has taken or shall take to prevent future similar unauthorized use or disclosure, and (vi) such other information as reasonably requested by the College. The above provisions shall be extended by contract to all subcontractors used by BARNES & NOBLE who are provided access to customer data by BARNES & NOBLE.

BARNES & NOBLE shall have data breach insurance.

EXHIBIT “E”

TENDER TYPES / DISCOUNTS REQUIREMENTS

1. Tender Types. At a minimum, BARNES & NOBLE shall accept cash, personal checks, major credit cards, Campus Cards/College ID Debit Cards, Bookstore gift cards, bank debit cards, department charges, student charges, scholarship charges/vouchers, third-party agency charges, and financial aid account charges/vouchers. BARNES & NOBLE shall be solely responsible for all expenses and collection of debts resulting from cash, personal checks, credit cards, and bank debit card transactions.
2. CUESTA COLLEGE Campus Card. BARNES & NOBLE shall provide at its sole expense the hardware, software, and interfaces necessary in order to accept any current or future CUESTA COLLEGE Campus Card/Student ID Debit Card including the CalCard and HigherOne Card utilized by CUESTA COLLEGE at the Bookstore. BARNES & NOBLE may be required to pay a transaction fee for Campus Card transactions.
3. Department Charges. BARNES & NOBLE will offer a 20% discount on all authorized departmental purchases except adopted textbooks, special orders, sale books, class and alumni rings, computer software, periodicals, discounted merchandise, computer hardware, stamps, health and beauty aids, food snacks, and beverages.
4. Faculty/Staff Discounts. BARNES & NOBLE will allow faculty and staff of CUESTA COLLEGE a 15% 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.
5. Student Discounts. Students with a current ASCC card shall receive a 5% discount, excluding textbooks, electronics, software, graduation regalia, and convenience items.
6. Library Purchases. The CUESTA COLLEGE Reserve Desk in the Library shall receive a 10% discount on textbooks.
7. Gift Certificates/Gift Cards. BARNES & NOBLE shall accept unredeemed gift certificates and unredeemed gift cards (i.e., gift certificates and gift cards that were sold to customers by the Bookstore prior to the commencement of this Agreement) which shall be reimbursed by CUESTA COLLEGE

EXHIBIT “F”

GENERAL MERCHANDISE AND MARKETING REQUIREMENTS

General Merchandise Pricing Policies

1. Pricing Policy-General Books. 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.
2. Pricing Policy-General Merchandise. BARNES & NOBLE shall sell all other merchandise including, but not limited to, clothing, giftware, and supplies 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.

General Merchandise And Marketing

3. General Merchandise Selection. The Bookstore shall also be CUESTA COLLEGE’S exclusive retail “on-campus” and Internet seller of other items typically sold in college bookstores, such as books in addition to those described 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 CUESTA COLLEGE emblem, logo, insignia or other identifying mark.
4. Emblematic Clothing And Gifts. BARNES & NOBLE shall promote and brand CUESTA COLLEGE by offering a broad selection of emblematic clothing and gifts that comply with CUESTA COLLEGE’s current and/or future licensing requirements, design guidelines, and requirements for branded products. BARNES & NOBLE shall provide exceptional value to customers by offering high quality products and services at fair prices and multiple price points.
5. Technology Products. BARNES & NOBLE shall provide a comprehensive selection of technology products. Products shall include, but not be limited to, computer hardware, software, supplies, and accessories. Technology product lines/vendors shall be approved in advance by the College.
6. General Books/Reference. BARNES & NOBLE shall provide a selection of general books and reference books, including a selection of general book Bestsellers.
7. Course Related Supplies. BARNES & NOBLE shall provide sufficient quantities of all course related supplies, including art supplies, drafting supplies, architectural tools, mathematics course calculators, testing materials, biology supplies, etc. as requested by CUESTA COLLEGE Faculty.

8. New Product Lines. BARNES & NOBLE shall continually expand and introduce new product lines that appeal to customers including, but not limited to; students, faculty, staff, alumni, visitors, and fans, and generate traffic into the Bookstore.
9. Graduation Merchandise. BARNES & NOBLE shall offer graduation merchandise including, but not limited to, announcements, honor cords, stoles, nursing pins, diploma frames, regalia, class rings in the Bookstore and at other locations as designated by CUESTA COLLEGE during Graduation.
10. Campus Events. BARNES & NOBLE shall sell merchandise at Campus Events as requested by the College.
11. Social Media. BARNES & NOBLE shall develop and implement a social media marketing and promotion strategy for the Bookstore. To the extent that BARNES & NOBLE develops its own social media sites including, but not limited to, Facebook, Instagram, and Twitter, or integrates with CUESTA COLLEGE sites, BARNES & NOBLE shall keep its posted information up-to-date, and refresh its sites frequently, consistent with effective social media strategies and conforming to the College's social media standards and practices.
12. Licensing Program. BARNES & NOBLE shall only purchase branded merchandise from vendors who adhere to current and/or future CUESTA COLLEGE Licensing Program requirements and/or the College's design guidelines and requirements for branded products.
13. Marketing Program. BARNES & NOBLE shall develop and implement a comprehensive marketing program. BARNES & NOBLE shall review the marketing program with the College on a quarterly basis.

BARNES & NOBLE will work with CUESTA COLLEGE in new student orientation, alumni and faculty outreach through the Igniting the New Student Connection, Igniting the Alumni Connection and Igniting the Faculty Connection programs.

14. Vendor Code Of Conduct. BARNES & NOBLE shall have a vendor code of conduct policy. The policy must ensure that all vendors with which BARNES & NOBLE does business meet FLA (Fair Labor Association) standards.
15. Integrations. BARNES & NOBLE, in conjunction with CUESTA COLLEGE, will implement BARNES & NOBLE's Campus Connect Technologies, including but not limited to registration, student financial aid, learning management system ("LMS") and FacultyEnlight integrations and enrollment feeds.

EXHIBIT "G"

FINANCIAL REPORTING REQUIREMENTS

1. Monthly Reporting. On a monthly basis, BARNES & NOBLE shall submit a detailed sales report to CUESTA COLLEGE, including total sales, sales by location, website sales, sales by category/department consolidated and for each location, and non-commissionable sales (with supporting documentation) for the Bookstore (consolidated and by location). Additional documentation for non-commissionable sales must be provided by BARNES & NOBLE to CUESTA COLLEGE within 48 hours of the College's request.

2. Annual Reporting. On an annual basis, BARNES & NOBLE shall submit a detailed CUESTA COLLEGE Bookstore financial statement to the College. At a minimum, the 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, BARNES & NOBLE Overhead Charges)
 - Commission Paid to the College
 - Profit/Loss
 - Dollar Amount of "Retail Textbook Buyback"
 - Dollar Amount of "Wholesale Textbook Buyback"
 - Course Materials Units Sold By Department (e.g., new, used, rental, digital, etc.)
 - Number of Website Orders
 - Website/E-Commerce Sales
 - Other Reports as requested by CUESTA COLLEGE (e.g., customer counts, unit sales, transaction size, adoption data, etc.)

Monthly statements are due no later than thirty (30) days following the last day of the month.

Annual statements are due no later than thirty (30) days following the last day of each Agreement Year.

3. BARNES & NOBLE's Financial Statement. BARNES & NOBLE shall provide CUESTA COLLEGE with a copy of its audited company financial statement on an annual basis.

4. Cuesta College Audit Rights. CUESTA COLLEGE reserves the right to audit all or any components of the arrangement between the College and BARNES & NOBLE.

EXHIBIT "H"

FACILITY AND EQUIPMENT REQUIREMENTS

1. CUESTA COLLEGE San Luis Obispo Campus Bookstore Size and Location. BARNES & NOBLE shall operate the current Bookstore, located in the Student Center, consisting of approximately 7,000 square feet. The College has the right to change the Bookstore's size and/or location based upon what is in the best interest of CUESTA COLLEGE, determined by the College's Administration.
2. CUESTA COLLEGE North County Campus Bookstore Size And Location. BARNES & NOBLE shall operate the current Bookstore, located on the North County Campus in Paso Robles, consisting of approximately 1,645 square feet. The College has the right to change the Bookstore's size and/or location based upon what is in the best interest of CUESTA COLLEGE, determined by the College's Administration.
3. Cleaning And Maintenance. BARNES & NOBLE shall be responsible to maintain properly, and to the satisfaction of CUESTA COLLEGE, the interior of the Bookstore, including daily cleaning of floors, walls, windows, fixtures, furniture, equipment, and other related custodial services.

CUESTA COLLEGE shall provide extermination services for the Bookstore.

4. Utilities. CUESTA COLLEGE shall provide utilities, electricity, and HVAC, to the Bookstore. BARNES & NOBLE agrees to exercise care and due diligence to keep usage of utilities to a minimum and cooperate with CUESTA COLLEGE's energy conservation programs.

CUESTA COLLEGE shall not be liable to BARNES & NOBLE for any losses that may result from interruption of any utilities or other services supplied by CUESTA COLLEGE.

5. Minor Repairs. BARNES & NOBLE shall be responsible for minor repairs to the interior of the Bookstore.
6. Link To Website. CUESTA COLLEGE shall provide the placement of an electronic link to the CUESTA COLLEGE Bookstore's Website on CUESTA COLLEGE's home page.
7. Special Event Equipment. BARNES & NOBLE shall, at its sole expense, provide any necessary fixtures or equipment, including but not limited to, carts, tents, and POS terminals to sell CUESTA COLLEGE merchandise at designated special events on campus to capitalize on sales opportunities.

8. Furniture, Fixtures, And Equipment. BARNES & NOBLE shall have the option to use the existing furniture, fixtures, and equipment located within the Bookstore that are owned by the College at the commencement of the Agreement. Any CUESTA COLLEGE-owned furniture, fixtures, and equipment in the Bookstore which BARNES & NOBLE decides to no longer use in the operation of the Bookstore shall be turned over to CUESTA COLLEGE.

BARNES & NOBLE shall be responsible to maintain any furniture, fixtures, and equipment located within the Bookstore at its expense. At the expiration, termination, or non-renewal of the Agreement, BARNES & NOBLE shall return any CUESTA COLLEGE-owned furniture, fixtures, and equipment used, to CUESTA COLLEGE in the same condition as at the commencement of the Agreement, excepting normal wear and tear.

With respect to the furniture, fixtures, and equipment provided by the College, CUESTA COLLEGE makes no implied or express warranties, including, but not limited to, the implied warranties of functionality and fitness for a particular purpose. Unless otherwise specifically agreed, all CUESTA COLLEGE furniture, fixtures, and equipment offered for BARNES & NOBLE's use is supplied in "as is" condition and BARNES & NOBLE shall use it at BARNES & NOBLE's own risk. The listing of furniture, fixtures, and equipment inventory shall be incorporated into the Agreement between BARNES & NOBLE and CUESTA COLLEGE.

9. Replacement Of Equipment. Any current Bookstore equipment, fixtures or furniture that requires replacement during the term of this Agreement shall be replaced by BARNES & NOBLE at BARNES & NOBLE's expense and become the property of CUESTA COLLEGE at the termination of this Agreement. Any such investment by BARNES & NOBLE in replacements hereunder shall meet CUESTA COLLEGE's standards and must be approved in writing in advance by CUESTA COLLEGE.
10. Ownership Of Facility Investment And Fixtures. All capital investments and fixtures in the Bookstore facility shall become the property of CUESTA COLLEGE at the termination, expiration, or non-renewal of the Agreement. If the Agreement, or extensions thereto, is terminated by CUESTA COLLEGE without cause prior to the capital investment being fully depreciated, then CUESTA COLLEGE 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 CUESTA COLLEGE. If the Agreement is terminated by CUESTA COLLEGE for cause or for BARNES & NOBLE'S bankruptcy, then CUESTA COLLEGE shall not reimburse BARNES & NOBLE for the undepreciated portion of the capital investment, and all capital investments and fixtures shall become the property of CUESTA COLLEGE.

11. Emergency Key. BARNES & NOBLE shall provide an emergency key for the Bookstore to be left with CUESTA COLLEGE's Police Department.
12. Enforcing Regulations. BARNES & NOBLE shall collaborate with CUESTA COLLEGE's Police Department and the CUESTA COLLEGE Administration concerning questions of discipline, enforcing regulations, and internal security and theft control in the Bookstore. BARNES & NOBLE's first point of contact with regard to security and safety issues for the Bookstore shall be CUESTA COLLEGE's Police Department.
13. Security Services. CUESTA COLLEGE shall provide security services for the Bookstore facility in the same manner as provided for other CUESTA COLLEGE buildings. CUESTA COLLEGE shall not provide dedicated security services within the Bookstore.
14. Vehicles. BARNES & NOBLE shall provide Vehicle(s) necessary (if any) for the operation of the Bookstore. BARNES & NOBLE shall ensure that any person that will drive on College property has a valid California Driver's license appropriate to the vehicle being driven.
15. Communication Expenses. BARNES & NOBLE shall be responsible for all communication expenses including, but not limited to, telephone lines, data lines, local telephone service, and long distance telephone service. BARNES & NOBLE shall have access to CUESTA COLLEGE's web services, campus telephone services, and voice answering system at the standard CUESTA COLLEGE rate.
16. Trash Removal/Recycling. BARNES & NOBLE shall be required to participate in the College's recycling program. BARNES & NOBLE shall remove all trash and recyclable materials and place them in the proper CUESTA COLLEGE recycling containers.
17. Environmental/Sustainability Practices. BARNES & NOBLE shall utilize environmentally friendly practices in its operation of the Bookstore and shall abide by all College environmental/sustainability practices.

EXHIBIT “I”

INVENTORY PURCHASE REQUIREMENTS

1. Inventory Purchase. BARNES & NOBLE shall purchase the Bookstore inventory from CUESTA COLLEGE at the College’s cost. BARNES & NOBLE shall purchase the Bookstore inventory as follows:
 - New textbooks that have been adopted for an upcoming term or semester shall be purchased by BARNES & NOBLE up to the quantity of anticipated enrollment at the actual cost to CUESTA COLLEGE (i.e., publisher’s invoice cost).
 - Used textbooks that have been adopted for an upcoming term or 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 March 2019).
 - All general books (e.g., trade books, reference books, technical books, etc.) purchased by the Bookstore in the twelve-month period prior to the Agreement start date shall be purchased by BARNES & NOBLE at invoice cost. All general books purchased by the Bookstore more than twelve months prior to the Agreement start date, and in clean and saleable condition, shall be purchased by BARNES & NOBLE at invoice cost. All other general books shall be purchased by BARNES & NOBLE at a price to be negotiated by CUESTA COLLEGE and BARNES & NOBLE.
 - All general merchandise purchased by the Bookstore in the twelve-month period prior to the Agreement start date shall be purchased by BARNES & NOBLE at invoice cost. All general merchandise purchased by the Bookstore more than twelve months prior to the Agreement start date, and in clean and saleable condition, shall be purchased by BARNES & NOBLE at invoice cost. All other general merchandise shall be purchased by BARNES & NOBLE at a price to be negotiated by CUESTA COLLEGE and BARNES & NOBLE. General merchandise includes, but is not limited to, art supplies, school and office supplies, computer software, computer peripherals, computer supplies, general merchandise, emblematic merchandise, emblematic clothing, gifts, greeting cards, convenience items, health and beauty aids (HBA’s), graduation merchandise, etc.
2. Operating Supplies Purchase. BARNES & NOBLE shall purchase Bookstore operating supplies, shopping bags, gift boxes, etc., at cost from CUESTA COLLEGE.
3. Inventory Payment. BARNES & NOBLE shall pay CUESTA COLLEGE for the Bookstore inventory within thirty (30) days from the commencement of the Agreement.

4. Credit Memo Purchase. BARNES & NOBLE shall purchase from, and pay to CUESTA COLLEGE, the total amount of current unapplied credit memos due to the College from publishers, wholesalers, distributors, and other vendors for Bookstore transactions.
5. Credit Memo Payment. BARNES & NOBLE shall pay CUESTA COLLEGE for Bookstore credit memos within sixty (60) days from the commencement of the Agreement.
6. Inventory Purchase At End Of Agreement. CUESTA COLLEGE shall repurchase, or require a successor contractor to purchase, BARNES & NOBLE's inventory at cost in the event of termination, expiration, or non-renewal of this Agreement, in the same manner as purchased by BARNES & NOBLE as outlined in EXHIBIT I, 1 of this Agreement.

In the event of cancellation of this Agreement, CUESTA COLLEGE shall purchase, or require a successor contractor to purchase, BARNES & NOBLE's rental inventory outstanding at the time of the transition, at the buyback value (based on then-current market rates).

Should CUESTA COLLEGE change logo or contracted athletic apparel provider/licensee, CUESTA COLLEGE 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.

EXHIBIT “J”

INSURANCE AND INDEMNIFICATION REQUIREMENTS

1. Insurance/Indemnity. At all times during the Term of this Agreement, BARNES & NOBLE shall obtain and maintain the insurance coverages noted herein; each required policy of insurance shall be in the minimum coverage amount noted herein.
 - **Commercial Liability Insurance.** BARNES & NOBLE shall obtain and maintain in force during the term of this Agreement commercial liability insurance, including, without limitation, public liability, products liability, and property damage insurance, insuring BARNES & NOBLE and CUESTA COLLEGE against any liability, loss, cost, damage or expense arising out of the acts or omissions of BARNES & NOBLE under this Agreement, such insurance to be carried with such companies and to be in such amounts as shall be approved by CUESTA COLLEGE.
 - **Workers Compensation Insurance / Employer's Liability Insurance.** BARNES & NOBLE shall obtain and maintain in force during the term of this Agreement workers' compensation insurance as required by law.
 - **Deductibles / Premiums.** BARNES & NOBLE shall be solely responsible and liable for the full and timely payment of premiums for policies of insurance BARNES & NOBLE shall be required to obtain and maintain under this Agreement. In the event of a loss under a policy of insurance obtained and maintained by BARNES & NOBLE hereunder, BARNES & NOBLE shall be solely responsible and liable for payment of the deductible, if any, associated with such loss.
 - **District Rights.** If BARNES & NOBLE fails or refuses to obtain and maintain any policy of insurance required hereunder, CUESTA COLLEGE may, but is not obligated to, obtain such policy of insurance on behalf of BARNES & NOBLE. If CUESTA COLLEGE obtains a policy of insurance on behalf of BARNES & NOBLE pursuant to the foregoing, BARNES & NOBLE shall be responsible for payment of all premiums associated with such policy of insurance and an administrative fee equal to twenty-five percent (25%) of the premium costs.

2. District Insurance. During the Term of this Agreement, CUESTA COLLEGE will maintain insurance against the perils, losses and claims described herein, provided that CUESTA COLLEGE may, in its discretion, elect to self-insure, obtain commercially available insurance policy(ies) or obtain insurance coverages through one or more Joint Powers Authorities.
 - **General Liability Insurance.** CUESTA COLLEGE will obtain General Liability Insurance covering the risks of death or bodily injury to persons and damage to property.

- Property Casualty Insurance. CUESTA COLLEGE shall obtain Property Casualty Insurance which will include coverage for the risks of loss, damage or destruction to CUESTA COLLEGE property.
3. Waiver of Subrogation. CUESTA COLLEGE and BARNES & NOBLE each waive all rights of recovery against the other or against the Trustees, directors, partners, officers, employees, agents or representatives, as applicable, of CUESTA COLLEGE and BARNES & NOBLE, arising out of a loss or damaged which is insured under a policy of property casualty insurance in effect at the time of such loss or damage. The foregoing waiver shall be required of the insurers of CUESTA COLLEGE and BARNES & NOBLE to the extent that there is no additional premium costs for such waiver of subrogation.
 4. Insurance Coverage. BARNES & NOBLE shall not commence work nor shall BARNES & NOBLE allow any subcontractor to commence work under this Agreement until all required insurance and certificates have been delivered to and approved by CUESTA COLLEGE.

To protect CUESTA COLLEGE against liability, loss or expense arising from damage to property or injury to any person arising out of, in connection with, or resulting from the work provided for hereunder, BARNES & NOBLE shall, during the progress of the work, carry at its own expense, insurance with the minimum coverage as follows:

- Insurance carriers shall be a company admitted to do business in the State of California, should have a BEST rating of A, with a satisfactory financial rating, and satisfactory to CUESTA COLLEGE.
- Insurance and certificates shall be provided on authorized forms provided by carriers.
- Note: BARNES & NOBLE shall not cancel or make any material change in any certificates and/or insurance policies without sixty (60) days prior written notice to CUESTA COLLEGE and without written consent from CUESTA COLLEGE.
- CUESTA COLLEGE and its' agents, directors, officers, employees, and servants shall be named as additional insured on all insurance and certificates pertaining to this work, through its completion. BARNES & NOBLE shall include with their certificate of insurance a separate endorsement page naming CUESTA COLLEGE as additional insured.
- Certificate of insurance shall state in particular those insured, extent of insurance, location and operation in which insurance applies, expiration and date of cancellation and reduction notice.
- Comprehensive General Liability Insurance, including BARNES & NOBLE's Contingent coverage, with limits of not less than \$1,000,000 per occurrence Bodily Injury and Property Damage (Combined single limits). Individual categories as applicable.

- a. Premises and Operations Coverage;
 - b. Contractual Liability covering liabilities assumed under this Agreement;
 - c. Products and Completed Operations Coverage
 - d. Broad Form Property Damage Liability endorsement;
 - e. Personal Injury Liability;
 - f. Fire Legal Liability;
 - g. Independent Contractors;
 - h. Territorial extension to cover all work areas;
 - i. Coverage for liability resulting from the consumption of food prepared or served by BARNES & NOBLE or Sub Contractor (if applicable).
- Workers' Compensation Insurance and Occupational Disease Insurance as required by law and Employer's Liability Insurance with limits of not less than \$1,000,000 for any accident or occupational disease covering location of all work places involved in this Agreement. Individual categories as applicable to this Agreement.
 - a. Protection for liabilities under the Federal Longshoremen's & Harbor Workers' Compensation Act and Outer Continental Shelf Lands Act (if applicable).
 - b. Coverage for liability under the Merchant Marine Act of 1920, commonly known as the Jones Act; the Admiralty Act; and the Death on the High Seas Act with limits of not less than \$1,000,000 per accident (if applicable).
 - c. Coverage amended to provide that a claim in REM shall be treated as a claim against the employer.
 - d. Territorial extension to cover all work areas.
 - Automobile Bodily Injury and Property Damage Insurance, including all owned automobiles, hired automobiles and non-owned automobiles and equipment, with limits of not less than \$1,000,000 per occurrence Bodily Injury and Property Damage. (Combined single limits.)
 - Other Insurance: In the event CUESTA COLLEGE should desire any other type of insurance during term of the Agreement, such insurance shall be provided by BARNES & NOBLE with such firm or firms CUESTA COLLEGE may direct and the Agreement price shall be adjusted by an amount equal to the cost of such insurance.

BARNES & NOBLE's insurance coverage shall be primary insurance as respects CUESTA COLLEGE, its' agents, directors, officers, employees or servants. Any insurance maintained by CUESTA COLLEGE shall be excess of BARNES & NOBLE's insurance and shall not contribute with it.

BARNES & NOBLE shall also be solely responsible for subcontractors compliance to insurance requirements specified herein. Should subcontractors insurance coverage be less than the minimum insurance requirements specified herein, CUESTA COLLEGE, at its option may (1) require BARNES & NOBLE to secure such minimum coverage, or (2) purchase insurance necessary to provide such minimum coverage and charge the premiums therefore to BARNES & NOBLE's account.

Failure to secure the insurance coverages or the failure to comply fully with any of the insurance provisions of this Agreement, or the failure to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement, shall in no way act to relieve BARNES & NOBLE from the obligations of this Agreement, any provisions hereof to the contrary notwithstanding. In the event that liability for any loss or damage be denied by the underwriter or underwriters, in all or in part, because of breach of said insurance by BARNES & NOBLE, or if BARNES & NOBLE fails to maintain any of the insurance herein required, BARNES & NOBLE shall hold harmless, defend and indemnify CUESTA COLLEGE against all claims, demands, costs and expenses, including reasonable attorney's fees which would otherwise be covered by said insurance and any other damages resulting from lack of insurance required hereunder.

5. Indemnification. To the fullest extent permitted by law, BARNES & NOBLE shall indemnify, defend and hold harmless CUESTA COLLEGE, its Governing Board and each member thereof, and officers, directors, employees, agents and representatives of CUESTA COLLEGE from any and all claims, demands, actions, causes of actions, costs, losses, damages or liabilities (collectively "Claims"), including reasonable attorneys' fees and other costs of litigation arising out of: (i) negligent, grossly negligent or willful conduct of BARNES & NOBLE or its employees, agents, representatives or contractors; or (ii) BARNES & NOBLE's breach or default of its obligations hereunder. To the fullest extent permitted by law, CUESTA COLLEGE shall indemnify, defend and hold harmless BARNES & NOBLE, its affiliated entities, and each of their officers, directors, employees, agents, and representatives from any and all Claims, including reasonable attorneys' fees and other costs of litigation, arising out of: (i) negligent, grossly negligent or willful conduct of CUESTA COLLEGE or its employees, agents, representatives or contractors; or (ii) CUESTA COLLEGE's breach or default of its obligations hereunder. The foregoing shall survive expiration of the term of this Agreement or the earlier termination of this Agreement until Claims subject to the provisions hereof are barred by the applicable statute of limitations.

This Agreement is subject to immediate termination, at CUESTA COLLEGE's discretion, in the event that BARNES & NOBLE fails to maintain or comply with any of the Insurance Requirements set forth herein.