

Bookstore/Mailroom Operations
Henderson State University
Term Sheet
(Extension of Services)



-
- Henderson State University “HSU”
 - 1100 Henderson State, Arkadelphia AR, 71999
 - Student Population 3700

 - Services: Bookstore/Mailroom

 - Service Start date: May 1st, 2014
 - Contract Term: Proposed (7) year Extension

1. Extension of Services

- Our original agreement is dated July 1, 2010 and extends until July 1st, 2017. BBA proposes to extend this agreement until July 1st, 2020,
- Capital improvement cost of (\$193,369.50) will be amortized over the (7) year term of this agreement. Capital investment will not be recovered unless contract is terminated prior to agreed upon term, Schedule of amortization as follows,

If cancelled before July 1, 2014 – \$193,369.00
If cancelled before July 1, 2015 - \$165,744.86
If cancelled before July 1, 2016 - \$138,120.71
If cancelled before July 1, 2017 - \$110,496.57
If cancelled before July 1, 2018 - \$82,872.43
If cancelled before July 1, 2019 - \$55,248.29
If cancelled before July 1, 2020 – \$27,674.14

2. Addendum to Operating Agreement

- BBA proposes mailroom services as an addendum to the extended operating agreement.
- All terms and conditions outlined in the bookstore operating agreement will apply to mailroom services.

3. Scope of Mailroom Service

- BBA will manage all aspects of the mailroom services for HSU.
- All labor and operating cost will be the sole responsibility of BBA Solutions.
- Mailroom services to be moved to designed mail space within bookstore



Bookstore/Mailroom Operations

Henderson State University

Term Sheet

(Extension of Services)

-
- Counter service will be provided (8am to 5pm) Monday-Friday
 - Extended hours during peak periods to run concurrently with bookstore hours
 - General mail will be distributed daily to each post office box
 - Packages will be available for pickup from mail counter located in the bookstore
 - Customers are electronically notified, as packages are available for in store pickup
 - BBA will maintain current inter-department mail procedures and billing systems.
 - Bulk mailing and business class rates provided by USPS to HSU are to be maintained under any agreement that HSU enters with BBA for mailroom operations
 - Central Store services will be offered at the discretion of HSU and it's benefit, BBA will provide a distribution of such materials at no cost of HSU if it so chooses.

4. Current HSU Mailroom Personnel

All existing HSU mailroom staff will be offered employment by BBA; wages will be no less than their current rate of employment. Salary and benefits listed below.

- Rene Davis \$23,878, Employee Only Health Insurance
- Sandra Johnson, \$17,971, Employee/Family Health Insurance
- Amber Eltrich, \$8985, Employee Only Health (if eligible)

5. Mailroom Capital Investments

- All postage equipment, supplies, maintenance or lease costs associated with the mail operation will be assumed by BBA.
- Any licensing or administrative fees related to mail services will be the sole responsibility of BBA
- HSU will provide use of existing Post Office Box located on the ground floor of the Garrison Center.
- HSU will pass on any current mailroom equipment, software, or assets that are owned by the current bookstore.
- Any future software or equipment upgrade to existing mailroom equipment or processes will be the sole responsibility of BBA.



Bookstore/Mailroom Operations
Henderson State University
Term Sheet
(Extension of Services)

6. HSU Payments to BBA Solutions

BBA Solutions will provide mailroom services to HSU \$67,500 per year. BBA management fees will be deducted from annual bookstore commissions paid to HSU.

7. Acknowledgement & Signatures

The parties hereto have caused this Agreement to be executed by their respective authorized representative as of the date written below.

BBA SOLUTIONS, LLC

Signature: Derek Morgan
By: Derek Morgan
Title: COO
Date: 5/14/14

HENDERSON STATE UNIVERSITY

Signature: Glen Jones
By: Glen Jones
Title: President
Date: 5/14/2014



AUTHENTICATION COPY

This authenticated copy of the original document has been executed as of the effective date of the agreement being the 14th day of May, 2014.

This authentication is executed this 26th day of June, 2018 to authenticate a copy of the original document, the original having been lost or misplaced over the passage of time.

Brian D. Powell

Gene Morgan

Sandy

**BOOKSTORE OPERATING AGREEMENT BETWEEN
HENDERSON STATE UNIVERSITY
AND BBA CORPORATION**

This Bookstore Operating Agreement ("Agreement") is made as of June 23, 2010 between Henderson State University ("School") and BBA Corporation ("BBA").

Intending to be legally bound, School and BBA agree:

1. **Store.** Subject to all the terms and conditions in this Agreement, BBA shall operate a bookstore ("Store") for School.
2. **Term.** This Agreement takes effect July 1, 2010 and continues, unless sooner terminated in accordance with Section 3, until June 30, 2011. Thereafter, unless either party notifies the other in writing at least 120 days before expiration of the initial term, or then-current renewal term, of its intention not to renew, this Agreement shall automatically renew for (6) additional successive one-year renewal terms under the terms and conditions set forth in this Agreement.
3. **Early Termination.**
 - 3.1 Either party may terminate this Agreement upon 90 days prior written notice for material nonperformance by the other party, documented, in case of nonperformance by BBA in accordance with Section 7.4.
 - 3.2 School may terminate this Agreement immediately if BBA initiates any bankruptcy proceeding, or if any such proceeding initiated against BBA remains un-dismissed for 60 days.
4. **Rights Upon Termination, Expiration, or Non-Renewal.**
 - 4.1 Termination, expiration or non-renewal of this Agreement shall not affect any right of either party accrued prior to such termination, expiration, or non-renewal.
 - 4.2 On any termination, expiration or non-renewal of this Agreement, School shall pay BBA the unamortized book value (calculated on the straight-line method from the in-service date[s] over the greater of 7 years or until expiration of this Agreement) of any Store Remodeling paid by BBA.

- 4.3 On any termination, expiration or non-renewal of this Agreement, School shall purchase, or cause to be purchased, the Store inventory then on hand on the same terms as purchased by BBA under Section 9.1.

5. Store Improvements.

- 5.1 In the event any Store Improvements are to be made, BBA shall prepare complete plans and specifications for review and approval by School, and shall work closely with School to develop mutually acceptable plans ("Plans"). School shall have the final approval over any Plans; provided and will have a mutual agreed upon price for both parties prior to any improvements to the Henderson State University Bookstore.
- 5.2 When School has given final approval to any Plans, BBA shall submit an installation and construction schedule to School for approval. School shall review and comment on the Plans and schedule in a reasonable time frame to allow the project completion date to be met.
- 5.3 The Store Improvements shall meet or exceed the requirements of the Americans with Disabilities Act ("ADA") and all other applicable codes, laws and regulations, and shall be in accordance with BBA Design Intent documents.
- 5.4 All Capital Equipment purchased by BBA will remain the property of BBA.

6. General Rights and Responsibilities of BBA.

- 6.1 BBA shall operate the Store in accordance with the highest standards and commercial practices in the college bookstore industry.
- 6.2 BBA shall operate the Store 12 months per year. The name of the Store shall not change. The Store's normal hours of operation and holiday closing schedule shall be as approved in writing by School after consultation with BBA; hours of operation during registration periods, the first two weeks of classes, and all special campus events, shall be extended to coincide with demand.
- 6.3 BBA shall have exclusive right, free from any alternate source endorsed, licensed or otherwise approved or supported by School (whether on campus, by catalog or through electronic commerce, including hyperlinks to alternate sources) to buy, sell, and distribute (including the right to select vendors) merchandise and services traditionally offered in college and university bookstores, including but not limited to: textbooks, class and alumni rings and jewelry, clothing (whether or not emblematic), school supplies, desk and dorm accessories, gifts, souvenirs, graduation regalia (sale and rental) and announcements, course-adopted software and paper and

electronic custom anthologies, and textbook buybacks. BBA shall also have right of first refusal to fulfill any distance learning instructional and ancillary materials required by School during the term of this Agreement. This Section 6.3 does not prohibit occasional sales by student groups or student government organizations that do not materially impact Store sales. Student groups or student government organizations may conduct occasional sales of items traditionally found in a college or university bookstore provided that these sales do not materially impact Store sales, not to exceed more than two sales annually in any comparable merchandise department area. In lieu of performance bond, equal to one half of the contractor's annual guarantee payment by contractor, contractor had tendered payment of \$44,000 and school acknowledges receipt of said payment.

- 6.4 In order to secure property in the Store, BBA shall cooperate with School in providing Store security, theft prevention, and emergency procedures in case of fire or casualty. In cooperation with School security, BBA shall create and maintain a Store security plan acceptable to School for textbook buyback, rush and other special events.
- 6.5 BBA shall not cause School's students, faculty, or staff suspected of theft or disturbance to be arrested by public authorities (except in emergencies) or prosecuted without prior consultation with School.
- 6.6 In its operation of the Store, BBA shall pay its bona fide financial obligations to School and to third parties in a timely manner.
- 6.7 BBA shall collect and pay any sales tax, income tax, and all other local, state and federal taxes on operation (except property taxes on the Store.)
- 6.8 BBA shall obtain and maintain at its sole expense, and in its name, all necessary licenses and permits required to perform the services described herein.
- 6.9 BBA shall abide, and require its employees to abide, by applicable School regulations and policies. School shall provide BBA with copies of applicable policies, and timely inform BBA of any changes.
- 6.10 BBA shall abide by all federal, state and local laws applicable to its operation.
- 6.11 In performing this Agreement, BBA shall not discriminate based on sex, race, national origin, religion, color, sexual orientation, veteran status, disabled veteran status, age or disability protected under the ADA.
- 6.12 BBA shall be responsible for any loss or damage to property owned by School that is in BBA's possession or control or is caused by BBA or its employees or agents in the course and scope of their employment.

6.13 BBA will make its corporate representatives reasonably available to School to discuss and resolve any operational issues.

6.14 BBA shall be responsible for daily cleaning of the Store interior, including provision of basic janitorial equipments and supplies, sweeping, dusting, and removal of light trash to School-provided receptacles.

6.15 BBA will offer School faculty and Staff a 10% discount on all books, both new and used, as well as a ten percent discount on all soft goods and School apparel.

6.16 BBA will provide no less than \$2000.00 annually in textbook scholarships during the term of this Agreement. The amount shall be reviewed on an annual basis.

7. General Rights and Responsibilities of School.

7.1 School will provide and maintain an appropriate, safe and habitable location, in accordance with all applicable laws and regulations, in retail-ready condition, for the Store Improvements and ongoing Store operations. Except for the Store Improvements provided by BBA in accordance with Section 5, School shall be responsible for furnishing appropriate decorating, fixtures, equipment, lighting, flooring, plumbing, power and HVAC. School shall compensate store for any damage to its inventory or equipment resulting from failure of the building to meet applicable building codes and regulations. If the School relocates all or any part the Store operations, School will provide BBA with at least 90 days advance notice of the relocation and will reimburse BBA within 30 days after BBA invoice, for BBA cost of the relocation.

7.2 School will name a representative authorized to advise BBA of School's approvals, consents and instructions under this Agreement.

7.3 School may prohibit sale at the Store of any item it finds offensive or inappropriate.

7.4 If at any time School is dissatisfied with BBA performance under this Agreement, School shall document the unsatisfactory performance and submit the documentation to BBA for immediate review and corrective action. School may require a review meeting to prepare the corrective action.

7.5 School shall provide the following services to the Store in accordance with School's building standards at no cost to BBA:

- a) Security of persons and property in the same manner provided for other School premises;
- b) Internal and external building maintenance, including, but not limited to: plumbing, electric, light bulbs, HVAC and other mechanical systems, fire protection, roof membrane and structure, floors, walls, ceilings, windows and doors.
- c) Pest control services on the regular School schedule;
- d) Lost and found service as regularly provided by School;
- e) Participation in any debit or credit card, voucher program, or other payment or financial aid service now or hereafter made available by School to its students or to local merchants;
- f) Local telephone/data service including all equipment and lines (telephone toll charges to be charged to BBA at the same rate charged to School's departments);
- g) Reasonable access to School's telecommunications and network systems as required to install, at BBA's sole expense, T1 lines and associated connectivity for BBA point-of-sale systems; and
- h) Building standard utilities.

7.6 School will require its faculty and staff to provide BBA with timely and accurate textbook adoption information.

7.7 BBA will extend credit to School for financial aid and departmental charge accounts in accordance with the terms set forth in BBA operating standards. School will furnish to BBA all required information and will pay all accounts within 30 days of invoice, or will pay applicable late charges as provided in the credit application. A copy of the credit application is attached and incorporated as a part of this contract.

8. Bookstore.

8.1 BBA will furnish sufficient adequately trained personnel to provide efficient and courteous service to customers, including sufficient substitute personnel in case of employee absence. BBA Corporation will provide ongoing training in customer service. BBA will formally recognize and reward employees who provide superior customer service.

8.2 School may participate in interviewing and evaluation of BBA Store Manager should any future need arise to fill the position. BBA selection of the Store Manager is subject to School's approval.

9. Bookstore Stock and Sales.

9.1 In the event of a transition to another contractor or campus operation of the bookstore, BBA will require that the existing inventory be purchased under the following terms. BBA will cause

Confidential

bookstore merchandise to be inventoried by an independent firm. School may observe the inventory if desired. Within 30 days after the completion of the inventory, the new contractor of the School shall pay BBA for the merchandise as follows subject to the rulings and orders of the Bankruptcy Court if Section 3.3 applies:

a) New Textbooks

1. School or contractor will purchase new textbooks adopted for the next academic term in quantities not exceeding course requirements at standard industry discounts or cost.
2. School or contractor will purchase new textbooks not adopted for the next academic term, or adopted but in excess of course requirements, at the current wholesale price.

b) Used Textbooks

1. School or contractor will purchase used textbooks adopted for the next academic term in quantities not exceeding course requirements at 50% of the current new text selling price.
2. School or contractor will purchase used textbooks not adopted for the next academic term, or adopted but in excess of course requirements, at current wholesale price.

c) Trade, Reference, and Technical Books ("Trade Books")

1. School or contractor will purchase Trade Books that have been purchased during the past academic year and are returnable to the publisher at standard industry discounts or cost.
2. School or contractor will purchase Trade Books not meeting these requirements at a price agreeable to School and BBA.

d) General Merchandise

1. School or contractor will purchase general merchandise traditionally sold in college bookstores, purchased in the past academic year, in saleable condition, and not in excessive quantities, at standard industry discounts or cost.
2. School or contractor will purchase general merchandise not meeting these requirements at a price agreeable to School and BBA.

9.2 In operating the Store, BBA will charge industry standard, competitive and fair prices, as follows:

- a) On new textbooks and trade books, not more than the publishers' list price, or a 25% gross margin (cost divided by .75, inclusive of restocking fees and return penalties) on net price books and list price books sold to BBA at less than a 25% discount off list, plus a freight pass-through.
- b) On e-books, e-coursepacks, coursepacks, text "packages," "kits," "sets," and "bundles," and non-returnable and return-restricted texts, not more than a 30% gross margin (cost divided by .70, inclusive of restocking fees and return penalties), plus a freight pass-through.
- c) On used books, including cloth, paperback and others, not more than 75% of the new textbook selling prices.
- d) On general merchandise, not more than the normal gross profit margin for similar merchandise in the college bookstore industry.

9.3 BBA will expediently process text requests placed after the adoption deadline.

9.4 BBA shall purchase used textbooks per round. BBA shall purchase used textbooks adopted for the next academic term in quantities sufficient to meet course requirements at not less than 50% of the retail price. BBA shall purchase used books not adopted for the next academic term or in excess of course requirements at wholesale prices.

9.5 BBA will accept returns in accordance with the following policies:

- a) Non-textbook items in resalable condition may be refunded or exchanged within ten days with original receipt.
- b) Textbooks in resalable condition may be refunded with receipt within seven (7) calendar days from the start of classes or within two (2) days of purchase thereafter, including during the summer term.
- c) Textbooks purchased during the last week of classes or during exams may be sold back under the book buyback policy.
- d) Computer software is non-returnable.
- e) In addition, upon proof of drop/add, BBA will accept textbook returns from students who have dropped a course up to thirty (30) days from the start of classes or until the end of the official drop/add period, whichever comes first.

9.6 In operating the Store, BBA shall accept as a minimum, MasterCard, Visa, Discover and American Express charge cards. BBA will pay all merchant charges associated with acceptance of these credit cards.

10. Commission.

10.1 BBA shall pay commission to School in an annual amount equal to sum of:

8% of Gross Revenue or \$88,000 annually whichever is higher

As used in this Section 10, Gross Revenue is defined as all sales made by the Store or the Store's world wide web page, catalog, or mail order function (if any), less refunds, returns, taxes, computer hardware sales, commissions earned from class rings, and sales to BBA-funded scholarship students, and to departmental faculty, staff and other sales at a discount pursuant to Section 6.16, all as reasonably calculated by BBA.

10.2 BBA will keep complete and accurate records of all Store transactions in accordance with industry accounting practices and will provide a summary statement of Store operations to School quarterly. BBA will preserve records of store operations for 5 years from the transaction date, and will make them available for review, audit and verification by School at the Store upon request on reasonable advance notice during ordinary business hours other than during Store "rush" periods.

10.3 BBA shall pay the commission calculated in accordance with Section 10.1 quarterly, twenty days after the end of the quarter. Any other payment required to be made by BBA to School under this Agreement shall be made within thirty days of receipt of invoice. BBA will make any payments due under Section 10.2 within 30 days of the end of the fiscal year, June 30th. In case of termination of this Agreement other than at a year-end, payment under Section 10.2 shall be prorated to the actual date of termination.

11. Insurance.

11.1 During the term of this Agreement, BBA shall keep in force, at its own expense, at least the following insurance, all in accordance with this Section 11:

- a) Comprehensive General Liability having a combined single limit of not less than \$1,000,000 per occurrence covering contractual liability and products/completed operations;
- b) Business Automobile Liability having a combined single limit of not less than \$1,000,000 per occurrence covering claims arising out of ownership, maintenance, or use of owned or non-owned automobiles;
- c) Worker's Compensation insurance having limits not less than those required by applicable statute;
- d) Employer's Liability in the amount of at least \$1,000,000.

11.2 School, its affiliates, officers, directors, trustees, volunteers, and employees shall be named as additional insured under the Commercial General Liability policy and the Business Automobile Liability policy upon the School's written request.

11.3 BBA shall furnish industry standard Certificate[s] of Liability Insurance to School showing the coverage required by this Section 11 within 30 days after execution of this Agreement or before BBA takes possession of the Store, whichever is earlier. The Certificate[s] shall provide that the issuing company will endeavor to mail written notice to the Certificate Holder (School) within 30 days in the event of any policy cancellation or termination.

11.4 School will notify BBA of any flood plain zoning changes affecting the Store within 30 days of receiving notice of such change from any source.

11.5 If School causes any work to be performed by a third party on the building housing the Store, then School will provide BBA an industry standard Certificate of Liability Insurance from the third party's insurance company(ies) showing BBA as an additional insured under the third party's Commercial General Liability policy and Business Automobile Liability policy. Both policies shall show combined single limits of \$1,000,000 per occurrence.

12. Independent Contractor Status. The relationship of the parties is that of independent contractors, and not tenancy, partnership, joint venture, agency, fiduciary or other relationship is created.

Confidential

Neither party may order any goods or services, incur any indebtedness, or enter into any obligation or commitment on the other party's behalf.

13. **Nonassignability.** Neither party may assign or sublet this Agreement in whole or in part without the prior written consent of the other party, except that either party may assign this Agreement in its entirety to an affiliate that controls, is controlled by or is under common control with such party.
14. **Notice.** Notices required or permitted by this Agreement shall be deemed given when received if sent by recognized overnight courier or first class mail, postage prepaid, to the following address, or such other address as the party may specify by notice:

To School:

Mr. Bobby Jones
Vice President of Finance
Henderson State University
1100 Henderson Street, 7804
Arkadelphia, Arkansas 71999-0001

To BBA:

Mrs. Rene Morgan
Chief Operating Officer
BBA Corporation
12123 Kanis Rd
Little Rock, AR 72211

15. **Severability.** If any provision of this Agreement is finally adjudicated illegal, invalid, in excess of the authority of either party hereto or otherwise unenforceable, then such provision shall be severed, and the remainder of this Agreement shall remain in force as if such adjudicated provision were never included in this Agreement.
16. **Integrated Agreement.** This Agreement: (i) is the sole expression of the understanding of the parties with respect to operation of the Store, (ii) supersedes all prior statements and agreements with respect thereto, and (iii) may not be modified, amended or waived except in writing and agreed to and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective authorized representatives as of the date first written above.

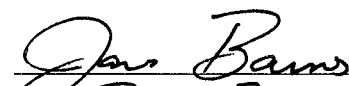
BBA CORPORATION

HENDERSON STATE UNIVERSITY

By:

Name:

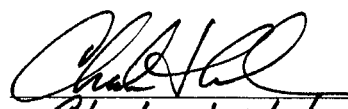
Title:


JAMES BARNES
President

By:

Name:

Title:


Charles Welch
President

Confidential