

THE IRISH WRITERS' UNION SAMPLE MODEL CONTRACT

This represents the optimum contract a writer might hope to obtain from a publisher. There is always a tension between the ideal author-publisher agreement and the attainable. Each clause, and every situation can be negotiable. Writers should bear this in mind when examining an offered contract. If there are any areas a writer does not understand, the writer should have them clarified by a knowledgeable independent party before signing. Once a contract is signed, it is legal and binding on both parties, Author and Publisher.

Many contracts by their very nature cover issues not addressed here. The purpose of this sample contract is not to discuss every conceivable possibility, but to set out in clear and concise language the basic clauses that appear, in some version, in most author-publisher contracts.

The Irish Writers' Union accepts no responsibility for any loss or damages arising from the use of this sample contract. This sample contract is intended to be for members' guidance only. They are encouraged to obtain independent legal advice before signing any contract.

However, the Irish Writers' Union would hope that its members study these guidelines in order to ascertain what is fair and possible in negotiating a contract.

AGREEMENT

between of (hereinafter called the Author) of the one part and (hereinafter called the Publisher) of the second part, concerning a literary work at present titled: (hereinafter called the Work.)

1 COPYRIGHT

- (a) The copyright in the Work will belong to the Author. The Publisher is hereby authorized to register the copyright in the Work in the name of the Author.
- (b) The Publisher agrees to imprint the copyright notice in each copy of the work distributed by the Publisher.
- (c) The Publisher further agrees to require its sub-licencees to imprint the copyright notice in their editions of the Work.

2 DURATION AND SCOPE

- (a) The Author hereby grants to the Publisher the sole and exclusive rights to print or otherwise reproduce, publish and sell the work in the English language for a period of years, to be mutually agreed upon.
- (b) These rights shall pertain in the Open Market worldwide except for those territories specified in the attached schedule, if any.

3 DELIVERY OF THE WORK

- (a) Unless prevented by circumstances beyond his/her control, the Author shall deliver to the Publisher a complete manuscript of the finished Work, and (if agreed) computer disc on or before the (date)
- (b) The length, form and content of the Work shall be in accordance with the outline agreed between the parties.
- (c) Within thirty days, the Publisher must inform the Author of its acceptability or non acceptability.
- (d) If in the opinion of the Publisher the Work is not acceptable for publication in its present form, the Author will have sixty days from receipt of this notification to make the necessary changes or revisions.
- (e) If Author fails to deliver the manuscript within ninety days after the date specified, Publisher may at his discretion send Author written notice of intention to terminate this Agreement.
- (f) Should the Author be prevented from completing the manuscript by serious illness or accident, then the time for delivery of the manuscript shall be extended until three months following the termination of Author's incapacity, provided Author has notified Publisher of such incapacity in writing.

4 EDITING

No changes can be made by the Publisher to the title or text of the Work without the Author's written consent. The Publisher's editor shall confer with the Author about any proposed changes. The Author shall make every reasonable effort to cooperate with the editorial process.

5 COPYEDITED MSS AND PAGE PROOFS

The Publisher shall provide the Author with a copy of the copy-edited manuscript for the Author's approval before any portion of the Work is printed. The Author shall read, correct and return said copy within fourteen working days of receipt, unless otherwise mutually agreed.

6 ALTERATIONS TO THE TYPESCRIPTS AND PROOFS

The Author shall bear the cost of any proof corrections he or she makes (other than printers' or publishers' errors) in excess of 15% of the cost of typesetting, such cost to be deducted from Author's royalties.

7 ILLUSTRATIONS, MAPS, INDEX, BIBLIOGRAPHY, FOOTNOTES

a) If it is agreed between the Author and the Publisher that illustrations and/or maps are desirable for the Publisher's edition of the Work, their number and style will be decided upon by separate Agreement.

(b) The Publisher shall produce the illustrations and/or maps and bear all costs of same, as well as pay any necessary permission fees, unless otherwise agreed.

(c) If it is agreed between the Author and the Publisher that the Work requires an index, then at the Author's choice, said index will be supplied by the Author, or the Publisher shall engage an indexer and the reasonable costs shall be borne equally by the Author and the Publisher, the Author's share being deducted from the payments due under this Agreement.

(d) If it is agreed between the Author and the Publisher that the Work requires a bibliography and/or footnotes, then same will be the responsibility of the Author unless otherwise agreed.

8 WARRANTY AND INDEMNITY

(a) The Author warrants to the Publisher that the Work is original with the Author.

(b) That the Work, to the Author's knowledge, does not infringe any existing copyright.

(c) That the Work, to the Author's knowledge, does not violate the laws of libel or obscenity.

(d) The Author further agrees to indemnify the Publisher against any final judgment for damages, including legal costs, arising out of any facts which constitute a deliberate breach of the foregoing warranties, provided that the Author's liability thereunder is limited to % of the sums payable to the Author under this agreement.

(e) The aforesaid indemnity shall not apply to any material inserted in the Work by the Author in response to the Publisher's request, nor to any material which the Publisher could have determined, from a reading of the Work, to have violated the specified rights and laws.

9 ADVANCE

The Publisher agrees to pay the Author, as an advance against earnings from all sources under this Agreement, the sum of (amount), payable as follows: (Ideally 50% on signing, 25% on delivery and acceptance of manuscript, 25% on publication)

10 SCHEDULE OF ROYALTIES

The Publisher shall pay the Author the following royalties, based on the list price of the Work: (suggested minimal rate)

(a) On hardcover editions of the Work:

(1.) On domestic sales: 10%

(2.) On overseas sales for export purposes: 10%

(b) On trade (large format) paperback editions of the Work:

(1.) On domestic sales: 10%

(2.) On overseas sales for export purposes: 7.5%

(c) On mass-market paperback editions of the Work:

- (1.) On domestic sales: 10%
- (2.) On overseas sales for export purposes: 7.5%

11. SUBSIDIARY RIGHTS

The Publisher may license subsidiary rights in the Work as listed below, and shall pay the Author the indicated percentages of the gross proceeds. (Suggested ideal rate)

- (a) Paperback rights: 75% of first 30,000 copies, 80% thereafter
- (b) Book club rights: 75% of first 30,000 copies, 80% thereafter
- (c) U.K. rights: 75% of first 30,000 copies, 80% thereafter
- (d) Other foreign rights: subject to individual negotiation
- (e) First pre-publication serial rights: 85%
- (f) Second pre-publication serial rights: 75%
- (g) Dramatisation rights, including television, radio, and theatrical: 80%
- (h) Motion Picture rights: subject to individual negotiation (i) Readings by voice on radio, television, tape, or disc rights: 80% (j) Mechanical reproduction rights: 80%
- (k) Digest book rights: 80%
- (l) Merchandising rights: 50%
- (m) Anthology and quotation rights: 80%
- (n) e-books and electronic downloads: 50%

12. ALL RIGHTS

All rights in the Work not specifically granted herein to the Publisher are reserved by the Author and may be exercised or disposed of by the Author at any time during the term of this Agreement.

13. MANDATED PUBLICATION

Unless prevented by circumstances demonstrably beyond their control, the Publisher shall publish the Work in its initial form at their own risk and expense within 12 months from the date of acceptance of the Work, or by (date)

14. REPORTS AND PAYMENTS

The Publisher shall calculate sales of the Work and income due the Author on 30 June and 31 December of each year, and within thirty days thereafter send the Author a complete statement of account, to include the following.

For each category of sales:

- (a) the number of copies sold;
- (b) total sales to date;
- (c) applicable price per unit;
- (d) applicable royalty rate;
- (e) number of returns if any;
- (f) amount now owing to the Author. If there are any outstanding sums under this Agreement due the Author at the time any royalty statement is issued, the Publisher's check for those sums shall accompany the statement.

15. EXAMINATION

Upon written request, Author or Author's designated representative may examine the books and records of the Publisher which relate to this Work. If such examination discloses an error in excess of 5% with respect to the royalty statement, Publisher shall be liable for costs of said examination; otherwise, such costs shall be borne by the Author.

16. PAYMENT

If any payment due does not accompany the royalty statement, the Author may demand in writing that such payment be made within thirty days. If the Publisher fails to comply, the Author may, upon notifying the Publisher of his intention in writing, immediately terminate this agreement and all rights there under revert to the Author.

17 PRESENTATION COPIES

The Publisher shall give the Author, without charge, twenty copies of the Work. The Author

may purchase additional copies at 40% of the list price.

18. REVERSION OF RIGHTS

If the Work has been out of print for a period of one year, and upon the Author's written request the Publisher does not then reprint within eighteen months, the Author may request and shall receive a reversion of all those rights in the Work which the Publisher holds.

19. OUT OF PRINT

The Work will be considered to be out of print if fewer than fifty copies remain in the Publisher's stock.

20. TERMINATION OF CONTRACT

In the event the Publisher fails to comply with any of the provisions of this Agreement, within one month after written notification by the Author of such non-compliance, the Author may terminate this Agreement upon written notification to the Publisher.

Termination will be without prejudice to any sub-licenses properly granted by the Publisher prior to termination.

Termination will be without prejudice to any claims which the Author may have against the Publisher for monies due at time of termination.

21. BANKRUPTCY

If the Publisher is adjudicated a bankrupt or makes an assignment for the benefit of creditors or liquidates the business, this Agreement shall terminate forthwith and all rights granted to the Publisher thereunder shall automatically revert to the Author.

22. COMPETING WORKS

During the lifetime of this Agreement, the Author shall not prepare for other publishers any work which may be an expansion or abridgement of this Work, or is likely to effect prejudicially the sales of this Work.

23. SETTLEMENT OF DISPUTES

Any dispute arising from this Agreement may first be referred to the Irish Writers' Union for negotiated settlement. Failing such settlement, the dispute may be referred to an arbitrator or arbitration body, agreed upon by both parties, in accordance with the provisions of the Arbitration Act 1980 or any amending or substituted statute for the time being in force. Notwithstanding the above, the parties hereto do not waive their right to seek any interlocutory remedy including an injunction in any Court without the requirement of prior arbitration. Nothing herein shall prejudice the enforceability of such remedy.

24. NOTICES

All legal notification is to be made by post, fully addressed to the recipient.

25. WAIVER OR MODIFICATION

This Agreement constitutes the complete understanding of the parties thereto and no waiver or modification of any provisions shall be valid unless in writing, signed by the Author and the Publisher. The waiver of a breach or a default under any provision hereof shall not be deemed a waiver of any subsequent breach or default.

26. GOVERNING LAW

This Agreement shall be interpreted under the laws of the Republic of Ireland.

Agreed to this day,

Signature Publisher _____

Signature Author _____

:Signature

Witness _____