

Penumbra Publishing  
4450 Meadowland Drive  
Murfreesboro, TN 37127-6612  
PenumbraPublishing@gmail.com

## PUBLISHING CONTRACT (AGREEMENT)

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

BETWEEN Penumbra Publishing, located at 4450 Meadowland Drive, Murfreesboro, Tennessee, 37127-6612, (hereinafter called the "Publisher")

AND \_\_\_\_\_, (hereinafter called the "Author"),  
whose address is \_\_\_\_\_,  
and whose email address is \_\_\_\_\_,  
being the writer and owner of a work tentatively entitled \_\_\_\_\_  
(hereinafter called the "Work"),

REMAINS IN EFFECT for a period of \_\_\_\_\_ from the contract date Author signs and returns this Agreement via mail. Postmark date of executed agreement received by Publisher determines contract date.

Author further agrees that all terms and rights herein will be automatically extended until 30 calendar days after either Publisher or Author provides written notification of termination either by email or post mail. Termination notification date is determined by postmark date or email transmission date.

Acknowledgement of notification of updated/changed postal delivery and/or email addresses by either party will be considered as mutually agreed contact updates to this agreement.

### (1) GRANT OF RIGHTS

The Author hereby grants and assigns to the Publisher the following rights in regard to reproducing and distributing the Work:

(1a) The Author agrees to allow the Publisher to reproduce and distribute the Work ELECTRONICALLY either as a direct upload/download via the internet through the Publisher's website or as retail through online bookstores or wholesale through distributors. The Author also grants and assigns to the Publisher the right to reproduce and sell the Work on disks through mail order/telephone order sales and/or through retail sales via internet 'virtual' bookstores and/or physical bookstores. These rights pertain to those electronic rights described above and any or all future formats that may be developed during the period covered by this contract.

(1b) The Author agrees to allow the Publisher to reproduce and distribute the Work in PRINT-ON-DEMAND (POD) or TRADE PAPERBACK (TPB) either directly or through electronic

distributors.

(1c) Publisher does not request FOREIGN RIGHTS in this contract. Author is free to negotiate Foreign Rights for the Work, or to engage an agent to act on the Author's behalf in negotiating Foreign Rights. For the purpose of this Agreement, Foreign Rights covers the right to publish, market, distribute, and sell the Work in countries other than the United States and its territories, and may be tied to specific language translations. Sales to non-US residents through the Publisher, or sales any retailer or distributor that has a corporate US presence and sells as a US entity, are not considered part of foreign rights.

## (2) COPYRIGHT

(2a) Responsibility for copyright registration rests solely with the Author and at Author's discretion and expense.

(2b) In the event of copyright infringement on the Work, the author is encouraged to put forth appropriate defense, while the Publisher may defend but is not obligated to defend the copyright or expend financial resources in such a defense.

(2b) Publisher agrees to imprint or to have imprinted in each copy of the Work the copyright notice required by the Universal Copyright Convention and other applicable copyright laws.

## (3) MANUSCRIPT

(3a) Manuscript (the Work) is to be sent to Publisher electronically via email attachment in acceptable compatible format per Publisher's specifications. Author has 10 days from the post date of approved signed contract to provide manuscript as specified.

(3b) If, in Publisher's sole opinion, the manuscript is not suitable for publishing purposes, then Publisher shall have the option to request Author to perform such changes or rewrites of the manuscript as Publisher deems necessary.

(3c) Author agrees to deliver a complete, clean and revised copy of the Work in acceptable, compatible electronic format to Publisher within 60 days of RECEIPT of manuscript returned for revisions.

(3d) If, upon inspection of the final draft of the work, the Publisher finds that the author has failed to correct any errors, whether these are in the nature of grammar, usage, punctuation, logic or anything whatsoever that would be interpreted clearly as an error, the Publisher reserves the right to correct all such errors without further consultation with the author.

(3d) If in Publisher's sole judgment the manuscript requires no further revisions, it is deemed acceptable for publication.

(3e) If, however, the manuscript still requires significant rewrites beyond the scope of what the Publisher deems routine editing to correct simple errors, the Publisher may reject the manuscript and either request further revisions within 60 days from receipt of the first draft corrections, or nullify the publishing Agreement.

#### (4) PERMISSIONS FOR USE OF COPYRIGHTED MATERIAL

(4a) Publisher shall provide acceptable permissions forms, and Author(s) shall be responsible for and shall, at the Author's own expense, obtain all necessary permissions to publish any copyrighted material contained in the Work.

(4b) The Author agrees that without said permissions, copyrighted material beyond 'fair use' must be removed from the Work in such a manner as to render the Work in a revised state deemed by Publisher to be fit to publish.

#### (5) AUTHOR'S WARRANTY

(5a) Author warrants and covenants-that he/she is the sole author and owner of the Work, that the Work is original, and that Author has full power and authority to enter into this Agreement. Further, Author warrants that the Work is not subject to any pre-existing contractual obligations; does not infringe on any right of privacy, copyright, or proprietary right; is not in violation of any statute; and does not contain any matter unlawful, libelous, or defamatory.

#### (6) ROYALTIES

(6a) ADVANCE - Publisher shall not be required to pay Author(s) an advance upon or against the money expected to accrue to him/her under this Agreement. Any advances paid shall be entirely voluntary on the Publisher's part, to be paid at such time and in whatever amount the Publisher's deems acceptable.

(6b) MULTIPLE AUTHOR ROYALTIES - In the case of an anthology, novel or short story written by multiple Authors, royalty percentages will be split equally among all authors of the Work.

(6c) BASE PRICE FOR ROYALTY CALCULATIONS - For the purpose of figuring royalty percentages, WHOLESALE is defined as the price at which the Work is sold to distributors who will then add retail markup to create the final customer sales price (Retail). RETAIL is defined as the distributor's marked-up final price offered to the consumer. LIST PRICE of the Work is defined as the regular retail price the Work is offered for sale on the Publisher's web site, and does not include any sale discount reductions, fees, shipping costs, or taxes. Discounts or reductions of list price may be implemented at the Publisher's discretion at any time for any reason or for any length of time to promote sales. These reductions will not reduce the Author's royalties calculated from the original list price, except in the sale of remaining physical copies of the Work upon termination of this Agreement, or breach by Author of this Agreement. Sales of the Work in different formats and through various distribution channels will result in a tiered royalty structure as noted below.

(6d) DIRECT ELECTRONIC DOWNLOAD SALES - Publisher agrees to pay Author royalties in the amount of 35% U.S. Currency of the list price per copy of Author's Work sold as direct download/upload via the internet from Publisher's website.

(6e) DIRECT ELECTRONIC DISK SALES - Publisher agrees to pay Author royalties in the amount of 25% U.S. Currency of the list price per copy of the Author's Work sold on disk through direct mail sales and phone orders or through the Publisher's website.

(6f) INTERNET RETAIL ELECTRONIC DOWNLOAD SALES - Publisher agrees to pay Author royalties in the amount of 18% of list price (US currency) for download/upload sales of Author's Work via internet Retailers.

(6g) INTERNET RETAIL ELECTRONIC DISK SALES - Publisher agrees to pay Author royalties in the amount of 15% of list price (US currency) for sales of copies of the Work on disks via internet Retailers.

(6h) PHYSICAL BOOK STORE ELECTRONIC DISK SALES - Publisher agrees to pay Author royalties in the amount of 9% of list price (US Currency) for retail sales of copies of the Work via physical bookstores of books on disk.

(6i) WHOLESALE ELECTRONIC DOWNLOAD SALES - Publisher agrees to pay Author royalties in the amount of 15% of list price (US Currency) for wholesale distribution of ebooks (uploads/downloads) through distributors of purely electronic versions of the Work (file transfer).

(6j) DIRECT PRINT ON DEMAND AND TRADE PAPERBACK SALES - Publisher agrees to pay Author 11% of the cover price for Print-On-Demand or Trade Paperback sales directly from Publisher's web site.

(6k) RETAIL PRINT ON DEMAND AND TRADE PAPERBACK SALES - Publisher agrees to pay Author royalties in the amount of 7% of the cover price for retail sales of Work in Print-On-Demand or Trade Paperback form.

(6l) WHOLESALE PRINT ON DEMAND AND TRADE PAPERBACK SALES - Publisher agrees to pay Author 4% of cover price (Publisher list price) for Print-On-Demand or Trade Paperback sales to wholesale distributors.

(6m) STATEMENT OF ACCOUNT, PAYMENT SCHEDULE - Publisher agrees to provide Author with a Statement of Account and to pay Author agreed royalties twice yearly for sales proceeds accumulated by Author's Work during the pay period. Money collected is to be paid out first of the year and mid-year. Method of payment will be by negotiable check sent via regular mail. Statement shall be provided semi-annually to Author regardless of whether any money is due.

(6n) ACCOUNT AUDIT - Author shall have the right to audit, or have audited, Publisher's records pertaining to the Work where such records are usually maintained. Author has the right to inspect once annually in order to verify the accuracy of an accounting statement. In the event that any accounting statement is in error in an amount greater than ten percent of the amount due on such accounting statement, Publisher shall pay the costs of the audit, if any. Otherwise, Author is responsible to pay any auditing fees. Publisher will not be held accountable for faulty sales information provided by outside distributors or retailers.

## (7) PROMOTION

(7a) Author agrees to allow Publisher to offer copies of the Work for promotional purposes, for which author will not be due royalties.

(7b) Publisher agrees to sell to Author at a discount of 40% off list price, plus normal shipping and handling, no more than 50 books on disk to be used by Author for promotional purposes at book signings, etc. Thereafter Author may purchase disk copies of his/her work at a discount of 30% off list price. Print editions will be made available to Author at the time the Work becomes available in print, and Publisher agrees to sell to Author no more than 25 books at a discount of 30% off cover price (Publisher's List Price) plus normal shipping and handling expenses. Thereafter Author will be entitled to purchase books directly from Publisher at a discount of 25% off cover price. No royalties will be paid for discounted purchases made available to Author directly from Publisher.

(7c) Publisher reserves the right to recover cost of and to dispose of all remainder stock of said Work in any manner deemed appropriate by the Publisher in the event of contract negation/termination or Author withdrawal/breach. Royalties will be paid only if due on remaining physical copies in stock, and will be based on net after Publisher production and sales expenses, in the event of Author breach of contract or withdrawal before the initial contract period.

(7d) Author is expected to actively and appropriately promote both the Work and the Publisher to the best of his/her abilities, but Author is not expected to purchase or contribute advertising to Publisher's marketing or public relations campaigns.

#### (8) BREACH OF CONTRACT

(8a) Publisher shall not be deemed to have committed any breach of this contract by reason of its acts or failure to act unless written notice thereof has been sent to Publisher by Author setting out specific details and Publisher has failed to remedy such breach within 60 days of receipt of written notice. Breach without appropriate remedy within 60 days will result in reversion of rights to the Author and nullification of this Agreement, without entitlement of monetary compensation for any loss perceived by the Author.

(8b) Author's breach of contract or withdrawal from this Agreement after Publisher has made considerable production investment in the Work may incur financial penalty equivalent to the amount of money expended for preparation of the Work for sale, up to \$200.00 USD. In the event of Author's breach or withdrawal, Author agrees to pay for said itemized production expenses not to exceed \$200.00.

(8c) Unresolved differences are subject to legal ARBITRATION in the State of Tennessee, and any legal expenses will be borne by the respective parties.

#### (9) FAILURE OF COMPANY

(9a) If Publisher shall apply for or consent to the appointment of a receiver, trustee or liquidate of itself or any of its property, admit in writing its inability to pay its debt as they mature, make a general assignment for the benefit of creditors, be adjudicated as bankrupt or insolvent, or file a voluntary petition in bankruptcy, or a petition or answer seeking reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, or file an answer admitting material allegations of a petition filed against it in any proceeding under any such law, or if corporate action shall be taken for the purpose of effecting any of the foregoing, then immediately upon the happening of any of the said events, upon written notice to Publisher, Publisher's rights under this agreement shall terminate.

(9b) In the event of death or incapacitation of the Publisher (Sole Proprietor), all assets belonging to the Publisher, including unsold physical copies of the Work manufactured for sale, will pass through inheritance according to local laws governing survivorship. Non-physical assets, such as unexercised rights to the Work, revert to the Author.

(10) ASSIGNMENT

(10a) Neither party can assign the contract without written consent from the other party. Premature buyout falls under this mutual consent stipulation and may involve monetary compensation to be agreed to mutually by both parties.

(11) TAXES

(11a) Publisher will not withhold taxes from Author's royalty checks. Author is responsible for reporting and paying her/his own income taxes. Publisher will provide Author with tax earnings statements in appropriate forms or substitute forms as required by law. Failure of Author to receive such statements does not absolve Author of tax responsibility.

(11b) Publisher will collect and pay all sales and other taxes and file forms as necessary relating to sales of the Work, as required by laws governing commerce in regard to Publisher's physical location and Publisher's sales of the Work.

(12) SCOPE OF AGREEMENT

(12a) This constitutes the entire Agreement, and no change shall be made to the Agreement unless mutually agreed to in writing by both parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement:

\_\_\_\_\_  
Author(s)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Donna Wolke d/b/a Penumbra Publishing

\_\_\_\_\_  
Date