

## **AUTHOR PUBLISHING AGREEMENT (Revised 11-16-20)**

THIS AGREEMENT (hereinafter called the Agreement) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ (hereinafter called the “Publisher”) and \_\_\_\_\_ (hereinafter called the “Author,” which term shall be deemed to include the Author's executor, devisees, heirs, and literary assigns).

WHEREAS, the Author desires the Publisher to publish the Author’s work titled<sup>[SEP]</sup>\_\_\_\_\_, (hereinafter called the “Work”), and Publisher desires to publish the Work;

NOW THEREFORE in consideration of the promises hereinafter set forth and for valuable consideration, receipt whereof is acknowledged, the parties agree as follows:

### **1. Grant of Publishing Rights**

A. The Author hereby grants and assigns to the Publisher, its successors, representatives, and assigns, the sole and exclusive right to publish (i.e., print, publish, and sell) the Work in the English language in all forms during the full term of copyright and any renewals and extensions thereof, except as provided herein.

B. The Publisher shall have the sole and exclusive right to publish or to license the Work for publication in the English language or in any other language in the United States and in any other foreign country, except as provided herein.

C. The Author shall execute and deliver to the Publisher any and all documents which the Publisher reasonably deems necessary or appropriate to evidence or effectuate the rights granted in this Agreement.

D. If, at any time during the effective term of this Agreement, a claim shall arise for infringement or unfair competition as to any of the rights which are the subject of this Agreement, the parties may proceed jointly or separately to prosecute an action based on such claims. If the parties proceed jointly, the expenses (including attorneys’ fees) and recovery, if any, shall be shared equally by the parties. If the parties do not proceed jointly, each party shall have the right to proceed separately, and if so, such party shall bear the costs of litigation and shall own and retain any and all recovery resulting from such litigation. If the party proceeding separately does not hold the record title of the copyright at issue, the other party hereby consents that the action be brought in his, her or its name. Notwithstanding the foregoing, the Publisher has no obligation to initiate litigation on such claims, and shall not be liable for any failure to do so.

E. Nothing contained in this Clause shall be construed as limiting, modifying or otherwise affecting any of the rights granted to the Publisher under this Agreement.

### **2. Copyright**

Copyright of the Work belongs to the Author and their heirs. The Publisher will register the copyright with the Library of Congress if the Author wishes. This will be additional cost per the menu of services.

### **3. Author's Warranties and Indemnity**

A. The Author warrants to the Publisher and its licensees that she is the sole Author and proprietor of the Work; that the Work has not heretofore been published in book form; that she is the owner of all the

rights granted to the Publisher, and has full power to enter into this agreement, and that said rights are not subject to any proper agreement, lien, or other claim or rights which may interfere with the rights herein granted; that the Work is original and not in the public domain; that it does not violate the right of privacy of any person; that it contains no libelous, obscene, or other unlawful matter; and that it does not infringe upon the copyright or violate any other right of any person or party. The Author agrees to hold the Publisher harmless against any damages, including attorney's fees, finally sustained in any suit involving the Publisher or its licensees by reason of a violation of any of these warranties.

B. If any such suit is instituted, the Publisher shall promptly notify the Author and may withhold payments due to the Author under this Agreement, until such suit has been settled or withdrawn. If a final adverse judgment is rendered and is not discharged by the Author, the Publisher may apply the payments so withheld to the satisfaction of such judgment. The Author undertakes for herself, her successors and assigns, to execute at any time, on request of the Publisher, any document or documents to confirm or continue any of the rights defined herein, and to take all proceedings necessary to enforce copyright in the United States and elsewhere.

C. If the Author unreasonably disapproves of any out-of-court settlement recommended by the Publisher and the claim or suit proceeds to trial, the Author shall be liable for all the Publisher's fees, costs, damages, and expenses connected with such trial regardless of outcome. The Publisher shall have the right to reasonably extend the benefit of the indemnities to any person, firm, or corporation at any time, and the Author shall be liable thereon as if Author's warranties were originally made to such person, firm, or corporation.

D. The provisions of this Section 3 shall survive the termination of this Agreement.

#### **4. Delivery of New Work Manuscript and Payments from Author**

**NOTE: We will require a 50% deposit of the chosen menu of services in order to proceed with editing, illustrations, and design of your book. The remainder of the amount from the menu of services shall be paid by the Author after the book appears on Amazon.com.**

A. The Author agrees to deliver to the Publisher one (1) copy of the final manuscript of the Work, in content and form satisfactory to the Publisher (electronic Word or PDF) so that the publisher may proceed with the book design.

B. The Author shall deliver to the Publisher, not later than the Initial Delivery Date unless otherwise designated by the Publisher, each of the following materials:

The Author shall deliver to the Publisher, at the Author's sole expense, written authorizations and permissions for the use of any copyrighted or other proprietary materials (including but not limited to art and illustrations) owned by any third party which appear in the Work and written releases or consents by any person or entity described, quoted or depicted in the Work (hereinafter collectively called the "Permissions"). If the Author does not deliver the Permissions, the Publisher shall have the right, but not the obligation, to obtain such Permissions on its own initiative, and the Author shall reimburse the Publisher for all expenses incurred by the Publisher in obtaining such Permissions.

C. If the Publisher, in its sole discretion, reasonably deems the Manuscript, and/or any other materials delivered by the Author to be unacceptable in form and substance, then the Publisher shall promptly advise the Author by written notice, and the Author shall cure any defects and generally revise and correct the Manuscript and/or other materials to the reasonable satisfaction of the Publisher, and deliver fully revised and corrected Manuscript and/or other materials promptly after receipt of the Publisher's notice.

D. If the Author fails to deliver the Manuscript or other materials required under this Agreement, and/or any revisions and corrections thereof as requested by the Publisher, on the dates reasonably designated by the Publisher, or if the Author fails to do so in a form and substance reasonably satisfactory to the Publisher, then the Publisher shall have the right to terminate this Agreement by so informing the Author by letter sent by certified mail, return receipt requested, to the address of the Author set forth herein. Upon termination by the Publisher, the Author shall, without prejudice to any other right or remedy of the Publisher, immediately repay the Publisher any sums previously paid to the Author, and upon such repayment, all rights granted to the Publisher under this Agreement shall revert to the Author.

E. If the Author provides artwork and/or images for the book, there may be additional charges for scanning, editing, revising, photo shopping, etc. Author is responsible for all copyright to the images. The Publisher will do our best to take care of these images and return them in the state given, but is not responsible for revisions or adaptations of the original images necessary to create the book.

E. If the Author chooses to use their own illustrators or other third parties to create the book, the Author will be responsible for any and all contractual dealings with the third party including payments, copyright issues, royalties or any other compensation.

## **5. Author Changes to the Work**

The Publisher agrees to allow the Author to make changes to the Work, up to and including the final proof stage. The Publisher will allow the Author **three** change requests to the cover layout and **three** change requests to the interior layout free of charge during the design phase. Additional change requests made by the Author will incur a fee of **\$20 per request**. Change requests made **AFTER** a layout (interior and/or cover) has been approved, **but prior to the Work being submitted to the Printer**, will incur an **additional \$100 fee per request**. Change request fees will be waived if the Publisher determines that the request is necessary in order to correct a file error or omission made by the book designer. Change requests shall be submitted in the format of the Author's Checklist document. If after final proof approval and uploading of the Work to the Printer the Author makes changes, there will be additional charges for the revision and re-uploading of files (interior and/or cover) per the Menu of Services.

## **6. Style, Price, Promotion, Distribution**

A. After consultation with the Author, the Publisher shall have the right, but not the obligation, to publish and re-publish the Work at its own expense in such format and style, cover or covers, manner, and advertisement, and at such price, as it deems suitable except that the initial publication shall be with a title and price agreed to by the parties in writing.

B. If the Publisher wishes to make editorial changes or deletions in the Work manuscript, it shall consult with the Author prior to publication about these changes.

C. The Publisher agrees to publish the Work within three months from the date of this contract as long as the author has complied with the above sections concerning revisions and design decisions. In case of delays from causes beyond the control of the Publisher, or in case the Author fails to return corrections within two days after they have been delivered to her, the period shall be extended to cover such delays. Should the Publisher fail to publish the Work before the expiration of said period, except as provided herein, its failure to do so shall be deemed cause for the Author, if he so desires, to terminate this Agreement.

## **7. Advertising, Promotion, and Marketing**

A. Although the Publisher shall promote the Author's books on the BDI Publishers website and social media and can provide information and help with marketing efforts, it is the sole responsibility of the Author to promote and market their books.

B. The Publisher shall have the right to use, and to license others to use, the Author's name, image, likeness and biographical material for advertising, promotion, and other exploitation of the Work and the other rights granted under this Agreement provided the Publisher has obtained the Author's approval which shall not be unreasonably withheld to said use and exploitation.

## **8. Revision After Initial Publication**

A. If at any time while this Agreement continues in force the author wishes to alter the book, price, cover, interior or create a second edition, additional costs for said work shall be in accordance with the Menu of Services.

## **9. Force Majeure**

The failure of the Publisher to publish or republish any of the Work shall not be deemed to be a violation of this Agreement or give rise to any right of termination or reversion if such failure is caused by restrictions of government agencies, labor disputes, or inability to obtain the materials necessary for its manufacture, or occurs for any other reason beyond the Publisher's control; and in the event of delay from any such cause, the publication date or reissue may be postponed accordingly.

## **10. Statements & Payments**

The Publisher shall pay the Author twice per year. The Publisher follows a bi-annual sales reporting and payment schedule. The Author will receive a detailed sales report and payment disbursement in October for Quarters One and Two (January – June), and in April of the subsequent year for Quarters Three and Four (July – December). If the Author's sales for the payment disbursement do not cover administrative costs to process payment, the Publisher will defer payment until there are enough sales to warrant a payment. If the Author requires payment despite low book sales, the Publisher will charge an administrative fee of \$40 (\$20 to run the sales reports and \$20 to process and mail the check). The Author may request a sales report at any time for a fee of \$20 and request a check at any time for an additional \$20 less any publisher fees.

The Author may choose to be paid via check or electronic payment. There will be additional fees of 4% for electronic payments. The Publisher will charge up to 4% for all payments made by the Author that includes processing fees (credit cards, PayPal, etc.). The Publisher will send a statement showing total book sales minus any fees (catalogue, revisions, changes, Publisher fee of 15%, etc.). If the Author orders books directly from the Publisher for sales or promotional purposes, the Publisher will fill the order and charge shipping PLUS the regular 15% of retail fee on books with a \$25 minimum. Orders direct from the Publisher are not charged the 20% fee from Amazon. For vanity press, called short runs (no presence on any book retail sites), the Publisher will fill book orders for printing costs, plus shipping, plus 15% of retail price or 50% of printing costs, whichever is greater.

## **11. Virtual Communications and Online Social Networks**

The Author may request that the Publisher set up an online website or social network (Facebook and/or Twitter) for the Work, as outlined in the Menu of Services. In doing so, the Author agrees to submit all

necessary payment and contact information needed to set up the Work on any or all of the outlets mentioned and agreed to. The Publisher is only responsible for creating the online website and/or social media accounts for the Work. Once these virtual pages and networks have been established, it is the responsibility of the Author to maintain any and all of these accounts. The Author understands that the Publisher will provide basic content and information pertaining to the Work (book title, description, cover, and author information) when establishing webpages and social media accounts. The Author also understands and agrees that it is not the responsibility of the Publisher to promote, advertise, or maintain any of the virtual content that it creates for the Work once these pages are established. Any promotion, maintenance, or expense that is incurred through these virtual social networks and/or websites is the sole responsibility of the Author. Any additional fees or expenses that the Publisher incurs during the setup of the website or social media accounts for the Work will be invoiced directly to the Author. The Publisher will have 90 days from the publication date of the Work to establish any social media accounts or websites requested and purchased by the Author. Any change requests made by the Author while the website and/or social media accounts are being set up by the Publisher will extend the completion deadline by an additional 90 days. Upon completion, the Publisher is released of any and all liability relating to the content and maintenance of these outlets.

### **12. Copyright issues and Third Party Seller Issues**

It is the Author's responsibility to address any third party seller issues or free download or other copyright issues and the Author shall hold the Publisher harmless for any of these issues. The Publisher shall help the Author to resolve these issues, but shall not be held responsible for any loss of revenue or other issues foreseeable or unforeseeable.

### **13. Termination & Reversion of Rights**

A. If either party is not satisfied with the arrangement at any time, they may terminate the agreement with 30 days written notice. Once the agreement is terminated, The Publisher will forward all files associated with the book to The Author. The Publisher will also remove the book from the printer's catalogue and discontinue sales on all websites. The Author/Publisher agree to pay the other party any outstanding balances.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written and shall be interpreted under the laws of the United States of America and International Laws concerning publishing and copyright.

**Publisher**

By: 

Name: Brent Darnell

Title: Owner

**Author**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_