

PUBLISHING AGREEMENT

DATE

This Publishing Agreement (the "Agreement") is binding and effective as of the date above between CrossLink Publishing, a division of CrossLink Ministries LLC ("Publisher"), and **AUTHOR NAME** ("Author"), with respect to literary material (the "Work") identified by the tentative working title of,

TITLE

In consideration of the premises set forth below, and other good and valuable consideration the receipt of which is hereby acknowledged, Publisher and Author mutually agree as follows:

- A. GRANT OF RIGHTS.** Author hereby grants and assigns to Publisher the following rights to the Work during the full term of its copyright:
- 1. PUBLISHING RIGHTS.** The exclusive worldwide right to publish all or any portion of the Work in all languages in all media. As used in this Agreement, "publish" includes the exclusive right to reproduce, distribute, display, transmit, or otherwise exploit, and the terms "any medium" and "all media" include all media and forms of dissemination now known or hereafter developed.
 - 2. SUBSIDIARY RIGHTS.** The exclusive worldwide right to exercise or license the following subsidiary rights to the Work:
 - a. Permission Rights:** To grant permission for the use of one or more excerpts or quotes from the Work in any other work in all media.
 - b. Derivative Rights:** To prepare and publish revisions, adaptations, future editions, illustrated editions, special editions, large type editions, gift editions, calendars, book club editions, foreign editions, Braille editions, digests, abridgments, condensations, anthologies, and omnibus editions (compilation of Work with other works of Author) in all media.
 - c. Audio Rights:** To prepare and publish dramatic and non-dramatic sound recordings of readings of the Work in complete, condensed, or abridged versions in any medium, including compact discs, or digital download or streaming, including audio MP3. Publisher or licensee reserves the right to edit the Work to satisfy recording time constraints.
 - d. Electronic Rights:** To prepare and publish electronic editions of the Work in complete, condensed, supplemented, abridged, excerpted, or adapted versions in all media, including eBook, CD-ROM, multimedia, computer software or database, software applications (including without limitation mobile apps for smartphones, tablets, and other electronic devices), Internet, file-sharing, download, cellular phone and other personal electronic devices, and incorporation into or use by any other electronic or telecommunications device, network, service or system by any means, or by any other means of electronic dissemination. Included is the right to supplement electronic versions of the Work, including with content included in the Manuscript of the Work or other content delivered by Author which may not appear in the print version.
 - e. Promotional Rights:** To prepare and publish excerpts, quotes, and adaptations from any edition of the Work in print, audio, video, electronic, and any other media, without profit to Publisher nor compensation to Author, if in the judgment of Publisher such use will help promote the sale of any edition of the Work.
 - f. Translation Rights:** To translate (and own the translation of) the Work into any language of the world and to prepare and publish same in all media.

g. Exercise of Subsidiary Rights: To determine (in its sole discretion) whether, when, and how to exercise or license the above subsidiary rights. Except as may be specified otherwise above, Author agrees to direct all inquiries and requests concerning these subsidiary rights to Publisher.

- 3. EDITING FOR ADAPTATIONS:** Publisher reserves for itself and its licensees the right to edit the Work as each may deem necessary in the exercise of the subsidiary rights set forth in this Agreement.
- 4. PROMOTIONAL USE BY AUTHOR.** Without limiting the rights granted to the Publisher under the terms of this Agreement, the Publisher agrees that the Author will have the right to publish short excerpts from the Work (not to exceed 2,500 words or 10%, whichever is less) on the Author’s web site and other promotional materials created and distributed by Author or Author’s organization (with or without audio or video elements). Any such use(s) will be undertaken solely for promotional and/or publicity purposes and shall not be undertaken by Author in such a way as to interfere or injure sales of the Work. In each instance, proper credit shall be given to the Work and the Publisher.
- 5. RETAINED RIGHTS.** Any rights in the Work not granted by Author to Publisher are reserved to the Author.

B. MANUSCRIPT. Author will author and deliver an electronic Microsoft Word file of the complete literary Work (the “Manuscript”) to Publisher no later than XXXXX (“Manuscript Due Date”) in satisfactory content, form and length in Publisher’s sole discretion. The Manuscript will contain approximately XXX words. Unless otherwise agreed in writing, Author shall include with the Manuscript (in form and quality ready for publication) all drawings, maps, photographs, charts, illustrations and designs (collectively, “Illustrations”) and any index, bibliography, table of contents, foreword, introduction, preface, or similar matter which are a part of, or in Publisher’s discretion are necessary to, the text of the Work.

C. AUTHOR CONSULTATION. Publisher will consult with Author regarding cover art, illustration sketches (if any), the title, and any substantive changes made to the text which change the meaning of the Work during the final editing process or in any revision to the Work.

D. ROYALTY RATES. On Net Receipts of Publisher’s printed trade editions during the term of copyright:

<u>ROYALTY RATES</u>	<u>ROYALTY BEARING UNITS SOLD</u>
16% (Sixteen percent)	1-5,000
20% (Twenty percent)	Over 5,000

E. COPYRIGHT. Publisher will register the copyright of the Work and any revisions or future editions in the United States of America, and elsewhere at Publisher’s option, in the name of AUTHOR.

F. AUTHOR COPIES. Upon publication of the first print edition of the Work, Publisher will deliver to Author fifteen (15) free copies.

G. NOTICES. All notices, requests, demands, reports, statements, and other communications pursuant to this Agreement will be in writing and will be deemed to have been duly given on the date of delivery if served personally or on the fifth day after mailing if mailed by first-class mail, postage prepaid, and properly addressed as follows:

<u>To Author:</u> Name Address Address	<u>To Publisher:</u> CrossLink Publishing Attention: Rick Bates 1601 Mt. Rushmore Rd, Ste 3288 Rapid City, SD 57701
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H. INTEGRATED AGREEMENT. As used herein, the “Agreement” means this entire integrated agreement, including and hereby incorporating the initial pages of the Agreement concluded by this paragraph and the signatures below, as well as the attached Exhibit A CrossLink Publishing Terms (including its arbitration provision) and any other exhibits or schedules expressly referenced herein. The Agreement is to be interpreted as one integrated agreement, constitutes the entire agreement of the parties concerning the matters referenced in the Agreement, and supersedes any prior oral or written understandings regarding said matters. As used herein, “Section ___” refers to the respective section in the initial pages of the Agreement or Exhibit A.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective the day and year above written.

AUTHOR

CrossLink Publishing

[Author Name]

Rick Bates, Managing Editor

EXHIBIT A
CrossLink Publishing Terms

- 1. AUTHOR'S NAME AND LIKENESS.** In connection with the publication, advertising and sale of the Work:
 - A.** Publisher will have the right to use and allow others to use the name, signature, likeness, image, and biographical data concerning Author, without compensation to Author, if in the judgment of Publisher such use will help promote the sale of the Work.
 - B.** Author will submit to Publisher, promptly upon request, materials in support of the sale of the Work, including Author's curriculum vitae and a photograph that is suitable in Publisher's opinion for use on a book cover, within the book, or in advertising, marketing and publicity of the Work.
 - C.** Author's photograph(s) will be provided to Publisher at Author's expense and include a written release from each photographer. Author warrants that the release grants Author worldwide rights to include such photograph(s) on or in any editions of the Work, any related products, in advertising, marketing and publicity related to the Work and allows Author to grant said rights to Publisher and its licensees. Notwithstanding whether Author delivers said release to Publisher, Author hereby warrants that Publisher is free to use the photographs and other material delivered by Author to Publisher and indemnifies Publisher for use of said items as set forth in Section 3 (INDEMNIFICATION).
 - D.** Author will make himself or herself available as reasonably needed for promotion and publicity of the Work pursuant to promotional and publicity schedules developed by Publisher.

- 2. AUTHOR WARRANTIES.** Author represents and warrants that:
 - A.** The Work, in whole or in part, has not been published in any form and is not in the public domain.
 - B.** The Work and all Illustrations and related content (including photos) delivered by Author is innocent and contains no matter which is libelous or unlawful, or that infringes any copyright or other proprietary right, or any personal right of privacy or publicity; and if the Work is not a work of fiction, all statements in the Work asserted as facts are true and based upon reasonable research for accuracy. No recipe, formula, instruction, or advice contained in the Work, if followed or implemented by any persons, will cause loss, damage, or injury to them or any other persons or property.
 - C.** Author owns or has acquired all rights to the Work, including the rights from other contributors, has full power to make this Agreement, and there have been no previous assignments, liens, or promises to others, which may affect the Work. In the event that it is necessary to hire a writer to assist Author in preparing the Manuscript, after discussion with Author Publisher may hire a writer under a work-for-hire agreement and will pay any related fees by deducting same from Author's advance or subsequent royalties. Author agrees to retain a copy of the Manuscript and any other materials submitted to Publisher and agrees Publisher will not be liable for any loss of Manuscript, Illustrations, or other materials submitted by Author.
 - D.** If the Work is to contain copyrighted material from other sources, whether text, photographs, Illustrations, or other content, Author will deliver such content to Publisher, and will in each instance inform Publisher in writing of and obtain at Author's expense, within ninety (90) days of the Manuscript Due Date, all necessary written permissions and releases as determined in Publisher's sole discretion. If Author fails to secure all such permissions or releases or if renewals are needed for future printings or editions of the Work, Publisher may secure same at Author's expense.
 - E.** If in Publisher's opinion the Manuscript of the Work contains material that may risk involving Publisher in litigation, the time limit for publication set forth in Section 6 will be waived by Author unless Author makes such changes as Publisher, upon the advice of counsel, deems necessary. The legal cost of a libel reading shall be shared equally between Author and Publisher and Author's share of such cost shall be deducted from Author's royalties or unpaid advances. Failure of Author to make changes advised by Publisher's counsel shall be cause for termination of this Agreement and the recovery by Publisher from Author of any monies advanced to Author. The fact that Publisher conducts or does not conduct a libel reading of the Work shall not relieve Author of any liability relating to Author's representations and warranties in this Agreement.
 - F.** Author will provide clarification and substantive editing and rewriting as requested by Publisher. Author will promptly review any items requested by Publisher in the fashion necessary to meet Publisher's

production schedule. Author's failure to provide timely comments or responses within thirty (30) days of receipt to proofs or any other items provided by Publisher for review will constitute acceptance.

- G. Author is not currently a party to any bankruptcy proceeding as a debtor, and the parties agree that the Work which is the subject of this Agreement is "intellectual property" for purposes of Section 365(n) of the U.S. Bankruptcy Code and that Publisher has the right to exercise all rights provided by Section 365(n) with respect to the Work. In the event that Author becomes party to any bankruptcy proceeding as a debtor or breaches its warranty obligation in this subsection, Publisher may exercise the rights granted to it under Section 365(n) of the Bankruptcy Code and Author will deliver to Publisher all portions of the Work not previously delivered to Publisher and fulfill Author's obligations under this Agreement in preparing the Work for publication.

3. INDEMNIFICATION.

- A. Author agrees to hold harmless and indemnify Publisher, its officers, directors, members, employees, licensees, distributors, printers, parent organizations, affiliates, subsidiaries, and assigns against any actions, claims, demands or proceedings ("Claim") arising from or out of (i) any allegation that the Work infringes upon any copyright or other proprietary right, is defamatory or paints in a false light, or violates the privacy or other rights of a third party, or (ii) any breach or alleged breach of this Agreement by Author, including any alleged breach of Author's representations and warranties. In the event of any Claim, Author will reimburse Publisher for all costs and expenses, including court costs and attorneys' fees, incurred in defending such Claims, through satisfaction of any damages and judgment. Publisher will have the right to defend any such Claim through counsel of its own choice and to make Author a party to any related proceeding. Author will have the right, but not the obligation, to engage separate counsel at any time during the course of any such action or proceeding brought by a third party, provided the conduct of the defense will remain under Publisher's control, Author will cooperate with Publisher in the defense, and Author will bear all counsel fees and any other expenses incurred by Author in this connection. Publisher may settle any Claim upon such terms and sharing of cost as Publisher deems appropriate under the circumstances.
- B. Publisher will have the right, upon the assertion of any Claim, to withhold any payments of royalties or other monies Publisher owes to Author, but only to the extent reasonably necessary to conduct the defense thereof and to satisfy any resulting liability, and any excess will be promptly returned to Author. Amounts withheld hereunder will be reasonably related to the size of the claim, the likelihood of success, the probable damage award, and the anticipated expense of the defense and will be placed in an interest-bearing account and if the sums so withheld are paid to the Author, the Author will be entitled to the interest earned on the portion of the sums paid to the Author. If a claim does not result in commencement of a law suit within one year after it is first asserted, Publisher will release the withheld funds (including interest), less any costs Publisher may have incurred in connection with such claim, provided that Publisher may again commence withholding funds should a suit or proceeding be commenced after any release of withheld funds.
- C. Author's representations, warranties, and indemnification obligations will survive any termination of this Agreement.

- 4. **NO COMPETING WORKS.** Author will not commit to write or publish any material where said commitment would delay or limit Author's ability to deliver the Manuscript pursuant to this Agreement. While this Agreement is in effect, Author will not publish, or permit to be published, any material in any format or medium that would infringe upon the copyright in the Work or derive so extensively from the content of the Work that it might injure the sales or licensing of the Work by Publisher. If Publisher reasonably believes that Author has breached the provisions of this paragraph, Publisher may retain, in addition to other remedies available to Publisher, all monies accruing to Author under this Agreement until the matter has been resolved.

- 5. **PUBLISHER DISCRETION.** Publisher will consult with Author regarding the items specified in Section C. Notwithstanding said consultation right, Publisher will hold the final determination right over the title, jacket art, editing, type, style, size, manufacturing materials, print run quantities, selling price(s), sales discounts, publicity, marketing, and promotion of the Work, will decide if and when to publish reprints, subsequent editions, or revisions of the Work, and will decide how long manufacturing materials and files will be

preserved. If Publisher is asked by Author to change any proofs and the cost of such changes exceeds ten percent (10%) of the cost of preparing the proofs, Author agrees to pay the excess unless errors are the result of printer error or Publisher error.

6. TIME LIMIT TO PUBLISH. If Publisher fails to publish the Manuscript within eighteen (18) months from its approval of the Manuscript, unless prevented by strikes, paper shortages, force majeure, or other circumstances beyond its control, Author's sole remedy is to terminate the Agreement for failure to publish. Such termination will become effective sixty (60) days after Publisher's receipt of Author's written notice to terminate unless Publisher takes reasonable steps to promptly publish the Work, in which case it will not be effective. Upon termination under this Section, all rights to the Work revert to Author, Author's sole and exclusive remedy for Publisher's failure to publish is to retain monies previously paid by Publisher under this Agreement (if any) as a "kill fee," and Author hereby releases Publisher from any obligations or claims arising from this Agreement.

7. DELAYED OR UNACCEPTABLE MANUSCRIPT/TERMINATION.

- A. Publisher may terminate this Agreement by written notice to Author if: (i) Author fails to deliver an acceptable Manuscript and any additional materials necessary to the Manuscript by the Manuscript Due Date; (ii) Author fails to deliver the necessary permissions/releases as required by this Agreement; (iii) Author fails to provide a Manuscript to Publisher that substantially conforms to the description of the Work provided to Publisher in Author's book proposal; or (iv) Author otherwise fails to comply with this Agreement. Upon such termination, if any advance against royalty sums were previously paid to Author and have not been recouped, such amounts will be repaid to Publisher within thirty (30) days of such written notice and Author releases Publisher from any further obligations or claims that may arise from this Agreement.
- B. If Publisher (in its sole discretion) determines the Work is unacceptable for publication and Author is unsuited or unwilling to edit or revise the Work, Publisher may retain a third party editor to place the Work in condition for publication, the costs of which may be charged against any unpaid advance or other sum due Author.
- C. In the event that Author delivers the Manuscript forty-five (45) or more days later than the Manuscript Due Date and Publisher is not able, using commercially reasonable efforts, to publish the Work on the scheduled date of first publication, then Publisher may continue to publish the Work and any advance payable to Author for the Work will be reduced by thirty percent (30%), pro-rated over the remaining advance payments for the Work.
- D. If Publisher (in its sole discretion) determines not to publish the Work and Author has complied in full with this Agreement, Publisher may provide written notice to Author, in which case all rights to the Work granted herein to Publisher revert to Author, Author's sole and exclusive remedy for Publisher's failure to publish is to retain monies previously paid by Publisher under this Agreement (if any) as a "kill fee," and Author hereby releases Publisher from all obligations or claims arising from this Agreement.

8. ROYALTIES.

- A. **STANDARD ROYALTIES:** Publisher will pay to Author royalties on Publisher's Net Receipts according to the royalty rates set forth in Section D (ROYALTY RATES) above. "Net Receipts" is defined as total sales revenue collected by Publisher on Publisher's own editions of the Work, adjusting for any refunds or credits for return of merchandise and not including any shipping or taxes paid by Publisher's customer.
- B. **ELECTRONIC EDITIONS:** The royalty rate for electronic editions of the Work downloaded, transmitted, or otherwise sold or licensed in e-Book or any electronic form or medium for which a percentage of Net Receipts is not otherwise specified in this Agreement, will be fifty percent (50%) of the Publisher's Net Receipts, which may reflect deduction of fees charged by distributors or retailers, regardless of the business models through which such rights are exercised.
- C. **EXPORT SALES:** On all copies of any Publisher edition of the Work published and exported for sale outside the United States, the royalty will be fifty percent (50%) of the otherwise applicable royalty rate.

- D. **MASS MERCHANDISERS:** On all Publisher sales through mass-market channels, including mass market retailers, wholesale clubs, and wholesale distributors to mass-market retailers, the royalty will be fifty percent (50%) of the otherwise applicable royalty rate.
- E. **DIRECT SALES:** On all direct to the consumer retail sales of any Publisher-produced edition of the Work, including condensations and abridgments thereof, sold by Publisher or by special arrangement with a direct marketing company, including in each case direct mail, mail order, radio, television, or Internet, the royalty will be fifty percent (50%) of the otherwise applicable royalty rate.
- F. **HIGH DISCOUNT SALES:** On any copies of the Work sold at a discount of seventy percent (70%) to seventy-nine percent (79%) off the suggested retail price, Publisher will pay to Author fifty percent (50%) of the otherwise applicable royalty rate. For copies of the Work sold at a discount of greater than seventy-nine percent (79%), no royalty or other consideration will be paid for such sales. If Publisher reasonably determines it is overstocked with copies of the Work, it may dispose of what it deems to be excess stock at the best price (in Publisher's judgment) obtainable. Publisher will use reasonable efforts to give Author prior notification of liquidation sales in order to give Author the option of purchasing copies at the liquidation price.
- G. **PRORATED FOR COMPILATION:** Publisher may prorate the Net Receipts from sales and monies received from the licensing or disposition of any rights to reflect the Work's contribution to the total value or the total content of a combined work (or collection of works).
- H. **SUBSIDIARY RIGHTS SALES:** On any royalties or proceeds received from Publisher's sale or license to another party of any subsidiary rights granted Publisher in this Agreement for which a royalty rate of Net Receipts is not otherwise specified in this Agreement, Publisher will pay Author fifty percent (50%) of the net revenue received by Publisher, after first deducting any agency fees and/or commissions or other out-of-pocket expenses incurred in the exploitation of said rights.
- I. **OTHER ROYALTIES:** If Publisher should exercise any of the rights it has been granted within this Agreement and no corresponding royalty rate is specified elsewhere in this Agreement, the royalty rate will be negotiated in good faith between Publisher and Author. Specifically, Author recognizes that for adaptations published by Publisher at a reduced suggested retail price, the royalty will be significantly reduced to reflect the limited margins on these products.
- J. **NON-ROYALTY COPIES:** No royalties will be paid on copies of any Publisher edition sold at or below Publisher's cost of production, at or above a discount of eighty percent (80%), copies given or sold to Author or Author's organization, copies traded for publicity or marketing services, or copies given away for publicizing the Work or promoting sales of the Work, and such copies will not be deemed "royalty-bearing copies" for the purpose of calculating the escalation of royalty rates.

9. PAYMENT AND ACCOUNTING.

- A. Publisher computes royalties on a biannual basis divided into January 1 to June 30 and July 1 to December 31 (each a "Royalty Period"). The first payment of royalties will occur within ninety (90) days following the close of Publisher's first Royalty Period after the first publication date of the Work. Publisher will continue paying accrued royalties to Author on a biannual basis, with such payments occurring within ninety (90) days following the end of each Royalty Period. On a biannual basis, in addition to providing payment of any amounts then owing to Author, Publisher will provide Author a statement of net units sold and royalty due.
- B. Author, upon giving Publisher thirty (30) days prior written notice, will have the right to examine, or cause to be examined by Author's certified public accountant, the books of account of Publisher related to Publisher's sales of the Work, provided no audit may be conducted by any firm or person operating on a contingent fee basis. Any such examination will be conducted no more frequently than once during each calendar year, and no such examination for any accounting period may be conducted more than once. Author will pay all costs of the examination. All royalty statements will be binding upon and deemed accepted by Author two (2) years from the date of the statement unless Author provides Publisher with a written notice identifying any claimed discrepancy.
- C. In the event that Author owes Publisher any monies and said amounts are past due, or in the event of an over payment of royalties due to returns or otherwise, Publisher may charge said amounts against any amounts due Author under this Agreement or any other agreement between the parties. Additionally, all state, federal, and foreign taxes payable by Publisher on Author's earnings, if any are

required by law, are proper charges against Author's earnings due under this Agreement, and may be withheld by Publisher to the extent required.

10. AUTHOR COPIES. Publisher agrees to make copies of Publisher's editions of the Work available to Author and Author's organization at the quantities and discounts listed below. Author and Author's organization will be billed directly for copies they have respectively purchased and will pay for them, and any applicable shipping costs, within thirty (30) days of the invoice date. All sales by Publisher to Author or Author's organization are final and will not be returned. No consignment sales will be made to Author or Author's organization on any quantities or editions of the Work. Publisher acknowledges that Author has reserved for Author and Author's organization the non-exclusive right to sell such copies at or in connection with Author events and directly to members of Author's or Author's organization mailing lists. In the event that Author desires to sell such copies for any other purposes, including for resale through Author's or Author's organization's public website or other Author channels, Author agrees to give notice to Publisher and the discount for such copies will be adjusted to be consistent with Publisher's discounts offered to other accounts; provided, however, that Author agrees that Author and Author's organization will not sell the Work through any trade channels.

When purchased from Publisher's inventory, fifty-five percent (55%) off Publisher's suggested retail price.

When purchased in conjunction with Publisher's scheduled print run, sixty-five percent (65%) off Publisher's suggested retail price for quantities up to 1,999 copies, and seventy percent (70%) off Publisher's suggested retail price for quantities of 2,000 copies and above.

11. LITIGATION/INFRINGEMENT.

- A. Publisher shall have sole control over the decisions to initiate, prosecute, and defend suits, actions, or proceedings related to the Work with counsel of its own selection. In the event that the copyright or other rights in the Work granted or licensed to Publisher are infringed by a third party or are otherwise in dispute with a third party, Author grants to Publisher the right to bring, in the Author's name, an action enjoining the infringement and/or enforcing the copyright and for any damages or other remedies available at law or in equity.
- B. Publisher also may, with the consent of the Author, settle same on such terms as it deems advisable. If the Publisher requests the Author to consent to the proposed settlement and the Author neglects or refuses to do so, the Author shall, in a timely manner, in the event Publisher so requests in writing, immediately undertake to continue such proceedings at the Author's sole expense and shall furnish the Publisher with security in the form of a surety company bond acceptable to Publisher in an amount adequate under the circumstances. If the Author fails to assume responsibility for the proceedings and to furnish such bond, the Publisher shall have the right to settle such matter upon terms the Publisher thinks advisable or, in its discretion, to continue the proceedings, and the Author's indemnity obligations shall be applicable in either such event. After deduction of all expenses of the action, the net amount of any recovery will be split equally between Author and Publisher.

12. MORAL TURPITUDE. In the event Author is publicly accused of an act of moral turpitude (substantiated by the preponderance of evidence, a court decision, or Author's own admission), a violation of any Federal or state law or any other conduct which subjects or could be reasonably anticipated to subject Author or Publisher to public ridicule, contempt, scorn, hatred or censure, or could materially diminish the potential sales of the Work, Publisher will have the right to terminate this Agreement upon written notice to Author of the public disclosure of such conduct or alleged conduct. In the event of such termination of this Agreement, Publisher will have the right to demand from Author and receive payment within thirty (30) days of the demand, a sum equal to any advances paid to Author under terms of this Agreement that have not been recouped by Publisher prior to said termination and any amounts owed Publisher. Upon such payment all rights granted to Publisher in the Work will terminate and vest exclusively in Author, provided that Publisher will have the right to sell or otherwise dispose of all remaining copies of the Work in any manner Publisher deems appropriate.

13. REVERSION OF RIGHTS.

- A.** In the event that Publisher determines that it will permanently cease publishing and otherwise making available the Work and all adaptations of the Work in any and all media and publicly declares the Work to be out of print, Publisher will provide notice to Author that the Work is out of print, subject to the termination and reversion procedures set forth below in this Section. The Work will be deemed "in print" until Publisher provides such a notice and, without limitation, Publisher may maintain the Work in print in electronic or print on demand editions.
- B.** If at any time following the first five (5) years after first publication of the Work, the Author's combined royalty earnings from the Work do not exceed one hundred dollars (\$100) within a calendar year, Author has the option to request renewed promotion of the Work by written notice to Publisher. If Publisher fails to provide reasonable renewed promotional efforts for the Work within nine (9) months after receipt of such notice from Author and fails to generate a combined royalty of one hundred dollars (\$100) within twelve (12) months of such notice from Author, Author may terminate this Agreement by providing a written termination notice to Publisher, subject to the termination and reversion procedures set forth below in this Section and contingent upon Author paying any amounts then due to Publisher under this or any other agreement.
- C.** Upon termination by Publisher or Author as set forth above in this Section, Publisher will provide to Author a letter confirming that all rights granted by Author to Publisher in this Agreement will revert to Author as of the date of the letter, with the exception of subsidiary rights licensed or sold by Publisher and still in effect as of the date of termination, which will revert to Author six (6) months following expiration of the applicable subsidiary rights agreement. Within sixty (60) days of termination, Author has the right to purchase from Publisher the prepress digital files of the interior of the Work (if such have been preserved by Publisher) and any remaining inventory of the Work at cost. Author agrees not to display or otherwise use Publisher's name, imprint, trademark, ISBN or LOC numbers in any re-publication of the Work. If Author fails to purchase either the files or inventory within said period, Publisher will be free to destroy or dispose of the files and sell the inventory at any price determined by Publisher, and no royalties will be payable on such sale.

14. ASSIGNMENT. Publisher may assign this Agreement and license, assign, or otherwise transfer any of its rights under this Agreement. For clarity, any proceeds received by Publisher from the assignment or transfer of this Agreement are not deemed subsidiary rights proceeds under Section 8. Author may assign monies due under this Agreement. However, Author's obligation to write the Work and other obligations under the Agreement may not be assigned and any such attempted assignment will be void.

15. RIGHTS UPON STATUTORY TERMINATION. In the event that any rights under copyright granted to Publisher under this Agreement are subsequently terminated in the manner provided by the Copyright Act of 1976 (17 U.S.C. sec. 203), the owner of the termination interest shall not assign, license, or otherwise transfer to any person or entity any of the terminated rights unless the same rights are first offered to Publisher for relicensing on the same terms offered by the other person or entity and Publisher fails to accept such offer within sixty (60) days of receipt.

16. INDEPENDENT CONTRACTORS. Nothing contained in this Agreement will create or be construed as creating a joint venture, agency, or partnership between Author and Publisher, nor will either party be responsible for the debts, liabilities or obligations incurred, imposed on or suffered by the other party except as expressly set forth herein. Neither party will make any warranties or representations which are inconsistent with this Agreement.

17. CHRISTIAN ARBITRATION. Any dispute, controversy, or claim arising under, out of, in connection with, or in relation to this Agreement will be subject to final and binding arbitration before a three arbitrator panel (one arbitrator selected by each party, which arbitrators select the third) conducted applying New York substantive law in accordance with the Rules of Procedure for Christian Conciliation (the "Rules"), to the extent the Rules are consistent with this Agreement, as established by the Institute for Christian Conciliation, a division of ICC Peace in Southern California. Any request for arbitration will be delivered to the other party and will contain a summary of the controversy or claim, the causes of action and theories of

liability that the requesting party believes it has against the other party, and a statement of the relief which the requesting party believes to be appropriate. The arbitration will be completed in no more than sixty (60) days from the date the arbitrators are selected, unless the arbitrator(s) require an extension. Any arbitration hearings will be held in Rapid City, SD. Judgment upon any award rendered in arbitration may be entered in any court having jurisdiction thereof.

- 18. ATTORNEY'S FEES.** In any proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party or parties will be entitled to reimbursement of reasonable attorney's fees and other costs and expenses incurred in that proceeding and in any subsequent appeals, in addition to any other relief to which it is entitled.
- 19. GOVERNING LAW.** This Agreement will, regardless of the places of physical execution, be interpreted and construed according to and under the laws and statutes of the State of New York.
- 20. MODIFICATION, SEVERABILITY AND WAIVER.** No alteration, modification, or waiver of any provision in this Agreement will be valid unless in writing, signed by both parties. If any provision of this Agreement is found to be invalid, unenforceable or illegal, the remaining terms and provisions will remain valid and enforceable. Each party represents and warrants that they have read this Agreement and fully understand its terms, and recognize that they have the right, and are well-advised, to consult with knowledgeable legal counsel prior to signing below. A waiver of any breach under this Agreement will not constitute waiver of any future breach and no waiver will be binding except in a signed writing. The parties to this Agreement represent that each has had input to this Agreement and that each party has bargained on equal footing. Therefore, any common law or statutory presumption that any ambiguity in this Agreement be construed against the drafter will not apply.
- 21. INTERPRETATION.** Any captions for the sections of this Agreement are for convenience only and do not control or affect the meaning or construction of any of the provisions of this Agreement. Where a sentence states "includes" or "including," the items stated thereafter are by way of example and not limitation. This Agreement may be executed in counterparts.
- 22. ELECTRONIC SIGNATURES.** The parties agree that this Agreement and any exhibits may be executed in counterparts, each of which shall be deemed an original, and that signatures may be exchanged electronically (scanned copies of original pages) pursuant to applicable federal and state laws, including the Uniform Electronic Transactions Act.