

Drafting checklist--**Book publishing** contract

1. Opening.

- (a) Parties.
- (b) Date.
- (c) Description of work.
 - (1) Subject.
- (d) Number of words.
- (e) Working title.
 - (1) Final title to be chosen by author or publisher.
- (f) Illustrations, charts, tables, index, bibliography, etc.

2. Rights granted or reserved.

- (a) Hardcover.
- (b) Popular paperback.
- (c) Trade paperback.
- (d) First and second serial--magazines, newspapers, syndications.
- (e) School and library edition.
- (f) Book clubs; sheet sales.
- (g) Mail order and couponing.
- (h) Abridgments, condensations, digests.
- (i) Anthologies.
- (j) Translations.
- (k) Dramatizations.
- (l) Motion pictures, television, radio.
- (m) Sound recording.
- (n) Filmstrips, microfilm, computer, electronic.
- (o) Games and merchandising.
- (p) Other technologies rights regardless of whether now known or created.
- (q) Derivative works.
- (r) Reprints.
- (s) Export.

3. Territorial limitations.

- (a) Geographical areas.
- (b) Language translations.
- (c) Areas not exploited by publisher.
- (d) Exclusivity of publisher or author.
 - (1) Before and after stated time periods.
 - (2) Before and after stated revenue generation.
 - (3) Before and after other events stated.
- (e) Time limitations on entering given areas.
 - (1) Limitation on author.

- (2) Limitation on publisher.
- (f) Licensing by publisher or author.
 - (1) Right of other to approve.
 - (2) Right of author to licenses to affiliates of publisher.
- 4. Duration.
 - (a) Copyright period.
 - (b) If in stated areas or of certain rights, when not exploited.
 - (c) Different limitations for different rights or areas.
 - (d) Stated number of years.
- 5. Publisher's duties.
 - (a) Publish in defined editions.
 - (1) Time limitation on each right.
 - (2) Author's rights if time limitation not met.
 - (b) Best efforts to exploit and sell copies.
 - (c) Book specifications.
 - (1) Price.
 - (2) Style, size, illustrations, dust jacket.
 - (3) Publisher's imprint.
 - (4) Author's name: cover, title page, spine.
 - (d) Changes with or without author's approval.
 - (1) Publisher's right to terminate if not made.
 - (e) Force majeure.
 - (1) Duty to notify author.
 - (2) Time limit before reversion to author.
 - (f) Author's copies.
 - (1) Number of each edition.
 - (2) Discount to author on additional copies.
 - (3) Right of author to sell.
 - (g) Manuscript and proofs.
 - (1) Duty to return to author.
 - (2) Exculpation of publisher if lost or destroyed.
 - (h) Protect copyright.
 - (1) Notice on each copy, properly located.
 - (2) Filing with copyright office.
 - (i) Foreign copyrights.
- 6. Author's duties.
 - (a) Supply manuscript by stated date.
 - (1) In condition for printer.
 - (2) Form and substance satisfactory to publisher.
 - (i) Notification period if not satisfactory.
 - (ii) Right to terminate and repay advance.
 - (b) Supply illustrations, index, charts, photographs in camera-ready condition or in specified digital image formats.

- (1) Payments shared with publisher; whether repayable from royalties.
 - (2) Publisher's duties regarding these items; whether author will be billed.
- (c) Supply permissions.
 - (1) Payments shared with publisher; whether payable out of royalties.
- (d) Review galley and page proofs.
 - (1) Time period for corrections.
- (e) Pay for author's alterations beyond stated limit.
 - (1) Exclusive of printer's errors.
 - (2) Publisher to indicate costs.
- (f) Force majeure.
 - (1) Time limit before termination of contract.
 - (2) Terminations and repayment of advance.
 - (3) Duty to notify publisher.
- (g) Revise work on publisher's request.
 - (1) Earliest date for such request: completion date.
 - (2) Right of author to revise.
 - (3) Offset of costs against royalties if author not to revise.
 - (4) Royalty on revisions made by others.
 - (i) Stated decrease or phase-out by percentage decrease on each revision.
 - (5) Number of revisions that may be requested.
- (h) Grant of option on next book.
 - (1) Number of days for publisher's consideration.
 - (2) Terms of contract or deviation from present contract.
 - (3) Not publish at less favorable terms offered to publisher.
- (i) Grant of right to use name, likeness for advertising, and public relations in connection with work, including revisions.

7. Royalty.

- (a) Advance.
 - (1) Repayable under stated conditions.
 - (2) Repayable out of royalties.
 - (i) Lump-sum payments to be credited.
 - (ii) Deep discount royalties to be credited.
 - (iii) From only a percentage of royalties.
 - (3) Lien on manuscript to secure; duty of author to sign security agreement.
- (b) Payable on retail price or publisher's price.
- (c) Deduction for bad debts or discounts.
- (d) Graduated.

- (1) Separate accounting for hardcover, paperback, and other editions; effect on payment for other rights, including those sold for lump sum.
 - (e) Author-publisher split of lump-sum payments.
 - (f) Amount of royalty.
 - (1) Percentage of price.
 - (2) Fixed amount per volume.
 - (g) Specific amounts for each right or area granted (see 2(a)-(s)).
 - (1) Additional areas to be covered.
 - (i) Overstock; time limitations; amount of discount to be deemed an overstock.
 - (ii) Reduction of royalty when sales meet a minimum or after stated number of years.
 - (iii) Publisher's sharing in author's proceeds after a reversion of rights.
 - (iv) Deep discounts: restrictions on number of books or percentage of sales; ceiling on amount of royalty reduction.
 - (v) Sample and review copies.
 - (vi) Author's copies.
8. Payment of royalty.
- (a) Time periods.
 - (1) Stated quarters, and first quarter (or other period).
 - (b) Number of days after close of quarter.
 - (c) Amount withheld for returns.
 - (d) Details of statement.
 - (1) Number sold, returned, on hand--each edition.
 - (2) Number given away.
 - (3) Price at which sold.
 - (4) Royalty rate for each edition.
 - (5) Withheld royalties.
 - (6) Total.
 - (e) Minimum royalty payable before statement required.
 - (f) Author's right to examine records.
 - (1) Time available.
 - (2) Time period after statement delivered.
 - (3) Author's accountants or agents.
 - (4) Effect of errors on cost of examination.
 - (g) Offset of advance.
 - (1) Full or percentage.
 - (2) Against different contract.
9. Author's warranties.
- (a) Sole author, original, not previously published work, with no liens or encumbrances.

- (b) Libel, invasion of privacy.
 - (1) Absolute or per se and extrinsic fact limitation.
- (c) Not publish competing material.
 - (1) Definition, substantially similar.
 - (2) Time period; before or after publication.
- (d) Indemnify publisher.
 - (1) Publisher's insertions excluded.
 - (2) Limitation to royalties received or percentage of royalties.
 - (3) Withholding of royalties if claim made.
 - (4) Settlement or defense.
 - (i) Sharing of costs.
 - (ii) Right of author and publisher to approve.
 - (iii) Use of joint counsel.
 - (iv) Right to appeal.
 - (v) If claim unfounded.
- (e) Defend copyright.
 - (1) Initiating party.
 - (2) If only one party proceeds or if both.
 - (i) Division of award.
 - (ii) Payment of costs.
 - (iii) Maximum author's cost.
 - (iv) Payable out of royalties.
 - (3) Author to cooperate and lend name to suit.

10. Out-of-print status.

- (a) Earliest date publication may be discontinued.
- (b) Defined by time or minimum sales.
- (c) Right of author to request reprinting or binding of sheets.
- (d) Reversion to author.
- (1) Stated geographical areas.
- (2) Stated editions.
- (3) Right to purchase sheets or unsold copies.
 - (i) Publisher's cost, percentage of cost, scrap.
- (4) Right to purchase plates, film, computer tapes.
 - (i) Publisher's cost, percentage of cost, scrap.

11. Miscellaneous.

- (a) Right of parties to assign.
 - (1) Proceeds by author.
 - (2) To successor by publisher, if obligations assumed.
- (b) Binding on heirs, successors, and assigns.
- (c) Waivers and modifications in writing.
- (d) Governing law.
- (e) Mutual right of further assurance.

- (f) Notices and payments: original address and changes.
- (g) Notices and payments to agents.
- (h) Termination on bankruptcy, insolvency of publisher.
 - (i) Arbitration: number of arbitrators, rules of [name] Arbitration Association.