

**AGREEMENT**

Made this \_\_\_\_ day of \_\_\_\_;

between \_\_\_\_\_ (hereinafter called the Author); and

**Tex Ware** at \_\_\_\_\_ (hereinafter called the Publisher);

with respect to the work entitled \_\_\_\_\_, hereinafter referred to as the Work;

**WITNESSETH:**

In consideration of the mutual covenants herein contained, the parties agree as follows:

**1. Grant**

The Author grants to the Publisher the exclusive worldwide right to publish and sell the following English language editions:

Printed Trade Paperback (Perfect Bound) **6 by 9 inches** and estimated page count of approximately **240** pages on **creme paper** with a suggested retail price of **\$xx.xx**.

Publishing rights include rights for eBook Edition (readable-text digital format provided in electronic download, disk, CD/CD-ROM, E-Book Reader or similar media of presentation, including motion picture/ television/ video/ DVD rights). [Pricing to be established when these option are used.]

If the estimated number of pages for this book is significantly changed due to substantial editing, then this contract may be amended by the Publisher to adjust the page count, retail price, and royalties based on the new page count. The amendment will become a legal part of this contract. If the author does not agree to the amendment then this contract will be null and void.

**2. Length of Agreement**

This Agreement shall begin with the execution of this contract and continue in force for a period of three (3) years from the actual date of publication of each edition.

**3. Termination of Agreement**

This license shall automatically renew for consecutive one (1) year terms if neither party delivers thirty (30) day written notice of its intent to terminate this Agreement.

At any time prior to the publication, or during the publication, or after the publication of the Work, Publisher may, at its discretion, terminate this agreement and remove the Work from publication or distribution for reasons of poor sales, excessive returns, or any other reasons as decided by the Publisher. Publisher shall give notice to Author 30 days prior to Work being placed out of print. Notice must be in writing by certified mail or other receipted or traceable delivery service, including email where return acknowledgement is received. When Publisher removes the Work from sale, this contract shall terminate and all rights granted shall revert to the Author. Author understands that books that have already been purchased and are stocked by bookstores, such as Amazon.com, may be continued to be sold until such stock is exhausted.

Publisher has no control over what has already been placed out in the marketplace, but will ensure that no additional books will be printed, distributed, or sold.

The Author may request termination during the agreement period. Request for termination by Author must be in the form of a certified mail notice or other receipted or traceable delivery service, including email where return acknowledgement is received thirty (30) days prior to the effective date of termination.

Upon termination, Publisher will remove listing of the Work from its website and all download-based distributors and update Books-in-Print that the particular ISBN is out of print. Author shall have the right to purchase any remaining copies of the Work stocked by the Publisher at the Author's discount specified below. Any remaining copies of the Work the Author chooses not to purchase will be remaindered at cost. No royalties are paid on remaindered books.

Publisher may at any time during the force of this contract sell the contract to another publisher.

Should Author or Publisher negotiate a sale of these rights to a third party during the period of this contract or within one (1) year of the termination of this contract, Publisher will receive 10% and Author 90% of the advance payment and any royalties generated for the original duration of the contract or any renewals, automatic or written.

#### **4. Publication**

The Publisher agrees to publish and commence distribution of said Work within four (4) months of approval and acceptance of the Author's final manuscript. In the event the Publisher shall fail to publish and distribute the Work by said date, this agreement shall terminate forthwith, and all rights hereunder shall revert to the Author. However, this mandated publication date may be extended to any other date, and any number of such extensions may be made, upon mutual agreement between the Publisher and the Author.

#### **5. Representations and Warranties**

Author warrants and represents that this Work is original with Author, that Author is sole author and proprietor of said Work, or has been assigned the rights delineated above, with full power and right to enter into this agreement and to grant the rights hereby conveyed to the Publisher; that said Work contains no matter which is unlawful in its content, libelous and infringes no right of privacy or copyright; that the Work contains no matter nor does it violate the rights of any third party; that the Work is not in the public domain; that Author has not heretofore and will not hereafter during the term of this agreement enter into any agreement or understanding which would conflict with the rights herein granted the Publisher. All illustrations are considered part of the Work.

If the Work has been previously published in any form, Author warrants that the rights granted herein have reverted to or retained by the Author. As an addendum to this agreement, Author shall present some written memorandum documenting the reversion of the rights granted by any publishing company that may have held exclusive rights to the Work. If a judgment is obtained against Publisher for usurping rights still controlled by another publisher or other entity than Publisher or Author, the Author agrees to hold Publisher harmless and to indemnify Publisher for

reasonable damages and costs. If Publisher prevails against a suing party or resolves the matter by out-of-court settlement, Author will be liable to indemnify Publisher for defense and settlement costs if Author's warranties are found to be invalid.

If Author shall breach this warranty, the Publisher shall be entitled to injunctive relief in addition to all other remedies, which may be available to it. Author further agrees that Author will hold the Publisher, its distributors, and any retailer harmless against any recovery or penalty finally sustained arising out of Author breach of this warranty, and in this event Author will reimburse the Publisher for all court costs and legal fees incurred. Any out of court settlement of any suit filed jointly against the Author and the Publisher shall be made only by mutual agreement in writing between same.

## **6. Royalties**

In compensation for this grant of rights, the Publisher will pay the Author royalties based upon net sales (actual sales less returns) as reported by the Publisher's distributors as follows:

Royalties will be paid only on sales whether from third-party wholesalers, distributors, resellers, or vendors, hereafter called Publisher Sales. Royalties for trade paperback Publisher Sales less returns will be \$**x.xx**. When a total of **100** trade paperback copies have been sold whether from Publisher Sales or by Author Purchases, or Author purchases **75** copies at one time, the royalty will increase to \$ **x.xx** for subsequent Publisher Sales. If, after qualifying for the higher royalty of \$ **x.xx**, fewer than **25** copies of the Work are sold through any combination of Publisher Sales or Author purchase during any subsequent year after publication, Author's royalty will revert to \$ **x.xx**. The higher royalty may be reestablished when **100** copies are sold as described previously or Author purchase **75** copies at one time.

Examples:

### **Any year after publication:**

1. Publisher Sales = **85**, Author Purchases = **15**. Total Sales = **100**. Author's Royalty for Publisher Sales = \$xxx.xx (\$**x.xx** x 85 per sale). Royalty becomes \$ **x.xx** for subsequent Publisher Sales for 1 year.
2. Publisher Sales = **0** or more, Author purchase at one time = **75**. Royalty becomes \$ **x.xx** for subsequent Publisher Sales for 1 year.

### **Subsequent years after earning higher royalty:**

3. Publisher Sales = **10**, Author Purchases = **14**. Total Sales less than **25**. Author's Royalty for Publisher Sales = \$**xx.xx** (\$**x.xx** x 10). Royalty becomes \$ **x.xx** per Publisher Sale for subsequent purchases until example 1 or 2 occurs.

Author will receive no royalties on any copies that Author has purchased at discount rates. Author is under no obligation to purchase any copies of the Work except as stipulated in section 14, with Author's approval.

For electronic edition copies sold: fifty percent (50%) of the cover price received for each sale made directly off the Tex Ware website.

Net sales are defined as the Total Dollar amount that is actually received by the Publisher from the wholesale or retail sale of the Work minus the Total Dollar amount of any Returns of the Work. No additional fees or costs of sales are deducted from net sale amount received. Wholesale amounts vary with each wholesaler/distributor. Consignment placements are not considered sales until Publisher receives payment. Net sales directly from Publisher are based on retail price or discounted sale price.

Royalties for each copy sold are earned and paid in the same period as the Publisher actually receives payment for that copy sold. No advances are made on royalties where the payment for sales has not been received by the Publisher.

Author will receive no royalties on copies of Work considered complimentary, i.e., those used for charitable, advertising, contests, and review purposes. Author will receive no royalties on copies of Work purchased by the Author at Author's discount.

## **7. Statements and Payments**

Royalty statements are produced monthly at the end of the month following the sale month. Royalties earned for the royalty period shall be paid contemporaneously with issuance of the royalty statement except as noted below. Payments will be made by physical check, or electronic payment via PayPal in United States Dollars. Electronic payment via PayPal payments are made to non-US resident authors.

Royalties of any amount greater than \$25.00 will be paid monthly as outlined above. Amounts under \$25.00 will be accumulated until the amount reaches \$25.00. At that time royalties will be paid with the next royalty period statement. Author will receive a royalty period statement regardless of whether a royalty check is issued.

Author understands that royalties will be paid in the royalty period copies of the Work are paid for by consumers, distributors, wholesalers, or vendors. If payment is delayed to Publisher, Publisher is not obligated to pay the royalty until it has been paid by the distributor or vendor. Publisher does not advance royalties to Author.

The Publisher will provide a 1099 statement of royalty earnings of any amount for payments in any calendar year to US-tax paying authors. Payment of income taxes on royalties is the sole responsibility of the Author. US authors are required to fill out IRS Form W-9 to decline 30% withholding tax. This is required by the US Internal Revenue Service. Non-US authors are required to fill out IRS Form W8-BEN to decline 30% withholding tax. IRS Form W8-BEN requires the author have an Individual Taxpayer Identification Number (ITIN). An ITIN may be acquired using IRS Form W-7. Where the Author is a husband and wife team, either husband or wife will provide an ITIN, not both. The publisher will provide author with these forms.

If the Author should die before the termination of this agreement, this contract shall transfer in force to the Author's official heirs, assigns, or beneficiaries. Publisher will pay royalties to Author's official heirs, assigns, or beneficiaries. If no official heirs, assigns, or beneficiaries can be located, Publisher is authorized to hold, without penalty or interest, payment of royalties until official heirs, assigns, or beneficiaries can be located.

It is the Author's responsibility to communicate with the Publisher any change in Individual Taxpayer Identification Number, Social Security Number, Postal Mailing Address, Telephone Number, or Electronic Mail address. If Author fails to advise Publisher of any changes in the above that prevent the timely payment of royalties, Publisher is authorized to hold, without penalty, payment of royalties until current information is received. If a check sent by regular post is returned by the post office or express delivery service as undeliverable, the Publisher shall first attempt to contact Author by all existing contact information before unilaterally withholding payment of royalties. Such withheld payment of royalties are held without penalty or interest until author can be contacted.

In the event that additional Works by the same Author are currently being marketed by the Publisher, royalty accounts from all such titles may be combined with that for this Work.

Author's royalty statement will include: Date of the Royalty Period; Title of Work; Number of Copies Sold and Paid For During Royalty Period; Number of Copies Returned During Royalty Period; Royalty Percentage Rate or fixed amount; and Dollars Owed to Author for the Royalty Period.

#### **8. Statements and Payments**

In all instances in which the Author shall have received an overpayment of royalty monies under the terms hereof, the Publisher may deduct such overpayment from any future sums payable to the Author in respect to the Work.

#### **9. Audit**

The Author shall have the right to examine or cause Author's duly appointed representatives to examine the accounts of the Publisher with respect to the Work at any time after sixty (60) day written demand by the Author. In the event discrepancies between royalty statements and the Publisher's accounts shall total more than one hundred dollars (\$100.00) in the Author's favor under this and any other agreement between the Author and the Publisher, the Publisher shall tender such monies due to the Author within thirty (30) days, along with reimbursement in full for any duly verified expenses incurred by the Author as a result of the auditing procedure. Should such discrepancies total less than one hundred dollars (\$100.00) in favor of the Author, the Publisher shall tender such money due to the Author within thirty (30) days, but shall not be liable for reimbursement of the Author's expenses.

#### **10. Editing Rights**

Author has the right of final approval of Author's manuscript. Publisher may assign an editor to coordinate with Author in making edits and revisions. The Author will review and authorize any and all substantial changes. The Author will not be required to pay for the services of an editor assigned by Publisher. Publisher may make all corrections of typographical or grammatical errors with Author's consent.

#### **11. Cover Art**

Publisher shall provide cover art at its own expense. Author will be asked to produce proposed back blurb text and suggestions for cover art. If Author wishes to provide Author's own cover

art, this will be at Author's expense. If Author engages an artist to produce an alternative cover, Author must present documentation that Author has permission to reproduce the proposed cover art from the copyright owner, or warrants and provides proof that the cover art is in the public domain. If Author provides Author's own cover art, Author is responsible for formatting it in an appropriate graphics format of suitable reproduction quality. Publisher will give credit in the published Work to the cover artist. Author has final approval of any cover artwork.

### **12. Proof Copy**

Publisher will provide final proofing PDFs of the Work, which Author must correct and return within twenty (20) days. If the proofing PDFs are not received as agreed, Publisher has the option to delay release or terminate the agreement as warranted.

Publisher will provide a physical proof copy of the approved proofing PDF. This is to assure that the PDF is printed as expected. It is not to be used for correction except for formatting issues. If Author wants text or cover changed for reasons other than formatting that did not print the same as the PDF, Author will be charged \$25.00 for each additional physical proof.

### **13. Author Copies**

Author may elect to purchase an unlimited number of Trade Paperback copies of the Work at a discounted price of \$ **x.xx**. When a total of **100** copies have been sold as Publisher Sales or Author purchases in any year after publication or Author purchases **75** copies at one time, the Author's discounted price will be \$ **x.xx**. If, after qualifying for the discounted price of \$ **x.xx**, fewer than **25** copies of the Work are sold as Publisher Sales or Author purchases during any subsequent year after publication, Author's discounted price will revert to \$ **x.xx**. The lower discount may be reestablished when **100** copies are sold as previously described or Author purchase **75** copies at one time.

Examples:

#### **Any year after publication:**

1. Publisher Sales = **85**, Author Purchases = **15** at \$ **x.xx**. Total Sales = **100**. Author's discount becomes \$ **x.xx** for subsequent purchases for 1 year.
2. Publisher Sales = **0** or more, Author purchase at one time = **75** at \$ **x.xx**. Author's discount becomes \$ **x.xx** for subsequent purchases for 1 year.

#### **Subsequent years after earning lower discount:**

3. Publisher Sales = **10**, Author Purchases = **14** at \$ **x.xx**. Total Sales less than **25**. Author's discount becomes \$ **x.xx** for subsequent purchases until example 1 or 2 occurs.

Author will pay all shipping charges for purchased copies.

Author is under no obligation to purchase any copies of the Work except as stipulated in section 14, with Author's approval.

Author may elect to purchase an unlimited number of eBook copies a discounted price of 50% of retail price posted on Tex Ware web site.

Author may resell copies of the Work that Author has purchased from Publisher, or was provided to the Author as Author copies. Author will be responsible for reporting earnings from resale to taxation authorities and Publisher will be held harmless for Author's failure to report such earnings.

#### **14. Library of Congress Control Number**

At Author's request, Publisher will obtain a Library of Congress Control Number. **Author will send one copy of the completed Work to the Library of Congress at**

Library of Congress  
Cataloging in Publication Division  
101 Independence Ave., SE  
Washington, DC 20540.

Author understands that obtaining a Library of Congress Control Number does not guarantee the Work will be cataloged by the Library of Congress. **If Author does not send one (1) copy within one (1) month of publication, Publisher will send one (1) copy and bill the Author for the copy, shipping, and handling.**

#### **15. Promotion and Promotional materials**

Author has permission from the Publisher to duplicate, at no cost and no royalty, exact text copies in digital or print formats for the purpose of obtaining book reviews, or entering competitions or contests prior to publication. Once the Work is published and available in print format, Author does not have permission to make print copies for competitions or contests, but must use purchased print copies for this purpose at Author's discount.

Author has permission from the Publisher to duplicate cover art for the purposes of publicity, advertising, or use on Author's web site while this contract is in effect.

Publisher and Author agree to supply each other with copies of any professional reviews, either digital or print copies. Neither Author nor Publisher is required to provide the other with copies of "Reader Reviews" voluntarily posted by consumers at any online vendor. Publisher may promote the Work through Ingram's Wholesale Catalog, its website, and other avenues of promotion. Publisher will make every effort to maintain an attractive, updated website. Publisher will not be liable for site downtime or interrupted transmission.

Author grants Publisher the right to submit "Look Inside" features with Amazon.com so that Amazon.com customers can search and view part of the book on the Amazon.com web site. Author also grants publisher rights to post sample interior pages of the book on the Tex Ware web site.

Author grants Publisher rights to produce You Tube and other internet videos containing readings of some or all of the text and actual illustrations for promotional purposes.

#### **16. Author/Publisher Indemnification**

Author shall indemnify, defend and hold harmless Publisher and its owners and affiliates, editors, associates, agents and representatives and the Publisher shall indemnify, defend and hold

harmless the Author from any and all claims, debts, demands, suits, actions, liens, proceedings and/or prosecutions ("Claims") based on allegations which, if true, could constitute a breach of any of the foregoing warranties, and any and all liabilities, losses, damages and expenses including, but not limited to, attorney's fees and court costs. Each party to this Agreement shall give prompt notice to the other party of any Claims. No compromise or settlement of any Claim shall be made or entered into without the prior written approval of the Author and Publisher. If a Claim is filed, Publisher shall have the right to suspend payments otherwise due to Author under the terms of this Agreement as security for Author's obligations under this section.

### **17. Insolvency of Publisher, Sale of Publisher**

If the Publisher files for protection under the Bankruptcy Laws, all rights included in this agreement shall immediately revert to the Author, however, the Bankruptcy Trustee may petition the court to hold this agreement as an asset of the Publisher. If the bankruptcy filing involves reorganization and Publisher continues to operate during the reorganization, Author and Publisher may agree in writing to continue this agreement under the same or revised terms.

If the Publisher suspends operations, other than a temporary suspension for technical difficulties such as a loss of Web Server or other suspension not lasting more than sixty 60 days, all rights delineated in this agreement shall immediately revert to the Author. If the Publisher's operations are ordered suspended by any governmental or police entity, or by Injunction or Restraining Order, all rights shall immediately revert to the Author. If the suspension is lifted and operations resume, Author and Publisher may agree in writing to continue this agreement under the same or revised terms.

If the Publisher sells its assets to another Publisher, who does or plans to market and promote books of the type and genre of the Work, the successor Publisher will be bound, as a minimum, to the same terms delineated in this agreement. If the successor Publisher does not plan to market and promote books of the type and genre of the Work, all rights delineated in this agreement shall revert to the Author not more than sixty (60) days after the sale of Publisher.

### **18. Copyright Infringement**

Author understands that under this contract, the Author retains the copyright for the work. Therefore, it is the Author's responsibility to obtain the copyright. **If Author authorizes Publisher to submit the published Work to obtain the copyright on behalf of the Author, Author agrees to reimburse Publisher \$35 for cost of the submission.**

If during the existence of this agreement the copyright shall be infringed, the Publisher may, at its own expense, take such legal action, in the Author's name if necessary, as may be required to restrain such infringement or to seek damages therefore. The Publisher shall not be liable to the Author for the Publisher's failure to take such legal steps. If the Publisher does not bring such an action, the Author may do so, in Author's name at Author's own expense. Money damages recovered for an infringement shall be applied first toward the repayment of the expense of bringing and maintaining the action, and thereafter the balance shall belong to the Author, provided, however, that any money damages recovered on account of a loss of the Publisher's profits shall be divided equally between the Author and the Publisher.

**19. Laws and Venue**

The Publisher is a solely owned company under the laws of the State of Washington. The laws of the State of Washington shall govern this Agreement. Recognizing the expense, distraction, and uncertainty resulting from litigation of disputes which may arise under this Agreement, the parties have agreed that except as specifically provided herein they shall submit any and all disputes arising in any way under this Agreement to mutually agreed upon Arbitrators as recommended by the Better Business Bureau or the American Association of Christian Counselors for final disposition in accordance with its rules, provided that the Arbitrator shall have no authority to award punitive damages.

Notwithstanding the foregoing, nothing in this Agreement shall be deemed to deprive a party of the right to equitable relief in a court of competent jurisdiction respecting rights to its intellectual property or use thereof under this Agreement. Any proceeding under this paragraph shall be brought in the federal or state courts in Washington. A judgment may be entered in a court of competent jurisdiction based on any award rendered in arbitration or other proceeding conducted by the parties pursuant to this paragraph.

**20. Understanding of All Parties**

This Agreement contains the entire understanding of the parties with regard to the subject matter hereof and no warranties, representatives, promises or agreements have been made between the parties other than expressly herein set forth, and neither Publisher nor Author shall be, nor are they bound by, any warranties, representations, promises or agreements not set forth herein. The Agreement supersedes any previous agreement or understanding with respect to the Work and cannot be modified except in writing by all the parties hereto. Upon execution, this Agreement shall be absolutely binding and fully enforceable and shall inure to the benefit of the parties hereto, their successor, personal representative, heirs and assigns.

**21. Inheritance**

This agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, and assigns of the Author, and upon and to the successors and assigns of the Publisher.

**22. Signatures**

IN WITNESS WHEREOF, Author and Publisher have executed this agreement on the day and year below, to be effective immediately if the dates are the same, or on the date of the later signature if the dates are not the same. If either Author or Publisher have electronic signature capabilities and both agree to accept an electronic signature as valid, that electronic signature will be considered of identical weight to a handwritten signature.

Signed:

By initialing here, Author request that Publisher will obtain a Library of Congress Control Number. Author agrees to send one copy of the Work to the Library of Congress within one (1) month of publication (see section 14.)

Author's initials \_\_\_\_\_

By initialing here, Author authorizes Publisher to submit the published Work for copyright on behalf of the Author and will reimburse Publisher for the cost (see section 18.)

Author's initials \_\_\_\_\_