

AUTHORHOUSE STANDARD TERMS AND CONDITIONS

Introduction

We are engaged in the business of providing certain publishing services and related products to authors and rights owners seeking to publish, promote and sell books in which they own or control the copyright. These standard terms and conditions (“the Terms”) are to be read in conjunction with the Description of Services and the Services Order Form provided by us to you and together shall form the Contract as defined below.

None of our employees, members, agents or other representatives are authorised to make any representation or warranty concerning the Services unless expressed by us in writing.

1. INTERPRETATION

“Background IPR”	means all Intellectual Property embodied in the Work and/or Material created or controlled by you
“Channel Access Fees”	means those bona fide costs incurred in facilitating the delivery and distribution of the bibliographic record and making the Work available for order
“Charges”	means our standard charges as calculated and shown in the Services Order Form
“Commencement Date”	means the date on which we are in receipt of: a) the Services Order Form, b) payment in full of the Charges, and c) the Work
“Contract”	means the documents comprising the Contract between you and us being: the Terms, the Description of Services, the Services Order Form, and any other Supplemental Agreement
“Description of Services”	means our standard form which describes the various publishing services offered by us, a copy of which you have been provided
“Design Call”	means a consultation with you by telephone regarding cover design, internal layout and other related design issues
“Incidental Charges”	means those reasonable bona fide expenses incurred from time to time in the provision of the Services which are not included in the Charges or Production Charges
“Intellectual Property”	means any and all copyrights, trade marks, patents, designs, rights in domain names, database rights and any application to register or rights to apply for registration of any of the forgoing and all other intellectual property rights of a similar character that may subsist now or in the future throughout the world
“Materials”	includes, in addition to the Work any document any map, plan, graph, drawing or photograph, or other information provided by you or on your behalf relating the Services
“Production Charges”	means those charges incurred in the provision of the Services which are additional to the Charges
“Services”	means those services selected by you from the Description of Services pursuant to the Contract
“Services Order Form”	our standard order form submitted by you in accordance with the Terms
“Supplemental Agreement”	means any other agreement incidental to the Contract which you may be required to enter into pursuant to the provision of Services including, but not limited to Book Pricing Agreement, Book Sellers Return Programme, Galley Sign Off Form, All Book Pricing Agreement, Copy-Editing Services Agreement, Custom Cover Illustration Agreement, Custom Illustration Agreement, Custom Illustration Submission Form, Exclusive Cover Design Agreement, Fast Foreword Agreement, Joint Work Addendum, New York Times Advertising Agreement, Payment Plan Agreement, Submission Information Form
“Timetable”	means the timetable for the provision of Services as modified from time to time in accordance with the Terms
“Us” “Our” “We”	means Authorhouse UK Limited with company number 522623 whose registered office is Bedford House, 21a John Street, London WC1N 2BF
“the Work”	means the manuscript provided by you to us in accordance with the Terms pursuant to the Services;
“You” “Your”	means the person or persons, firm or company engaging our services as named on the Services Order Form and if more than one jointly and severally

The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. SUPPLY OF SERVICES

- 2.1. We shall use our reasonable endeavours to provide the Services to you within the Timetable using our reasonable care and skill subject to the Contract which shall to the fullest extent permitted by law govern the provision of the Services to the exclusion of any other terms and conditions.

3. VARIATIONS

Any variation or addition to the Contract must be agreed in writing by us and shall not be binding unless so agreed.

4. CHARGES

- 4.1. Unless otherwise agreed in writing, you shall pay the Charges in consideration for the provision of the Services.
- 4.2. Any corrections or changes to the Work as requested by you will result in Production Charges which shall be payable by you. You shall also pay Production Charges if the Work is not submitted in a form that is acceptable to us in our sole discretion. Any such Production Charges shall be determined by us and we shall inform you of any such Production Charge as soon as reasonably practicable following submission of the Work and Materials.
- 4.3. We shall be entitled to recover any Incidental Charges from you provided that we inform you of any such Incidental Charge as a soon as reasonably practicable.
- 4.4. We may vary the Charges from time to time.

5. INTELLECTUAL PROPERTY

- 5.1. All Background IPR shall be retained by you.
- 5.2. You grant to us the exclusive right to copy, reproduce, edit, adapt and print and/or publish or procure the print and publication of the Work or any part of it in any form (including electronic form) in accordance with the Contract.
- 5.3. You grant us the right to use and allow others to use your name (including any professional names), likeness and biography together with the Work and Materials in connection with the promotion or exploitation of the Work and the promotion of our services in general and in our sole discretion.
- 5.4. We shall retain the Intellectual Property created by us during and in connection with the provision of the Services including but not limited to cover artwork, electronic files and the typographical arrangement in published editions.
- 5.5. For the avoidance of doubt if we should cease to publish the Work you shall not be entitled to use any material in which we own the Intellectual Property without our prior written consent .

6. YOUR OBLIGATIONS AND WARRANTIES

You warrant and agree as follows:

- 6.1. You shall at your own expense supply us with the Work in an electronic file in a form that is ready to publish and all Materials and other necessary information relating to the Services to enable us to provide the Services in accordance with the Contract;
- 6.2. You shall be responsible for obtaining any and all legal clearances required for the use of any third party Materials;
- 6.3. Where you have selected copy-editing services to be provided by us, you will retain final authority with respect to suggested editing changes made by our copy-editors. You will as soon as possible edit galleys of the Work sent by us and provide such other assistance as we may reasonably request regarding the provision of Services;
- 6.4. You are owner of all Background IPR throughout the world and you are a 'qualifying person' within the meaning of the Copyright, Designs and Patents Act 1988 Section 154;
- 6.5. You have not assigned or encumbered or licensed or transferred or otherwise disposed of any of the Background IPR except pursuant to this Agreement and have not entered into any agreement or arrangement which might conflict with the our rights under this Contract.
- 6.6. The Background IPR does not and shall not infringe any right of copyright moral right or right of privacy or right of publicity or personality or any other right whatever of any third party;
- 6.7. Nothing in the Work or Material is under the laws of any jurisdiction obscene or blasphemous or offensive to religion or defamatory of any person and does not contain any material which has been obtained in violation of law or legislation and nothing contained in the Work or Material would if published constitute a contempt of court;

- 6.8. All statements purporting to be facts in the Work are true and correct and no advice, recipe, formula or instruction in the Work will, if followed or implemented by any person, cause loss damage or injury to them or any other person;
- 6.9. There is no present or prospective claim proceeding or litigation in respect of the Work or Material or the Background IPR which may in any way impair limit inhibit diminish or infringe upon any or all of the rights granted to us;
- 6.10. The Background IPR is and shall throughout the full period of copyright protection be valid and subsisting pursuant to the laws of the United Kingdom and the provisions of the Berne Convention and Universal Copyright Convention;
- 6.11. You shall not disclose reveal or make public except to the professional advisers any information whatever concerning the Work or our business or this Agreement all of which shall be strictly confidential nor shall you make any public statement or press statement in connection with the foregoing or commit any act which might prejudice or damage our reputation or the successful exploitation of the Work;
- 6.12. You shall notify us with full details immediately if you become aware of any breach of this Clause 6 or any infringement or threatened infringement of Background IPR or other Intellectual Property belonging to us, or any claim (or threatened claim) that the Work or Material infringes the rights of any other person.
- 6.13. You undertake to indemnify us and keep us at all times fully indemnified from and against all actions proceedings claims demands costs (including without prejudice to the generality of this provision the legal costs) awards damages however arising directly or indirectly as a result of any breach or non performance by you of any of the above undertakings warranties or obligations under this Contract.

7. OUR OBLIGATIONS AND LIABILITY

- 7.1. We shall provide the Services using reasonable care and skill and, as far as reasonably possible, in accordance with your instructions accepted by us in writing on the Services Order Form.
- 7.2. We reserve the right not to provide the Services or any part of the Services at any time at our discretion without any liability.
- 7.3. When you have signed and returned to us our standard "Galley Sign-off Form", we will make the completed Work available to order through the appropriate distribution channels. For the first year and second years only, we will waive Channel Access Fees for all forms of distribution. You will be responsible for subsequent Channel Access Fees, to be charged annually.
- 7.4. Should you choose to order copies of your own book you agree to pay all applicable shipping and handling fees associated with purchasing copies of the said Work.
- 7.5. We shall use our reasonable endeavours to assist you in the promotion of the Work consistent with the Services selected by you. For the avoidance of doubt you understand that some promotional services shall not be delivered until after the Work is available for distribution.
- 7.6. We provide no guarantee of the level of sales of the Work and shall have no liability for the same.
- 7.7. We shall not be responsible for retrieving the Work or any sales of the Work in the possession of an entity other than our own.
- 7.8. We do not give any warranty, guarantee or other undertaking as to the quality, fitness for purpose or otherwise of any of the Work or Material and shall have no liability as the content of the Work or Material.
- 7.9. We shall have no liability to you arising out of or in connection with any act or omission on the part of any third party involved in the provision of the Services.
- 7.10. We shall have no liability to you for any loss, damage, costs, expenses or other claims for compensation arising from the provision of Services and/or from the Work or Material which are incomplete, incorrect, inaccurate, illegible, or arising from their late arrival or non-arrival, or any other fault by you.
- 7.11. Nothing in the Contract shall serve to exclude or limit our liability in respect of death or personal injury caused by our negligence.
- 7.12. We shall not be liable to you by reason of any representation (unless fraudulent) and all warranties, conditions or other terms, implied by law are excluded to the fullest extent permissible.
- 7.13. We shall not be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our negligence or our servants or agents or otherwise) which arise out of or in connection with the provision of the Services including any delay in providing or failure to provide the Services.
- 7.14. Subject to clause 7.10 above the our entire liability under or in connection with the Contract or otherwise shall not exceed the amount of the Charges paid by you for the provision of the Services;
- 7.15. We shall not be liable to you or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of our obligations in relation to the Contract, if the delay or failure was due to any cause beyond our reasonable control including but not limited to third party consultation in relation to PR, printers and copy-editors. For the avoidance of doubt such delay shall include but shall not be limited to your delay or delay by our copy-editors.

- 7.16. No delay or omission on our part in exercising any of our rights or remedies contained in the Contract shall be construed as a waiver of any of those rights or remedies.
- 7.17. Any person who is not a party to these terms has no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any of these terms.
- 7.18. In the event that there is more than one person firm or company engaging the Services it is agreed that in performing our obligations to one of you we shall be deemed discharged from performing our obligations to all and any of you jointly and severally.

8. ACTIONS FOR INFRINGEMENT

- 8.1. If during the period when the rights granted hereunder are vested in us a claim is issued against us in respect of an infringement of the Background IPR without prejudice to any other remedy available to us you hereby authorise us to negotiate, settle, or defend any such claim at your expense.
- 8.2. You agree to do any and all acts and execute and all documents in such manner and at such locations as may be required by us in our sole discretion in order to negotiate, settle, or defend any such claim.
- 8.3. We shall put you on notice of a third party claim and shall thereafter have the right to withhold the payment of any and all monies to the you pursuant to the Contract in an amount commensurate with the relevant claim and to use and apply any and all such monies pursuant to the terms of the indemnity provision. We also have the right to immediately remove the Work in its finished form from any and all distribution.

9. RETURN OF WORK

We shall be under no obligation to you to return the Work or Materials and we recommend that you retain back up copies of anything submitted. We shall not be responsible for or have any liability for the misplacement loss or damage to the Work or Materials.

10. ROYALTIES AND PRICING

- 10.1. We will remit payments to you on a quarterly basis (i.e. four times a year), accompanied by a sales report for the relevant quarter. If sales are a sum equal to nil (0) for a given quarter, we may elect to distribute the quarterly report by electronic mail rather than post. If the royalty payment is less than £20, we reserve the right to withhold payment until accumulated, unpaid royalties is greater than £20.
- 10.2. We reserve the exclusive right to modify the selling price of the Work if costs should change or market conditions warrant in our opinion. If such event, the selected royalty payments will remain the same The royalty payments made to you will be the amounts as defined in the Book Pricing Agreement, less any outstanding amounts owed by you to us and / or withheld pursuant to Clause 10.4 below governing laws.
- 10.3. We shall have the right to deduct and retain from payments to you all sums required to be deducted or retained by way of withholding or other tax pursuant to the laws of any country. In the event that the remittance of royalties to you is prohibited by reason of exchange control restrictions in any part of the world we shall if requested by you deposit the amount of any sums due to you in an account in your name situate in the country in question subject to the payment or reimbursement by you to us of the administrative costs incurred in so doing.

11. TRANSFER OF OWNERSHIP

Subject to our prior written approval you may assign the ownership of the Work and the right to receive royalty payments to any third party provided that such third party covenants with us to perform all your obligations and liabilities under this agreement and provided further that if we consent to the assignment of payments, you and the transferee shall jointly and severally reimburse, indemnify us for any tax liability, penalty, interest or fee imposed by any federal, state or local taxation authority,

12. DATA

We shall comply at all times with the Data Protection Act 1998, (the "DPA"), any regulations made under the DPA, all relevant guidelines and guidance notes issued from time to time. We reserve the right to compile and use information about you and statistical information about the sale of the Work. Such information may be used for statistical analysis, administration and marketing other products and/or our services or our business partners from time to time. You hereby consent to the transfer out of the UK of such data, including to the USA, which does not provide the same levels of data protection

13. GOOD FAITH

Both parties shall act in good faith at all times and shall use their reasonable endeavours to work together to resolve all issues and disputes relating to Services before seeking any other remedy.

14. TERMINATION

14.1. Unless otherwise agreed between us in writing either party may terminate the Contract at any time by giving not less than 30 days written notice to the other.

In the event that you give notice in accordance with 15.1 above you shall forthwith pay to us any outstanding Charges and any other sums payable under the Contract pursuant to the provision of Services unless we are in breach of the Contract in which event you shall not have to pay such outstanding sums.

14.2. If within one year of the Commencement Date we give notice in accordance with 15.1 and subject to the performance by you of your obligations under this Contract we may in our sole discretion refund to you all sums paid by you and received by us under this Contract if we terminate this agreement in accordance with 15.1 after a period of one year from the Commencement Date we shall not be liable to pay you any refund as described above.)

15. INSURANCE AND RISK

Unless otherwise agreed to the contrary, all Work and Materials shall be at your sole risk and you shall at your own expense effect and maintain such policy or policies of insurance as may be necessary to cover loss or damage to the Work or Materials.

16. FORCE MAJEURE

Neither party shall be in breach of this agreement if it prevented or delayed by events outside its reasonable control, including, without limitation, Acts of God, wars, terrorism, riots, strikes or other labour disputes, natural disasters, fire or severe weather. In such event either party will notify the other and will provide an estimate as to the extent of the delay. If the operations will be delayed for more than ninety (90) days, either party may terminate this Agreement.

17. CONFLICT OF TERMS

Except as otherwise expressly provided in these Terms, in the event of any conflict between any of the other documents which together constitute the Contract the Terms shall take precedence.

18. GENERAL

18.1. Any notice to be given to a party under this agreement may be given by delivering it by hand or sending it by pre-paid first-class post or facsimile transmission to that party's registered office or principal place of business for the time being or such other address as it may have notified to the other party in writing from time to time for such purpose. A notice delivered by hand shall be deemed to be given at the time of delivery. A notice sent by post shall be deemed to be given on the second day after the envelope containing the same was posted and proof that the envelope containing any such notice was properly addressed and sent by first-class pre-paid post shall be sufficient evidence that such notice has been duly given. Any notice sent by facsimile transmission shall be deemed to have been duly given on the date of transmission, provided that a confirming copy thereof is sent by first-class pre-paid post to the other party at the address referred to above within 24 hours after transmission.

18.2. If any provision of the Contract is held by any competent to be invalid or unenforceable in whole or in part, the validity of the other provisions and the remainder of the provision in question shall not be affected.

18.3. We shall be entitled without your prior consent to assign, transfer or sub-contract or in any way make over the benefit or burden of the Contract to a third party.

18.4. Any waiver of rights must be in writing and no prior waiver will affect a party's rights in the event of a subsequent breach. Our rights and remedies shall be distinct, separate and cumulative. No action or inaction by us shall operate to exclude or deprive us of any other rights allowed to us by law.

18.5. This Contract embodies and sets forth the entire agreement and understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Contract. Neither party shall be entitled to rely on any agreement, understanding or arrangement not expressly set forth in this agreement save for any representation made fraudulently.

18.6. This Contract shall be governed by and construed in accordance with the laws of England and, subject to this clause, the parties submit to the nonexclusive jurisdiction of the Courts of England. Any dispute or difference arising out of or in connection with this Agreement shall be determined in accordance with the Arbitration Act 1996 by a single arbitrator to be agreed between the parties, or failing agreement within 14 days after either party has given to the other a written request to concur in the appointment of an arbitrator, to be appointed by the President or a Vice President of the Chartered Institute of Arbitrators. The seat of the arbitration shall be London and the language shall be English. You acknowledge and agree that the Services provided are solely for commercial or business purposes and not for personal or household use.