



PUBLISHING AGREEMENT

THIS AGREEMENT, made and entered into as of this 26th day of April, 2006, by and between Pearson Education, Inc. ("Publisher"), a Delaware corporation, publishing as Pearson Addison Wesley, having offices at 75 Arlington Street, Boston, MA 02116 and the following author(s) David Smith ("the Author"), hereinafter collectively referred to as "the parties." The Author is sometimes referred to using the pronouns "you," "your" or "yours," and the Publisher as "we," "us," "our" or "ours" in this Agreement. Each of the Author and Publisher declares the desire to act under this Agreement in an atmosphere of mutual respect and cooperation in an effort to achieve the professional standards and commercial success which each party desires.

1. GRANT OF RIGHTS. You agree to prepare a work on *Concepts in Computer Science Implemented in MATLAB®* (the "Work"). You grant and assign solely and exclusively to the Publisher this Work and all rights in the Work, its title, parts and all versions and revisions of the Work that are now in existence or are created hereafter and all derivative works throughout the world, in all languages, for the full term of copyright and all renewals and extensions thereof, and the right to secure copyright in the Publisher's name or any other name we elect. This grant includes, but is not limited to, the exclusive rights to reproduce, print, distribute, market, promote, publish, sell, license, broadcast, or transmit, in all channels of distribution, the Work and derivative works, in whole or in part, in all forms, formats, media and versions, now known or hereafter developed, including, without limitation, by any electronic or electromagnetic means or analog or digital signal, or on any human or machine readable medium, including as part of an electronic database, and to license third parties to exercise any and all such rights. This grant of rights includes, without limitation, all rights specified in Paragraphs E and H below.

2. DELIVERY. You agree to deliver the Work, containing about 250,000 words or their equivalent, in complete final form ready for production by October 1, 2006. You and we agree that, in print form, the Work will consist of approximately 450 printed book pages.

3. ROYALTY. Based on the net cash received by the Publisher or its affiliate from the sale of the Work, except as otherwise provided in paragraph H, we will pay the Author a royalty of 13% for 0 - 2,000 copies; 14% 2,001 - 5,000 copies; 15% 5,001 and greater copies for the life of the edition.

4. ROYALTY STATEMENT. We will furnish you with a royalty statement on or about March 31 and September 30 of each year for the six-month period ending in December and June of each year respectively. With each statement, we will pay any balance due to you in accordance with the terms of this Agreement.

5. ADDITIONAL TERMS. Paragraphs A - T are part of this Agreement as though placed before the signatures. The signature of an officer of Publisher is required for this agreement to be final and binding on the Publisher.

AUTHOR:

Signature: _____

David Smith

Address: 489 SPRING CREEK WAY
MARIETTA, GA 30068

Signature: _____

Type Name

Type Address

Signature: _____

Type Name

Type Address

Signature: _____

Type Name

Type Address

PEARSON EDUCATION, INC.

By: _____

Michael B. Hirsch

Executive Editor, Pearson Addison Wesley

Split: 100%

SS#: _____

Citizenship: US

Date: 5/1/06

Split: _____%

SS#: _____

Citizenship: _____

Date: _____

Split: _____%

SS#: _____

Citizenship: _____

Date: _____

Split: _____%

SS#: _____

Citizenship: _____

Date: _____

By: _____

Greg Tobin

Publisher, Pearson Addison Wesley

ADDITIONAL TERMS**A. SUBMISSION OF THE WORK**

(1) You agree to deliver one (1) copy of the Work, and any required preliminary versions or portions of the Work, in hard copy form, double-spaced on 8-1/2" x 11" paper on one side only, and one (1) copy in an electronic format agreed upon by the parties. You will retain at least one copy of each item delivered to us under this Agreement. The Work will be of such content, form and length as we are willing to publish. We may request modifications to the Work, in which event you agree to revise and resubmit the Work, or portion(s) of the Work, within the reasonable period of time requested by us. Acceptance of partial manuscript submissions does not constitute acceptance of the Work for publication.

(2) If you are unable or unwilling to deliver the Work on time, or if the Work is not acceptable to us, in our publishing, editorial and marketing judgment, Publisher may elect to terminate the Agreement and recover from you any moneys paid to you or on your behalf in connection with the Work. If Publisher terminates the Agreement, the rights you have granted to us shall revert to you and you will have the right to publish the Work elsewhere, but only if and after you repay to us all moneys we previously paid to you.

(3) If we send you proofs or other final copy of the Work, you agree to read and correct them and promptly return one copy to us. If you do not return a corrected proof of the Work to us within a reasonable time period to be specified by us, such material will be considered approved as is. You agree to be responsible for the completeness and accuracy of corrections and to bear the cost of alterations of the proofs or other final copy (other than those resulting from printers or other production errors) exceeding 10% of the cost of typesetting or other formatting. You agree that these costs may be deducted from payments otherwise due you.

B. ITEMS FURNISHED BY THE AUTHOR

(1) You agree to furnish the following items as part of the Work: information for the title page; a preface; a table of contents or its equivalent; an index or its equivalent; and all code listings, photographs, artwork and other illustrations, with captions, an index or its equivalent, in camera ready copy or fully formatted electronic files, as requested by us, or in any other format agreed upon by you and us. You and we agree that the Work will include approximately 100 line drawings and approximately 5 photographs.

(2) You also agree that you will (a) furnish to us within a reasonable time that we specify, and in a format specified by the Publisher: a glossary (if any); a bibliography (if any); an instructor's manual; exercises (if any); answers to exercises (if any); end of chapter materials; a test item file; a solutions manual; material for a companion web-site, and any other ancillary or supplementary materials and learning aids to complement the Work, or any part(s) of the Work (collectively, the "Supplementary Materials"); and (b) provide assistance to and consult with us or any third parties engaged by us to provide development or production services in connection with the publication of the Work, the Supplementary Materials or any part(s) of the Work. You agree that we will have all the same rights to the Supplementary Materials as you have granted with respect to the Work.

(3) If you fail to deliver any item or perform any service specified in paragraph B(1) or B(2) within the time specified by us, we may have such items prepared or services performed and charge the costs against any sums otherwise due from us to you. We will pay the cost of manufacture of Supplementary Materials.

(4) If to protect the Work or the rights granted to us, we request that you sign documents confirming the grant of rights in this Agreement, suitable for filing with the Copyright Office, you agree to do so.

C. THE AUTHOR'S WARRANTY

You warrant that: you have full authority to make this Agreement; the Work will be original; the Work has not been published, registered for copyright or previously granted or assigned to anyone else; you are the sole owner of the Work; you have identified any material in the public domain; you have identified, and have obtained permission for, material from other copyrighted works; you are not currently working on any project which may compete with or lessen the value of the Work; the Work, and any part of the Work, will not infringe any copyright or violate any proprietary rights or rights of publicity or privacy, or contain any scandalous, libelous, or unlawful matter or any formula or instruction that is injurious to a person or property. These warranties also apply to other items furnished by you pursuant to paragraph B. You agree to hold harmless and indemnify us and our grantees and agents against any demand, claim, suit, action, proceeding, cost, damages, and expenses, including reasonable attorneys' fees, arising from any breach or alleged breach of these warranties or from our efforts to resolve or avoid the claim. If you obtain knowledge of a claim, you agree to send prompt notice of it to us. You agree that we will have the right to assume and control the defense and settlement of any such claim, and until such claim or suit has been settled or withdrawn, we will have the right to withhold a reasonable amount to cover such claims from any sums due to you. You agree to cooperate with us, our insurers and attorneys, and provide reasonable assistance in defending against any such claim. The warranties and indemnities contained in this paragraph will survive termination of this Agreement.

D. COPYRIGHTED MATERIAL

If you wish to include in the Work or Supplements any original unpublished material of any kind created by anyone other than you, you agree to provide to us with your final manuscript a proper written grant from an authorized person granting us the same rights to that material as you have granted to us for the Work. If any material from another published work protected by copyright is incorporated into your Work or the Supplements, you agree to provide to us with your final manuscript written grants satisfactory to us to use that material ("permissions"). You agree to obtain and pay for all these rights that must be granted to us, and we agree to assist you by providing our required grant forms and guidance in obtaining these rights. Upon your request, we will advance on your behalf reasonable permission fees approved by us to the copyright owners of published materials and will recover all fees advanced from any sums due to you.

E. EDITING AND PUBLISHING DETAILS

You agree that with respect to the Work (in all editions, revisions and versions), we have the right to (1) edit the Work, provided that the meaning of the text is not materially altered; (2) publish the printed Work in one or several volumes and in a style deemed suitable by us as to paper, printing and binding, under our own name and/or under any of our imprints; (3) decide on the formats and media in which to publish the Work; (4) fix or alter the wording, format and style of the title, interior design, packaging and/or cover presentation and the prices at which the Work shall be sold and the quantities printed or produced; and (5) determine the methods and means of advertising, marketing and

selling the Work. You agree that we will have the right to display the Author's name and likeness in connection with the Work and any part of the Work and in promotional materials.

F. AUTHOR'S COPIES

We will furnish to the Author (each author, if there are multiple authors) ten (10) copies of the Work as it is first published by us without charge. Additional copies can be purchased by the Author for personal use at a 25% discount off our suggested list or single copy price.

G. REVISIONS

If we consider it in the best interests of the Work to publish a revision, you agree to revise the Work, or any part of the Work, as requested by us and in accordance with the schedule we request. Except as specified in the rest of this paragraph, the provisions of this Agreement shall apply to each revision of the Work as though that revision were the Work being published for the first time under this Agreement. If, in our judgment, you are unable or unwilling to provide a satisfactory revision within the time period we request, you agree that we may have such revision (and any subsequent revisions) prepared by others, and charge the cost, including fees and royalties against your royalties, provided that the deductions will not exceed 50% of your royalties for the first such revision and 75% for the second such revision, and may be up to 100% on subsequent revisions. We reserve the right to display both your name and the name of the person or persons who prepare the revision in connection with the revision and in promotional materials.

H. OTHER ROYALTY ITEMS

The following royalty rates, rather than the rate specified in paragraph 3, shall apply with respect to the following sales and uses of the Work, and sales of these types shall not be included in the calculation of royalties due under paragraph 3:

- (1) Export Sales: 10% of net cash received by us or our affiliate, for the sale of copies of the Work outside the United States and its possessions and territories, except as set forth below.
- (2) Custom Editions: 10% of the net cash received by us or our affiliate for the sale of copies of custom editions of the Work created primarily for a particular institution.
- (3) Electronic Derivatives of the Work: 10% of the net cash received by us or our affiliate for the sale of copies of derivative versions of the Work delivered in non-print media, including, without limitation, via audio (sound recordings), video, motion picture or multimedia versions, and any other forms of electronic media.
- (4) Electronic Reproductions of the Work: 10% of the net cash received by us or our affiliate for the sale of copies of, or subscriptions for access to, reproductions of the Work, in whole or in part, in any non-print format or media, now known or developed in the future, including, without limitation, reproductions that are viewable on-line, downloadable from a web-site, transmitted via cable, or satellite, or delivered on CD-ROM or in other electronic media (including but not limited to magnetic and optical media, laser disks, compact disks, and computer programs).
- (5) Direct Sales to Consumer: 10% of net cash received by us or our affiliate for the sale of copies of the Work directly to the consumer anywhere in the world, by any direct means, including without limitation, telephone, radio, television, mail order, coupon advertising, and direct sales to the consumer via our publicly available Internet sites.
- (6) Elementary and Secondary Sales and High Discount Sales: 5% of net cash received by us or our affiliate for the sale of copies of the Work to elementary or secondary schools or school districts; or for any sale of copies of the Work by any means and channel at a discount of more than 55% off the suggested list or single copy price, except for sales specified in paragraph I (4).
- (7) Print Derivatives of the Work: 5% of the net cash received by us or our affiliate for the sale of copies of print derivative versions of the Work, including, without limitation, foreign language translations; English language adaptations for export markets; abridged editions, large print editions, or special English language reprints of the Work created by us or our affiliate, alone or jointly with other parties, for sale in export markets.
- (8) Licenses of Subsidiary Rights/Permission Grants: 50% of the net amount received by us from (a) any license we grant permitting a third party to publish and sell or otherwise commercially exploit a version of the Work or portions of the Work, in any format or medium, where we have no involvement in modifying, enhancing, or marketing the Work or portions of the Work for or with such third party; or (b) any permission we grant to a third party allowing the third party to use or quote portions of the Work for use in the third party's publication.
- (9) Other Uses: If we exercise (alone or with others) or dispose of a particular right for which a royalty or other compensation to you is not otherwise provided in this Agreement or any addendum or amendment to it, you will receive compensation equal to our good faith determination of the fair market value to the Author of any such exercise of rights by us (alone or with others), or our good faith determination of the Author's fair market share of any net amount we receive from such disposition to others.

I. ACCOUNTING

- (1) For uses of portions of the Work, including in a collective work or derivative work, including custom editions, and for sales of the Work as part of a package together with other works, or in electronic products or transmissions incorporating other works (collectively, a "Collection"), we will determine the net cash received for the Work on which the applicable royalty will be paid by allocating to the Work that portion of the proceeds for the Collection which we determine to be the proportionate value of the Work to the entire Collection. If, however, we use only small portions or quotes from the Work, you will receive a permission fee comparable to the permission fee we would have paid to you upon the grant of permission to a third party to use the portions or quotes.
- (2) If the balance due you for any settlement period is less than fifty dollars (\$50), we may make no accounting or payment until the next settlement period at the end of which the cumulative unpaid balance equals at least fifty dollars (\$50).
- (3) We may deduct from any amounts due you under this or any other agreement any sum that you may owe us under this or any other agreement.
- (4) No royalties or other payments will be due to you with respect to any copies of the Work, or any part of the Work, we furnish to others, or post on-line, for the purpose of promotion, publicity or for any other similar purpose that Publisher deems appropriate, or for any copies of the Work, or any part of the Work, we sell at a price below manufacturing cost plus royalties, or for

any not-for-profit publication, recording, photographing, microfilming, and creation of special editions, in Braille or other media for use by or sale to the physically, mentally, or visually handicapped or disabled.

(5) We will maintain relevant records with respect to any royalty statement we provide to you under the Agreement for a two-year period from the date of the statement. Royalty statements will be final and binding upon you unless, within two years from the date of the statement, you object to such statement in a writing which states the specific objection and the basis for such objection.

J. DISCONTINUING PUBLICATION

If the Publisher decides that continued publication of the Work in any or all particular forms or media is unwarranted, the Publisher may discontinue or suspend such publication, and destroy such copies of the Work without liability to you, and without prejudice to other rights the Publisher has in the Work or any then-existing license or other arrangement and the Publisher's royalty-free right to continue to use and permit the use in other works of any of the Work's illustrations or other artwork authored or rendered in part by the Publisher or another party retained by the Publisher.

K. COMPETING PUBLICATIONS

During the term of this Agreement, you agree not to publish or agree to publish or furnish to any other publisher any work on the same subject matter of the Work which will, in the Publisher's judgment, conflict or interfere with Publisher's sale, distribution or use of the Work under this Agreement.

L. ENTIRE AGREEMENT, AMENDMENTS, AND WAIVERS

This Agreement, together with any Addenda and Exhibit(s) annexed to it, constitutes the entire understanding of the parties relating to its subject matter and shall not be changed or amended in whole or in part except by a writing signed by the parties. No waiver or breach of any term or condition of this Agreement shall be deemed a waiver of any other term or condition or any later breach. No course of dealing between the Publisher and the Author and no delay or failure of a party in exercising any rights shall operate as a waiver of that party's rights. Publication and payments to the Author shall not constitute or imply any waiver of the Author's warranties or obligations or the Publisher's defenses, rights or remedies.

M. INTERPRETATION, HEIRS, ASSIGNS

THIS AGREEMENT SHALL BE CONSTRUED AND INTERPRETED ACCORDING TO THE LAWS OF THE STATE OF NEW YORK AS IF EXECUTED AND FULLY PERFORMED IN NEW YORK, BUT WITHOUT REGARD TO THE STATE'S PRINCIPLES OF CONFLICTS OF LAWS. EXCLUSIVE JURISDICTION OVER ALL DISPUTES ARISING IN CONNECTION WITH THE AGREEMENT SHALL BE IN THE FEDERAL AND STATE COURTS OF THE STATE OF NEW YORK LOCATED IN NEW YORK COUNTY. This Agreement is binding on the parties, their heirs, successors, permitted assigns, and personal representatives. The Author may not assign this Agreement or delegate any duty under the Agreement without the prior written consent of the Publisher and any such assignment is null and void. The Publisher may assign this Agreement. Because you will receive royalties on the net cash received from end sales by our affiliates, all intracompany transactions between us and our affiliates relating to the Work shall not be subject to any royalties. If we assign this Agreement as a whole and transfer any inventory to the assignee in connection with that assignment, the assignee will assume the obligation for royalties on sales of the Work thereafter, and no royalties will be paid by us in connection with the assignment of rights or inventory transfer to the assignee.

N. JOINT AUTHORS

If there are multiple authors for this Agreement, all authors are collectively referred to as the "Author" or "you." Multiple authors will be deemed to share equally in the royalties and expenses arising under this Agreement, unless different shares are specified next to the authors' names and signatures, or until written notice to the contrary, signed by all authors, has been actually received by us. The rights, obligations and liabilities of the Author are joint and several, but we may exercise any or all of our rights and remedies with respect to the authors individually or collectively. If any author does not perform the obligations required, the Publisher shall have the right to proceed with the other author(s) without obligation to the non-performing author.

O. PARTIES' RELATIONSHIP

The Author does not, and will not, have any power, right or authority to bind the Publisher, or to assume or create any obligation or responsibility, express or implied, on behalf of the Publisher.

P. CONFIDENTIALITY

You agree to keep confidential and not disclose the terms of this Agreement except to your authorized legal and financial representatives with a need to know and then only for purposes of representing your interests under the Agreement.

Q. HEADINGS

All titles, subject headings and similar items set forth in this Agreement are for the purpose of reference and convenience only and are not intended to be inclusive, definitive or to affect the meaning, content or scope of this Agreement.

R. RIGHT OF FIRST REFUSAL

The Author grants to the Publisher an exclusive option to publish the Author's next work. The Author shall deliver a written proposal for the new work to the Publisher, and the Publisher shall have 60 days to give written notice to the Author as to whether the Publisher will exercise the option.

ADDITIONAL CLAUSES

S. Advance against Royalties

The Publisher agrees to make available to the Author as an advance against all royalties and other payments due to the Author under the terms of this Agreement, the sum of \$5,000.00 (five thousand dollars) payable to the Author upon written request as follows:

- a) \$2,500.00 upon execution of this Publishing Agreement.
- b) \$2,500.00 upon publication of the Work.

These advances shall be repaid only from the royalties and other payments due to you except in the case where this Agreement has been terminated under the provisions of Paragraph A. In such cases, you agree to immediately repay to the Publisher any and all sums previously paid to you. The provisions of this paragraph apply to the first edition only. No payment of any advance shall be considered to be, or to evidence, final acceptance by us of all or any part of the manuscript. We will make written notification to acknowledge our acceptance of the complete and final manuscript.

T. Grants

The publisher agrees to make available as a grant to the Author, the sum of \$1,000.00 (one thousand) for manuscript preparation payable to the Author upon written request. The provisions of this paragraph apply to the first edition only. No payment of any advance shall be considered to be, or to evidence, final acceptance by us of all or any part of the manuscript. We will make written notification to acknowledge our acceptance of the complete and final manuscript.

Author: David Smith
Contract Date: April 26, 2006