Hello Mark,

Thank you for your email and for sharing this agreement with us. I am pleased to enclose some comments on the contract below. Please do not hesitate to let me know if you have any questions or if anything is unclear.

Please allow us to quickly disclaim that we are not lawyers, and we are not wholly experienced in the laws of New York which per clause 24 the agreement is designed to take effect.

pre-amble: a very minor point, but it might be useful having the date written out (9th April 2025) to avoid any confusion vis a vis the UK standard form of DD/MM/YYYY.

clause 1: under both the laws of the US and the UK, an author can either license their copyright (retaining ownership) or assign it (transferring ownership to the license). As I say, we cannot really comment on how this contract might take effect under US law, but I would suggest seeking reassurance here from the publisher that they are not seeking to acquire ownership of the rights, following the reference in this clause of you transferring (“you.. transfer to Us”) rights. I hope that the publisher has been able to demonstrate how they are going to make use of the rights that they are requesting from you here, and you might ask whether it is really necessary for them to take rights for “any other form or medium, now known or hereafter developed”. It should be sufficient for them to take those rights they are actually planning to make use of, or where the rights are otherwise justified by e.g., a large investment of an advance for you up front. You may have also noted here that the publisher is taking the right not only to make use of these rights themselves, but also to sell them to third party companies. Again, ideally, they would demonstrate a strategy to sell these rights, such as a right to pitch existing foreign rights or digital licensing partners. If they can share some further information with you, you would then be in a better position to decide whether or not to agree, and whether the deal works for you. Where you do grant rights to sublicense, perhaps these can be subject to your agreement, particularly where the use is digital.

It is good to see that you will be able to publish up to 10% of the work provided this is on a non-commercial basis and use materials in your teaching.

clause 2: just to reiterate my earlier (very minor) point about the date format, here. If you would like me to check any self-publishing arrangements to ensure you can meet the commitments here, do let me know. Three days seem very short to review and deliver comments (especially since these are not even described as working days) so do ask for a longer period here should you find that would be more helpful.

clause 3: this is quite unusual to see – usually you simply have one deadline for delivery – but I think perhaps this is fine. You may of course have your own concerns about this however, so do of course raise those with the publisher if appropriate.

clause 4: ideally the publisher will accept your manuscript provided it meets the agreed specifications and of the expected standard and they should take responsibility for commissioning on the basis of the market as identified at the time of commission. I think this might be worth raising, even if they give you a non-contractual assurance that they will consider and accept your work in good faith – and only terminate if options are exhausted. It would be good if they could let you know that they will accept the manuscript or request changes within a specified period – especially given the schedule requirements that they are requesting from you.

clause 5: permissions clearances can be costly and time-consuming. We would generally expect for the publisher to help with this, particularly where the inclusion of third-party material is integral to the project. This can be more applicable to some projects than others.

clause 6: I hope that they have been able to clarify the formats for publication – and the schedule if publication is not to take place across the various formats at the same time. Ideally here publication would run from delivery, unless you can agree (following clause 4) that the publisher will accept within a specified timeframe. It is unusual that the publisher is asking that you keeping the advance is your sole remedy in the event of non-publication, but I think you are perhaps unlikely to pursue a claim in the event of non-publication.

clause 7: it’s quite unusual for there to be no royalty on sales at high discount (here at plus 60%) and I probably would push back on this. The royalty is in any case calculated on net receipts, so the price received by the publisher with the discount already accounted for. I think it should be possible to give you a share of revenues for any subscription sales, rather than a one-off fee, but if they insist this isn’t possible perhaps, they can at least up the one-off fee here. At (i) it would be preferable for this to be mutually agreed.

clause 9: this is not actually that onerous as non-compete restrictions go but do let me know if you have any concerns and ideally this would only last for a limited period from publication, say 5-10 years.

clause 14(1): this is potentially onerous, given it’s an ongoing obligation – but you would know how quickly this software product is going to develop, and therefore how often you will be updating the publisher. Again, it would be helpful to have this limited by time.

clause 14(2): I think perhaps you might want an approval over the involvement of another author, or to have your name associated with that future work.

clause 15: again, you might want an approval here.

clause 18(1): we would recommend a sales threshold here, particularly if the print edition is available on a print-on-demand basis. Even 100 a year could be helpful here.

clause 19: I hope the publisher has been clear on what promotional and advertising efforts they are going to bring here- this is a key part of the “value package” that the publisher is bringing to the collaboration.

clause 20: we would hope that disputes are first settled by negotiation and then mediation. Arbitration, at least in the UK, is an expensive option and doesn’t in our view offer a better option from going to court, particularly where one is dealing with e.g., unpaid fees.

Finally, we would also now expect the AI question to be addressed directly – so ideally of course that these rights are expressly reserved to you, or – providing the reasons are persuasive – that they can be licensed but only with your consent and subject to agreement on the payment.

I hope that this is at all helpful and look forward to hearing any questions should you have any. Some more generalised guidance can be found in the attached.

With best wishes

Theo Jones