

Publishing Agreement¹

[DATE]

between

Author(s)/Editor(s):

[NAMES]

[ADDRESS(ES)]

and

[PUBLISHER NAME AND ADDRESS]

Title of Work: [TITLE]

Delivery Date of Work (see Section 4): [DATE]

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This letter of agreement confirms and defines the terms of agreement between [NAME] (hereinafter called the Author) and [PUBLISHER FULL NAME] (hereinafter called [PUBLISHER SHORT NAME]) regarding the publication of [TITLE] (hereinafter called the Work). The parties agree as follows:

1. GRANT & COPYRIGHT

A. Author's grant of rights

For just and equitable compensation already received by the Author, the Author herewith grants to [PUBLISHER SHORT NAME], during the full term of copyright and any extensions or renewals of that term, the following:

1. Exclusive first publication rights to the Work.
2. An irrevocable non-exclusive license to reproduce, republish, transmit, sell, distribute, edit and otherwise use the Work in digital and print editions of the Work and in derivative works throughout the world, in all languages, and in all media now known or later developed, including the right to do so under Creative Commons terms.
3. An irrevocable non-exclusive license to create and store digital archival copies of the Work, including the right to deposit the Work in open access digital repositories.

B. Author's Ownership of Copyright

Should the Author incorporate into the Work any material, whether literary or artistic, of which the copyright is not owned by the Author, the Author shall, at own expense, obtain from the owners of the respective copyrights written permission to reproduce such material in the Work and supply such written permission to [PUBLISHER SHORT NAME] if requested to do so.

C. Assignability of Rights

Any and all rights received by [PUBLISHER SHORT NAME] hereunder shall be freely assignable and/or sublicensable, especially in the context of a planned private spin-off.

2. OBLIGATIONS OF [PUBLISHER SHORT NAME]

Nothing in this Agreement shall oblige or require [PUBLISHER SHORT NAME] to publish the Work now or at any future time. If [PUBLISHER SHORT NAME] does not (1.) publish the Work nor (2.) hold the Work available after initial release for a period of at least one year after delivery and receipt by [PUBLISHER SHORT NAME], then the Author shall give [PUBLISHER SHORT NAME] a written notice to cure such default within a period of six weeks. In the event that [PUBLISHER SHORT NAME] does not cure such default within the cure period, then the Author shall be entitled to terminate this Agreement and request re-assignment of the rights hereunder with immediate effect.

Unless prevented by circumstances beyond its control, [PUBLISHER SHORT NAME] agrees to maintain publication of the Work in free, electronic form (open access) and to make the work available for sale to customers on a Print on Demand (POD) basis. The terms and conditions of the electronic and print exploitation shall be at [PUBLISHER SHORT NAME]'s sole discretion.

In consideration of the Author's grant of rights, [PUBLISHER SHORT NAME] agrees to publish the Work acknowledging the Author as owner of the copyright and attributing the Work to the Author.

3. ROYALTIES

The Author agrees that he will not be paid any royalties by [PUBLISHER SHORT NAME].

4. DELIVERY OF THE WORK

The Author shall deliver to [PUBLISHER SHORT NAME], via email or other means, not later than the Delivery Date specified herein, one complete digital copy of the Work in a common editable file format together with all photographs, drawings, maps, tables, charts and other materials necessary to the completion of the Work in an appropriate resolution/quality, ready for production according to specifications of [PUBLISHER SHORT NAME]. This shall include written authorization necessary for the reproduction of copyright materials. The Author shall retain a copy of the text.

5. DIGITAL PROOFS

The Author will check and correct digital proofs and other pre-publication material when requested by [PUBLISHER SHORT NAME] and return them to [PUBLISHER SHORT NAME] within 14 days or such other period as may be agreed. If such proofs and material are not checked and returned by the end of this period, they shall be deemed approved by the Author.

The Author is entitled to correct typographical errors. If the Author makes changes other than correcting typographical errors or requests correction after publication, he might be charged for incurred costs.

6. TERMINATION OF CONTRACT

[PUBLISHER SHORT NAME] may terminate this Agreement by notice in writing to the Author,

- if the Author fails to deliver the Manuscript by the Delivery Date, unless extended in writing by [PUBLISHER SHORT NAME], or
- in the event that [PUBLISHER SHORT NAME] has not had the opportunity to review the final Work at the time of execution of this Agreement and eventually finds the Work not suitable for publication.

In the event of such termination all rights granted by the Author to [PUBLISHER SHORT NAME] and the materials delivered by the Author to [PUBLISHER SHORT NAME] at the date of termination shall revert to the Author.

7. REPRESENTATIONS AND WARRANTIES

The Author represents that the Author is the sole proprietor of the Work and any and all drawings or illustrations contained therein and that the Work to the best of the Author's knowledge does not contain any libellous matter and does not violate the civil rights of any person or persons, does not infringe any existing copyright, and has not heretofore been published in book form.

The Author shall defend, indemnify and hold harmless [PUBLISHER SHORT NAME], its board members, officers, employees, and agents and sublicensees or successors in interest from and against any costs, losses, damages, liabilities, expenses, demands and judgments, including court costs and attorney fees, which may arise out of the Author's acts or omissions, default and/or any breach of the material, terms and conditions of this Agreement including the representations and warranties under this Agreement for which the indemnifying party would be liable in law or equity. The Author shall keep [PUBLISHER SHORT NAME] reasonably apprised of the continuing status of the claim, including any proceedings resulting from it, and shall permit [PUBLISHER SHORT NAME], at the Author's expense, to participate in the defense or settlement of the claim. When a claim is resolved by the Author's payment of money, it shall have final authority regarding defense and settlement. When a claim resolution requires equitable relief against [PUBLISHER SHORT NAME] or the Author has not or will not pay the money required for resolution, the parties shall cooperate regarding defense and settlement.

8. INFRINGEMENT

If during the existence of this agreement the copyright shall be infringed, [PUBLISHER SHORT NAME] may, at its own cost and 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. [PUBLISHER SHORT NAME] shall not be liable to the Author for [PUBLISHER SHORT NAME]'s failure to take such legal steps. If [PUBLISHER SHORT NAME] does not bring such an action, the Author may do so in his name at his own cost and 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 [PUBLISHER SHORT NAME]'s profits shall be divided equally between the Author and [PUBLISHER SHORT NAME].

9. 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 [PUBLISHER SHORT NAME].

10. APPLICABLE LAW

The parties agree that law applicable to this Agreement shall be law in force in Germany, unless otherwise expressly agreed or declared. The forum for any conflict hereunder shall be Hamburg.

11. ALTERATION

This agreement may not be modified, altered or changed except by an instrument in writing signed by the Author.

[PLACE OF PUBLISHER],

[PLACE OF AUTHOR/EDITOR],

[NAME AND POSITION OF PUBLISHERS
REPRESENTATIVE]

[NAME OF AUTHOR]