



# BFC PUBLICATIONS



## **PUBLISHING AGREEMENT**

This Service Agreement is entered into as of **14/NOVEMBER/2020**, by and between BFC Publications Private Limited having its office at CP-61, Viraj Khand, Gomti Nagar, Lucknow-226010. (here in after referred as “BFC Publications”) and **Mr. Durgesh Pandey, S/o Shri Laxmi Kant Pandey** aged about **41 years** R/O **C-69/Sector-23, Noida, Uttar Pradesh - 201301** (here in after referred to as “Author”)

Since the “Author” wants to publish his book or work through “BFC Publications”, in consideration of the mutual promises mentioned in this agreement, both parties agree as follows:

### **1. Services offered by BFC Publications:**

(A) Publishing Services: This includes

1. Editorial process
2. Cover Designing
3. Allotment of ISBN
4. Copyright and marketing of the book/work.

(B) Distribution Services: that includes online as well as offline distribution of the book/work.

The “Author” can choose required services as per the package selected by him.

### **2. Author's Obligations:**

(A) Author's obligations pursuant to the Agreement shall include (and Publisher's Obligations are conditioned upon):

1. Provision of the Work's interior text in an acceptable electronic file (any formats other than Microsoft Word or rich text format must be approved in advance by Publisher).
2. Provision of any submitted graphics must be clear, clean, and on paper or acceptable electronic format (any formats other than .jpg files must be approved in advance by Publisher).
3. Continuing full and unconditional responsibility and liability for the content of the Work.

3. **Engagement Form:** The Engagement Form will include the package selected and approved by the “Author”, description of services, payment terms,

distribution services and other relevant details.

4. **Intellectual Property Rights:** All the intellectual property rights, including the Copyright and other associated rights will remain with the “Author” exclusively. “BFC Publications” does not claim any intellectual property rights lying there in the book/work of the “Author”.
5. **Grant of Rights:** The “Author” grants “BFC Publications” rights to publish and/or distribute the book/work. These limited rights will be non-exclusive which means that the “Author” can grant these rights after satisfying his/her payment obligation towards “BFC Publications” to any other publisher. The purview of rights so granted will depend upon the package and underlying services, “Author” has selected.
6. **In consideration for the Publication Services:** The Author or someone on behalf of the Author will pay BFC Publications the package price as decided between the Author and BFC Publications. The work shall be commenced only upon receipt of the Package price as per the terms mentioned. The author must ensure that all payments owed to BFC Publications are made within the timelines agreed as per the Engagement Form. Not adhering to the payment terms will be inferred as a breach of contract and suspension of services which will resume only after the receipt of payment.

7. **Rights and Duties of the Author:**

- (1) *The Author* shall provide BFC Publications a duly-filled Engagement form for the purchase of the Publication Services, make sure that the required information and copies of the work in the appropriate format are provided to BFC Publications and that the Package Fee is paid in full or in part as per the Engagement Form.
- (2) *The Author* shall provide BFC Publications all the required information like Bios, Blurbs, Preface (if any), Acknowledgement(if any), sketches and illustrations (if any), completed manuscript and any other information required to carry out publishing work when demanded by BFC Publications.
- (3) *The Author* has an exclusive right to retain the work.
- (4) Though *the Author* grants us a non-exclusive license on the content, the Author cannot use the ISBN and format of the work during the term of this Agreement. If the Author wishes to engage other publishers, they shall have to provide the Author with a different format, cover and ISBN.
- (5) *The Author* will be eligible to receive purchase discounts as mentioned in the **Engagement Form**.

8. **Rights and Duties of BFC Publications:**

- (1) BFC Publications reserves the right to choose the distribution channels for the work based on the format of distribution selected by the Author in the Engagement Form. BFC Publications and entities in its distribution channels may determine in their own discretion on whether and to what extent to make excerpts of the Author work available. On occasion, these excerpts

may include entire chapters or may even exceed twenty-five (25) pages or more in length.

- (2) The Author grants BFC Publications the right to introduce additional versions of the work as it needs to be available in multiple formats. Accordingly, the Author grants BFC Publications the right to terminate and reissue individual ISBN of the work in each different format that the Author selects.
- (3) BFC Publications may retain in its possession all the materials submitted by the Author and BFC Publications is not obligated to return or store such materials. The Author also grants BFC Publications the right to compile and use statistical information regarding sales of the work.
- (4) The Author grants BFC Publications the right to copy, reproduce, warehouse, host, store, use, transmit and distribute tangible, electronic copies of the work in any current or future methods of technology to fulfil their services under this Agreement.
- (5) The Author grant BFC Publications the right to publicize information about the work, or the Author, including a biographical sketch, as well as excerpts from the Author's work at BFC Publications' discretion, in connection with the advertisement, promotion and marketing of the Author's work and BFC Publications services.
- (6) To provide the Distribution Services, the Author grants BFC Publications the consent and right to use the Author's name, voice, photograph, image, likeness, distinctive appearance, gestures, or mannerisms.
- (7) Electronic excerpts of the work shall be viewable on BFC Publications' website, or partner's or contractor's websites that have entered the agreements with BFC Publications, to facilitate promotion, marketing, distribution, and sales of the work.
- (8) The Author grants BFC Publications the right to send free review copies to the members of media, including, but not limited to, editors, college newspapers, bloggers, professors, television, internet, and radio commentators, and other potential book reviewers in BFC Publications' discretion for promotion of the work.
- (9) From time to time, BFC Publications may discontinue offering certain promotional Services/Opportunities/Items. BFC Publications may substitute a different promotional Service/Opportunity/Item of equal or greater value for the Author with notification to the author in the event of a discontinuation.
- (10) BFC Publications shall ensure that the content provided by the Author shall be kept confidential. Neither BFC Publications nor any third parties

associated with BFC Publications shall be involved in any act that would compromise the security of the content before, during and after the work is published.

- (11) BFC Publications shall provide the Author with the finished work in all formats based on the Package no later than Sixty working days after BFC Publications has received all the required materials and required payments from the Author. This period does not include days in whole or in part, due to the Author's delayed response to inquiries or requests of BFC Publications. The time period of sixty days does not include delay due to an Act of God/ natural calamity or Government regulations due to pandemic etc.
- (12) BFC Publications shall format and publish the work as specified by the Author. BFC Publications shall follow the Author's suggestions for custom designed cover of the work provided the Author to comply with BFC Publications' interior and cover design guidelines.
- (13) Copyright and Title Registration: BFC Publications shall include a copyright notice in accordance with the Author's instructions and subject to inclusion in the package, in each copy of the work.

## **TERM AND TERMINATION**

***Term:*** This Agreement comes into force from the Effective Date and extends until it is terminated by either or both parties.

***Termination:*** This Agreement provides termination for the following reasons:

1. BFC Publications' Publication Services terminate once each service is approved by the Author as completed, as per the package selected in the Engagement Form.
2. Upon receiving the Author's email approval for the final cover design file, the service terms for that particular service comes to an end. The Author can choose additional services based on BFC Publications' offers which would begin and terminate based on the Author's choices in the Engagement Form.
3. The Distribution Services continue to stay in effect until this Agreement is terminated.
4. The Author and BFC Publications can mutually agree and have the right to terminate this Agreement at any stage, in writing.
5. If the Author find that BFC Publications has not complied with any of the duties, or obligations to be provided under this Agreement, or if there is a breach of any of the terms, or vice versa [where the Author have not complied with the terms], either party can inform the other party of the breach of terms. If

the issue is not sorted or rectified within 30 days, this Agreement can be terminated.

## **REFUNDS**

Refunds will apply only to the Publication Services provided by BFC Publications and depends on the time during which this Agreement is terminated and the stage of work completed:

1. The Author is only eligible for a refund if the Author has adhered to all the payment terms as mentioned in the Engagement Form. Not adhering to the agreed payment terms will make the Author ineligible for any refund, regardless of the publishing stage.
2. If the Author does not submit the Author's work to BFC Publications within three months after the purchase of a package and submission of the engagement form, then the Author will get a refund of 75% of the purchase price as given in the Engagement Form.
3. After submission of manuscript by the author or three months from the Effective Date, whichever comes earlier, the Author are not eligible for any refunds, regardless of the publishing stage.

BFC Publications shall take best effort to ensure that refunds are processed within **thirty days of the termination** of this Agreement.

## **REPRESENTATIONS AND WARRANTIES**

Both The Author and BFC Publications undertake that the Author can enter into this Agreement and that there are no other contractual obligations preventing the Author from signing this Agreement.

The Author will be wholly and completely responsible for the content of the work and should ensure that the work is not illegal, unlawful or it does not contain any objectionable content. BFC Publications is not liable to any third party or other person or entity, for the work, regardless of whether BFC Publications had any knowledge or could have reasonably known of any illegal, unlawful, or objectionable content in the work. The Author also agrees to indemnify and compensate for any harm or loss occurring to BFC Publications in case of any legal proceedings with the third party regarding copyright infringement or action on grounds of illegality as mentioned.

## **DISCLAIMER OF WARRANTIES**

**Sales Not Guaranteed:** BFC Publications cannot and does not guarantee sales of any of the author's work. BFC Publications makes no guarantees or promises as to the minimum success of the services or the amount of book sales

which may result from any or all of the services.

**General Disclaimer:** Except for any Warranties or Representations explicitly mentioned in this Agreement, BFC Publications makes no other warranty and explicitly disclaims all other warranties, conditions or representations (express or implied, oral or written) with respect to the services, or any part thereof.

**Third Party Fault:** BFC Publications is not responsible for retrieving the work from or for any sales of the work in the possession of an entity other than BFC Publications. BFC Publications is not liable for delays, errors, or non-performance of services caused by any of BFC Publications' vendors or suppliers, like, the failure of a third party to (a) timely remove the Author's work from circulation, following BFC Publications' or the Author's notice to do so, and (b) the failure of any third party to timely update any changes to the work.

## **INDEMNIFICATION**

The Author agrees to indemnify and hold BFC Publications and its distribution partners harmless against any legal claims connected to the breach of the representations and warranties or the Author's breach of this Agreement or regarding any claims of Intellectual Property Ownership.

BFC Publications agrees to indemnify the Author against any claims connected to any matter inserted into the work by BFC Publications if the Author did not provide BFC Publications with it.

BFC Publications may retain payments due to the Author until its claims of indemnity have been satisfied or completed.

## **LIMITATION OF LIABILITIES/REMEDIES**

1. In no event shall BFC Publications or any of its affiliates be liable under this Agreement to the Author or any other person or entity for any consequential, incidental, indirect, exemplary, special or punitive damages, regardless of whether we could anticipate such damages or advised the Author about them.
2. In no event shall BFC Publications' or its affiliates' total liability arising out of or related to this agreement, exceed the total amount the Author paid to BFC Publications under this Agreement.

## **GENERAL PROVISIONS**

### **Legal Proceedings**

The Courts in Lucknow shall have exclusive jurisdiction to decide on matters arising out of this Agreement.

If there is any dispute, it should be referred to an Arbitrator appointed by both parties. If the Author and BFC Publications cannot agree on one Arbitrator, both parties shall appoint one arbitrator each who will appoint a third Arbitrator so that a panel of three Arbitrators will adjudicate. All arbitration proceedings shall be conducted in the English language in accordance with the Arbitration and Conciliation Act, 1996 and the place of arbitration shall be Lucknow, Uttar Pradesh India.

## **Entire Agreement**

This Agreement including the Engagement Forms, schedules and annexures (if any) is all that governs the terms between the Author and BFC Publications. If there are any changes to the terms, they have to be made in writing and agreed by both parties.

## **Notices**

All notices to BFC Publications can be sent by email to support@bfcpublications.com and all notices to the Author can be sent to any of the Author's registered email addresses that have been used to communicate with BFC Publications in the past.

## **Assignment**

The Author cannot assign or transfer any of the rights, or duties in this Agreement to anyone else. BFC Publications may transfer some of its rights to another related entity to comply with its duties as per this Agreement.

## **Force Majeure**

Both The Author and BFC Publications shall not be liable or responsible to each other or deemed to have defaulted under this Agreement for failure or delay in fulfilling or performing any term of this Agreement if the delay is due to an Act of God or out of control of the parties. They shall be extended by a period equal to any period of force majeure (circumstance beyond the control of the Publisher) that prevents the both the parties from performing such obligations.

## **Survival**

Even after the termination of this Agreement, all the clauses of this agreement shall survive until explicitly terminated by the parties via an Agreement signed by both parties.

# **SCHEDULE A**

## **1. Author Earnings**

### **A. Earnings from Print Book Sales**

On all sales by BFC Publications of paperback or hardcover formats of the full work, BFC Publications shall pay the Author as follows:

Eighty Five Percent (85%) of the payments that BFC Publications actually receives from such sales, all minus the cost to distribute and print the WORK, mark-ups for the sales with distribution partners, and any taxes, technology fees, shipping costs, and return costs. Earnings are not due to the Author for copies provided free of charge or copies sold to the Author.

## **B. Earnings from E-Book Sales**

On all sales by BFC Publications of e-book formats of the full work, BFC Publications shall pay the Author as follows:

Eighty Five Percent (85%) of the payments that BFC Publications actually receives from such sales, all minus the cost to distribution, mark-ups for sales with distribution partners, and any taxes, technology fees and return costs. Earnings are not due to the Author for copies provided free of charge or copies sold to the Author.

## **C. Author Earnings payment timing**

Author Earnings shall be determined monthly and paid to the Author within Sixty (60) days after the month in which the amount was earned concludes if the aggregate amount of the Earnings due to the Author for the work exceeds 1000 INR. If the monthly Earnings amount does not exceed 1000 INR, the existing Earnings amount will be added to the subsequent monthly Earnings amount due (Cumulative Earnings) until the Cumulative Earnings first exceeds 1000 INR. Cumulative Earnings that do not exceed 1000 INR by the end of a calendar year shall be paid to the Author within sixty (60) days after year end. If the Author has a bank account outside India, the minimum Cumulative Earnings will be INR 10,000 after which the Earnings will be transferred to the Author. Additionally, a wire transfer fee based on the bank will apply and be borne by the Author.

## **D. Mode of transfer**

Author Earnings shall be paid by electronic fund transfer (NEFT/RTGS) to the Author's designated bank account in India or outside India as the case may be. The Author needs to provide BFC Publications with all the relevant bank details to effect the transfer.

## **E. Tax Withholding and PAN Number**

All Author Earnings will be subjected to applicable tax requirements. The Author shall provide BFC Publications with all necessary information and documentation requested to comply with tax requirements including the Author's PAN number. If the Author is a single person, the "PAN Number" is understood to be



the Author's personal PAN. In the event the Author fails to provide BFC Publications with the proper documentation and information, or fails to fully comply with the provisions of this Agreement and Terms, BFC Publications maintains the right to withhold from amounts owed to the Author, any money required to be deducted or withheld in compliance with the tax code or other governing laws. The Author shall have no right to seek reimbursement from BFC Publications for such withholdings and payment by BFC Publications to the proper authorities.

## **2. Pricing**

The Author shall set the default and maximum price of the work greater than the MINIMUM RECOMMENDED MRP set by BFC Publications for the work taking into account the cost of printing and distributing the work. BFC Publications may ask the Author via electronic mail to modify the price of the paperback, hardcover, and e-book format of work, should costs change or market conditions warrant.

## **3. AUTHOR Discounts**

The Author shall have the right to purchase copies of the work based on the current information displayed on the author dashboard area of BFC Publications' website at the time each order is placed. All Author payments must be made in advance in this regard.

## **ACKNOWLEDGEMENT**

I have read and fully understand the BFC Publications Book Publishing and Distribution Agreement and the associated Engagement Form that details the list of service deliverables and the payment terms for my book publishing project. I will follow the BFC Publications submission guidelines and the payment terms agreed by me vide this agreement and its associated Engagement Form(s).