

Cover Sheet

We have agreed to publish the following “**Work**” entitled:

[TITLE]

Package

You have chosen the following publication package:

[INSERT DETAILS AND WHAT IS AND IS NOT INCLUDED]

[INSERT DELIVERY DEADLINES AND ELECTRONIC FORMAT REQUIREMENTS].

**The cost of the package is £[COST OF PUBLICATION PACKAGE] + VAT at
£[INSERT VAT AMOUNT IF APPLICABLE]**

Total Cost: £

PUBLISHING AGREEMENT

Dated

2018

BACKGROUND

This agreement sets out the basis on which We will publish Your work.

AGREED TERMS

1. DEFINITIONS

1.1 The following definitions and rules of interpretation apply throughout the agreement.

Audio Book: any sound recording of Your Work, in whatever format.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Copyright: all copyright and rights in the nature of copyright subsisting in the Work in any part of the world to which You are or may become, entitled.

Effective Date: the date of this agreement.

Electronic Book: any visually-readable copy of the Work which is manufactured, stored, distributed, published or transmitted by any electronic means, method or device.

Package: the publishing package selected by You comprising services to be provided by Us, as further detailed in the Cover Sheet.

Payment Dates: June and December each year.

Net Receipts: the net amount received by Us for the sale of copies of Your Work after deducting trade discounts, costs associated with the creation of Your Work (including print costs, proofing and legal clearance fees under clauses 4.2 and 5), and VAT.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

We/Us: Spiderwize of Remus House, Coltsfoot Drive, Woodston, Peterborough PE2 9BF

Work: the work as set out in the Cover Sheet.

You/Your: the person who We have agreed to publish for.

1.2 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.3 A reference to any party includes that party's personal representatives, successors and permitted assigns.

1.4 A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time, provided that, as between the parties, no such

amendment or re-enactment shall apply for the purposes of this agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party. This proviso does not, however, apply in relation to taxation.

- 1.5 A reference to **writing** or **written** includes faxes but not e-mail.
- 1.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. PUBLISHING SERVICES

- 2.1 We shall perform the services specified in the Package chosen by You, in return for the Fee.
- 2.2 We do not have to provide any services until We have provided you with written confirmation.

3. FORM AND DELIVERY OF THE WORK

- 3.1 You must deliver the Work to Us as set out in the Cover Sheet ensuring that any electronic copy does not contain any viruses or other material likely to cause technological harm and You must provide Us with suitable suggestions for the front cover within one month of the date of this agreement.
- 3.2 We cannot be responsible for any accidental loss of or damage to the Work, including illustrations and other material, by fire or otherwise, while it is in Our possession or during the course of production.

4. EDITING AND APPROVAL OF THE WORK

- 4.1 We are under no obligation to accept an instruction to publish until We provide a written approval that the Work is in a form acceptable for publication (**Approval**).
- 4.2 If, after Approval We are advised or consider that changes should be made in order to minimise the likelihood of any legal liability arising from publication, We shall be entitled to make such further changes and/or require You to do so. We have the right to engage a legal adviser at Your cost to assess any potential liability that might arise from publication of Your Work.
- 4.3 You undertake not to assert any rights under the Copyright, Designs and Patents Act 1988 to object to derogatory treatment of the Work as a consequence of Our changes to the Work arising from translation of it, corrections and edits for house style, removal of problematic material and other reasonable edits.

5. PROOF CORRECTIONS

- 5.1 If chosen as part of the Package, We will provide You with proofs which You must review, make any corrections and return to Us within 14 days of receipt. If You do not within that timescale We will assume that those proofs are final. If it transpires that corrections need to be made, these shall be made at Your cost and are payable

within 30 days of the invoice date. We may offset those costs against Your royalty account.

5.2 Unless otherwise included as part of Your chosen Package:

5.2.1 You are responsible for checking the accuracy of Your Work and of any proof. We will not be liable to You for any errors or inconsistency in the Work; and

5.2.2 We provide no guarantee that We will review the contents of the Work and any review does not mean that We confirm Work is provided in accordance with the terms of this agreement.

5.3 We may, without notice at any time:

5.3.1 reject the Work;

5.3.2 decline to publish;

5.3.3 charge You for extra production and colour processing costs because of any failure by You to supply the Work in the required form;

5.3.4 charge You wherever You fail to supply artwork, film, copy or other materials; and

5.3.5 destroy any Work which has been in Our possession for more than 6 months from the date of last use unless We receive written instructions otherwise.

6. ROYALTIES

6.1 We will pay You royalties on Works sold on Your behalf at a rate of 50% of the Royalty Amount. The **Royalty Amount** is:

RRP of the Work minus the wholesaler discount, minus costs associated with the creation of Your Work (including print costs, proofing and legal clearance fees under clauses 4.2 and 5) and VAT (where applicable).

6.2 The remaining 50% shall be payable to and belong to Us.

6.3 Where the Work is included as part of a collection (an **omnibus edition**), royalties shall be calculated by calculating that proportion of the omnibus edition represented by the Work (on the basis of the number of words contained) and the appropriate portion will be paid to You.

6.4 All sums due to You are exclusive of VAT, unless and until You have notified Us of Your VAT number.

6.5 All royalties (and any other sums payable to You under this agreement) will be paid subject to deductions and withholdings as required by law.

6.6 All payments will be in pounds sterling to the bank account nominated by You.

6.7 We do not have to pay You until:

6.7.1 We have received payment from You for copies and/or licence Fees (as applicable); and

6.7.2 the amount of royalties exceeds £10.

6.8 Royalties will be paid on or before each Payment Date for sales during the six months preceding the previous Payment Date. Payments may fluctuate depending on the currency exchange rates from time to time. As this is outside of Our control, We cannot accept any liability for any losses caused by exchange rate fluctuations or by any failure to remit or convert funds to the UK at a particular time or at a more favourable rate of exchange.

6.9 We can suspend payment if any complaint or claim is likely, until such complaint or claim has been settled to Ours and our insurer's satisfaction.

6.10 No royalties will be payable for copies given or presented free of charge, destroyed in circumstances beyond Our control, confiscated by reason of any lawful authority or purchased by You.

7. LICENCE AND RESERVATION OF RIGHTS IN THE WORK

7.1 You agree that We can exercise all or any of the rights listed in Schedule 1 and shall be entitled to agree sub-licences of such rights to others.

7.2 You retain all copyright (and other rights) in the Work and, subject to clause 7.3, grant to Us the exclusive right to publish and sell the Work at Our discretion (in whatever form) and to license others to do so, in the English language in all existing and future media and formats.

7.3 You must not do anything to affect Our ability to take the full benefit of this agreement or license or instruct any other person to supply or publish the Work during the term of this agreement.

8. THIRD-PARTY MATERIAL

8.1 You must obtain all written consents necessary for the reproduction of any material that contains third-party rights (including quotations, photographs and illustrations), in all editions of the Work for the full term of this agreement and provide Us with such consents on request.

8.2 You agree to indemnify and hold Us harmless against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Us arising out of or in connection with any breach by You of this clause (whether deliberate or negligent).

9. PRODUCTION AND PROMOTION

9.1 We will publish Your Work within three months of Approval unless prevented from doing so by events outside of Our control. All matters relating to production and publication shall be at Our discretion.

9.2 We may use Your name and the graphics for promotional and publication purposes and You grant Us the right to do so.

9.3 We have the right to:

9.3.1 copy and communicate portions from Your Work on Our website (and any partner websites) for marketing purposes; and

9.3.2 create, issue and make available Audio and Electronic Book versions of the Work.

9.4 We will provide free of charge the number of free copies of the first published edition as specified in the Package and as detailed in the Cover Sheet.

9.5 We will liaise with you at least until conclusion of first proof stage, over the content and form of the Work. However, We have complete control over publication (including the choice of paper, printing, binding, dust jacket and embellishments and the manner and extent of promotion and advertising).

9.6 The price of the published Work will be agreed between Us.

10. YOUR WARRANTIES

You warrant that:

10.1 the Work is Your original work and it is not or will not be copied (wholly or substantially) from any other work, material or source;

10.2 You are the sole creator and author of and the legal and beneficial owner of all rights in the Work;

10.3 You are a qualifying person under section 154 of the Copyright, Designs and Patents Act 1988;

10.4 You have not assigned or licensed and will not during the term of this agreement purport to assign or license any of the rights granted to Us under this agreement;

10.5 the rights granted to Us are free from any security, interest, option, mortgage, charge or lien;

10.6 as far as You are aware, the exploitation of the rights granted by this agreement has not infringed, and will not infringe, the rights of anyone else;

10.7 the Work contains nothing that is defamatory or obscene, or unlawful in any other way; and

10.8 You will ensure that the Work does not resemble Our editorial content in any way.

11. FEES AND PAYMENT

11.1 In consideration for Us providing the Package, You agree to pay Us the Fees.

11.2 The Fees are payable by You as to 50% on order and 50% on final approval.

11.3 You shall pay the Distribution Cost on demand and in any event within 28 days of Us asking You to do so. If You do not pay the Distribution Cost within that timescale We may stop providing services and if such non-payment extends beyond six weeks, We can treat this agreement as terminated.

11.4 If You do not pay when You are supposed to:

11.4.1 We may cancel or postpone publication of the Work; and/or

11.4.2 You will be responsible for all Our expenses (including legal fees) incurred in collecting any outstanding amounts.

11.5 The Fees are exclusive of VAT (unless otherwise stated) which will be added (if appropriate) to Our invoices and payable in addition.

12. SALES STATISTICS

You expressly acknowledge that We:

12.1 have not made any guarantees with respect to Work sales volumes; and

12.2 make no representation or warranty with respect to such sales volumes and will not be liable for any claims by You (or anyone else) in that respect.

13. INDEMNITY

13.1 You agree to indemnify and hold Us harmless against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Us arising out of or in connection with any breach of the warranties You have given and any breach by You of this agreement.

13.2 At Our request and at Your expense, You will provide all reasonable assistance to enable Us to resist any claim, action or proceedings brought against Us as a consequence of Your breach.

13.3 If a payment due from You under this clause is subject to tax (whether by way of direct assessment or withholding at its source), We are entitled to receive from You such amounts as shall ensure that the net receipt, after tax, to Us in respect of the payment is the same as it would have been were the payment not subject to tax.

13.4 You shall pay to Us interest on overdue sums under this clause at 4% above Our bank's base rate.

14. COPYRIGHT NOTICE AND INFRINGEMENT

14.1 We have a duty to notify You of any infringement or suspected infringement of the Copyright but We will have absolute discretion in addressing any such infringement which is likely to affect Our rights under this agreement, including issuing and conducting proceedings.

- 14.2 You agree to be joined in as a party to any proceedings described in clause 14.1 and We hereby indemnify You against all liability for reasonable costs and expenses arising from Your participation in such proceedings.
- 14.3 The balance of any award of profits or damages received by Us in connection with any proceedings described in clause 14.1 shall be divided equally between Us, after deduction of Our expenses.
- 14.4 If the Work contains extracts of textual or illustrative material from other copyright works, You are responsible for obtaining written permission to reproduce these extracts for the purpose of publication and must be submitted with the Work to Us.
- 14.5 You must notify Us if there are to be any required third party credits to be included in the Work. We shall have no liability to You (or anyone else) for failure to include any third party credits in the Work.
- 14.6 We will ensure that every copy of the Work published by Us includes the following:
- 14.6.1 "All Rights Reserved. Copyright © [NAME OF AUTHOR] 2018 (being the year of first publication); and
- 14.6.2 "The right of [AUTHOR NAME] to be identified as the author of this work has been asserted in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988".

15. COMMENCEMENT, DURATION AND TERMINATION

- 15.1 This agreement starts on the Effective Date and will continue until terminated earlier as set out in this clause.
- 15.2 Without affecting any of Our other rights or remedies, We may terminate this agreement with immediate effect by giving You written notice if:
- 15.2.1 You commit a material breach of this agreement and (if capable of remedy) You fail to remedy that breach within 10 days of being notified of the breach;
- 15.2.2 You are deemed either unable to pay Your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986;
- 15.2.3 You commence negotiations with all or any class of Your creditors with a view to rescheduling any of Your debts, or make a proposal for or enter into any compromise or arrangement with Your creditors;
- 15.2.4 You are the subject of a bankruptcy petition or order;
- 15.2.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, any of Your assets;
- 15.2.6 You fail to pay any amount when due;

- 15.2.7 a person becomes entitled to appoint a receiver over Your assets or a receiver is appointed; or
 - 15.2.8 You die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing Your own affairs or becomes a patient under any mental health legislation.
- 15.3 Either of Us may terminate by giving to the other not less than two months prior written notice.

16. CONSEQUENCES OF TERMINATION

- 16.1 On expiry or termination of this agreement for any reason:
- 16.1.1 all outstanding sums payable by You to Us shall become immediately due and payable, (subject to the offset of any monies owed by Us to You);
 - 16.1.2 You are obliged to honour the terms of any continuing sub-licences for the remaining duration of their terms;
 - 16.1.3 We will cease to make any use of the Copyright; and
 - 16.1.4 You must promptly return (at Your expense) all records and copies of any information of a confidential nature communicated to You by Us.
- 16.2 Expiry or termination of this agreement for any reason shall not affect any provision of this agreement which is expressed to survive or operate in the event of expiry or termination (including clauses 8.2, 10, 13, 14, 15 and 17) and shall be without prejudice to the provisions of this clause 16 and to any rights of either party which may have accrued by, at or up to the date of such expiry or termination.

17. CONFIDENTIALITY

- 17.1 You undertake, at any time during this agreement, and for a period of five years after termination not to disclose to any person any confidential information concerning Our business, affairs, customers, clients or suppliers except as permitted by clause 17.2.
- 17.2 You may disclose Our confidential information:
- 17.2.1 to Your representatives or advisers who need to know such information for the purposes of ensuring that Your obligations under this agreement are fulfilled but must make sure that any such persons comply with terms similar to those of this clause 17; and
 - 17.2.2 as may be required by law, court order or any governmental or regulatory authority.
- 17.3 You must not use Our confidential information for any purpose other than to perform Your obligations under this agreement.

18. OTHER IMPORTANT TERMS

- 18.1 Assignment

18.1.1 We may transfer our rights and obligations under these terms to another organisation. We will contact you to let you know if we plan to do this.

18.1.2 You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing.

18.2 Set-off

We may at any time set off any liability We have to You, against any liability You have to Us, without prejudice to Our other rights and remedies.

18.3 Further Assurance

Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this agreement.

18.4 Remedies

You acknowledge and agree that damages alone would not be an adequate remedy for any breach by you of this agreement. Accordingly, We shall be entitled, without proof of special damages, to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this agreement.

18.5 Waiver

If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.

18.6 Entire Agreement

18.6.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18.6.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

18.7 Variation

Variations of this agreement shall be only effective if it is in writing and signed by both of us.

18.8 Severance

Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

18.9 Counterparts

18.9.1 This agreement may be signed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

18.9.2 Transmission of the executed signature page of a counterpart of this agreement by (a) fax or (b) e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement.

18.9.3 No counterpart shall be effective until each party has executed at least one counterpart.

18.10 Third Party Rights

This contract is between You and Us. No other person shall have any rights to enforce any of its terms.

18.11 No Partnership or Agency

18.11.1 Nothing is intended to, or shall be deemed to, establish any partnership or joint venture between us or constitute either of us as an agent and no party authorises the other to enter into any commitments for or on behalf of the other.

18.11.2 We both confirm we are acting on our own behalf and not for the benefit of any other person.

18.12 Mediation

18.12.1 Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you may want to contact the European Commission Online Dispute Resolution platform.

18.12.2 The mediation will start not later than 14 days after the date of the ADR notice.

18.13 Force Majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance

continues for four weeks, We may terminate this agreement by giving seven days' written notice to You.

18.14 Notice

18.14.1 Any notice or other communication required to be given to a party under or in connection with this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service providing proof of postage, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

18.14.2 Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, or if sent by fax, at 9.00 am on the next Business Day after transmission, or otherwise at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

18.14.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include e-mail.

18.15 Governing Law and Jurisdiction

These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

This agreement has been entered into on the date stated at the beginning of it.

EXECUTED as a Deed by the above named)
SPIDERWIZE acting by way of)
[EMPLOYEE NAME], an authorised)
Signatory in the presence of:)

.....
Authorised Signatory

Witness Signature:

Witness Name:

Witness Address:

.....

Witness Occupation:

EXECUTED as a DEED by the above named)
[AUTHOR NAME])
in the presence of:)

.....

Witness Signature:

Witness Name:

Witness Address:

.....

Witness Occupation:

Schedule 1 Subsidiary rights

Rights

Anthology rights

Computer game rights

Digest book condensation rights

Dramatisation and documentary rights

Educational and simplified reprint rights

Electronic Book rights

Electronic version rights

Film strip rights

First serial rights

Journal and magazine rights

Large print rights

Merchandising rights

Non-commercial rights for the print-handicapped

Other mechanical reproduction rights

One-shot periodical rights

Quotations and extract rights

Radio, television and public performance undramatised readings

Recorded undramatised readings (abridged)

Recorded undramatised readings (unabridged)

Reprint or royalty-exclusive book club rights

Reprint or royalty-exclusive US publication rights

Second and subsequent serial rights

Strip cartoon rights or picturisation book rights

Sub-licensed paperback editions