



# Gypsy Shadow Publishing

## Contract

### *Gypsy Shadow Publishing* Publication Contract

#### AGREEMENT

made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

between \_\_\_\_\_ writing as \_\_\_\_\_  
(hereinafter called the Author); and *Gypsy Shadow Publishing* whose principal place of business is at P O  
Box 242, Fentress, Texas 78622 (hereinafter called the Publisher);

with respect to the work entitled " \_\_\_\_\_",  
hereinafter referred to as the Work;

#### WITNESSETH:

In consideration of the mutual covenants herein contained, the parties agree as follows:

#### 1. Grant of Rights

The Author, on behalf of the Author and the Author's heirs, executors, administrators, successors and assignees, grants to the Publisher the sole and exclusive worldwide right to publish:

**eBook Edition:** To produce, publish and sell in electronic format(s) the Work in English in readable-text digital format provided via electronic download, disk, CD/CD-ROM, DVD, E-Book Reader or similar media of presentation, excluding motion picture/television/video/DVD rights.

This is a distribution and publication license. This contract does not transfer ownership, copyrights, or trademarks from the Author.

## **2. Length of Agreement**

This Agreement shall begin with the execution of this contract and continue in force for a minimum period of one (1) year from the actual date of publication of each edition.

## **3. Termination of Agreement**

This agreement between Publisher and Author shall remain active indefinitely unless terminated by either party as provided for below. Upon termination, all rights to the Work shall automatically revert to the Author.

At any time prior to the publication, or during the publication, or after the publication of the Work, Publisher may, at its discretion, terminate this agreement and remove the Work from publication or distribution for reasons of poor sales, excessive returns, or any other reasons as decided by the Publisher. Publisher shall give notice to Author thirty (30) days prior to Work being placed out of publication.

Notice must be in writing by certified mail or other receipted or traceable delivery service, including email where return acknowledgement is received. When Publisher removes the Work from sale, this contract shall terminate and all rights granted shall revert to the Author.

For **eBook Editions**, the Author may request termination during the agreement period, as stated below. Request for termination by Author must be in the form of a certified mail notice or other receipted or traceable delivery service, including email where return acknowledgement is received ninety (90) days prior to the effective date of termination.

In the event of termination of this agreement, Publisher will remove listing of the Work from its website and all download-based distributors. Author agrees to destroy or purchase, at a reasonable price, any digitally formatted files, including but not restricted to Cover Art, created by the Publisher and requested and actually received from the Publisher.

## **4. Representations and Warranties**

Author warrants and represents that this Work is original with Author, that Author is sole author and proprietor of said Work, or has been assigned the rights delineated above, with full power and right to enter into this agreement and to grant the rights hereby conveyed to the Publisher; that said Work contains no matter which is unlawful in its content, libelous and infringes no right of privacy or copyright; that the Work contains no matter nor does it violate the rights of any third party; that the Work is not in the public domain; that Author has not heretofore and will not hereafter during the term of this agreement enter into any agreement or understanding which would conflict with the rights herein granted the Publisher.

If the Work has been previously published in any form, Author warrants that the rights granted herein have reverted to the Author. As an addendum to this agreement, Author shall present some written memorandum documenting the reversion of the rights granted by any publishing company that may have held rights to the Work. If a judgment is obtained against Publisher for usurping rights still controlled by another publisher or other entity than Publisher or Author, the Author agrees to hold Publisher harmless and to indemnify Publisher for reasonable damages and costs. If Publisher prevails against a suing party or resolves the matter by out-of-court settlement, Author will be liable to indemnify Publisher for defense and settlement costs if Author's warrantees are found to be invalid.

If Author shall breach this warranty, the Publisher shall be entitled to injunctive relief in addition to all other remedies which may be available to it. Author further agrees that Author will hold the Publisher, its distributors, and any retailer harmless against any recovery or penalty finally sustained arising out of Author breach of this warranty, and in this event Author will reimburse the Publisher for all court costs and legal fees incurred. Any out of court settlement of any suit filed jointly against the Author and the Publisher shall be made only by mutual agreement in writing between same.

## 5. Royalties

In compensation for this grant of rights, the Publisher will pay the Author royalties based upon net sales (actual sales less any refund) as reported by the Publisher's distributors as follows:

For electronic edition For **eBook Edition** copies sold: fifty percent (50%) of the cover price received for each sale made directly off the **Gypsy Shadow Publishing** website, provided the book is not on sale.

For **eBook Edition** copies sold: Fifty percent (50%) of the net amount received for each sale made directly from the **Gypsy Shadow Publishing** website if the book is on sale, or from third-party wholesalers, distributors, resellers, or vendors.

Net sales are defined as the Total Dollar amount that is actually received by the Publisher from the wholesale or retail sale of the WORK minus the Total Dollar amount of any amount Refund. No additional fees or costs of sales are deducted from net sale amount received. Wholesale amounts vary with each wholesaler/distributor. Consignment placements are not considered sales until Publisher receives payment. Net sales directly from Publisher are based on retail price or discounted sale price.

Royalties for each copy sold are earned and paid in the same period as the Publisher actually receives payment for that copy sold. No advances are made on royalties where the payment for sales has not been received by the Publisher.

Author will receive no royalties on copies of Work considered complimentary, i.e., those used for charitable, advertising, contests, and review purposes. Author will receive no royalties on copies of Work purchased by the Author at Author's discount.

## 6. Statements and Payments

Royalty statements are produced quarterly 62 days after the last day of the previous sales quarter. Royalties earned for the royalty period shall be paid contemporaneously with issuance of the royalty statement except as noted below. Payments will be made by physical check or electronic payment via **PayPal** in United States Dollars (USD). Electronic payment via **PayPal** is the only method of payment available for United States of America (hereinafter US) and non-US authors.

Royalty amounts under \$25.00 will be accumulated until the amount reaches \$25.00. At that time royalties will be paid with the next royalty period statement. Author will receive a royalty period statement regardless of whether a royalty check is issued.

Author understands that royalties will be paid in the royalty period copies of the Work are paid for by consumers, distributors, wholesalers, or vendors. If payment is delayed to Publisher, Publisher is not obligated to pay the royalty until it has been paid by the distributor or vendor. Publisher does not advance royalties to Author.

The Publisher will provide a Form 1099 statement of royalty earnings to US-tax paying authors in each calendar year, when required by law. Payment of income taxes on royalties is the sole responsibility of the Author. US authors are required to provide the Publisher with a completed IRS Form W-9 to decline 30% withholding tax. In the event that the form is not on file, withholding tax must be deducted from Author's earnings and forwarded to the US Internal Revenue Service.

If the Author should die before the termination of this agreement, this contract shall transfer in force to the Author's official heirs, assigns, or beneficiaries. Publisher will pay royalties to Author's official heirs, assigns, or beneficiaries. If no official heirs, assigns, or beneficiaries can be located, Publisher is authorized to hold, without penalty or interest, payment of royalties until official heirs, assigns, or beneficiaries can be located.

It is the Author's responsibility to communicate with the Publisher any change in Individual Taxpayer Identification Number, Social Security Number, US Postal Service, Telephone Number, or Electronic Mail address. If Author fails to advise Publisher of any changes in the above that prevent the timely payment of royalties, Publisher is authorized to accumulate, without penalty, payment of royalties until current information is received. If a check sent by regular post is returned by the US Postal Service or express delivery service as undeliverable, the Publisher shall first attempt to contact Author by all existing contact information before unilaterally accumulating payment of royalties. Such accumulated payment of royalties shall be held without penalty or interest until author can be contacted.

In the event that additional Works by the same Author are currently being marketed by the Publisher, royalty accounts from all such titles may be combined with payments for this Work in a single transaction.

Author's royalty statement will include: Date of the Royalty Period; Title of Work; Number of Copies Sold and Paid For During Royalty Period; Number of Copies Returned During Royalty Period; Royalty Percentage Rate; and Dollars Owed to Author for the Royalty Period.

In all instances in which the Author shall have received an overpayment of royalty monies under the terms hereof, the Publisher may deduct such overpayment from any future sums payable to the Author in respect to the Work.

## **7. Audit**

The Author shall have the right to examine or cause Author's duly appointed representatives to examine the accounts of the Publisher with respect to the Work at any time after sixty (60) day written demand by the Author. In the event discrepancies between royalty statements and the Publisher's accounts shall total more than one hundred dollars (\$100.00) in the Author's favor under this and any other agreement between the Author and the Publisher, the Publisher shall tender such monies due to the Author within thirty (30) days, along with reimbursement in full for any duly verified expenses incurred by the Author as a result of the auditing procedure. Should such discrepancies total less than one hundred dollars (\$100.00) in favor of the Author, the Publisher shall tender such money due to the Author within thirty (30) days, but shall not be liable for reimbursement of the Author's expenses.

## **8. Editing Rights**

Publisher has the right of final approval of Author's manuscript. Publisher may assign an editor to coordinate with Author in making edits and revisions. The Author will be notified prior to any and all substantial changes. The Author will not be required to pay for the services of an editor assigned by Publisher. Publisher may make all corrections of typographical or grammatical errors without Author's consent.

## **9. Cover Art**

Publisher shall provide cover art at its own expense. Author will be asked to produce proposed back blurb text and suggestions for cover art. If Author wishes to provide Author's own cover art, this will be at Author's expense. If Author engages an artist to produce an alternative cover, Author must present documentation that Author has permission to reproduce the proposed cover art from the copyright owner, or warrants and provides proof that the cover art is in the public domain. If Author provides Author's own cover art, Author is responsible for formatting it in an appropriate graphics format of suitable reproduction quality. Publisher will give credit in the published Work to the cover artist. Publisher has final approval of any cover artwork. The Publisher owns the copyright of cover art designed and created by the Publisher.

## **10. Galleys (Final Proof)**

For **eBook Editions**, Publisher will provide a final proof of the Work, which Author must correct and return within twenty (20) days. If the final proof is not received as agreed, Publisher has the option to delay release or terminate the agreement as warranted.

### **11. Author Copies**

On publication of the Work, Publisher shall give Author a copy of the **eBook Edition** (final PDF) of the Work for Author's own use free of any charge. Royalties shall not be paid on this complimentary copy.

Author may elect to purchase an unlimited number of eBook copies from the website at a discount of 40%. Author will receive no royalties on any copies that Author has purchased at the discount rate. Author will pay all shipping charges for purchased copies, if in the form of printed Edition CD/CD-ROM or DVD.

### **12. Promotion and Promotional materials**

Author has permission from the Publisher to duplicate, at no cost and no royalty, exact text copies in digital or print formats for the purpose of obtaining book reviews, or entering competitions or contests prior to publication. Once the Work is published and available in print format (after executing a separate print contract), Author does not have permission to make print copies for competitions or contests, but must use any free author copies provided under the print contract or purchase additional print copies for this purpose at Author's discount.

Publisher and Author agree to supply each other with copies of any professional reviews, either digital or print copies. Neither Author nor Publisher is required to provide the other with copies of "Reader Reviews" voluntarily posted by consumers at any online vendor. Publisher may promote the Work through Ingram's Wholesale Catalog, its website, and other avenues of promotion. Publisher will make every effort to maintain an attractive, updated website. Publisher will not be liable for site downtime or interrupted transmission.

### **13. Author/Publisher Indemnification**

Author shall indemnify, defend and hold harmless Publisher and its owners and affiliates, editors, shareholders, officers, directors, partners, associates, agents and representatives and the Publisher shall indemnify, defend and hold harmless the Author from any and all claims, debts, demands, suits, actions, liens, proceedings and/or prosecutions ("Claims") based on allegations which, if true, could constitute a breach of any of the foregoing warranties, and any and all liabilities, losses, damages and expenses including, but not limited to, attorney's fees and court costs. Each party to this Agreement shall give prompt notice to the other party of any Claims. No compromise or settlement of any Claim shall be made or entered into without the prior written approval of the Author and Publisher. If a Claim is filed, Publisher shall have the right to suspend payments otherwise due to Author under the terms of this Agreement as security for Author's obligations under this section.

### **14. Insolvency of Publisher, Sale of Publisher**

If the Publisher files for protection under the Bankruptcy Laws, all rights included in this agreement shall immediately revert to the Author, however, the Bankruptcy Trustee may petition the court to hold this agreement as an asset of the Publisher. If the bankruptcy filing involves reorganization and Publisher continues to operate during the reorganization, Author and Publisher may agree in writing to continue this agreement under the same or revised terms.

If the Publisher suspends operations, other than a temporary suspension for technical difficulties such as a loss of Web Server or other suspension not lasting more than sixty (60) days, all rights delineated in this agreement shall immediately revert to the Author. If the Publisher's operations are ordered suspended by



any governmental or police entity, or by Injunction or Restraining Order, all rights shall immediately revert to the Author. If the suspension is lifted and operations resume, Author and Publisher may agree in writing to continue this agreement under the same or revised terms.

If the Publisher sells its assets to another Publisher, who does or plans to market and promote books of the type and genre of the Work, the successor Publisher will be bound, as a minimum, to the same terms delineated in this agreement. If the successor Publisher does not plan to market and promote books of the type and genre of the Work, all rights delineated in this agreement shall revert to the Author not more than sixty (60) days after the sale of Publisher.

### **15. Copyright Infringement**

If during the existence of this agreement the copyright shall be infringed, the Publisher may, at its own expense, take such legal action, in the Author's name if necessary, as may be required to restrain such infringement or to seek damages therefor. The Publisher shall not be liable to the Author for the Publisher's failure to take such legal steps. If the Publisher does not bring such an action, the Author may do so, in Author's name at Author's own expense. Monetary 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 monetary damages recovered on account of a loss of the Publisher's profits shall be divided equally between the Author and the Publisher.

### **16. Laws and Venue**

The Publisher is a General Partnership, organized under the laws of the State of Texas and the United States of America (US). The laws of the State of Texas shall govern this Agreement. Recognizing the expense, distraction, and uncertainty resulting from litigation of disputes which may arise under this Agreement, the parties have agreed that except as specifically provided herein they shall submit any and all disputes arising in any way under this Agreement to the American Arbitration Association for final disposition in accordance with its rules, provided that the Arbitrator shall have no authority to award punitive damages.

Notwithstanding the foregoing, nothing in this Agreement shall be deemed to deprive a party of the right to equitable relief in a court of competent jurisdiction respecting rights to its intellectual property or use thereof under this Agreement. Any proceeding under this paragraph shall be brought in the federal or state courts in Texas. A judgment may be entered in a court of competent jurisdiction based on any award rendered in arbitration or other proceeding conducted by the parties pursuant to this paragraph.

### **17. Understanding of All Parties**

This Agreement contains the entire understanding of the parties with regard to the subject matter hereof and no warranties, representatives, promises or agreements have been made between the parties other than expressly herein set forth, and neither Publisher nor Author shall be, nor are they bound by, any warranties, representations, promises or agreements not set forth herein. The Agreement supersedes any previous agreement or understanding with respect to the Work and cannot be modified except in writing by all the parties hereto. Upon execution, this Agreement shall be absolutely binding and fully enforceable and shall inure to the benefit of the parties hereto, their successor, personal representative, heirs and assigns.

### **18. 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 the Publisher.

## **19. Execution and Delivery of Contract**

If this Contract shall not be signed and returned to the Publisher within a period of two (2) weeks from the date of its transmittal to the Author, the Publisher shall have the option to withdraw its offer of agreement. Nothing contained herein shall be construed to vitiate the Publisher's right to withdraw its offer of agreement prior to delivery of the signed agreement to the Publisher by the Author.

The Author has delivered to the Publisher, one (1) complete manuscript of the Work, acceptable to the Publisher in Microsoft® WORD format (.doc/.docx) or Rich Text Format (.rtf). The Author will also deliver written authorizations for the use of any materials owned by a third party included in the manuscript (if any).

The Publisher reserves the right to reject the Work and terminate this Contract if the Author fails to meet the afore-mentioned deadline, or if the Author delivers the Work and the Work is not accepted by the Publisher as being satisfactory.

## **20. Miscellaneous**

- **Audit**—The Author may, with reasonable written notice, assign and designate a representative to examine the Publisher's records as it relates to the Work. Such examination shall be at the Author's expense unless errors are found in excess of five percent (5%) of royalties in Author's favor and an amount in excess of one hundred dollars (\$100), whichever is greater, in which case, the Publisher shall then defray all usual, customary and reasonable charges for such audit. The Publisher shall pay the Author any sums due within thirty (30) days.
- **Authors**—Whenever the term Author refers to more than one person, such persons shall be jointly and severally responsible for all aspects of this contract.
- **Transferability**—If the Publisher changes its legal form, is acquired by another entity, or otherwise changes ownership, all rights and responsibilities granted in this contract will be transferred to the succeeding entity.
- **Severability**—If any part of this Contract is determined by a Court to be unenforceable, the rest of the Contract is still considered to be in force.

