



NICHOLAS BREALEY
PUBLISHING

NB Limited

A Member of Hachette UK Limited

Publishing Agreement with

XXXXXXXXXXXXXXXXXXXX

for

XXXXXXXXXXXXXXXXXXXX

(working title)

THIS AGREEMENT is made on the _____ day of _____ 2017
between _____

(1) XXXXXXXXXXXXXXXXXXXX (the 'Author', which includes the Author's Executors, Administrators, successors and assignees, as may be appropriate) of XXXXXXXXXXXXXXXXXXXX.

(2) **NB Limited** (the 'Publishers', which includes the Publishers' successors in business and permitted assignees, as may be appropriate) whose registered office is at Carmelite House, 50 Victoria Embankment, London EC4Y 0DZ, England.

1. The Work

1.1 This Agreement concerns the following literary work (which, together with all the materials included in it, is called the 'Work'):

Title: XXXXXXXXXXXXXXXXXXXX (**working title**)

Author: XXXXXXXXXXXXXXXXXXXX

Description: XXXXXXXXXXXXXXXXXXXX explains how to leverage the leadership values from NASA's Mission Control, how to apply them in management ranks and how to bring a culture of highly reliable decision making to any team or business.

ISBN hardcover TO BE CONFIRMED

ISBN trade paperback: TO BE CONFIRMED

ISBN Ebook: TO BE CONFIRMED

ISBN audio digital download: TO BE CONFIRMED

2. Publishers' undertaking to publish and general obligations

2.1 The Publishers will first publish the Work at their own expense within eighteen months of full delivery of an Acceptable Typescript (as defined in Clause 7.2) from the Author.

2.2 The Publishers will produce the Work in book form to a good professional standard. The editorial, design and production personnel assigned to the Work will be suitably experienced and will work under the immediate supervision of a director. No changes in the title or text of the Work (other than changes made to conform to the Publishers' house style) will be made by the Publishers without the Author's consent, not to be unreasonably withheld or delayed. The Author's views on editing will be taken fully into account; and the Publishers will not publish the Work under the Author's name until and unless any reasonable differences on editing have been resolved. Unless the Author expresses a wish to the contrary, the Author will be sent a copy of the edited typescript at least 14 days before it goes to the printer. The Author's views on the briefs for covers, jackets and the format for the Work will be sought and taken properly into consideration and the Author will be shown artists' roughs (or, if that is impracticable, proofs) of the jacket and will be consulted about them, though the Publishers do reserve the right to take the final decision over these so as to take into account the known or likely views of customers.

2.3 The Publishers will promote and sell the Work in a professional manner and to its optimum reasonable market potential. The Publishers will send the Author a form on which to give accurate biographical information and all possible publicity leads, contacts and ideas. The Publishers will also send the Author in good time for comment their proposed distribution list for review copies and information about their proposed marketing plans, including publication date and Retail Price (as defined in Clause 3.1).

- 2.4 The Publishers will not insert advertisements (other than for their own publications or services) within any edition of the Work published by them, and they will use reasonable endeavours to ensure that a similar condition is included in all contracts with sublicensees.
- 2.5 If the Author requests the Publishers in writing to return the typescript of the Work they will use reasonable endeavours to do so within thirty days of publication; but they will not be responsible for the condition of the typescript.
- 2.6 The Publishers will not be in breach of this Agreement if:
- (i) they are prevented from carrying out any of their obligations because of the Author's failure to meet the Author's specific obligations or warranties, in which case the Publishers will not be liable to make any further payments to the Author under this Agreement unless and until the failure has been rectified; or
 - (ii) they are prevented from carrying out any of their obligations because of circumstances beyond their control in which case the time permitted for the Publishers to fulfil those obligations, including making any payments due, will be extended by the length of those circumstances.
- 2.7 Not applicable.
- 2.8 The Publishers will provide the Author with monthly sales statements and with clear statements of sales and royalties as set out in Clause 19. The Publishers will make prompt payment of all amounts due under this Agreement and any failure to do so will provide grounds for termination under Clause 24.

3. Publishers' publication intentions

- 3.1 The Publishers are committed to publishing the Work as set out in Clause 2.1. Approximate publication dates and Retail Price for the Publishers' editions of the Work will be confirmed and added to this Agreement by a letter of amendment.

The term 'Retail Price' as used throughout this Agreement means the Publishers recommended list price for the Work, excluding any Value Added Tax ('VAT') and other taxes to which it may be subject.

4. Rights

- 4.1 The copyright in the Work remains the property of the Author. In recognition of the payments due under this Agreement, the Author grants to the Publishers the rights
- (i) to produce and publish and sell the whole or any part of the Work in all languages in volume form and in electronic form and in the other subsidiary rights and ancillary forms and media specifically included or referred to in this Agreement under Clauses 17 and 18;
 - (ii) to develop and sell multimedia software applications based on and incorporating elements of the Work which may include other multimedia or interactive elements specifically developed for electronic exploitation including but not limited on an iPad or other mobile wireless device based on the Work ('Multimedia App'); and
 - (iii) to exploit and sublicense the volume and other subsidiary and ancillary rights in the Work specifically included in this Agreement.

5. Territories

- 5.1 The rights under Clause 4 are granted exclusively to the Publishers throughout the world.

6. Duration

- 6.1 The rights under Clause 4 are granted to the Publishers for the full legal term of copyright and any and all renewals and extensions and revivals of that term.
- 6.2 The Author may terminate this Agreement, using the procedures and subject to the definitions and provisions set out in Clause 24.

7. Delivery

- 7.1 The Author accepts that prompt delivery of an Acceptable Typescript (as defined in Clause 7.2) is important and undertakes to deliver to the Publishers one electronic copy and one hard copy of the complete typescript in a format acceptable to the Publishers by the date and of the length specified below (subject to any variations that may be agreed in writing between the Author and the Publishers). The Author will keep a copy of the typescript and all other materials for the Work delivered to the Publishers where those materials can be copied satisfactorily.

Length: approximately 70,000-80,000 words

Delivery to the Publishers by: 15th April 2017

- 7.2 An 'Acceptable Typescript' means one which:
- (i) is complete, and meets the description in Clause 1.1,
 - (ii) fulfils the specifications in Clause 7.1 and Clause 8,
 - (iii) accords with any proposal agreed by the editor,
 - (iv) complies with the warranties in this Agreement,
 - (v) is in style and content professionally competent and in the Publishers' reasonable opinion is fit for publication,
 - (vi) if the Publishers consider this appropriate, is approved by the Publishers' legal advisers; and
 - (vii) is approved by any relevant third party such as the Ministry of Defence.

Where the Publishers accept the typescript delivered, they shall notify the Author of this.

- 7.3 The Publishers may only decline to accept the typescript delivered on the grounds that it is not an Acceptable Typescript; and if the Publishers do decline to accept the typescript they will set out their full reasons for doing so in a written notice of at least 250 words on the later of the following dates:
- (i) within thirty days of the Publishers receiving the typescript, or
 - (ii) if the Publishers choose to have the Work read for libel or other legal issues (in which case they will inform the Author that this is being done), within thirty days of receiving the final legal report relating to that reading, or
 - (iii) if the Work requires clearance from a third party, such as the Ministry of Defence, within thirty days of receiving any notice of non-approval from the relevant third party, or
 - (iv) if the Publishers have agreed in writing that the Author may make revisions in order to make the typescript as originally delivered an Acceptable Typescript, within thirty days of the Publishers receiving the revised typescript.

The written notice shall be sent in accordance with Clause 28 and may take the form of a copy of, or extracts from, the report relating to the legal reading of the Work and/or the response from the third party. Where the Publishers decline to accept the typescript, they may terminate this Agreement immediately on giving written notice to the Author, either:

- (a) following the expiry of the thirty day period referred to in Clause 7.3(iv) if the Author has failed to make the agreed revisions, or if the Author's revisions do not result in the typescript being an Acceptable Typescript, or
- (b) in any other case, at or after the time at which the Publishers give their reasons for declining to accept it (and the notice of termination may therefore be included within the same document as the notice of reasons).

If the Publishers do terminate under this Clause 7.3, they may require the refund of all payments to the Author in connection with the Work.

7.4 If the Author fails to deliver any typescript of the Work and any agreed illustrations within thirty days of the relevant date specified in Clause 7.1, the Publishers may in exceptional circumstances agree to a later date in writing; but otherwise (or if the Author fails to deliver by the agreed later date) the Publishers may terminate this Agreement immediately on giving written notice to the Author. If the Publishers do terminate under this Clause 7.4, they may require the refund of all payments made to the Author in connection with the Work.

7.5 If this Agreement covers more than one Work and the Author fails to deliver any typescript or an Acceptable Typescript and any agreed illustrations for any Work covered by this Agreement by the relevant date specified in Clause 7.1, the Publishers may terminate this Agreement immediately on giving written notice to the Author, provided that, where the Author has delivered the typescript for that Work but it is not an Acceptable Typescript, they have complied with Clause 7.3. If the Publishers do terminate under this Clause 7.5, they may do so either:

- (i) in respect of that Work only, in which case they may require the refund of all payments made to the Author in connection with that Work only, or (if the Publishers so choose)
- (ii) both for that Work and for any other unpublished Work(s) covered by this Agreement which has/have not been accepted by the Publishers at the time of termination, in which case they may require the refund of all payments made to the Author in connection with all Works affected by the termination.

The notice of termination may be given at the same time as any notice given under Clause 7.3 or 7.4 (as applicable). Termination under this Clause 7.5 shall not affect the continued existence of this Agreement in relation to any Work(s) already accepted at the time of termination, nor in relation to any unpublished Work(s) which is/are not expressed to be affected by the notice of termination.

7.6 Clauses 7.3, 7.4 and 7.5 do not limit any of the Publishers' other termination rights set out elsewhere in this Agreement.

8. Illustrations

8.1 The Author will provide illustrations, in a form suitable for reproduction and of the quantity and type and by the date specified below, without additional payment.

Quantity and type: a number of black and white diagrams or other illustrations, to be agreed by the Publishers and the Author

Delivery to the Publishers by: 15th April 2017

8.2 The Author will obtain written permissions from the relevant copyright holders for the use of any illustrations delivered under Clause 8.1 in all editions, versions, forms and media published or licensed by the Publishers in the languages and territories in which the Publishers have rights under this Agreement. The Author will pay any picture research fees and any copyright fees required by the copyright holders. On request, the Author will send the Publishers copies of the permissions obtained and proof of picture research fees and copyright fees paid by the Author.

8.3 For photographs delivered by the Author under Clause 8.1, commissioned for private and domestic purposes and taken after 31st July 1989, the Author will obtain written consents from those who commissioned the photographs (and who are therefore entitled to the right of privacy in those photographs under the Copyright, Designs and Patents Act 1988) for use of the photographs in all editions, versions, forms and media published or licensed by the Publishers in the languages and territories in which the Publishers have rights under this Agreement. On request, the Author will send the Publishers copies of the consents obtained.

9. Permissions

9.1 Unless otherwise agreed, if the Work includes written materials in which the copyrights are not owned by the Author, the Author will obtain written permissions from the relevant copyright holders for use of those materials in all editions, versions, forms and media published or licensed by the Publishers in the languages and territories in which the Publishers have rights under this Agreement. The Author will pay any copyright fees required by the holders of those copyrights. On request, the Author will send the Publishers copies of the permissions obtained and proof of copyright fees paid by the Author.

10. Index

10.1 Not applicable.

11. Responsibility for materials

11.1 The Publishers will endeavour to take good care of all materials delivered under this Agreement and will be responsible for any loss or damage caused to original illustrations because of the negligence of their employees. However the Publishers will not be responsible for any other loss or damage to materials delivered to them, irrespective of the cause, while those materials are in their possession or in the course of production or in transit.

12. Proofs and alterations

12.1 The Publishers will send proofs of the Work to the Author who undertakes to correct, revise and return them to the Publishers within fourteen days of receipt. The Publishers reserve the right to invoice the Author for the cost of the Author's alterations to the proofs (other than the correction of any printer's or Publishers' errors) in excess of 10% of the total cost of typesetting and for the total cost of the Author's alterations to illustrative material.

12.2 If the Author requests alterations to the Work after printing has begun the Publishers will normally (but at their discretion) include those alterations in any future edition of the Work, as long as they are notified to the Publishers in writing. If the Author requests alterations after proofs have been approved the cost of making alterations to correct errors will be allocated fairly to the party or parties responsible for the errors. The cost of making alterations agreed by the Publishers, other than for correction of errors, will normally be borne by the Publishers.

13. Revised editions

- 13.1 Should the Publishers and the Author agree that any of the versions of the Work covered by this Agreement need to be revised, edited extended or updated, the Author agrees to provide a minimum of 20% new text for such revised addition for no additional payment. If the Author is unwilling or unable within a reasonable time to comply with the Publishers' request for such material, the Publishers may arrange for it to be supplied by a third party. The choice of third party and the fee due to the third party will be subject to the Author's agreement, which will not be unreasonably withheld. The Publishers may deduct the agreed fee from any sums due to the Author. For the purposes of royalties, a new edition as opposed to a reprint will be treated as an original publication.

14. Author's copies

- 14.1 The Publishers will send the Author free of charge 12 copies of their hardcover edition of the Work and 20 copies of their paperback edition of the Work on the Publishers' respective publication dates. The Publishers will send the Author, free of charge, at least 2 copies of each sublicensed edition of the Work received by them.
- 14.2 The Publishers will supply further copies of their editions of the Work to the Author at 50% discount from the UK Retail Price (and free of carriage costs when sent to UK addresses), on condition that payment is made by cheque or a major credit card at the time of ordering.

15. Credits, copyright notices and moral rights

- 15.1 The Publishers will include the Author's name prominently on the jacket, cover, binding and title page of the Work and in all appropriate publicity material.
- 15.2 The Publishers will include a copyright notice in the form specified below in every copy of the Work issued by them; and they will stipulate in all contracts with sublicensees that the sublicensees' editions will include that copyright notice:

Copyright © ** XXXXXXXXXXXXXXXXX
(* indicates year of first publication)

- 15.3 The Author asserts the Author's right, under the Copyright, Designs and Patents Act 1988, to be identified as the author of the Work. The Publishers will include a notice of that assertion in every copy of the Work published by the Publishers and they will stipulate in all contracts with UK sublicensees a requirement that the sublicensees' editions will include such a notice.
- 15.4 If it is essential for the exploitation of particular rights granted under this Agreement and then only if requested by the Publishers to do so the Author will waive the right to object to derogatory treatment of the Work given under the Copyright, Designs and Patents Act 1988 for the exploitation concerned.

16. Advance

- 16.1 In recognition of the rights granted under this Agreement, the Publishers will pay the Author the total advance specified below, on account of all royalty and other earnings which accrue to the Author under this Agreement:

The total sum of US\$5,000, payable in accordance with the following schedule:

US\$3,000 on signature of this Agreement by both parties
US\$2,000 on delivery and acceptance of an Acceptable Typescript

Payment of any of the above sums shall not amount to a waiver of the Publishers' rights under this Agreement, including without limitation the Publishers' rights under Clauses 20 and 24.

- 16.2 Royalty and other earnings will become due for payment to the Author under Clause 19.2 once their total exceeds the total advance due under this Agreement, whether that advance has been paid in full or (in accordance with the advance payment schedule in Clause 16.1) in part still remains due. If the Author's earnings never exceed the total advance, that advance will remain the property of the Author except as specifically stipulated in this Agreement.

17. Royalties

- 17.1 On all copies of the Work sold by the Publishers (whether as bound copies or unbound sheets) the Publishers will pay the Author the royalties stipulated below as appropriate to the edition concerned, unless different royalties are mutually agreed in writing:

- (i) (a) On sales of hardcover editions in Great Britain, Northern Ireland, the Channel Islands, the Isle of Man, the Isles of Scilly and the Irish Republic (together 'Home Sales'):

Royalties, based on the UK Retail Price, of 10% on the first 10,000 copies sold and 12½% on all further copies sold

- (b) On sales of hardcover editions outside Great Britain, Northern Ireland, the Channel Islands, the Isle of Man, the Isles of Scilly and the Irish Republic and on sales in Great Britain for export purposes (together 'Export Sales'):

Royalties, based on the Net Receipts, of 10% on the first 10,000 copies sold and 12½% on all further copies sold

The term 'Net Receipts' as used throughout this Agreement means the amounts actually received by the Publishers from sales of the Work, represented by the Retail Price less discounts or commission given to agents, wholesalers or booksellers (as appropriate) in order to secure sales to the final customers.

- (c) On hardcover Home Sales at discounts of 52½% or more but less than 57½%: royalties will be payable at four-fifths of the rates then prevailing
- (d) On hardcover Home Sales at discounts of 57½% or more: royalties will be payable at three-fifths of the rates then prevailing
- (e) On simultaneous library hardcover editions with print runs of 1,500 or fewer: 5% of the UK Retail Price on Home Sales and 5% of Net Receipts from Export Sales
- (f) On hardcover reprints of 1,500 copies or fewer: the starting royalties provided in (a) and (b) above for hardcover Home Sales and Export Sales; but this provision will not be implemented more than once in any twelve months without the Author's prior agreement
- (g) On hardcover cheap editions at less than two-thirds of the original UK Retail Price and on any other editions not specifically covered by this Agreement: 10% of Net Receipts from all copies sold
- (ii) (a) On Home Sales of mass-market paperback editions (i.e. paperback editions published in 'A' and 'B' format sizes, which are approximately 178mm x 111mm and 198mm x 128mm respectively):
- Royalties, based on the UK Retail Price, of 7½% on the first 50,000 copies sold and 10% on all further copies sold
- (b) On Export Sales of mass-market paperback editions:
- Royalties, based on the Net Receipts, of 7½% from the first 50,000 copies sold and 10% on all further copies sold

- (c) On Home Sales of trade paperback editions (i.e. paperback editions published in sizes other than 'A' or 'B' format):
- Royalties, based on the UK Retail Price, of 7½% on the first 10,000 copies sold and 10% on all further copies sold
- (d) On Export Sales of trade paperback editions:
- Royalties, based on the Net Receipts, of 10% on all copies sold
- (e) On Home Sales in any paperback format at discounts of 52½% or more but less than 57½%: royalties will be payable at four-fifths of the rates then prevailing
- (f) On Home Sales in any paperback format at discounts of 57½% or more: royalties will be payable at three-fifths of the rates then prevailing
- (g) On reprints of 1,000 copies or fewer in any paperback format: a royalty of 7½%, based on the UK Retail Price, for Home Sales and a royalty of 7½% of the Net Receipts, for Export Sales. This provision will not be implemented before the second anniversary of paperback publication and subsequently not more than once in any twelve months without the Author's prior agreement
- (iii) On sales of omnibus editions in hardcover or paperback bindings:
- A total of 7½% of the Net Receipts will be payable in respect of the whole of each such edition, of which a proportion will be payable to the Author. That proportion will be calculated by establishing the fraction of such edition represented by the Work and then applying the same fraction to the royalty above unless otherwise agreed
- (For example, if the omnibus consists of 3 books of which the Work is one, the royalty payable under this Clause will be 2½% of the Net Receipts.)
- (iv) On promotional reprints, special sales and premium sales of the Work in hardcover or paperback bindings (including but not limited to books for the bargain, own-brand and any other markets for low-priced books or sales made through outlets other than traditional book trade outlets including door-to-door sales or used as consumer incentives in connection with other products):
- Royalties, based on the Net Receipts, of 7½%
- (v) (a) On sales of abridged and unabridged audio-cassette and audio compact disc recordings of the Work:
- Royalties, based on the Net Receipts, of 7½% on all copies sold
- (b) On sales of abridged and unabridged audio digital download recordings of the Work:
- Royalties, based on the Net Receipts, of 7½% on all copies sold
- (c) The Publishers will consult the Author over the reader and any abridgement of the Work
- (e) Audio-cassette, audio compact disc and audio digital download sales will be accounted for individually

- (vi) (a) On sales of an EBook incorporating the whole or a substantial part of the Work which may include additional tools (including but not limited to a search facility, book marking and note taking tools) and enhancements (including but not limited to audio and audio-visual materials) ('EBook'):

On the Publishers' editions: 25% of the Publishers' Net Electronic Receipts

The term 'Net Electronic Receipts' means the amounts actually received by the Publishers from sales of the Publishers' EBook, net of the discount or commission to the retailer or agent and any legally required sales tax such as VAT.

- (b) In the event that the Publishers' EBook consists of the Work coupled with other works the royalty specified in Clause 17.1(vi)(a) will be shared pro rata based on the amount of the EBook represented by the Work.
- (vii) On sales of a Multimedia App: 7½% of the Net Receipts
- (viii) On sales of any other digital product including but not limited to games based on the Work: 7½% of the Net Receipts
- (ix) On copies sold as remainders or as 'clearance sale' equivalents, subject to Clause 23.1 below: 10% of the Net Receipts unless copies are sold below production cost in which case no royalties will be payable
- (ix) On book club editions of the Work sold inclusive of royalties (excluding paperback book club sales under (x) below and audio sales to book clubs or record clubs under (xi) below):
- 10% of Net Receipts
- (x) On copies sold in any paperback format to book clubs at prices inclusive of royalties:
- 7½% of Net Receipts
- (xi) On copies sold in any audio format to book clubs or record clubs at prices inclusive of royalties:
- 7½% of Net Receipts
- (xii) On copies given away free or lost, damaged or destroyed no royalties will be payable.

18. Subsidiary rights

- 18.1 The Publishers will use reasonable endeavours to optimise revenues from the subsidiary rights licensed in this Agreement, unless the Publishers themselves intend to publish the relevant edition or version of the Work (in which case the terms are either included in this Agreement or will be subject to further agreement with the Author).
- 18.2 The Publishers will seek the agreement of the Author (not to be unreasonably withheld or delayed) before licensing any rights under this Agreement other than anthology and quotation rights and book club rights under Clause 18.4, photocopying and other reprographic rights under Clause 18.5; and the Publishers will provide the Author with a copy of each sublicense contract after it has been signed.
- 18.3 The Publishers will use reasonable endeavours to ensure that no changes to the title or text of the Work are made by their sublicensees without the Author's consent, not to be unreasonably withheld or delayed.

- 18.4 The Publishers will pay the Author the following specified percentage of Royalty Receipts from licensing the following subsidiary rights:
- (i) Digest book condensation: 50%
 - (ii) Photocopying and other reprographic rights not included in the collective licensing scheme mentioned in Clause 18.5 below: 50%
 - (iii) Large print: 50%
 - (iv) Anthology and quotation: 50%
 - (v) Magazine and newspaper condensation: 50%
 - (vi) Use of the whole or substantially the whole Work in a single issue of a magazine or newspaper (otherwise known as one-shot): 50%
 - (vii) Serial (i.e. extracts carried in one or more issues of a magazine or newspaper) beginning before book publication (otherwise known as first serial): 90%
 - (viii) Serial beginning on or after book publication (otherwise known as second serial): 75%
 - (ix) Undramatised (straight) readings from the Work on radio and television: 75%
 - (x) Undramatised (straight) readings from the Work in recorded form: 75%
 - (xi) Mechanical reproduction (except where otherwise specified): 50%
 - (xii) Translation rights: 50%. The Publishers will pay the commission of any specialist agent used for selling the rights
On sales of copies (whether specially printed or not and whether bound or in sheets) to foreign language publishers inclusive of royalty: 10% of Net Receipts.
 - (xiii) Publication rights in the USA on a royalty basis: 50%.
On sales of copies (whether specially printed or not and whether bound or in sheets) to publishers in the USA at prices which include royalty: 10% of Net Receipts
 - (xiv) Paperback reprint rights: 60% on the first 50,000 copies, 70% thereafter
 - (xv) Educational reprint rights: 50%
 - (xvi) Hardback reprint rights: 50%
 - (xvii) Ebook rights: 50%
 - (xviii) On copies sold to Book clubs on a royalty exclusive basis or where the club prints its own copies: 50%
 - (xix) Stage, film, radio, television dramatisation and documentary: 50%, after deducting any legal or other professional charges directly connected with the sale of those rights
 - (xx) Merchandising and commercial use of the Work or of the characters, incidents or material contained in it: 80%, after deduction of any specialist agent's commission
 - (xxi) Picturisation (otherwise known as strip-cartoon): 75%
 - (xxii) Other digital rights including but not limited to games: 50%
- 18.5 The Publishers have authorised the Copyright Licensing Agency ("CLA") (the UK's reproduction rights licensing organisation) to include works published by the Publishers in the CLA's collective licensing scheme, allowing limited photocopying and other reprographic reproduction of copyright works. The Work will therefore be included in that scheme and the Author's share of any proceeds will be paid by CLA through the Authors' Licensing and Collecting Society. Even if this Agreement is terminated, this provision will continue in effect if the Publishers have then published the Work.
- 18.6 If the Publishers exercise any of the rights specified in Clause 18 themselves the royalty payable to the Author will be as set out in Clause 17 unless otherwise agreed or, if no royalty is set out in Clause 17, will be the standard rate paid by the Publishers (if any) unless otherwise agreed.
- 18.7 The term "Royalty Receipts" as used throughout this Agreement means the amounts actually received by the Publishers from sales of licences in the Work and is represented by the gross sums due to the Publishers from these licences less any withholding or other local tax required by law and any bank transfer fees.

19. Sales statements, accounting and payment

- 19.1 The Publishers will provide the Author with monthly statements of sales of the Work from first publication until the first half-yearly royalty statement is delivered. The Publishers will continue to provide monthly sales statements between royalty statements on written request, as long as sales of the Work in one or more editions exceed or are likely to exceed 200 copies per month.
- 19.2 After publication of the Work the Publishers will prepare clear and accurate royalty statements twice a year, covering the periods January to June and July to December; and these will be sent to the Author, with payment for any royalties due, by the end of September and the end of March respectively. When sending the account the Publishers will provide copies of statements received from their sublicensees, except that if the statements include information concerning other authors the Publishers will only be obliged to provide information concerning the Work on request from the Author. If less than £10 has been earned a statement will still be sent but no payment will be made and the amount due will be carried forward to the next royalty statement.
- 19.3 If and when the total advance specified in Clause 16 has been exceeded by the Author's earnings, the Publishers will pay the Author the agreed share of any subsidiary rights income within 30 days of receipt without waiting for the next royalty statement, as long as that share is £100 or more.
- 19.4 The Publishers will have the right to retain a percentage of the royalty earnings at the first account after publication or reissue of each edition and audio version of the Work, against the likelihood of returns from booksellers. The percentage will be 20% for hardcover editions, 20% for audio versions and 25% for paperback editions. The amounts thus retained will be held by the Publishers for two royalty accounts for hardcover editions and for three royalty accounts for audio versions and for paperback editions and will be credited at the third and fourth royalty accounts respectively after deduction.
- 19.5 All payments due to the Author under this Agreement exclude VAT. VAT will be added, under the Publishers' self-billing system, after written notification of the Author's UK VAT registration number. The Author will notify the Publishers of any change to the Author's UK VAT registration number and indemnifies the Publishers from any loss, injury or damage arising out of the Author failing to provide to the Publishers the correct information about the Author's UK VAT registration number.
- 19.6 The Author may appoint a qualified accountant who will have the right, after giving reasonable written notice, to examine the Publishers' records relating to sales and royalties for the Work. The examination will take place during the Publishers' normal office hours, at the premises on which the records are usually kept; and it will be at the Author's expense unless errors exceeding 5% of the total amounts due under this Agreement or £250, whichever is the greater, are found to the Author's disadvantage in which case the Publishers will immediately make good the discrepancy and will be responsible for the reasonable cost of the examination.

20. Warranties and indemnity

- 20.1 The Author warrants and represents to the Publishers (for themselves and as trustee for their licensees, printers and distributors), as continuing warranties and representations:
- (i) that the Author is entitled to enter into this Agreement and to grant to the Publishers the rights in the Work included in this Agreement; and
 - (ii) that the Author is the sole owner of the complete copyright and all other rights in the Work (apart from copyright material not owned by the Author but included in the Work with the prior, written, fully paid-up permission of the copyright holders); and
 - (iii) that the Work is the Author's original work and that it has not been published or distributed previously in any of the territories granted to the Publishers under this Agreement; and

- (iv) that the Work does not and will not infringe or breach any copyright or any licence or right of privacy or any other right of any person, firm or company; and
 - (v) that the Work is not in any way unlawful or illegal, including in any event and without limitation that the Work does not and will not contain anything which is defamatory, obscene, in breach of the Data Protection Act 1998, in breach of any duty of confidence, in breach of the Official Secrets Act 1989 or in contempt of court; and
 - (vi) that all statements in the Work purporting to be facts are true and that the Work does not and will not contain any statement, information, advice, instruction, recipe or formula which, if the reader or other user were to act upon it, could cause illness, injury or damage; and
 - (vii) that the Work is not and has not been the subject of any complaint, claim or legal proceedings.
- 20.2 The Author will be liable for and will indemnify the Publishers (for themselves and for their licensees, printers and distributors) against any and all costs, expenses, loss and damage (including any legal costs and expenses properly incurred and any payments made on legal advice to compromise or settle any claims) resulting from any breach or alleged breach of the warranties given to the Publishers in this Agreement.
- 20.3 If either party receives any claim alleging breach of any of the warranties given to the Publishers in this Agreement, or becomes aware of any matter which, if proven, would constitute a breach of any of those warranties, that party will notify the other without delay.
- 20.4 If the Publishers' internal or external legal advisers inform the Publishers that any material contained in the Work may be considered in breach of the Author's warranties or in any other way objectionable or could give rise to legal action, the Publishers reserve the right to require that the Author removes or amends the relevant material. If the Author refuses or is unable to remove or amend the relevant material the Publishers may, at their discretion, terminate this Agreement and in that event the Author shall repay to the Publishers any sums paid under this Agreement and no further sums shall be due to the Author. The removal or amendment of material under this provision will not affect the Author's indemnity under Clause 20.2 nor the Publishers' other rights to terminate this Agreement.
- 20.5 If the Publishers consider it necessary to have the Work read for defamation, privacy, contempt of court and/ or other legal problems, half the cost of the reading will be borne by the Publishers and half will be invoiced to the Author. The Publishers will endeavour to consult the Author about the reading and inform the Author of its likely cost. However, the Publishers reserve the right to arrange for the reading and invoice the Author's share at all times. Neither the carrying out of a reading nor failing to carry one out shall affect the Author's warranties and indemnities, nor the Publishers' rights.
- 20.6 The Author's personal testimony may be important in defending any complaint which may be made in respect of the Work (including for example a libel or copyright complaint). The Author therefore agrees to cooperate fully in any defence, and to give evidence in person, where reasonably requested to do so by the Publishers.

21. Copyright infringement

- 21.1 If at any time during the continuance of this Agreement the copyright or any other right in the Work in the reasonable opinion of the Publishers is infringed the Publishers shall be entitled to take proceedings in the joint names of the Publishers and the Author and shall be entitled to instruct lawyers on its and the Author's behalf. The Publishers agree that in such a case it will pay all costs and expenses of such proceedings and will indemnify the Author against any liability for costs. If any sum is recovered by way of damages, after reimbursement to the Publishers of costs incurred and not recovered from the other party, the balance shall be divided equally between the Author and the Publishers. The provisions of this clause are intended to apply only in the case of an infringement of the copyright and/or other right in the Work affecting the interest in the Work granted to the Publishers under this Agreement. The

Publishers shall not be obliged to pursue any action which in its opinion is not reasonable for legal and/or commercial reasons.

22. Conflicting publications

- 22.1 The Author has provided the Publishers with written details of any competing works with which the Author has been or is involved. During the life of this Agreement the Author will not without the Publishers' written approval become involved in preparing any work of such a similar nature to the Work that it is likely to compete with the Work or likely to tend to lessen its sale.

23. Remainders and destruction

- 23.1 The Publishers will not remainder or destroy saleable stock of any or all of their editions of the Work within one year after their respective first publication dates without the Author's approval, not to be unreasonably withheld or delayed. If the Publishers decide to do so after one year (or earlier with the Author's approval) they will offer the Author in writing the opportunity for thirty days to obtain some or all of the stock in question, at a price no higher than could reasonably be expected from a third party if it is to be remaindered or free of charge (apart from carriage) if it is to be destroyed. The Publishers may remainder the Work through a subsidiary of the Publishers or an independent third party at the Publishers' discretion but this does not affect the Author's right to royalty on remainder sales and the Author's right to obtain copies under this Clause.

24. Termination of Agreement

- 24.1 Either party (the "Terminating Party") may terminate this Agreement immediately on giving the other written notice, if the other is in material breach of any term (including any warranty) of this Agreement and either:
- (i) that breach is not capable of remedy; or
 - (ii) if that breach is capable of remedy, the Terminating Party has first given the other party not less than 30 days' notice to remedy it and the breach has not been remedied within that notice period.

This Clause 24.1 shall not limit the Publishers' other rights of termination set out elsewhere in this Agreement.

- 24.2 If this Agreement is terminated under Clause 24.1 then, within thirty days of termination, the party which was in breach will pay any sums of money owing to the other party. For the purpose of this Clause 24.2, 'sums of money owing' include (but are not limited to) any balance of the advance not then exceeded by royalties and other earnings (and, for the avoidance of doubt, therefore to be repaid by the Author to the Publishers if the Author is in material breach of this Agreement). Where the Author terminates for the Publishers' material breach, 'sums of money owing' means any advance and royalty payments already due and owing at the time of termination net of any sums already due and owing from the Author to the Publishers.
- 24.3 If the Publishers go into liquidation (other than voluntary liquidation for reconstruction purposes) or receivership, the Author may terminate this Agreement by immediate written notice to the Publishers.
- 24.4 If earnings due to the Author for the Work are less than £50 (fifty pounds) (the "Minimum Revenue Level") over two consecutive accounting periods the Author may give the Publishers a period of notice in writing in which to revive income to the Minimum Revenue Level, such period of notice to be at least two consecutive accounting periods (the "Notice Period"). At the end of the Notice Period, if the Publishers fail to revive the income to the Minimum Revenue Level the Author may give the Publishers written notice to terminate this Agreement and revert all rights to the Author subject to Clauses 24.5, 24.6 and 24.7.

- 24.5 The Author's rights will not revert until the Author has repaid to the Publishers any sum of monies owing to the Publishers.
- 24.6 Termination of this Agreement for any reason will not affect:
- (i) either party's rights and obligations under this Agreement up to the date of termination,
 - (ii) the continuing validity of any licences granted by the Publishers before the date of termination (the Author's shares of which will be accounted in accordance with Clauses 17, 18 and 19) provided that if the Author has terminated for the Publishers' material breach under Clause 24.1, the Publishers shall not be entitled to any payments under those licences in respect of exploitation of the Work after termination and shall take reasonable steps to arrange for their former share to be paid to the Author or as the Author directs;
 - (iii) the warranties and indemnity given to the Publishers in Clause 20, and
 - (iv) the Publishers' option under Clause 25 if termination is under Clause 24.4 or by the Publishers for the Author's material breach.
- 24.7 If the Publishers hold stocks of the Work at the date of termination of this Agreement under Clause 24.4, or by the Publishers for the Author's material breach, they may continue to sell those stocks (whether at full price or as remainders) for up to 9 months after the date of termination, subject to accounting to the Author for those sales in accordance with Clauses 17 and 19.
- 24.8 If any purported termination by either party is found by a court of competent jurisdiction to be a breach of this Agreement, the total liability of the party in breach in respect of that purported termination, whether for breach of contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, shall not in aggregate (in respect of all such breaches) exceed the lesser of the total advance payable under Clause 16 or £250,000. Nothing in this Agreement shall exclude or limit in any way either party's liability for death or personal injury or fraudulent misrepresentation damages.
- 24.9 Where this Agreement relates to more than one Work and the Publishers have the right to terminate this Agreement, they may opt to exercise that right only in respect of one or some (as opposed to all) of the Works. In that case, this Clause 24 shall apply only to that part of this Agreement which is terminated (except that Clause 24.8 shall apply to all purported terminations in aggregate), and this Agreement shall continue in effect in relation to the Work or Works not affected by that termination.

25. Option

- 25.1 The Author agrees to give the Publishers the first refusal of the Author's next work of a similar nature to the Work (including the first and exclusive opportunity to read it). The Author will not offer any such work to another publisher until any offer from the Publishers has been considered and declined. In return, the Publishers will make any offer within thirty days of receipt of the typescript of the work offered. If the Author subsequently obtains a preferred offer from another publisher, that offer will be notified to the Publishers for consideration but the Author will not be bound to accept any counter-offer from the Publishers.

26. Reserved rights

- 26.1 Public Lending Right and all other rights not granted to the Publishers under this Agreement are reserved by the Author.

27. Assignment

- 27.1 The Publishers will be entitled to assign any or all of their rights under this Agreement to any entity which is, at the relevant time, a subsidiary of Hachette UK Limited or its immediate parent or a subsidiary of its immediate parent. Except as stated above the Publishers will not assign those rights or benefit without the written consent of the Author, who will not withhold, condition or delay that consent unreasonably. Where the Publishers are permitted to assign, the Author agrees to enter into a novation of this Agreement directly with the assignee, on terms which include the assignee taking over the Publishers' obligations under this Agreement and the Publishers being released from those obligations. The Publishers shall notify the Author following any assignment. Where this Agreement concerns more than one Work, this Clause 27.1 shall also apply to assignments of rights and transfers of obligations relating to only one or some of the Works.
- 27.2 The Author may not assign any of the Author's rights, or transfer or sub-contract any of the Author's obligations, under this Agreement.

28. Notices

- 28.1 Save that any notice given under Clause 7 may be given by email, any notices to be given by one party to the other under this Agreement must be in writing and sent by first class post (by airmail, if available) or delivered personally to the address given in this Agreement for the addressee (or to any other address which the addressee may previously have notified to the other party in writing). Notices sent by email must have a hard copy sent immediately by first class post (by airmail, if available). Notices will be considered to have been received by the addressee at the time of delivery if delivered personally during the addressee's normal working hours or at the time of emailing if emailed during the addressee's normal working hours. Otherwise, notices will be considered to have been received at 9am on the next Business Day following personal delivery or emailing outside the addressee's normal working hours or at 9am on the second Business Day following posting in the same territory as that in which the addressee resides or at 9am on the seventh Business Day following posting outside the territory in which the addressee resides. "Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London.

29. Disputes

- 29.1 Any dispute between the parties arising out of this Agreement will be referred to the Informal Arbitration Procedure of the Publishers' Association. If the parties fail to reach agreement over the appointment of a suitable referee under that scheme within 21 days of notice by either party to the other nominating a proposed referee or if either party reasonably considers that procedure to be inapplicable or inappropriate and notifies the other, each party irrevocably submits to the exclusive jurisdiction of the English courts to settle any such dispute.

30. Failure by either party

- 30.1 If either party fails to fulfil or comply with any provision of this Agreement and the other party does not insist on that failure being rectified, that will not be considered as applying to any future or subsequent failure.

31. Entire agreement and invalidity

- 31.1 This Agreement is the entire and only agreement between the parties relating to its subject matter. It supersedes any and all previous agreements and understandings (whether written or oral) relating to its subject matter and may only be amended in writing, signed on behalf of both parties. If all or any part of any provision of this Agreement shall be or become illegal, invalid or unenforceable in any respect, the remainder of that provision and/or all other provisions of this Agreement shall remain valid and enforceable.

32. Third Party Rights

32.1 Nothing in this Agreement is intended to confer on any third party any benefit or any right to enforce any provision of this Agreement.

33. Accessible Versions

33.1 The Publishers and the Author acknowledge that, under an exception to copyright legislation, charitable bodies and other organisations providing for print impaired people (including but not limited to blind, dyslexic or other reading impaired people) ('Print Impaired Persons') have the right to create accessible versions of the Work (including but not limited to Braille, Daisy format audio, giant print editions) ('Accessible Versions') and to supply Accessible Versions for use by Print Impaired Persons on a not-for-profit basis. The Publishers may provide copies or production files of the work to such organisations to facilitate the creation of Accessible Versions.

34. Interpretation and applicable law

34.1 The punctuation and headings in this Agreement are provided for convenience. They do not form part of this Agreement and are not to be taken into account when interpreting it.

34.2 This Agreement shall be governed by and interpreted in all respects in accordance with the Law of England.

34.3 References to Clause numbers in the above wording are to Clauses of this Agreement.

34.4 This Agreement will be considered to include any appendices, schedules and exhibits which may be attached to it.

AS WITNESS the hands of the Author and a duly authorised signatory of the Publishers

For and on behalf of
NB Limited

.....
Author: XXXXXXXXXXXXXXXXX

.....
Authorised signatory

Author's VAT Number (please state if not applicable):

.....

