

GUIDANCE ON PUBLISHING CONTRACTS



Members of the SoA are entitled – and encouraged – to receive (without additional charge) detailed advice on specific contracts. Every project is different and contracts vary massively; this guide is intended to serve only as background to the SoA's customised advice.

Every reasonable effort has been made to ensure that the information provided in this Guide is reasonably comprehensive, accurate and clear and up to date as at the date stated in the Guide. However, the information provided is necessarily general and should not be relied on as specific legal or professional advice. If you have any specific queries, contact our advisers or a suitably qualified lawyer or professional. If you think you may have noticed any error or omission, please let us know.

The main things to consider whenever you are offered a publishing deal are: the range of rights, the duration of the licence, and the share of any income being taken by the publisher: are they a fair return for the rights you are giving up and the work you will have to put in? A publisher paying a fat advance and investing in a print run of 25,000 copies from the outset is justified in taking rather more in return than a publisher offering no advance and intending to produce the work only as ebook and print-on-demand/ultra-short-run printing. Always weigh up what added value the publisher is bringing and consider how the proposal compares with self-publishing. Remember: you can self-publish as an ebook or print-on-demand for small outlay, thereby retaining all control and 100% of any income – so you need to be confident that the added value brought to the venture by your publisher justifies how long it is seeking to control the rights in your work and on what terms. And always check for the fire exit: **is the contract clear and reasonable about the grounds on which you can terminate?**

C.R.E.A.T.O.R

We believe that all creator contracts should comply with certain minimum requirements. They are embodied in the C.R.E.A.T.O.R acronym:

C - Clearer contracts, including written contracts which set out the exact scope of the rights granted.

R - fair **Remuneration**. Equitable and unwaivable remuneration for all forms of exploitation, to include bestseller clauses so if a work does far better than expected the creator shares in its success even if copyright was assigned.

E - an obligation of **Exploitation** for each mode of exploitation. Also known as the **'use it or lose it'** Clause. This is the French model.

A - fair, understandable and proper **Accounting** terms.

T - **Term**. Reasonable and limited contract terms and regular reviews to take into account new forms of exploitation.

O - **Ownership**. Authors, including illustrators and translators, should be appropriately credited for all uses of their work and moral rights should be unwaivable.

R - All other clauses be subject to a general test of **Reasonableness**.

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Kathleen Armour



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