

CONTRACT MODEL AUTHOR WITH EDITOR

General conditions of the Publishing contract

First.-THE AUTHOR assigns to THE EDITOR the rights of reproduction, distribution and sale in book form of the work called _____ for its commercial exploitation in the _____ language and for the territorial scope of _____.

First.- It is advisable to record the title of the work, the language or languages in the territorial scope of the transfer. In relation to the language of publication, and in the event that the editor proposes more than one, it must be taken into account that "when the contract establishes the edition of a work in various official Spanish languages, the publication of one of them does not exempt the editor from the obligation to publish in the rest. If after five years from when the author delivers his work, the editor has not published in all the languages provided for in the contract, the author could decide regarding the languages in which there is no published" (art. 62.3). This is valid exactly for translations.

Second.- The transfer is understood to be made on a (non)exclusive basis, in any of the possible marketing systems, for the following publishing modalities.

- a) hard cover or cardboard
- b) rustic
- c) economical or pocket editions

Second.- It is essential to determine the exclusive nature or not of the transfer. Likewise, specify the various editing modalities, without accepting more generic wordings such as "in all current or future collections" or "in all present modalities or that the Editor may create." It is important to keep in mind that the exclusive transfer, as has been said, allows the editor to transmit the contract to third parties (always with the consent of the author). This means, for example, that if you transfer the rights exclusively and the paperback edition is included among the modalities, in the event that the Publisher does not have a collection of this type, they can negotiate for this modality with another editor. Therefore, it is advisable to think carefully before assigning exclusive rights right off the bat. Another important point is the correct application of editing methods, especially with regard to pocket collections. Remember that what determines whether a collection is paperback (and therefore, that a lower percentage than normal can be accepted) is not the format of the book, but above all the circulation and the sale price. Everything that seems elementary should be kept in mind and not accept pocket percentages for books with a circulation equal to or less than 1,500 copies, as is very often the case today in various publishers.

Third (optional).- By virtue of this assignment and by common agreement between AUTHOR and PUBLISHER, the PUBLISHER is empowered to authorize under license through a management entity:

- a) The partial reproduction of the work for teaching and research purposes.
- b) The total or partial inclusion of the work in databases, as well as its recovery or public communication.
- c) The public loan of the work in library institutions.

THE EDITOR is also authorized to carry out or authorize the creation of summaries and extracts of the work intended for use in databases. Both parties expressly submit to the provisions of article 25 of the Intellectual Property Law regarding participation in compensatory remuneration for reproductions for private use of the work, the editing rights of which are transferred through this contract. that are carried out by means of non-typographic technical devices.

Third.- In relation to this point, you should take into account the following:

1. You can sign this clause since what you are doing is authorizing the editor to register your work with CEDRO (Spanish Center for Reprographic Rights), and in this way obtain compensation for legal reprography.
2. Now: look at what percentages the editor offers, and have as a reference the agreement between editors/writers' associations regarding the percentage distribution within CEDRO. Consider that, of the money that CEDRO raises, and discounted the operating expenses of this entity and the percentage allocated to the promotion of the sector, the criterion for distributing the resulting figure is: 55% for the author, 45 % for the editor..
3. Do not accept binding conditions regarding the library fee, since the issue is still in the process of discussion.
4. The signing of this clause authorizes the editor, as we have already said in point 1, to register your work in CEDRO, but it does not mean your affiliation as a full member of the entity and, therefore, you do not have any of its rights, benefits and obligations, except those for which you have registered through the AELC.

Fourth.- THE AUTHOR responds to the EDITOR for the tutorial and the original ity of his work and the peaceful exercise of the rights that he transfers through this contract, stating that he has not contracted and will not contract commitments or encumbrances in any way that violate the rights that the EDITOR or third parties correspond to, in accordance with what stipulated in this document.

In this sense, THE AUTHOR is responsible to the EDITOR for all pecuniary charges that may arise for the EDITOR in favor of third parties due to actions, claims or conflicts derived from non-compliance with these obligations by the AUTHOR.

Fifth.- As remuneration for copyright, the transfer of which is the subject of this contract, the AUTHOR will receive:

1. ____% of the retail price, according to the catalog and without VAT, for each of the copies sold in _____ edition
2. For the rest of the editing modalities, the percentages that will be applied to determine the AUTHOR'S remuneration will be the following:

3. (optional) ____% of the income obtained by the PUBLISHER from the exploitations derived from the license referred to in the third clause.

4. (optional) As an advance, and on account of his rights, the AUTHOR will receive the amount of _____ as follows: _____

In the event of termination of this contract due to non-publication of the work due to the fault of the EDITOR, the advanced amounts received will definitively remain in the possession of the AUTHOR.

Fifth.- It is advisable to agree on all the percentages corresponding to all the editing modalities that have been established in the second clause and not only that of the "normal" edition. Optional paragraph 3 can only be included in those contracts where the Third optional clause appears (the one referring to the Management Company). Optional paragraph 4 refers to the advance that the editors have not admitted to incorporate into the indicative model. of contract in general, so this is a point to negotiate in each case. Whether or not there is an amount on account, its amount and, if so, the terms of the payment.

Sixth.- The AUTHOR undertakes to deliver to the EDITOR the original of the work, the right to edit which is the object of this contract, in conditions of being reproduced, within a period not exceeding _____ months from the date of publication. date of this document. For his part, the EDITOR is obliged to put the work on sale within a period not exceeding ____ months from the date of delivery of the original, which will have to be returned to the AUTHOR when the last edition of the work is made.

Optional paragraph.

The EDITOR will send the AUTHOR the sets of proofs intended for the correction of the text, and the AUTHOR undertakes to return them within a maximum period of ____ with the pertinent corrections, which must be incorporated into the text. If after this period the AUTHOR does not deliver the proofs, the EDITOR is authorized to obtain the correction himself, without having any responsibility if the result of this correction is not satisfactory for the AUTHOR. The AUTHOR will make essential corrections that will never represent a proportion greater than ____% of the total text, without counting typographical corrections as such, which will always be the responsibility of the EDITOR. Any further correction will be the responsibility of the AUTHOR.

Sixth.- The law sets two years as a maximum period to put a book into circulation, counting from the moment of issue of the original (Art. 60.6). Naturally, it is about reducing this maximum period. If the publisher does not comply with this clause, the contract may be terminated. As it is not very common for the publisher to sign a contract for a book that does not yet exist, it is not at all likely that the termination clause comes from the fact that the author fails to meet the agreed delivery deadlines (in fact, normally the original is already in their power at the time of signing the contract).

Even though the paragraph referring to the review of evidence is optional, it is not necessary to say that the Law recognizes the right to review the corrections that the text has undergone, through the first tests.

Seventh.- The EDITOR is obliged to include the name of the AUTHOR prominently in all copies of the work they publish and to include the international mention of intellectual

property reservation followed by the name and surname (or pseudonym) of the AUTHOR and the year. of the first edition, in addition to the editorial Copyright, and to observe the formalities required for the circulation of the work.

Eighth.- During the validity of this contract the EDITOR may make a maximum of _____ editions for each of the agreed modalities, with a minimum of ____ copies and a maximum of ____ copies for each of them, with the reprints that within these totals are freely decided by the EDITOR, search I intend to ensure the work's continuous exploitation and commercial dissemination in accordance with customary uses in the professional sector to which the work corresponds.

Eighth.- It is advisable to be very careful with this clause, which lately has been presented with vague and confusing wording by publishers. The law clearly states that the contract will include "the maximum and minimum number of copies that the edition or each one agreed upon will have" (Art. 60.3). This requires setting the number of editions (it cannot be indefinite) and the maximum and minimum number of copies of each one, so that the calculation of the agreed maximum number of copies can be made. This also means that, for example, if three editions of a maximum of 15,000 copies each have been agreed upon and initially the publisher only publishes 1,500, the successive reprints made of the book, as long as the figure of 15,000 copies has not been reached, They belong to the first edition. There may also be a new edition, even if the copies of the previous one have not been sold out, if the work is subject to changes and revisions by the author. But all together, and mainly the editors, we would have to put an end to the existing confusion between reissue and reprint. The vast majority of supposed "new editions" of books there, in fact, are simple reprints within the same edition and it would be advisable to be a little rigorous with this, beyond what is stated in the promotional strips.

Ninth.- Before the printed copies of the work of each of the editions or reprints made by the EDITOR are put into circulation, the EDITOR will send to the AUTHOR a certification of the number of copies that make up the edition or reprint in question. , accompanied by a declaration from the graphic arts industry or industries where the printing and binding were carried out, stating the number of manufactured copies that were delivered to the PUBLISHER and the date of delivery or deliveries made.

Ninth.- This clause includes the Regulations that establish the characteristics of the circulation control provided for in article 72 of the Law (2). The aforementioned Regulation also makes other forms possible, as long as there is agreement between author and editor. This means that, if the author is strong enough to impose himself on the publisher, other formulas can be established, such as the sealing or numbering of the copies. For ordinary mortals, however, the control system is this certification that the publisher must send, before putting the books into circulation, accompanied by the declarations of the printer and the binder. Believing these documents is another story. If your book is already on the street and you have not received the certification and declarations, it is necessary to always claim them from the publisher, even if this clause does not appear in your contract, since the Regulations have been in force since April 29, 1988. and obligates all editors from that date, in compliance with the provisions of the Law, whether or not this point is included in the contracts.

Tenth.- The edition or reprint of the work will be considered to be out of stock when the number of unsold copies is less than ____ % of the total of the last edition or reprint and, in any case, less than one hundred.

Eleventh.- The EDITOR is obliged to present annually to the AUTHOR, during the first quarter of the corresponding year, a certificate in which the settlements of the sales of copies of the work carried out during the immediately preceding calendar year are recorded, stating the number of copies published, sold, in deposit, distributed and in warehouse, as well as their sales price without VAT according to the catalog. The EDITOR will make the payment within _____ days following the sending of the aforementioned certificate.

Twelfth.- The AUTHOR expressly authorizes the EDITOR to deduct, declare and deposit to the Public Treasury those amounts that, for any tax concept, the AUTHOR must satisfy derived from the performance of the intellectual property object of this contract, in all those taxes. or liens in which the PUBLISHER has, by legal provision, the status of substitute for the Author-Contributor.

Thirteenth.- This contract will have a duration of ____ years counted from the date on which the AUTHOR makes the work available to the EDITOR in conditions of being reproduced. Once the contract has expired, the EDITOR will enjoy a right of first refusal to sign a new publishing contract for the same work, under the same terms and conditions that the AUTHOR may agree with third parties.

Thirteenth.- The Law only says that one of the termination clauses of the contract is "the completion of the agreed term" (Art. 69.1), that is, that it is advisable to agree on the duration. It also says that, in the case of lump sum payment, the contract expires ten years after the transfer, or is from the signing of the contract (Art. 69.3). Finally, it also says that, in any case, the contract expires fifteen years after "the author has put the publisher in a position to reproduce the work" (Art. 69.4), that is, from the delivery of the original. . This represents an extreme, which the editors are interpreting at their leisure, as the maximum duration of the contract. It is worth keeping in mind, however, that this termination is set by the Law as the maximum term and for cases in which a specific duration has not been agreed upon, but in no way can it be understood as the "normal" duration of contracts. It is advisable to negotiate this duration with the publisher and remember that an exclusive assignment for fifteen years ties you hand and foot with respect to that work.

Fourteenth.- The parties declare that, if the PUBLISHER is legally constituted in the form of a corporation or limited company, the sale of shares or social participations by the owners in favor of third parties cannot be considered to constitute a change of ownership. ownership of the company, in the sense used in section f) of article 68 of the Intellectual Property Law 22/87 of November 11. Likewise, the PUBLISHER, in the case of establishing a natural person, may assign the rights acquired by virtue of this contract to a corporation or limited company that it establishes and in which it subscribes more than 50% of the share capital, which will replace you in the entire contract as EDITOR.

Fifteenth.- The AUTHOR declares that he knows and accepts the PUBLISHER's form of distribution with regard to the exploitation of the work and its commercial dissemination.

Sixteenth.- The EDITOR is authorized to negotiate with a third editor the edition of the translation of the work into a language different from the one agreed upon in this contract, informing the AUTHOR of the contracting proposals that he receives.

In the event of a publishing contract being concluded at the proposal of the EDITOR, the net profits obtained will be distributed as follows: __% for the EDITOR and ____% for the AUTHOR.

Sixteenth.- You can refuse this clause, naturally (the Editor must accept it). In any case, if you accept it, it is worth keeping in mind that the Editor can only receive a percentage of the translation if he has managed it. If you or your agent had obtained it, he will not receive anything. Therefore, if you receive a translation proposal, it is not necessary to pass the procedures to the Editor, as until now, when it was better to do so since, whoever worked on it, the Editor always benefited. Also note that in the contract model there is no clause referring to other forms of exploitation, since this must be the subject of another contract. Therefore, in no case must you admit in this clause or in another that talks about adaptations to radio, television, video, cinema, etc., or any other form of exploitation of your work other than through publishing.

Seventeenth.- The AUTHOR will be exempt from liquidation, all and will have to be notified, the copies that the EDITOR releases free of charge for the purposes of promotion and criticism of the work and replacement of defective or damaged copies. The maximum number of copies that the EDITOR may allocate of each edition for promotional and critical purposes will be _____.

Eighteenth.- The AUTHOR will receive, free of charge, a minimum of ____ copies of the first edition and __ copies for each of the new editions or reprints of the work, which cannot be destined for commerce and will not carry royalties for the AUTHOR. Likewise, the AUTHOR may purchase from the EDITOR, with the discount of the

____% the copies that he needs for his own personal use or for third parties, without lucrative purposes.

Nineteenth.- This publishing contract will be governed and interpreted in accordance with the provisions of Law 22/87 of November 11 on Intellectual Property and, in general, by the legal provisions that apply to it.

Twentieth.- Both parties designate as their respective address for the purposes of notifications the one that they state in the header of this contract, everything and that they could modify it by notification sent to the other party.

Twenty-first.- To resolve all those differences that may arise as a result of the interpretation of this contract, both parties submit to Equity Arbitration in accordance with the

regime provided for in the Law regulating this procedure. For all matters that must be submitted to judicial jurisdiction, the parties submit to the Courts and Tribunals of _____, renouncing their own jurisdiction if it is another.

Twenty-second.- This contract is granted in two copies, but for a single purpose, each of which remains in the possession of each contracting party.