



## AFRICANBOOKS.COM PUBLISHING TERMS AND CONDITIONS

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This agreement (the "Agreement") is a binding agreement between the individual author or the publishing entity identified in your AfricanBooks.com/.pub (ABC) account ("you" or "Publisher") and AfricanBooks.com as the platform provider. AfricanBooks.com is a legally registered company and consists of an e-commerce selling site (AfricanBooks.com), a digital publishing platform (AfricanBooks.pub), content databases, mobile applications ("APPs") which display content and increase useability, and other digital platforms which enhance our company's operations.

This Agreement provides the terms and conditions of your participation in AfricanBooks.com's self-publication and distribution program platform (the "Program/Platform") and your distribution of digital content through the Program (including eBooks, audiobooks, or any other digital media associated with your AfricanBooks.com account), and consists of the terms set forth below;

- **ABC's Digital Products Pricing Policy** denoted herein and/or on our publishing site.
- All **Program Policies and Conditions of Use** denoted herein and/or on our sites.
- **ABC's Privacy Policy**.

This agreement is provided in English with other languages available upon request. Given the importance of this Agreement, we encourage you to study it carefully. We welcome feedback on this Agreement at [admin@africanbooks.com](mailto:admin@africanbooks.com).

### 1. Agreement Acceptance.

You accept this Agreement and agree to be bound by its terms by either (a) clicking agree or accept where you're given the option to do so or (b) by using the Program, or any part of it. If you don't accept the terms, you are not entitled to use the Program. If the Publisher is an entity, the individual person who accepts this Agreement for the Publisher represents and warrants that he or she is entitled to enter this Agreement as an authorized representative of Publisher and to bind the Publisher to the terms of this Agreement.

### 2. Agreement Amendment.

The Program will change over time and the terms of this Agreement will need to change over time as well. We reserve the right to change the terms of this Agreement at any time in our sole discretion. We will give you notice of the changes by posting new terms in place of the old at AfricanBooks.pub with a revision date indicated at the top or by sending an email to the email address then registered for your Author/Publishers account. Here are the rules for when changes will be effective and binding on you:

#### 2.1. Changes to Agreement Terms Other than Those in Sections 5.4.1 (Earnings) and 5.5 (Grant of Rights).

Changes to terms of this Agreement other than those contained in Section 5.4.1 (Earnings) and 5.5 (Grant of Rights) will be effective on the date we post them, unless we otherwise provide them at the time we post the changes. You are responsible for checking for updates and your continued use of the Program after we post changes will constitute your acceptance of the changes. If you do not agree to the changes, you must

withdraw your Books from further distribution through the Program and terminate your use of the Publishing Platform and the Author/Publishers Account.

## **2.2. Changes to the Terms of Sections 5.4.1 (Earnings) and 5.5 (Grant of Rights).**

Changes to terms of this Agreement contained in Sections 5.4.1 (Earnings) and 5.5 (Grant of Rights) will be effective and binding on you on the date 30 days from posting or on the date you accept the changes, whichever first occurs. You accept the changes by either (a) clicking agree or accept where you're given the option to do so or (b) by using the Program to make additional Books available through the Platform. Changes to the terms of Sections 5.4.1 and 5.5 will only apply prospectively with respect to Books sold after the date thirty days from our posting of the changes, unless you accept the changes as provided above. If you do not accept the changes, you must withdraw your Books from further distribution through the Program and terminate your use of the Platform before the date thirty days from our posting of the changes. Note that we may make acceptance of changes a condition for continued use of the Platform.

## **3. Term and Termination.**

The term of this Agreement will begin upon your acceptance of it and will continue until it is terminated by us or by you. We are entitled to terminate this Agreement and your access to your Program account at any time. We will notify you upon termination. You are entitled to terminate at any time by providing us notice of termination, in which event we will cease selling your Digital Books and/or audiobooks within 5 business days from the date you provide us notice of termination. We may also suspend your Program account at any time with or without notice to you, for any reason at our discretion. Following termination or suspension, we may fulfill any customer orders for your Books pending as of the date of termination or suspension, and we may continue to maintain digital copies of your Digital Content/Books in order to provide continuing access to or re-downloads of your Digital Books and Digital Audiobooks, as well as digital copies of your Books to support customers who have purchased a Book prior to termination or suspension. The following provisions of this Agreement will survive termination of this Agreement: Sections 1, 3, 5.4, 5.5, 5.6, 5.7, 5.8, 6, 7, 8, 9, 10, and any other provisions that, by their nature, are intended to survive. All rights to Digital Books acquired by customers will survive termination.

## **4. Account Eligibility and Registration.**

### **4.1 Eligibility.**

You must have an active Author/Publishers account in order to participate in the Program. You represent that you are at least 18 years old (or the age of majority where you reside, whichever is older) and that you can form a legally binding contract. A parent or guardian of a minor can open a AfricanBooks.com Author's account and be the designated Publisher of the minor's Book in the event that an author is under the legal age of consent.

### **4.2 Account Information.**

**No Multiple Accounts.** You must ensure that all information you provide in connection with establishing your Program account, such as your name, address, email and identification details are accurate when you provided it, and you must keep it up to date as long as you use the Program. You may maintain only one account at a time. If we terminate your account, you will not establish a new account. You will not use false identities or impersonate any other person or use a username or password you are not authorized to use. You authorize us, directly or through third parties, to make any inquiries we consider appropriate to verify account information you provide. You also consent to us sending you emails relating to the Program and other publishing opportunities from time to time.

### **4.3 Account Security.**

You are solely responsible for safeguarding and maintaining the confidentiality of your account username and password and are responsible for all activities that occur under your account, whether or not you have authorized the activities. You may not permit any third party to use the Program through your account and will not use the account of any third party. You agree to immediately notify AfricanBooks.com of any unauthorized use of your username, password or account.

## **5. Book Distribution Rights.**

## **5.1 Delivery, Acceptance and Withdrawal.**

### **5.1.1. Delivery.**

You must provide to us, at your own expense, each Book you desire to distribute through the Program. We will not return to you any electronic files or physical content or media you deliver to us in connection with the Program. You must deliver all electronic files free and clear of viruses, worms and other potentially harmful or disrupting code.

### **5.1.2. Content Requirements.**

You must ensure that all Book content is in compliance with our Program Policies for content at the time you submit it to us. If you discover that content you have submitted does not comply, you must immediately withdraw the content by unpublishing it or by republishing content that complies through the Program procedures for Book withdrawal or republishing. We are entitled to remove or modify the metadata and product description, information or images you make available for your Books for any reason, including if we determine that it does not comply with our content requirements. We may also remove all or any part of your Book's cover art for any reason, including if we determine that it does not comply with our content requirements. You may not include in any Book any advertisements or other content that is primarily intended to advertise or promote products or services. You must ensure that all metadata you provide to us is current, complete, and accurate. If you discover that any metadata you have provided to us for a Book is inaccurate or incomplete, you must promptly submit corrected metadata to us through the Program procedures for metadata submission.

### **5.1.3. Book Rejection.**

We are entitled to determine what content we accept and distribute through the Program at our sole discretion. If we request that you provide additional information relating to your Books, such as information confirming that you have all rights required to permit our distribution of the Books, you will promptly provide the information requested, and you represent and warrant that any information and documentation you provide to us in response to such a request will be current, complete, and accurate. You authorize us, directly or through third parties, to make any inquiries we consider appropriate to verify your rights to permit our distribution of the Books and the accuracy of the information or documentation you provide to us with respect to those rights.

### **5.1.4. Book Withdrawal.**

You may withdraw your digital books and/or audiobooks from further sale in the Program at any time on five business days advance notice by following the then current Program procedures for Book withdrawal or unpublishing. We may fulfill any customer orders completed through the date the Books are available for sale. All withdrawals of eBooks will apply prospectively only and not with respect to any customers who purchased the eBooks/audiobooks prior to the date of removal.

### **5.1.5. Reformatting.**

We may, at our discretion, reformat your Books, and you acknowledge that unintentional errors may occur in the process of reformatting your Books. If any such errors do occur, you may remove the affected Book from further sale in the Program as provided in Section 5.1.4 above, and this will be your only remedy for the errors. We may also, at our discretion, correct any errors existing in a Book file as you deliver it to us. Currently, AfricanBooks.com uses .epub, .jpeg, and .mp3 file formats, with other formats being added on an as-needed basis.

### **5.1.6. Exclusivity.**

At this time, AfricanBooks.com does not demand exclusive rights to sell and distribute your Digital Book in digital format. As such, you have the right to sell or distribute, or give anyone else the right to sell or distribute your Digital Book (or a substantially similar book), in digital format in any territory where you have the legal right to do so.

## **5.2 Marketing and Promotion, Reviews, Sharing eBooks, Pre-orders & Sales.**

### **5.2.1. Marketing and Promotion.**

We will have sole discretion in determining all marketing and promotions related to the sale of your Books through the Program and may, without limitation, market and promote your Books by making chapters, quotes, or portions of your Books available to prospective customers without charge, and by permitting prospective customers to see excerpts of your Books in response to search queries. We will not owe you any fees for any marketing or promotional efforts. You acknowledge that we have no obligation to market, distribute, or offer for sale any Book, or to continue marketing, distributing or selling a Book after we have commenced doing so.

It is up to the sole discretion of AfricanBooks.com to avail optional paid features to authors and publishers for the purpose of marketing, promoting and advertising their content. Authors and publishers can access these paid features through their publishing platform and can pay for the services through their accumulated earnings or using online payments.

AfricanBooks.com reserves the right to approve all promotions requested for by authors and is not under any obligation to market content simply because a paid promotion has been requested. If a paid promotion request is rejected by AfricanBooks.com, the payment made will be refunded in the manner in which it was received.

**5.2.2. Reviews.**

You are subject to the same guidelines as any other customer contributing a review to an AfricanBooks.com website. We reserve the right to remove any review that violates our community guidelines, as denoted in section 11.

**5.2.3. Sharing Books.** AfricanBooks.com strictly prohibits the copying or sharing of Books (eBooks, audiobooks, etc.) AfricanBooks.com uses strict protocols to protect the copyrighted content of your Books. In the event of unlawful distribution of Books / Digital content by its users, authors or publishers, the AfricanBooks.com platform will not be held liable.

**5.2.4. Promotional Pricing/Sales Programs.** AfricanBooks.com allows authors/publishers to offer their Digital Book in a promotional offer or sale promotion once per quarter, with a maximum promotion window of 2 weeks.

**5.2.4 (a) If you are compliant with this Agreement,** for each Digital Book sold to a customer through a promotional price or sales window, AfricanBooks.com will pay you an earning based on the “Promotional List Price” that you provide, as described in our Digital Pricing Policy, net of refunds, bad debt, and any VAT, sales or other taxes charged to a customer or applied with respect to sales to a customer. As with any List Price, to the extent not prohibited by applicable local laws, we have the discretion to set the retail customer price at which your Digital Books are sold.

**5.2.4 (b) Free Promotions.** You can schedule one or more free promotions for your Digital Book for up to a total period of 5 days only once per annum. A free promotion is the offering of your Digital Book to customers for a price of zero. You will not receive any Earnings on your Digital Book during a free promotion. If you don’t use all 5 free promotion days during the year, you can’t roll them over to future periods. Scheduled start times and end times of free promotions are approximate due to potential system latencies. Any costs incurred by AfricanBooks.com as part of the free offering may be deducted from other earnings you have collected within your Program account and withheld on your next earning distribution payment.

**5.2.5. Book Pre-Orders.**

You may make an eligible Digital Book that meets pre-order requirements available for customer pre-order up to 60 days in advance of that Digital Book’s official release date. You may make your eligible Digital Book available for pre-order by choosing “pre-order” as your book release option during title set-up. We have established important deadlines for pre-order enrollment to ensure a positive customer experience. If you miss these deadlines, we may suspend your access to pre-order and customer pre-orders may be cancelled.

**5.2.5. (a) Pre-Order Publisher Payments.**

Earnings for pre-order sales are not eligible for payouts until the Digital Book's actual release date, and only upon successful digital delivery of the promised pre-order content to the purchasers.

**5.2.5. (b) Pre-Order Price Guarantee.**

AfricanBooks.com offers customers a Pre-order Price Guarantee for pre-orders on our website that guarantees that a customer is charged the lowest price offered by AfricanBooks.com between the time the customer places the order and the end of the day of the release date. As a result, if you lower the List Price of a Digital Book while it is available for pre-order, we may charge customers that pre-ordered that Digital Book before the price decrease the lower price. Your earnings will be based on the actual price we charge customers as a result of our Pre-order Price Guarantee, net of refunds, bad debt, and any VAT, sales or other taxes charged to a customer or applied with respect to sales to a customer.

AfricanBooks.com may at times offer readers a free book with cumulative purchases over a specific dollar amount as specified on AfricanBooks.com. In circumstances where your book is selected for a free-book promotion, you will not receive any Earnings on your Digital Book during a free promotion nor will AfricanBooks.com withhold any costs incurred by us from your publishing account.

**5.2.6. 5.2.6 Book Rentals.**

You may choose to make your book available on our optional book borrowing program. This is done on the book details page of each book. Books can be made available for rental on a 24hr or 48hr time window. The book price will be determined by your regular list price minus the rental percentage discount of the time period selected.

**5.2.6 (a)** Earnings for rentals will be paid in the same as all other books, minus the rental discount percentage offered. All discounts and offers are deducted from the book earnings before earnings are credited to the author/publisher.

**5.3 Pricing.**

**5.3.1. Providing Your List Price.**

The list price you provide to us is referred to in this Agreement as your "List Price." For some marketplaces, you will provide us a List Price inclusive of value added or similar taxes that are included within the customer purchase price of a product ("VAT"). Where your earning is calculated based on your List Price, it will be calculated based on your List Price exclusive of the VAT applicable to the customer. You may change your List Price through the Author/Publisher's platform, and your change will be effective within 5 business days. You must comply with all requirements outlined in our digital pricing policy. The List Price for purposes of the earning calculation will be the List Price we determine to be effective at the time of customer purchase.

**5.3.2. Currency Conversion.**

We may sell your Book using multiple currencies. When we do, we may convert the List Price you submit to other currencies (each, a "Sale Currency") at an exchange rate we determine. We may periodically update the converted List Price in order to reflect current exchange rates. If the converted List Price would be outside of the minimum or maximum List Price we accept for the Sale Currency, your List Price will be converted so that it is equal to the applicable minimum or maximum List Price for that Sale Currency. Minimum and maximum List Prices are specified within our digital pricing policy. For purposes of earning calculations, the converted List Price in the Sale Currency will be your List Price when we offer and sell your Book in the Sale Currency.

**5.3.3. Multiple List Prices.**

We may give you the option to provide multiple List Prices for a Book in different currencies. If you provide multiple List Prices for a Book, where we sell your Book to customers in a particular country from more than another, we may use one of those List Prices for sales to customers in that country on all of our websites, to provide consistency across those sites. For example, if you provide us with a Ugandan Shillings List Price and a US Dollar List Price for a Book, we may use the Ugandan Shillings

List Price for all sales to Ugandan customers no matter where they are physically located and we may convert it as provided in 5.3.2 above.

**5.3.4. Customer Prices.**

To the extent not prohibited by applicable laws, we have sole and complete discretion to set the retail customer price at which your Books are sold through the Program. We are solely responsible for the payment platforms and payment providers we use to maintain the operations of our business, this includes the processing of payments, payment collection and related customer service.

**5.4 Earnings and Payments.**

**5.4.1 Earnings.**

If you are not in breach of your obligations under this Agreement, for each book sold to a customer through the Program, AfricanBooks.com, being the party that made the sale (or whose affiliate made the sale), will pay you the applicable earning set forth in our digital pricing policy as applicable, net of refunds, bad debt, and any VAT, sales or other taxes charged to a customer or applied with respect to sales to a customer. If your List Price for a Book is higher than permitted under our pricing policy as applicable, we will be entitled to deem it modified so that it is equal to the maximum List Price permitted when calculating Earnings due to you under this Agreement.

**5.4.2 When We Pay You.**

Unless otherwise specified in our digital pricing policy, AfricanBooks.com or our country-specific partners will pay Earnings on Book sales at the request of the author or publisher as long as the account has accumulated \$25 or more in earnings. Payout requests can be made at any time through the author/publisher's dashboard and must specify the payout account and payout amount requested. Authors and Publisher accounts who wish to access optional paid promotional and marketing features within the AfricanBooks.com site can pay for the paid features using their earnings present in their account rather than requesting a payout.

**5.4.3 Payment Currencies.**

If you change your payment currency, the change will be effective on the first day of the following calendar month (unless we make an earlier period available). If we pay you in a currency other than the Sale Currency, we will convert the Earnings due from the Sale Currency to the payment currency at an exchange rate we determine, which will be inclusive of all fees and charges for the conversion.

**5.4.4 Payment Terms for Publishers.**

If you are a publisher, you must provide us with a legally binding author/publishers agreement stating your right to distribute the author's content and collect earnings from it. We will pay you earnings based on the publisher's digital pricing and also distribute earnings to the book author on your behalf. All publishers are required to submit their company incorporation documents and tax identification numbers in accordance with your country's business/tax requirements.

**5.4.5 Payments Methods.**

Earnings are paid directly to authors and/or publishers banking institutions or selected mobile money accounts. All banking/mobile money accounts should reflect the registered author/publishers legal name for payments to be processed by AfricanBooks.com.

**5.4.6 Payment Policies.**

We may require you to provide certain tax and/or other legal identification information to register a valid bank account in your AfricanBooks.com account in order to receive earning payments, in which case we will not be obligated to make earning payments to you unless you do so. We may establish other payment policies from time to time, such as minimum payment amounts for different payment methods and transfer payment fees.

**5.4.7 Payment Disputes.**

You may not bring a suit or other legal proceeding against AfricanBooks.com with regard to any statement unless you bring it within three months after the date the statement is available. Any such

proceeding will be limited to a determination of the amount of monies if any, payable by us to you for the accounting periods in question, and your sole remedy will be the recovery of those monies with no interest.

#### **5.4.8 Offsets, etc.**

We can withhold earnings and offset them against future payments as indicated below. Our exercise of these rights does not limit other rights we may have to withhold or offset earnings or exercise other remedies.

If we pay you an earning on a sale and later issue a refund or credit for that sale, we may offset the amount of the earning previously paid for the sale against future earnings, or require you to remit that amount to us. If a third party asserts that you did not have all rights required to make one of your Books available through the Program, we may hold all earnings due to you until we reasonably determine the validity of the third-party claim. If we determine that you did not have all of those rights or that you have otherwise breached your representations and warranties or our content guidelines with regard to a Book, we will not owe you earnings for that Book and we may offset any of those earnings that were previously paid against future earnings, or require you to remit them to us. Upon termination of this Agreement, we may withhold all earnings due for a period of three months from the date they would otherwise be payable in order to ensure our ability to offset any refunds or other offsets we are entitled to take against the earnings.

If we terminate this Agreement because you have breached your representations and warranties or our content guidelines, you forfeit all earnings not yet paid to you. If after we have terminated your account you open a new account without our express permission, we will not owe you any earnings through the new account. If we determine in our sole discretion that deceptive, fraudulent, or illegal activity has occurred with respect to your Books or your Program account, then we may permanently withhold payments to you, and we may offset any payments previously paid against future payments or require you to remit them to us. We will use these funds to offset the costs of AfricanBooks.com's enforcement efforts and/or to compensate third parties harmed by deceptive, fraudulent, or illegal conduct.

#### **5.4.9 Taxes.**

AfricanBooks.com (or their affiliates) are responsible for reporting, collecting and remitting any and all government mandated taxes imposed on their respective sales earnings from Books sold to customers through our publishing platform as outlined by your country of residence. As an author or publisher on our platform, you are responsible for any personal or business income taxes or other taxes due resulting from earning payments submitted to you by AfricanBooks.com or our partners under this Agreement. Accordingly, unless otherwise stated, the amounts due to you hereunder are inclusive of any taxes that may apply to such payments. AfricanBooks.com maintains the right, however, to report, deduct and/or withhold any and all applicable taxes from amounts due by them to you, and the amounts due, as reduced by those deductions or withholdings, will constitute full payment and settlement to you.

### **5.5 Grant of Rights.**

You grant to AfricanBooks.com and our partners, throughout the term of this Agreement, a nonexclusive, irrevocable, right and license to distribute Books, directly and through third-party distributors, in all formats you choose to make available through ABC by all distribution means available. This right includes, without limitation, the right to:

- a) Reproduce, index and store Books on one or more computer facilities, and reformat, convert and encode Books;
- b) display, market, transmit, distribute, sell, license and otherwise make available all or any portion of Books through AfricanBooks.com Properties (as defined below), for customers and prospective customers to download, access, copy and paste, print, annotate and/or view online and offline, including on portable devices;
- c) Permit customers to "store" Digital Books that they have purchased from us on servers ("Virtual Storage") and to access and re-download such Digital Books from Virtual Storage from time to time both during and after the term of this Agreement;



- d) display and distribute;(i) your trademarks and logos in the form you provide them to us or within Books (with such modifications as are necessary to optimize their viewing), and (ii) portions of Books, in each case solely for the purposes of marketing, soliciting and selling Books and related AfricanBooks.com offerings;
- e) use, reproduce, adapt, modify, and distribute, as we determine appropriate, in our sole discretion, any metadata and product description, information or images that you make available in connection with Books; and
- f) Transmit, reproduce and otherwise use (or cause the reformatting, transmission, reproduction, and/or other use of) Books as mere technological incidents to and for the limited purpose of technically enabling the foregoing (e.g., caching to enable display).

In addition, you agree that we may permit our affiliates and independent contractors, and our affiliates' independent contractors, to exercise the rights that you grant to us in this Agreement. "AfricanBooks.com Properties" means any website, application or online point of presence, on any platform, that is owned or operated by or under license of AfricanBooks.com, and any website, application, device or online point of presence through which any AfricanBooks.com Properties or products available for sale on them are syndicated, offered, merchandised, advertised or described. You grant us the rights set forth in this Section 5.5 on a worldwide basis; however, if we make available to you a procedure for indicating that you do not have worldwide distribution rights to a Digital Book, then the territory for the sale of that Digital Book will be those territories for which you indicate, through the procedure we provide to you, that you have distribution rights, except as otherwise provided in the Program Policies.

#### **5.6 DRM and Anti-Plagiarism Technology.**

We may, but are not obligated, to provide you with the use of anti-theft, DRM technology in connection with the distribution of your Digital Books. If we do provide you with DRM technology, you acknowledge that we make no representations as to the efficacy of the DRM and will not be responsible for any failure of the DRM. We also may, but are not obligated, to use anti-plagiarism technology as a way of determining the originality of your Digital Books. It is at our discretion to refuse books for publishing if it is believed that it infringes on the copyright or intellectual property of another person.

#### **5.7 Rights Clearances and Rights Dispute Resolution.**

You will obtain and pay for any and all necessary clearances and licenses for the Books to permit our exercise of the rights granted under this Agreement without any further payment obligation by us, including, without limitation, all earnings and other income due to any copyright owner. If you notify us through the procedure we provide on the applicable AfricanBooks.com Property for making claims of copyright infringement that a third party has made a Book available for distribution through the Program (or for distribution in a particular territory through the Program) that you have the exclusive right to make available under the Program, then, upon your request and after verification of your claim, we will pay you the earnings due in connection with any sales of the Book through the Program, and will remove the Book from future sale through the Program, as your sole and exclusive remedy.

#### **5.8 Representations, Warranties and Indemnities.**

You represent and warrant that:

- a) you have the full right, power and authority to enter into and fully perform this Agreement and will comply with the terms of this Agreement;
- b) prior to you or your designee's delivery of any content, you will have obtained all rights that are necessary for the exercise the rights granted under this Agreement;
- c) neither the exercise of the rights authorized under this Agreement nor any materials embodied in the content nor its sale or distribution as authorized in this Agreement will violate or infringe upon the intellectual property, proprietary or other rights of any person or entity, including, without limitation, contractual rights, copyrights, trademarks, common law rights, rights of publicity, or privacy, or moral rights, or contain defamatory material or violate any laws or regulations of any jurisdiction;
- d) you will ensure that all Books delivered under the Program comply with the technical delivery specifications provided by us;
- e) you will be solely responsible for accounting and paying any co-owners or co-administrators of any Book or portion thereof any earnings with respect to the uses of the content and their respective shares, if any, of any monies payable under this Agreement; and



- f) you will not attempt to exploit the ABC service or any other AfricanBooks.com program or service.

To the fullest extent permitted by applicable law, you will indemnify, defend and hold AfricanBooks.com, its officers, directors, employees, affiliates, subcontractors and assigns harmless from and against any loss, claim, liability, damage, action or cause of action (including reasonable attorneys' fees) that arises from any breach of your representations, warranties or obligations set forth in this Agreement. We will be entitled, at our expense, to participate in the defense and settlement of the claim or action with counsel of our choosing.

## **6. Ownership and Control of AfricanBooks.com Properties and Customer Data/Feedback.**

Subject to the authorizations you grant to us under this Agreement, as between us and you, you retain all ownership rights in and to the copyrights and all other rights and interests in and to your Books. We retain all ownership rights in and to the copyrights and all other rights and interests in and to the Program, the ABC Properties, and any materials we use or provide to you for use relating to your Book (such as a generic cover image used for your Book if you do not provide one). We retain sole ownership and control of all data obtained from customers and prospective customers in connection with the Program. We are solely responsible for, and will have full discretion with respect to the terms, features, and operation of the Program and AfricanBooks.com Properties and related marketing, but our use of the Books will be subject to the terms of this Agreement. In the event that you elect to provide suggestions, ideas, or other feedback to ABC or any of its affiliates in connection with the ABC Properties or the Program ("Feedback"), AfricanBooks.com and its affiliates will be free to use and exploit the same in any manner without restriction and without any need to compensate you. This Agreement does not grant you any license or other rights to any intellectual property or technology owned or operated by us or any of our affiliates, including, without limitation, any trademarks or trade names. Nothing in this Agreement restricts any rights we may have under applicable law or a separate permission.

## **7. Confidentiality.**

You will not, without our express, prior written permission:

- a) issue any press release or make any other public disclosures regarding this Agreement or its terms;
- b) disclose AfricanBooks.com Confidential Information (as defined below) to any third party or to any employee other than an employee who needs to know the information; or
- c) use AfricanBooks.com Confidential Information for any purpose other than the performance of this Agreement.

You may however disclose AfricanBooks.com Confidential Information as required to comply with applicable law, provided you:

- a) give us prior written notice sufficient to allow us to seek a protective order or other appropriate remedy;
- b) disclose only that AfricanBooks.com Confidential Information as is required by applicable law; and
- c) use reasonable efforts to obtain confidential treatment for any AfricanBooks.com Confidential Information so disclosed.

"AfricanBooks.com **Confidential Information**" means:

- a) any information regarding ABC, its affiliates, and their businesses, including, without limitation, information relating to our technology, customers, business plans, promotional and marketing activities, finances and other business affairs,
- b) the nature, content and existence of any communications between you and us, and
- c) any sales data relating to the sale of Books or other information we provide or make available to you in connection with the Program.

AfricanBooks.com Confidential Information does not include information that:

- a) is or becomes publicly available without breach of this Agreement,
- b) you can show by documentation to have been known to you at the time you receive it from us,
- c) you receive from a third party who did not acquire or disclose such information by a wrongful or tortious act, or
- d) you can show by documentation that you have independently developed without reference to any AfricanBooks.com Confidential Information.

Without limiting the survivability of any other provision of this Agreement, this Section 7 will survive three years following the termination of this Agreement.

## **8. Limitation of Liability.**

The program is provided "as is." we will in no event be liable for any loss of data, loss of profits, cost of cover or other special, incidental, consequential, indirect, exemplary or reliance damages arising from or in relation to this agreement, or for any equitable remedy of disgorgement or otherwise, however caused and regardless of theory of liability. In no event will our liability under this agreement exceed the amount of fees due and payable by africanbooks.com under this agreement for the twelve-month period preceding the claim.

We specifically disclaim, with respect to all services, software, content or products provided by or on behalf of us in connection with this agreement, all warranties, expressed or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Publisher acknowledges and agrees that africanbooks.com cannot ensure that books submitted by or on behalf of the publisher will be protected from theft or misuse or that customers will comply with any content usage rules africanbooks.com may make applicable in connection with the use of books, and africanbooks.com will have no liability arising from a failure of any security system or procedure or of any customer to comply with any content usage rules. ABC relies on complex systems and processes.

We strive to make our systems and processes error-free and efficient, but we cannot guarantee that they will be, and we will have no liability arising from system or process failures, interruptions, inaccuracies, errors or latencies.

## **9. Force Majeure.**

AfricanBooks.com will not be liable to you for any failure or delay in the performance of its obligations under this Agreement caused by any event or circumstance beyond its control, including, but not limited to, denial-of-service attacks, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, and labor conditions.

## **10. General Legal Provisions.**

### **10.1 Disputes.**

Any dispute or claim relating in any way to this Agreement or AfricanBooks.com will be resolved by binding arbitration, rather than in court, in accordance with all legal practices, laws and guidelines with the Republic of Uganda, in East Africa. There is no judge or jury in arbitration, and court review of an arbitration award is limited. However, an arbitrator can award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief or statutory damages) and must follow the terms of this Agreement as a court would. Payment of all filing, administration and arbitrator fees will be governed by the law requirements of Uganda. AfricanBooks.com will not be responsible to reimburse any fees you incur to file arbitration or other legal claims. AfricanBooks.com will not seek attorney's fees and costs in arbitration unless the arbitrator determines the claims are frivolous. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person at a mutually agreed location. You and we each agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a claim proceeds in court rather than in arbitration you and we each waive any right to a jury trial. You or we may bring suit in court on an individual basis only, and not in a class, consolidated or representative action, to apply for injunctive remedies. You may bring any such suit for injunctive remedies only in the courts of the Republic of Uganda, located in East Africa.

### **10.2 Applicable Law.**

The laws of the Republic of Uganda will govern this Agreement and any dispute of any sort that might arise between you and AfricanBooks.com, represented by Leap Book Publishers Limited (U) relating to this Agreement or the Program.

### **10.3 Other Legal provisions.**

This Agreement may not be amended, except in writing signed by both parties or as provided in Section 2 above. If any provision of this Agreement is held invalid by a court or other tribunal with jurisdiction over the parties to this Agreement, that provision will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remainder of this Agreement will remain in full force and effect. The parties to this Agreement are independent contractors. Each party will bear its own costs and expenses in performing this Agreement.

**10.4 Waiver.**

The failure of either party to enforce any provision of this Agreement will not constitute a waiver of the party's rights to subsequently enforce the provision. Any AfricanBooks.com affiliate may join as a party to this Agreement and will notify you if it does. The joining AfricanBooks.com affiliate will be entitled to exercise the rights you grant under this Agreement. Each AfricanBooks.com party is severally liable for its own obligations under this Agreement and is not jointly liable for the obligations of other AfricanBooks.com parties.

**10.5 Assignment.**

Neither party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other, except that (a) AfricanBooks.com may assign any of its rights and obligations under this Agreement without consent and (b) you may assign all of your rights and obligations under this Agreement to any corporation or other entity without consent in connection with the sale of all or substantially all of your assets, but you must give AfricanBooks.com written notice of the assignment no later than ten (10) business days following the assignment. Subject to the foregoing limitation, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

**10.6 Entire Agreement.**

This Agreement constitutes the entire agreement between the parties with respect to its subject matter, supersedes any and all prior or contemporaneous agreements between the parties with respect to its subject matter, and does not confer upon any other person other than the parties any rights or remedies. You consent to the use of electronic means to complete this Agreement and to provide you with any notices we give you in relation to this Agreement. To be effective, any notice given by a party under this Agreement must be in writing and delivered (i) if by an AfricanBooks.com party, via email, via a posting on the Program website or via a message through your Program account, or (ii) if by you to AfricanBooks.com, via email to admin@AfricanBooks.com with a copy to info@AfricanBooks.com. Notices will be effective and deemed received on the date transmitted or posted.