

Innovative Ink Agreement Terms & Conditions

1. **Termination.** 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 with 30 days prior written notice of termination, in which event we will cease selling your Digital Books and on-demand printings of your Print Books. We will retain the right to maintain digital copies of your Digital Books to continue to support our customers who have purchased your Digital Books.

2. **Account Eligibility and Registration.** You must have an active Program account to participate in the Program. You represent that you are at least 18 years old and that you are able to form a legally binding contract. You must ensure that all information you provide in connection with establishing your Program account, such as your name, address and email, is 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.

3. **Book Distribution Rights.**

3.1 **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.

3.2 **Book Rejection.** We are entitled to determine what content we accept and distribute through the Program in 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.

3.3 **Book Withdrawal.** You may withdraw your Digital Books from further sale and your Print Books from further on-demand printing in the Program at any time on 30 days' advance notice. We may fulfill any customer orders completed through the date the Books are available for sale and we may continue to sell any inventory we have of Print Books. All withdrawals of Books will apply prospectively only and not with respect to any customers who purchased the Books prior to the date of removal.

3.4 **Reformatting.** We may, in our discretion, reformat your Books, and you acknowledge that unintentional errors may occur in the process of reformatting of your Books. If any such errors do occur, you may remove the affected Book from further sale in the Program as

provided in Section 4.3 above, and this will be your only remedy for errors. We may also, in our discretion, correct any errors existing in a Book file as you deliver it to us.

4. Pricing. Innovative Ink shall determine, in its sole discretion, the retail price of your books, which will be set in conformance with industry standards. The retail price set by Innovative Ink shall exceed the wholesale price. The wholesale price depends upon the publishing package selected, the format of the Book, and the total number of interior pages in the final digital file to be printed. We or our third-party retailers, partners, or contractors are solely responsible for processing payments, payment collection, requests for refunds, and related customer service.

5. Payments.

5.1 Payment Disputes. You may not bring suit or other legal proceeding against us with regard to any statement unless you bring it within six 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 these monies with no interest.

5.2 Offsets. We can withhold Royalties 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 Royalties or exercise other remedies.

a. If we pay you a Royalty on a sale and later issue a refund, return, or credit for that sale, we may offset the amount of the Royalty previously paid for the sale against future Royalties, or require you to remit that amount to us.

b. 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 Royalties 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 with regard to a Book, we will not owe you Royalties for that Book and we may offset any of those Royalties that were previously paid against future Royalties, or require you to remit them to us.

c. Upon termination of this Agreement, we may withhold all Royalties due for a period of three months from the date they would otherwise be payable in order to ensure our ability to off-set any refunds or other offsets we are entitled to take against the Royalties.

d. If we terminate this Agreement because you have breached your representations and warranties, you forfeit all Royalties 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 Royalties through the new account.

e. 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

Innovative Ink's enforcement efforts and/or to compensate third parties harmed by deceptive, fraudulent, or illegal conduct.

5.3 Taxes. Innovative Ink is responsible for collecting and remitting any and all taxes imposed on their respective sales of Books to customers. You are responsible for any income and other taxes due and payable resulting from payments to you by Innovative Ink under this Agreement. Accordingly, unless otherwise stated, the amounts due to you hereunder are inclusive of any taxes that may apply to such payments. Innovative Ink maintains the right, however, to deduct 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.

6. Grant of Rights. Subject to the authorizations granted to us hereunder, as between us and you, you retain all ownership rights in and to the copyrights and interest in and to your Books. You hereby grant to Innovative Ink, its distributors, licensees, and affiliates an exclusive, worldwide, irrevocable right and license to make your Books available for sale, marketing, display, distribution, and promotion in any commercially available electronic or digitized format or on any electronic device platform whether now existing or hereafter created or developed. Without limiting the generality of the foregoing, you further authorize and license Innovative Ink, its distributors, licensees, and affiliates to: (a) convert or render your Book, including without limitation any text, information, data, software, photographs, graphs, videos, typefaces, graphics, music, sounds, and other material contained therein, into a format suitable for the sale, distribution, marketing, display, and promotion of such Book hereunder; (b) store your Book in data centers and servers; (c) index and catalogue your Books; (d) allow customers to copy, paste, print, email, annotate, view online, and share your Books; (e) bundle your Books with related physical contents available for sale from Innovative Ink or such distributor, licensee, or affiliate; and (f) use the Books as otherwise provided herein.

7. Representations and Warranties. 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 of 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 royalties with respect to the uses of the content and their respective shares, if any, of the monies payable under this Agreement; and (f) you will not attempt to exploit the Innovative Ink service or any other Innovative Ink program or service.

ALL SERVICES AND PRODUCTS PROVIDED BY INNOVATIVE INK UNDER THIS AGREEMENT IS PROVIDED ON AN "AS-IS" BASIS. INNOVATIVE INK DISCLAIMS ALL

WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO ALL SERVICES, SOFTWARE, CONTENT, OR PRODUCTS PROVIDED BY OR ON BEHALF OF US IN CONNECTION WITH THIS AGREEMENT. INNOVATIVE INK DOES NOT WARRANT THAT YOUR USE OF THE PROGRAM WILL BE UNINTERRUPTED OR ERROR-FREE. INNOVATIVE INK CANNOT ENSURE THAT YOUR DIGITAL BOOKS WILL BE PROTECTED FROM THEFT OR MISUSE OR THAT CUSTOMERS WILL COMPLY WITH ANY CONTENT USAGE RULES INNOVATIVE INK MAY MAKE APPLICABLE IN CONNECTION WITH USE OF YOUR DIGITAL BOOKS. INNOVATIVE INK 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.

8. Indemnification. You agree to indemnify and hold harmless Innovative Ink, its parents, subsidiaries, affiliates, distributors, licensees and partners and their respective directors, officers, employees, agents, shareholders, partners, members and other owners (“Indemnified Parties”) against any and all claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs and expenses (including reasonable attorney fees and expenses, collectively, a “Claim”) brought about by any person that arise out of or are based on your breach of this Agreement or any breach of the representations, warranties, covenants, or agreements you make herein. Each Indemnified Party will be entitled, at its expense, to participate in the defense and settlement of the Claim with counsel of its own choosing. You may not enter into any settlement or other disposition of any Claim without the prior written approval of the applicable Indemnified Parties.

9. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, INNOVATIVE INK WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST REVENUE OR ANTICIPATED PROFITS, LOST REVENUE, LOST OR CORRUPTED DATA, OR DAMAGE TO REPUTATION OR GOODWILL OR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR OTHER INDIRECT DAMAGES OR LOSSES ARISING FROM, RELATING TO, OR CONNECTED WITH THIS AGREEMENT REGARDLESS OF THE CAUSE OF ACTION ON WHICH THE CLAIM IS BASED (INCLUDING NEGLIGENCE, TORT, CONTRACT, STRICT LIABILITY, PRODUCT DEFECT, OR MISREPRESENTATION), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL THE LIABILITY OF INNOVATIVE INK HEREUNDER (I) EXCEED THE AMOUNT PAYABLE BY INNOVATIVE INK TO YOU PURSUANT TO THIS AGREEMENT FOR THE TWELVE (12) MONTH PERIOD PRECEDING ANY CLAIM, OR (II) INCLUDE ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OR PENALTIES INCLUDING, BUT NOT LIMITED TO, LOSSES OF DATA, BUSINESS, REVENUE OR ANTICIPATED PROFITS. THE FOREGOING LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS OF THE CAUSE OF ACTION UNDER WHICH SUCH DAMAGES ARE SOUGHT, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, WHETHER OR NOT THE PARTIES WERE OR SHOULD HAVE BEEN

AWARE OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

10. Choice of Law and Venue. This Agreement is entered into in the State of Iowa and shall be governed by and construed in accordance with the laws of the State of Iowa, exclusive of its choice-of-law rules. Each party to this Agreement submits to the exclusive jurisdiction of the state and federal courts sitting in the County of Dubuque in the State of Iowa and waives any jurisdictional, venue, or inconvenient forum objections to such courts. In any action to enforce this Agreement, the prevailing party will be entitled to costs and attorney fees. In the event that any of the provisions of this Agreement are held by a court or other tribunal of competent jurisdiction to be unenforceable, those provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect.