THIS AGREEMENT is made as of DATE, between Apress Media, LLC (“We” or “Us”), located at 233 Spring Street, 3rd Floor, New York NY 10013 and AUTHOR1 (“You”), concerning a literary work tentatively titled “TITLE” (the “Work”). The Work is tentatively described in Appendix A. The parties agree:

1. GRANT OF RIGHTS AND TERM OF THIS AGREEMENT. You grant, convey, and transfer to Us the exclusive right and license to publish, distribute, promote, advertise, sell and otherwise commercially exploit the Work in whole or in part, in print, electronic, or any other form or medium, now known or hereafter developed, in all languages, throughout the world, including all subsidiary rights for the duration of copyright in the Work, as well as the right to sublicense any of the granted rights. The duration of the copyright in the Work shall be the term of this Agreement unless it is terminated sooner as the Agreement provides. “Electronic form” shall include photographic, audio, video, digital, laser, magnetic, or any other form, and for any medium now known or hereafter developed.

You may publish excerpts from the Work, or articles based on the Work, providing such excerpts or articles contain appropriate references to the Work and no individual excerpt is more than 10% of the total Work. We must agree in writing to the publication of excerpts of greater than 10% of the Work or which, together with previously published excerpts, would exceed 30% of the whole Work in writing. Only one-time publication rights may be offered when publishing excerpts from this Work without prior written agreement from Us. All monies derived from such publication will belong entirely to You.

You have a non-exclusive, non-transferable right to use any materials derived from the Work, including examples, text excerpts, line art, slides, transparencies, and the cover for use in courses and seminars taught directly by You or directly supervised by You.

2. DELIVERY OF MANUSCRIPT AND SCHEDULES. On or before CHAP3 You’ll deliver to Us the first draft of three chapters of the Work. At the present time the Work is anticipated to be PAGE COUNT (xxx) manuscript pages in the Apress Word template or equivalent and be finished on COMP DATE.

You’ll be responsible for writing all drafts of the text of the Work, generating appropriate rough sketches for illustrations, and front matter.

You’ll also deliver all source code for the Work in a form suitable for downloading, and any other materials specified in Schedule A or elsewhere in this Agreement.

You’ll deliver the manuscript to Us in an electronic form acceptable to Us and shall include any additional materials required under Section 4.

We will prepare the index and table of contents; in which case You agree to review it and deliver Your comments on it to Us within three days of receiving it from Us.

3. CONFORMING TO SCHEDULE. If You are unable to meet a deadline in the schedule that We agree to after the acceptance of the first three chapters of Your Work You will notify Us in advance. If You fall more than four weeks behind any deadline in Your schedule, and We, in Our sole discretion, have not agreed in writing to extend Your deadline, We may exercise the rights described in Section 4(1) or 4(2) of this Agreement, at our option.

4. ACCEPTANCE OR REJECTION OF MANUSCRIPT. Upon Our receipt of the first three chapters of Your manuscript, We will inform You if the manuscript is satisfactory in form and content to Us. If it is not satisfactory in form and content to Us, or does not conform with any outline or description attached to this Agreement, or if market conditions have changed so that in Our sole judgment Your Work is not commercially viable We may, entirely at Our discretion, accept it, reject it, or specify in writing what We need for You to do in order to make the manuscript acceptable to Us.
If You fail to deliver the complete manuscript within 30 days after the specified delivery date or, if You fail to make satisfactory revisions to the manuscript within 30 days after We give You detailed instructions for doing so, We may

1. Terminate this Agreement. If We reject Your Work for any reasons other than the quality of the submission or because You have breached any representations or warranties You made to Us You may keep any monies advanced or granted to You. However, in this case, without Our permission You may not publish any or all of the Work without first returning any monies advanced to You by Us or given as a grant to You by Us.
2. Arrange for another writer to complete the Work and charge the costs of completion against monies otherwise due to You under this Agreement. In such case You may remove your name from the Work.

The options provided under this section of the Agreement are subject to Our sole discretion only, and shall be effective upon Our written notification to You.

5. PERMISSIONS. You agree to obtain and pay for any permissions necessary for the use of materials copyrighted or otherwise owned by others that You wish to reproduce in Your Work. Permissions must be acceptable to Us, and must be obtained in writing. You must provide Us with copies of all permissions when You deliver Your completed manuscript to Us.

6. PUBLICATION. We agree to publish Your Work not later than six months from the time that We notify You that We have accepted the Work. If We accept the Work and fail to publish it within six months, You may terminate this Agreement by notice to Us, all the rights granted to Us in this Agreement shall revert to You, and You may keep any money We paid You under this Agreement. Keeping that money shall be Your only remedy for Our failure to publish the Work. If We accept Your manuscript and delay publication because of delays: by third parties in the release of the software or hardware product that is the subject of the Work, in the actualization of an event that may substantially improve the Works chances of success, or in instances of Force Majeure, such delays will not be counted towards the six-month period described in this section.

7. ROYALTIES.

a) For sales directly attributed to the Work through direct, bulk, aggregator, or normal resale channels We will pay You royalties as a percentage of the net receipts that We receive except that We will not pay You royalties on a sale where We sell the print version of the Work at a discount of eighty percent (80%) or greater from its list price. The royalty rate shall be as follows:
   - ten (10) percent of Our net receipts received on the first 4,000 copies of the Work sold;
   - twelve and one half (12.50) percent of Our net receipts received on copies sold between 4,001 and 8,000;
   - fifteen (15) percent of Our net receipts received on copies sold between 8,001 and 12,000;
   - seventeen and one half (17.50) percent of Our net receipts received on copies sold between 12,001 and 25,000;
   - twenty (20) percent of Our net receipts received on all copies sold thereafter.

b) No more than 90 days after publication of the Work, you will receive a one-time unrecoverable payment of SPRINGERLINK dollars ($xxx) for the inclusion of all or part of the Work in Our subscription packages.
c) For book club sales We will pay You fifty (50) percent of what We receive in royalties from the book club.

d) For any rights pertaining to this work that We license, We will pay You a royalty of twenty-seven and one half (27.50) percent of our net receipts.

e) Print copies sold at a discount of eighty (80) percent, or more generally, any copies on which monies are paid according to Sections 7 c) or d) above, or copies sent for review or used for publicity will not count towards determining the totals used in Section 7a).

f) For any new edition of the Work, sales of previous editions of the Work will not count towards determining the totals used in Section 7a).

g) If You receive any overpayment of royalties from Us, due to returns from bookstores, dealers, or other distributors, or because of Our error, We may retain an equal amount from any monies We owe You until We have recovered the overpayment.

h) We may set up a reserve from royalties otherwise payable to You in a specific accounting period against returns of copies of the Work. If We do, We may hold a percentage of the royalties otherwise due You in reserve for six (6) accounting periods following that specific period. The reserve held in that specific accounting period will not exceed twenty-five (25) percent of the product of Your applicable royalty rate times the sales for the Work in that specific period.

i) We may bundle the Work for sale with other products. In such case the royalty due You shall be the highest royalty rate applicable to the format of the Work (print, CD etc.) in effect in the quarter when the sales of the bundle were made, multiplied by Our net receipts received for the bundle, multiplied by a percentage derived from dividing the list price of Your Work by the sum of the list prices of all the products in the bundle.

j) In the event there is a use of this Work that is not covered by any clause in this Section 7, we will determine, in our sole discretion, the appropriate royalty for the use of the Work most in keeping with the intent of this Section 7.

8. ACCOUNTING AND PAYMENT. Our accounting periods close on March 31, June 30, September 30, and December 31. After first publication of Your Work, We will report to You within 90 days after the close of each period the total sales including monies received for subsidiary rights sales for that period. We will pay You all monies due to You under this Agreement within 90 days after the close of each accounting period; provided, however, that We will not be required to issue payment to You unless and until You are due a minimum of $100.00. Upon Your written request We will also tell You within 45 days of the request the number of print copies and electronic copies sold, the royalties paid and owed to You, the amount of income held in reserve, and the amount and source of income from subsidiary rights.

9. NON-COMPETITION. During the term of this Agreement, You agree to not publish or furnish to any other publisher any Work that is on the exact same subject and that targets the exact same market and that could hurt sales of the Work. No original article that You write on the same topic as the Work that is not part of a published Work, or any previously existing Work that You have written and has been commercially published, including a revision and/or update thereof, whether in printed format or electronic format will be considered competing works under this Section nor will articles based on the Work provided they are consistent with the provisions outlined in Section 1 of this Agreement.
10. **Copyright and Authorship Credit.** We'll register the copyright on Your behalf and in Your name and shall place copyright notice in Your name on all copies of the Work and will require that any/all licensees do the same. You'll receive authorship credit as follows: AUTHOR1

We reserve ownership of all of Our and Our affiliates trademarks, logos, trade names, colophons and any items prepared at Our expense such as the cover, interior art and index.

11. **Warranty and Indemnity.**

(1) You warrant and represent to Us, and to third parties to or through whom We sell or license rights in the Work:
   a) That You are the sole author of the Work and own all rights granted under this Agreement;
   b) That the Work is original and has not previously been published (except for materials for which You have obtained permissions as Section 5 requires);
   c) That the Work does not infringe any other entity or person’s copyrights or other property rights, nor does it violate the rights of privacy of, or libel, other persons or entities.
   d) You have full power and authority to enter into this Agreement;
   e) You have not prepared the Work as a part of your official duties as an officer or employee of the United States Government or as a work-made-for-hire for the United States Government;
   f) No third party is entitled to compensation with regard to the rights assigned under this Agreement;
   g) You have not granted or assigned any rights in the Work to any other person or entity;
   h) The Work does not contain any obscene, indecent or scandalous material;
   i) To the best of Your knowledge, no formula, procedure or prescription contained in the Work would cause injury, damage or harm to persons or property if used or followed in accordance with the instructions or warnings contained in the Work.

(2) You make no representations or warranties and shall have no obligation to indemnify Us with respect to materials inserted in the Work at Our request.

(3) You agree to indemnify Us, Our affiliates and representatives (together “Indemnified Parties”) for all costs, expenses and liabilities (including reasonable attorney’s fees) arising from a judgment or settlement of a legal proceeding based on a breach of the representations, warranties and indemnities in this Agreement. You’ll pay the Indemnified Parties the reasonable costs and attorney’s fees the Indemnified Parties incur in its defense. We may withhold and place in an escrow account all monies payable to You under Section 8, up to the amount of the damages claimed.

12. **Artistic Control.**

(1) We’ll consult with You about each of the following decisions:
   a) The title of Your Work;
   b) The method and means of promoting and selling Your Work; and
   c) The number and destination of free copies.

(2) If You and We don’t agree after You and We consult about any of these decisions, We’ll make the final decision, based on Our experience as publisher and the investment We’re making in the Work.

(3) After copyediting the Work, We’ll provide You with proofs, which You’ll promptly review and return to Us within the time We specify. If You don’t return proofs to Us within the schedule, We may proceed without Your corrections. If the cost of Your alterations (other than for typesetting errors or unavoidable factual updating) exceeds 10 percent of the cost of the typography, We have the right to deduct that excess from Your royalties payable under this Agreement.
13. **Author’s Right to Disclosure.** We’ll make reasonable efforts to provide You with feedback and a description of sales, promotional efforts, and consumer response to Your Work, upon Your request. We also agree, upon Your request, to open all of Our Works and records regarding Your Work to You or a legal or accounting professional that You hire. We’ll do so on Your reasonable written notice, not more than once a year, during Our normal business hours. If the examination reveals errors in Your favor of more than five percent, We’ll pay the reasonable costs of the examination.

14. **Original Materials.** We’ll return to You any material submitted by You of material intrinsic value upon Your request. We’ll take reasonable care of such original material You deliver to Us, but We won’t be liable for loss or damage from theft, fire, vandalism or other event that is beyond Our reasonable control.

15. **Author Copies.** You’ll receive NUMBER OF COPIES (#) free copies of the Work, after which You’ll have the right to purchase additional copies for personal use but not for resale, at a sixty (60) percent discount from the list price. However on these copies no royalties will be paid to You. In the case of copies purchased for resale, You must obtain any necessary resale permits, business licenses, and tax identification numbers. You must also fulfill all other regulatory requirements necessary for resale.

16. **Reprints, Revisions and New Editions.**

   (1) You explicitly agree that You’ll promptly make every effort to provide Us with corrections to any errata discovered by You, reported to You, or reported to Us after the publication of the Work for as long as the Work remains in print. If You are writing this Work based on a beta version of a software product, then You explicitly agree to provide Us with updates that We may disseminate electronically to bring the Work up to date for the first released version of the software. Based on Our sole business judgment We may publish corrected reprints from time to time based on the errata You submit as well as any errors that may be reported to Us directly. Such corrected reprints will not constitute a “new edition” for the purposes of Section 7.

   (2) If We decide that a new edition of the Work is necessary (where by new edition We mean a Work that will be published under a different ISBN number and be promoted to the trade as a new edition), We will give You first right of refusal to revise the Work. We will decide on a delivery date and advance, both of which will depend on the nature and extent of the revisions. All other contract terms will be the same as those for the original version of the Work. You agree to advise Us, within 30 days of Our request, whether You will prepare the new edition of the Work. If You agree to prepare the revision, You and We will negotiate a schedule, and You shall proceed diligently with the revision according to the agreed schedule. If You do not agree to revise the Work within 30 days of Our request, or You do not diligently proceed with the revision, or the manuscript for the revised Work that You submit to Us is, in Our sole discretion, not acceptable, We may have the Work revised by a person or persons competent to do so and charge the costs of the revision against payments due You for that revision. In this event, We may at Our sole discretion, add the name of the revisor or revisors as additional authors. We may ask Your permission to continue to use Your name as one of the authors of the revised Work and You will not unreasonably refuse Us such permission. In all cases however We may continue to use Your name in the Title of the revised Work where “Title” is taken to mean all words that appear in the Work’s title or subtitle as would appear in a Library of Congress entry or equivalent.
17. **DERIVATIVE WORKS.** We shall have the right to use all or part of the Work in derivative works published by Us (“Derivative Works”) in Our sole discretion. If We include all or part of the Work in a Derivative Work, You will receive a pro-rata share of the total royalties paid for that Derivative Work in the proportion that the material of the Work used in the Derivative Work bears to the entire Derivative Work. If You so choose, You shall receive an authorship credit of the Derivative Work, and the copyright notice will reflect the derivative nature of the Derivative Work.

18. **SUCCESSORS AND ASSIGNS.** This Agreement may not be assigned by either party without the written consent of the other, except that You may assign payments due You as long as You provide Us with written notice of the assignment, and We may assign this Agreement as part of Our sale or merger or sale of all or substantially all of Our assets. If assigned, this Agreement shall bind the parties and their respective heirs, administrators, successors, and assigns.

19. **INFRINGEMENT.** You and We shall have the right to make a claim or sue jointly for the infringement of the rights granted under this Agreement to Us and, after deducting the expenses of making the claim and, if it occurs, bringing and conducting the legal proceeding, to share equally in any recovery. If either party chooses not to join in the claim or legal proceeding, the other party may proceed at its own expense, and, after that party deducts all the expenses of making the claim and bringing the legal proceeding, any recovery shall be shared in proportion to the current period’s royalty rate. We will have no liability to You for failing to pursue any potential claim.

20. **TERMINATION FOR BREACH OF AGREEMENT.**

   (1) You’ll have the right to terminate this Agreement except for agreements on subsidiary rights already made by written notice if:
   
   a) The Work is not available for sale and We fail to place it available for sale again within 90 days of notice, excepting instances of Force Majeure, after We receive notice from You that the Work is not available for sale along with Your request that We reprint the Work. “Force Majeure” means either party’s failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to, war, strikes, fires, floods, governmental restrictions, power failures, labor disputes or damage or destruction of any network facilities or servers, or failure of any third party to perform any agreement with Us which adversely affects Our ability to perform Our obligations under this Agreement.
   
   b) We fail to provide a statement of account or make any payment, as Section 9 requires, within 30 days after the statement or payment is due and then fail to correct the failure within 30 days of receipt of written notice from You sent to Us.

   (2) We’ll have the right to terminate this Agreement:
   
   a) If you materially breach this Agreement and do not correct the breach within 60 days of your receipt of Our written notice to you.
   
   b) As stated in Section 4(1).

   (3) To the extent permitted by law, either of Us may terminate this Agreement in the event of the other’s insolvency, bankruptcy, or assignment of assets for the benefit of creditors.

If You or We terminate the Agreement under this Section, We’ll revert all rights in the Work to You except for subsidiary rights already sold or licensed.

21. **PRODUCTION MATERIALS AND REMAINING COPIES.** When this Agreement terminates or We decide to declare the Work out of print and remainder any existing copies, You may, within 60 days after We notify You, purchase the plates, offset negatives, computer drive tapes or other electronic storage media (if any) of the Work at their scrap value. You may also purchase any remaining copies of the Work at the lesser of Our production cost or remainder value plus applicable shipping.
22. **Promotion.** We’ll promote the Work, using Our reasonable judgment about the methods and amount of promotion. You consent to Our use of Your name, portrait, picture, and/or likeness for promotion and advertising of the Work, provided that use is dignified and consistent with Your reputation. You’ll assist in the promotion of the Work, furnishing Us with leads or ideas for promotion as appropriate. At Our discretion We may assist You in promoting the Work through Your own promotional channels, such as Your Web site, third party contacts, or conferences or user’s groups which You attend or to which You belong.

23. **Arbitration.** Any dispute of any kind between You and Us arising out of or relating to this Agreement, its performance or the Work shall be submitted to binding arbitration before a single neutral arbitrator knowledgeable about the book publishing and computer software industries. The arbitration shall be conducted under the Commercial Dispute Resolution Rules then in effect of the American Arbitration Association (“AAA Rules”) and, where not inconsistent with the AAA Rules, New York state law. Proceedings shall be conducted expeditiously and economically, and the arbitrator shall administer the proceedings with an eye to minimizing their cost consistent with a fair and informed resolution on the merits. The arbitrator shall award the prevailing party its reasonable attorneys’ fees and costs (including but not limited to the portion of the arbitrator’s and the AAA’s fees and costs advanced or owed by the prevailing party) if and only if it finds the non-prevailing party’s position was without substantial justification; otherwise the parties shall bear their own attorneys’ fees and costs incurred in connection with the proceeding. Without detracting from the mandatory obligation to submit to binding arbitration provided herein, any court proceedings arising out of or relating to any dispute within the scope of this paragraph (including but not limited to seeking interim relief permitted by New York state law, an order compelling arbitration and/or an order confirming, vacating or modifying any arbitration award) shall be brought in the New York State Unified Court System, and each party agrees to be subject to the personal jurisdiction of those courts and that they are and will be proper venues.

24. **Notice.** Where notice is required under this Agreement, it must be given in writing by use of certified mail, return receipt requested, or receipted courier service, sent to the addresses stated in this Agreement, and shall be deemed received ten days after mailing. The addresses for notice may be changed by giving written notice of the new address to the other party.

25. **Advance.** We will pay You an advance against monies owed You under this Agreement of **Advance.** One third will be payable when We receive three chapters in form and substance satisfactory to Us, one third when We receive two thirds of the manuscript in form and substance satisfactory to Us, and the last third when We receive the final manuscript, in form and substance satisfactory to Us including any page proof changes needed before We can release the Work to the printer as well as the source code specified in Section 2 (if applicable). All advance payments will be made within 30 days after each of the above delivery and acceptance requirements have been met. However, if You submit the Final Manuscript more than 30 days after the mutually agreed upon deadline for delivery, then We, in Our sole discretion, may reduce the amount of the advance to the amounts already paid.

26. **Entire Agreement and Modifications.** This Agreement represents the entire agreement between the parties. All modifications of this Agreement must be in writing and signed by both parties.

27. **Waivers and Defaults.** Any waiver of a breach or default under this Agreement shall not be deemed a waiver of any other breach or default.

28. **Governing Law.** This Agreement shall be governed by the laws of New York that apply to contracts made and to be performed in that state.
29. **Miscellaneous.** Sections 11, 18, 23, 24, 26, 27, 28, and 29 shall survive the expiration or termination of this Agreement. Headings are for reference only and shall not be considered in the interpretation of this Agreement. The unenforceability of any provision of this Agreement shall not affect the enforceability of any other provision, and this Agreement shall be interpreted without reference to that unenforceable provision. This Agreement may be signed in counterparts and by facsimile transmission.

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**Author**

X

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Signature

**Address:**

**Business Phone #:**

**Email Address:**

Paul Manning

For Apress

X

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Signature