

Audiobook License and Distribution Agreement

Last revised February 3, 2021

Version 2.8

BY CLICKING "AGREE & CONTINUE" YOU, ON BEHALF OF YOURSELF IN AN INDIVIDUAL CAPACITY OR THE ENTITY THAT YOU REPRESENT, AGREE TO BE BOUND BY ALL TERMS OF THIS AUDIOBOOK LICENSE AND DISTRIBUTION AGREEMENT ("AGREEMENT"), INCLUDING THE AUDIOBOOK CREATION EXCHANGE ACCOUNT HOLDERS AGREEMENT THAT IS INCORPORATED BY REFERENCE HERETO. THE EFFECTIVE DATE ("EFFECTIVE DATE") OF THIS AGREEMENT WILL BE THE DATE YOU CLICK "AGREE & CONTINUE". PLEASE REVIEW THIS ENTIRE AGREEMENT CAREFULLY BEFORE CLICKING "AGREE & CONTINUE".

This Agreement sets forth the terms under which you grant Audible, Inc. ("Audible", "we" or "us"), a United States corporation, rights to distribute the audio recording of the book(s) you have identified on ACX for the grant of distribution rights (any such audio recording as submitted by you or as modified pursuant Section 3(a) below, an "Audiobook"). Among other things, you grant rights to distribute the Audiobook in the territory or territories ("Territory") you indicated on the ACX website (ACX.com) or a successor site ("ACX"). Our distribution of the Audiobook is either exclusive or non-exclusive, as elected by you under the terms of this Agreement.

1. Rights.

You represent and warrant that:

1. You own or control distribution rights to the Audiobook and have the full right, power and authority to enter into and fully perform this Agreement;
2. You are an authorized account holder of a current user account on ACX;
3. You have obtained all rights necessary for Audible to exercise the rights granted under this Agreement;
4. The sale and distribution of the Audiobook as permitted under this Agreement will not violate any applicable law or infringe upon or otherwise violate the intellectual property, proprietary or other rights of any person or entity, including contractual rights, copyrights, trademarks, common law rights, rights of publicity or privacy or moral rights;
5. The Audiobook does not contain any defamatory or libelous material as defined by the laws applicable in the Territory;
6. You will be solely responsible for, and will pay, any third parties any royalties that they are owed with respect to the exercise of the rights granted under this Agreement.

2. Distribution By Audible.

1. IF YOU ELECT TO GRANT AUDIBLE EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING TERMS APPLY:

You grant Audible the exclusive license to use, reproduce, display, market, sell and distribute the Audiobook throughout the Territory in all formats now known or hereafter invented from the date you accept this Agreement until the date that is 7 years from such date (such 7 year period, the "Initial Distribution Period"). As full consideration for the exclusive license granted by you, Audible will pay you royalties on sales of the Audiobook as set forth in Exhibit A. After the Initial Distribution Period, this Agreement will renew automatically for additional 1 year terms (each, a "Renewal Distribution Period") unless either party provides notice of termination to the other party at least 60 days prior to the end of the Initial Distribution Period or the then-current Renewal Distribution Period in accordance with the notice provisions provided below. During the Distribution Period (as defined below) you will not, and will not permit any third party to, directly or indirectly distribute, sell, or offer for sale the Audiobook, or any portion thereof (except the Audible Excerpt as permitted by Section 3(c) below), in the language(s) you provided Audible for distribution in the Territory in any audio format (whether download, streaming, physical compact disc or otherwise).

2. IF YOU ELECT TO GRANT AUDIBLE NON-EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING TERMS APPLY:

You grant Audible the non-exclusive license to use, reproduce, display, market, sell and distribute the Audiobook throughout the Territory in all formats now known or hereafter invented from the date you accept this Agreement until the date that is 7 years from such date (such 7 year period, the "Initial Distribution Period"). As full consideration for the non-exclusive license granted by you, Audible will pay you royalties on its sales of the Audiobook as set forth in Exhibit A. After the Initial Distribution Period, this Agreement will renew automatically for additional 1 year terms (each, a "Renewal Distribution Period") unless either party provides notice of termination to the other party at least 60 days prior to the end of the Initial Distribution Period or the then-current Renewal Distribution Period in accordance with the notice provisions provided below.

3. YOU MAY CHOOSE TO CHANGE THE EXCLUSIVITY ELECTION:

If you granted Audible exclusive distribution rights under Section 2(a), you may request to change your election and grant non-exclusive distribution under Section 2(b) at any time after the 90-day anniversary of the date that Audible first makes the Audiobook available for sale by emailing support@acx.com with a request for the change. Audible will process your request within 30 days from the date of its receipt and notify you when the change is effective. Until the effective date of the change, the terms of Section 2(a) will apply. From and after the effective date of the change, the terms of Section 2(b) will apply and you will be entitled to royalties on sales of the Audiobook by Audible in accordance with the

standard Audiobook Royalty Payment Terms and Procedures for Audible Non-Exclusive Distribution Rights in effect as of the date Audible receives your notice requesting the change.

4. YOU MAY CHOOSE TO TERMINATE YOUR DISTRIBUTION TERM EARLY:

You may request to terminate this Agreement at any time after the 90 day anniversary of the date that Audible first makes the Audiobook available for sale by emailing support@acx.com. Audible will process your request 30 days from the date of its receipt and will notify you when the termination is effective.

3. The Initial Distribution Period and each Renewal Distribution Period (if any), in either of the above cases, is the "Distribution Period."

4. Other Rights Granted to Audible

- 1. Right to Edit.** Audible may modify, reformat, encode, adapt and edit the Audiobook to make the Audiobook compatible with the Audible service, including but not limited to by (a) adding Audible's standard intro and outro, and (b) removing flaws or audio elements that are, in Audible's judgment, incompatible or inconsistent with the Audible service (e.g., playback instructions, microphone bumps, distortion, ambient sound, etc.).
- 2. Additional Territories.** You may expand the Territory at any time by adding additional territories (each, an "Additional Territory"). If you want to grant Audible distribution rights in an Additional Territory, you may notify Audible by emailing Audible at info@acx.com or using such other means as Audible may provide for provision of notice of Additional Territories. By notifying Audible that you wish to include Additional Territories you make all representations and warranties in Section 1 of this Agreement with respect to the Additional Territories. The "Territory" will be deemed to include each Additional Territory as of the date of your notice to Audible and Audible's distribution rights under this Agreement will automatically extend to include the Additional Territory.
- 3. Excerpts.** You will provide Audible a verbatim excerpt of the Audiobook not exceeding 5 minutes in length or 10% of the total duration of the finished Audiobook, whichever is longer. During the Distribution Period, Audible will have the right to use, reproduce, display and distribute such excerpt or any other excerpts from the Audiobook in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook and the Audible service. Any such excerpts will not exceed 5 minutes in length or 10% of the total duration of the Audiobook, whichever is longer, and will be a verbatim excerpt from the Audiobook (each, an "Audible Excerpt"). In the event Audible's distribution of the Audiobook is exclusive, Audible grants you a non-exclusive, non-transferable, non-sublicensable license to use an Audible Excerpt solely on a website for purposes of promoting the Audiobook. However, you may not email an Audible Excerpt to third parties

or otherwise provide an Audible Excerpt to third parties in any format without the prior written consent of Audible.

4. **Cover Art.** During the Distribution Period, Audible will have the right to use and distribute any cover art, graphics, images, or other artwork related to the Audiobook that you provide to Audible ("Artwork") and the title of the Audiobook in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook and/or the Audible service. You will provide Artwork to Audible via the ACX online system or as otherwise instructed by Audible. The Artwork must be the same cover art, graphics, images, or other artwork used for the print version of the book, unless you don't have the right to make this artwork available for use for the Audiobook, in which case you will select generic artwork using the ACX system. Audible may modify and/or reformat the Artwork.
5. **Right of Publicity Grant.** During the Distribution Period, if you are the author or editor of the Audiobook, you grant Audible the right to use your name, approved likeness, and approved biographical information in the Territory in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook and the Audible service. You will, promptly, on request, provide Audible an image and brief written biography suitable for use by Audible in the marketing of the Audiobook. Any image or biographical information you provide will be deemed approved by you upon submission to Audible. If you are not the author or editor of the Audiobook, you agree to obtain for Audible the right to use, during the Distribution Period, the author's (or editor's) name, likeness, and biographical information in the Territory in any media now known or hereafter invented for purposes of advertising and promoting the Audiobook and the Audible service.
6. **Exercise of Rights and Sublicense.** Audible may exercise any of the rights granted to it under this Agreement or discharge any of its obligations under this Agreement through one or more of its Affiliates. Audible may sublicense any of the rights granted to it under this Agreement to any of its Affiliates or to any third party and may permit any sublicensee to sublicense the rights Audible grants to it. Audible will remain responsible for each sublicensee's compliance with this Agreement. "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with Audible or you, as appropriate.

5. Geo-Filtering.

Audible will employ geographic filtering technology or other territory-to-customer matching system, selected in its sole discretion, designed to limit the distribution of the Audiobook to the Territory. You acknowledge that any such technology will not be able to fully prevent the delivery of the Audiobook outside the Territory and agree that Audible will be deemed to have distributed the Audiobook within the Territory as long as Audible has used such technology in connection with such distribution.

6. Delivery and Audible Review of Audiobook

1. **Delivery.** You will deliver the completed Audiobook via the ACX online system or as otherwise instructed by Audible.
2. **Audible Review of Audiobook.** Upon receipt, Audible may review the completed Audiobook for consistency with industry standard high-quality audiobooks and compliance with the ACX Audio Submission Requirements. Audible will have the right to accept or reject the Audiobook in its discretion or provide you instructions on how to meet Audible's standards for completed audiobooks. If Audible rejects the Audiobook, this Agreement will terminate.

7. Withholding and Offset of Royalty Payments.

If you are in breach of any of your obligations to Audible ("Breach") or if a third party has asserted that you did not have all rights required to grant the rights that you grant in this Agreement ("Third Party Claim"), royalties rightfully due to you on the Audiobook will continue to accrue, but Audible is entitled to withhold the royalty payments until you cure the Breach or fully resolve the Third Party Claim. You will notify Audible of any Breach or Third Party Claim of which you are aware within 5 days after you learn of the Breach or Third Party Claim. Further, Audible is entitled to offset amounts that you owe Audible related to an Audiobook against royalty payments Audible owes you on the applicable Audiobook.

8. Termination.

In addition to the termination rights described in Section 2 above, Audible may terminate this Agreement immediately if you have breached any representations, warranties or covenants in this Agreement or upon 30 days written notice to you for any reason. In the event of termination or expiration of this Agreement: (a) all rights granted under this Agreement will revert to you; and (b) Audible will, within 30 days after the end of the calendar quarter in which the termination or expiration occurred, issue a final accounting report together with payment for any amounts that may be due to you under this Agreement in connection with the sale of the Audiobook during the Distribution Period. Notwithstanding anything else set forth herein, you acknowledge that after the termination or expiration of this Agreement for any reason, Audible will retain all the rights necessary for customer support and maintenance, including continuing access and ability to download copies of the Audiobook that customers purchased during the Distribution Period. Upon termination or expiration of this Agreement, all rights and obligations of the Parties under this Agreement will be extinguished, except that Sections 1, 4, 9, 10, 11, 13, 14, 15 and 16 shall survive termination.

9. Audible Controls its Distribution Decisions.

All Audiobooks distributed by Audible are subject to Amazon's Offensive Content Policy. Audible will have sole discretion over all decisions related to its distribution of the Audiobook, regardless of whether the distribution rights you grant to Audible in this Agreement are exclusive or non-exclusive. You understand that Audible is under no obligation to sell the Audiobook or, if Audible commences sale of the Audiobook, to continue to sell the Audiobook and that Audible makes no assurance to you that Audible will sell any minimum number of units of an Audiobook. Notwithstanding the foregoing, if you grant Audible exclusive distribution rights to the Audiobook and if, within 6 months after the finished Audiobook is delivered to Audible, Audible has not started selling the Audiobook, you may send Audible notice in accordance with the notice provisions provided below requesting that Audible commence sale of the Audiobook. If Audible does not commence selling the Audiobook within 3 months after Audible confirms receipt of your notice, this Agreement may be terminated upon 30 days' notice provided by you in accordance with the notice provisions provided below and all rights in the Audiobook granted to Audible in this Agreement will revert to you.

10. Ownership.

As between you and Audible, except for the license you grant to Audible in this Agreement, you retain all right, title, and interest in and to the Audiobook, including the copyright in the Audiobook. All rights in the Audiobook not granted in this Agreement to Audible are expressly reserved by you.

11. Indemnification.

You will defend Audible, its Affiliates, and its sub-distributors, and their respective officers, directors, employees, and agents (the "Audible Parties") from any losses, costs, or liabilities incurred by any of them (a) as a result of a breach by you of any of your representations or warranties in this Agreement, (b) as a result of your failure to meet any of your other obligations set forth in this Agreement or with respect to ACX generally or (c) as a result of your negligence, strict liability or intentional misconduct (individually, a "Claim", and collectively, the "Claims"). You will indemnify each Audible Party against any liability (including reasonable attorneys' fees) incurred by that Audible Party relating to any Claim, except to the proportional extent the liability is caused by the negligence or intentional misconduct of that Audible Party as determined by a final, non-appealable order of a court having jurisdiction. You will not consent to the entry of a judgment or settle without the Audible Parties' prior written consent, which may not be unreasonably withheld. You will use counsel reasonably satisfactory to the Audible Parties, and the Audible Parties will cooperate in the defense. If any Audible Party reasonably determines that any Claim might have an adverse effect, that Audible party may take control of the defense at its expense (without

limiting your indemnification obligations). Your obligations under this Section 10 are independent of your other obligations under this Agreement.

12. LIMITATION OF LIABILITY.

AUDIBLE IS NOT LIABLE TO YOU UNDER ANY CIRCUMSTANCE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, OR INDIRECT DAMAGES, INCLUDING LOST PROFITS OR OPPORTUNITIES. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT ANY PARTY'S LIABILITY FOR ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.

13. Assignment.

You may not assign any of your rights and obligations under this Agreement without Audible's prior written consent. Audible may assign any of its rights and obligations under this Agreement. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns. Any attempted assignment in violation of this Section 13 will be null and void.

14. Confidentiality.

You will (a) protect Audible's information that is identified as confidential or that reasonably should be considered confidential; (b) use such information only to fulfill your obligations under this Agreement; and (c) return such information to Audible promptly when this Agreement terminates.

15. Entire Agreement; Enforceability.

This Agreement and the documents referred to herein constitutes the entire agreement between you and us regarding the matters covered in it and supersedes any and all prior or contemporaneous understanding, agreement, or communication between you and us, whether written or oral, regarding the matters covered in it and may not be modified or amended except by a writing agreed to by you and us. You acknowledge that in executing this Agreement you are not relying on any express or implied representation, warranty, draft agreement, undertaking, promise collateral contract or other assurance or arrangement of any kind not contained herein. If any provision of this Agreement is found to be invalid, void, or for any reason unenforceable, that provision will be deemed severable and will not affect the validity and enforceability of any other provision.

16. Notices.

Any notice provided for in this Agreement will be in writing addressed to the other party. Your notice address will be the physical and electronic addresses you have indicated on your ACX

account. Audible's address will be 1 Washington Park, 16th Floor Newark, NJ 07102, Attn: Legal Department, Fax: 973.820.0505, or to such other address as Audible may designate by notice. All notices will be given in writing via messenger, overnight courier, confirmed facsimile transmission, email, or by first class mail, certified, return receipt requested, provided that any email notice sent by you must be sent from the address you have on file with ACX. All notices will be deemed given on the date of receipt.

17. Governing Law and Disputes

This Agreement is governed by the laws of the State of New York. All disputes with respect to this Agreement will be subject to the exclusive jurisdiction of courts sitting in the County of New York, New York in accordance with the rules and procedures of such courts.

Exhibit A

Royalty Terms

A. IF YOU GRANT AUDIBLE EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING ROYALTY TERMS APPLY:

Audiobook Royalty Payment Terms and Procedures

For Audible Exclusive Distribution Rights

These **Audiobook Royalty Payment Terms and Procedures for Audible Exclusive Distribution Rights** ("Royalty Terms") set forth the terms by which Audible will calculate and pay royalty payments owed to you in connection with Audible's distribution of the Audiobook ("Royalties"). These Royalty Terms form a part of your Audiobook License and Distribution Agreement with Audible ("Agreement"). Capitalized terms used in these Royalty Terms but not defined have the meaning assigned to them in the Agreement.

Audible will pay Royalties to you only on Audible Net Sales Receipts (as defined below) it receives from sales of the Audiobook.

Royalty Calculation. Audible will pay you 40% of all A La Carte Net Sales Receipts and 40% of all Member Net Sales Receipts from sales of the Audiobook. No Royalty will be paid on the transmission or distribution of downloads or other copies of the Audiobook distributed for free for purposes of review, sample, advertising, publicity or promotion.

- **"A La Carte Net Sales Receipts"** means the monetary amount received by Audible from a la carte sales of each Unit, less any cash incentives, promotional discounts, sales or use taxes, excise taxes, value-added taxes, duties, and returns.

- **"Membership Net Sales Receipts"** means, for each Unit, the monetary amount obtained by multiplying the AudibleListener Allocation Factor (as defined below) by Audible's a la carte price for the Unit at the time the AudibleListener Allocation Factor is calculated.
- The **"AudibleListener Allocation Factor"** means the total of all membership sales receipts derived from sales of all content sold by Audible in the applicable accounting period, less any cash incentives, promotional discounts, sales or use taxes, excise taxes, value-added taxes, duties and returns, divided by the total a la carte value (as determined by Audible's applicable a la carte price for the Audiobook at the time the AudibleListener Allocation Factor is calculated) of the membership sales of all content sold by Audible in the applicable accounting period.

Royalty Statements and Payments. For Rights Holders residing in the United States, Audible will provide you a statement of Royalties, together with a check or direct deposit in the amount of any Royalty due, on a calendar monthly net 30 day basis, commencing with the first full month after the Audiobook is first offered for sale by Audible. For Rights Holders residing in the United Kingdom, Canada, or the Republic of Ireland, Audible will provide you a statement of Royalties together with a direct deposit in the amount of any Royalty due, on a calendar monthly net 30 day basis, commencing with the first full month after the Audiobook is first offered for sale by Audible. All payments made by Audible will be inclusive of any applicable VAT or equivalent applicable sales tax. Rights Holders and Producers are solely responsible for their own compliance with all applicable tax laws, including but not limited to the Canadian Excise Tax Act, and the payment of any applicable taxes. Audible may deduct or withhold any taxes that Audible may be legally obligated to deduct or withhold from any amounts payable to you, and payments as reduced by such deductions or withholdings will constitute full payment and settlement to you. You will provide Audible with any forms, documents, or certifications as may be required for Audible to satisfy any information reporting or withholding tax obligations with respect to any payments. If the Royalties owed to you for any accounting period are less than \$50, Audible will have the right to withhold making a payment and carry such payment forward to the next reporting period. Any ACX royalty statements Audible provides to you will be considered final and incontestable 3 months from the date the statements are provided by Audible if you do not object to the statements within that period of time.

B. IF YOU GRANT AUDIBLE NON-EXCLUSIVE DISTRIBUTION RIGHTS IN THE AUDIOBOOK, THE FOLLOWING ROYALTY TERMS APPLY:

Audiobook Royalty Payment Terms and Procedures

For Audible Non-Exclusive Distribution Rights

These **Audiobook Royalty Payment Terms and Procedures for Audible Non-Exclusive Distribution Rights** ("Royalty Terms") set forth the terms by which Audible will calculate and pay royalty payments owed to you in connection with Audible's distribution of the Audiobook ("Royalties"). These Royalty Terms form a part of your Audiobook License and Distribution Agreement with Audible ("Agreement"). Capitalized terms used in these Royalty Terms but not defined have the meaning assigned to them in the Agreement. Audible will pay Royalties to you only on Audible Net Sales Receipts (as defined below) it receives from sales of the Audiobook.

Royalty Calculation. Audible will pay you 25% of all A La Carte Net Sales Receipts and 25% of all Member Net Sales Receipts from sales of the Audiobook. No Royalty will be paid on the transmission or distribution of downloads or other copies of the Audiobook distributed for free for purposes of review, sample, advertising, publicity or promotion.

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- The **"AudibleListener Allocation Factor"** means the total of all membership sales receipts derived from sales of all content sold by Audible in the applicable accounting period, less any cash incentives, promotional discounts, sales or use taxes, excise taxes, value-added taxes, duties and returns, divided by the total a la carte value (as determined by Audible's applicable a la carte price for the Audiobook at the time the AudibleListener Allocation Factor is calculated) of the membership sales of all content sold by Audible in the applicable accounting period.

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withholding tax obligations with respect to any payments. Rights Holders and Producers are solely responsible for their own compliance with all applicable tax laws, including but not limited to the Canadian Excise Tax Act, and the payment of any applicable taxes. If the Royalties owed to you for any accounting period are less than \$50, Audible will have the right to withhold making a payment and carry such payment forward to the next reporting period. Any ACX royalty statements Audible provides to you will be considered final and incontestable 3 months from the date the statements are provided by Audible if you do not object to the statements within that period of time.