

LEGAL & CONTRACTS ADVICE

An Annotated Contract

How to Read a Translation Rights Contract

WHAT'S INSIDE:

Who Owns the
Translation?

Publishers'
Obligations

Royalty Rates

And More



Alliance of Independent Authors

Introduction

As an author, navigating the rights marketplace can be confusing and complex as more and more new choices emerge.

Publishing rights are essentially the permission you grant to other people to produce your work in any format while retaining copyright protection.

All of these publishing rights represent potential readers and income, but each foreign market offers different opportunities and operates by different rules, so it's even more important to read the fine print.

For authors serious about success, publishing rights should be central to their writing and publishing strategies.

In considering your rights, you should:

- Carefully check your agreement with a translations rights agent;
- Never give world rights as standard;
- Be aware works published in a foreign country are subject to that country's copyright laws, not those of the country of origin;
- Be aware that if an agent sells your book in a particular territory, they are entitled to all subsequent income on that book in that territory, even if you part ways later.

We have annotated a sample Foreign Rights contract to draw your attention to other key clauses authors should be aware of when agreeing to engage these types of publishing services.

Read through the following contract carefully. And, remember, if there's a clause that you don't understand in a contract, always seek clarification before signing it.

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The information discussed in this guide should not be considered legal advice, and is provided as guidance only.

ALLi recommends authors seek legal advice if unsure about how to proceed with a contract negotiation.

Sample Foreign Rights Contract

I Warrants. Licensor owns the copyright, title, trademarks and all other related rights in and to the work TITLE. These aforementioned works will hereinafter be referred to as the "Material". The Material is free and clear of any counts of libel, plagiarism, breach of privacy or misrepresentation of facts. The Material does not infringe upon any copyright or proprietary right, common law or statutory law, and does not contain any material of libelous nature.¹

1. All of these are typical warranties an author should be expected to make.

II Grantor of Rights. The Licensor, on behalf of him/herself and his/her heirs, executors, administrators, and successors, agrees to grant the Licensee exclusive French language rights to:

- a. Produce, publish and sell books comprised of the Materials, provided these books are entirely in French.*
- b. Produce, publish and sell the Materials in electronic format, including email, download, disk, CD, or any other digital format, provided these electronic books are entirely in the French language.*
- c. Print posters, flyers, postcards, bookmarks, stickers, or other single sheet, hard-copy items to distribute for free for the sole purpose of promoting the French language books or electronic books comprised of the Materials.*
- d. Post online via the Internet samples, descriptions, and images from the Materials, provided any sample pages are displayed entirely in French.²*

2. This is a reasonable grant of rights that is limited to books and ebooks entirely in French, with some related rights.

*III Licensor Rights and Obligations
Licensor reserves unto itself all rights of every kind and nature except those specifically granted to Licensee herein.³*

3. This is something a writer wants to see; any rights not granted are reserved by the Licensor (the author).

*c. Licensor shall provide the Licensee emails or FTP access (at the Licensee's discretion) of data in an IBM compatible, Windows format, which shall include the English language files used to create and promote the Materials in their entirety.*⁴

IV Licensee Rights and Obligations

a. Licensee shall be solely responsible for translating the Materials into French.

b. Licensee shall be the sole owner of the French language rights to the Materials for the Term defined in this document; except, such ownership shall not include ownership of the United Kingdom Copyright in and to the Materials or any other rights to the Materials not specifically granted in Section II above.

*c. Licensee assures not to reveal the Licensor's real name under no circumstances and to keep the Licensor's anonymity.*⁵

V Term of Contract

a. Electronic Rights and Book Rights will be exclusive for three (3) years commencing on the date the Material becomes available for sale on the Licensee's site. After such time, the contract can continue if both parties agree.

b. The Licensor may terminate contract with a ninety (90) day written notice after the material has been for sale no less than eighteen (18) calendar months, via certified mail or other receipted delivery service. The Licensee notice, and all rights granted the Licensee will revert to Licensor.

c. Upon termination of this Agreement, Licensee shall cease reproducing, advertising, marketing and distributing books or electronic books comprised

4. This explains how the manuscript is to be delivered. Reasonable and clear.

5. This provision spells out some of the publisher's obligations. You'd be surprised how many contracts go into detail about what the author (licensor) is supposed to do, but say nothing about what is expected of the publisher (licensee). Make sure the publisher's and other rights buyers' obligations are spelled out.

*from the Materials as soon as is commercially feasible. Notwithstanding the foregoing, Licensee shall have the right to fill existing orders and to sell off existing copies of the books then in stock, provided the sell-off period shall not exceed six (6) months from the date of termination. Licensor shall have the right to verify the existence and validity of the existing orders and existing copies of the books then in stock upon reasonable notice to Licensee.*⁶

*e. Licensee may terminate contract at any time for reasons such as lack of cooperation or resolution of disagreements between Licensor and Licensee, slander or libel against the Licensee, staff, or other authors.*⁷

VI Royalties

a. Licensee agrees to pay to the Licensor, a royalty of 40% of the retail download price in Euros (EUR) on all sales of the Material sold through the Licensee's website as an eBook and 40% of gross less distributor cut on all sales of the Material sold through other vendors, distributors, bookstores, organizations, or other outlets of electronic books that sell the Material as an eBook in association with the Licensee's Name. If the Material is purchased on paperback, the royalty will be 30%.

b. If the Licensee is to provide a cover, the Licensor's royalty will be 38% for electronics and 28% for paperback books.

*c. In order to stimulate sales, the Licensee reserves the right to lower the price of the Material after a reasonable amount of time if the price appears to be high (no sooner than three months).*⁸

6. This is a reasonable revision clause, but there is something missing. Add that if the book does not become available for sale within one year (or any stated time period), then the agreement terminates and all rights revert to the author.

7. A provision like this is typical. Publishers want to get out of the deal easily, and often prevent the author from doing so. Try to negotiate so that the publisher must provide the author notice of its complaints and 60 days to remedy them.

8. Royalty rates are negotiable. These are reasonable royalty rates, but yours may differ.

d. Detailed accounts of sales of the Material shall be made twice a year, June 30 and December 31, and sent together with all monies due within 45 (forty-five) days from the date to the Licensor. If Licensor requires a cash advance at a given time, the Licensee agrees to provide it, based on the actual sales at the date of the request. This amount will be withdrew from the bi-annual payment. Royalties shall be paid by PayPal.

e. The Licensor is responsible for paying his/her own taxes on all royalty payments received from Licensee and is advised to keep accurate records for tax purposes. It is the sole responsibility of the Licensor to attain all proper documentation according to their laws governing taxes.

f. Licensor shall have the right, upon reasonable notice and during usual business hours, to engage a certified public accountant to examine the books and records of Licensee relating to the Licensor's publication(s) at the place where records are regularly maintained.⁹

VII Marketing and Promotion

a. The Licensor shall provide the Licensee with biographical information and a suggested blurb for use on Licensee's website. Licensor agrees to give Licensee the right to use the Licensor's name, likeness, title of work and biographical material for publishing, advertising and promoting the Material.

b. Licensor may use up to Three (3) chapters to post on his/her website or to give away as "teasers" to promote the work provided it includes a link to XYZ PUBLISHING. Licensor may obtain up to Five (5) free copies of publication to use for promotions and marketing endeavors.

c. Licensee will send out the Material for

9. Again, a reasonable explanation of payment timings. The audit right is often left out of publishing contracts. Ask for one.

review to no less than Three (3) review sites.

d. Licensor grants Licensee permission to include book information, excerpts, and bios in press releases to other industry resources that may include agents, print publishers, and other published authors.

e. If Licensee provides a cover, Licensee reserves final approval of art in consultation with Licensor. ¹⁰

VII Assignment

a. XYZ PUBLISHING may at any time sell itself, or the majority of itself, its holdings, or licenses. Current contracts would transfer to the new owner.

**This is reality. Publishing companies change hands often*

b. Bankruptcy: If XYZ Publishing is legally judged bankrupt or liquidates its business, this Contract shall be terminated effectively and all rights granted to “XYZ PUBLISHING” shall be terminated. Licensor shall be paid in full by XYZ Publishing any unpaid royalties accrued from sales of her/his works as of the date of judgment of bankruptcy and or liquidation of its business.

c. Rights: If Licensee suspends operations, removes website from the internet or fails to respond to any written or electronic correspondence, other than a temporary suspension for technical difficulties such as a loss of Web Server or other suspension not lasting more than sixty (60) days, all rights outlined in this agreement are terminated and all rights are immediately reverted to the Licensor. ¹¹

10. All this makes sense. The publisher needs biographical information, etc. However, earlier in the agreement, the publisher agrees to keep the writer’s identity confidential. If the author is using a pen name, then the parties should discuss how to handle bios and other requests for information about the author. Be sure the result of these discussions ends up in your final agreement.

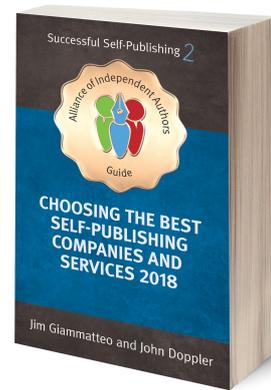
11. These are very useful provisions that are often missing in publishing contracts. You want your contracts to say that if the publisher goes bankrupt or out of business, then all rights revert automatically to the author.

ALLi publishes:

Choosing The Best Self-Publishing Companies and Services 2018

The only annually updated guide to the global self-publishing services industry.

The 2018 edition is now available (FREE to ALLi Members).



The AskALLi Quick & Easy Guides to Self-Publishing address the most common questions our members have about self-publishing.

The Guides are organized across the seven stages of the publishing cycle: editorial, design, production, distribution, marketing, promotion, and licensing rights. There are also guides to running a successful business as an indie author.

For more advice and a daily blog, visit our Self-Publishing Advice Centre at <http://selfpublishingadvice.org/blog/>

Founded by novelist and poet Orna Ross, the Alliance of Independent Authors is a global nonprofit organization offering authoritative advice, experienced guidance, and advocacy within and outside the publishing industry.

Its mission is ethics and excellence in writing and publishing. The Alliance offers a variety of member benefits, including discounts and incentives and collaboration and connection with the best self-publishing authors and advisers in the world.