

This IngramSpark Agreement (the "**Agreement**") is a binding agreement by and among you and the entity you are accepting this Agreement on behalf of ("**Publisher**"), and Lightning Source LLC ("**LS**"), Ingram Content Group UK Ltd. (f/k/a Lightning Source UK Ltd.) ("**ICGUK**"), and Ingram Content Group Australia Pty Ltd. (f/k/a Lightning Source Australia Pty Ltd) ("**ICGAU**"). LS, ICGUK, and ICGAU are collectively referred to as "**Lightning Source**". Publisher and Lightning Source may each be referred to as a "**Party**", and, collectively, as the "**Parties**". This Agreement shall supersede and replace any prior IngramSpark agreement(s) for print on demand and digital distribution services.

If you are entering into this Agreement on behalf of a company or other organization, you hereby represent and warrant that you are authorized to enter into this Agreement on behalf of such company or other organization.

This Agreement provides the terms and conditions of your participation in the Lightning Source self-publication and distribution program ("**IngramSpark**") and governs any accounts created by Publisher on the IngramSpark website, located at www.ingramspark.com ("**IngramSpark Site**") and any programs, services, or tools made available through the IngramSpark Site and/or this Agreement. This Agreement also incorporates by reference (i) the IngramSpark Pricing and Services Guide, (ii) the User Guide, which (i) and (ii) are located online within your IngramSpark account, and (iii) the IngramSpark Privacy Policy, as each are amended from time to time.

READ THESE TERMS CAREFULLY. USING THE INGRAMSPARK SITE INDICATES THAT YOU HAVE BOTH READ AND ACCEPT THESE TERMS. THESE TERMS CONTAIN A DISPUTE RESOLUTION AND ARBITRATION PROVISION, INCLUDING A CLASS ACTION WAIVER THAT AFFECTS YOUR RIGHTS UNDER THESE TERMS AND WITH RESPECT TO DISPUTES YOU MAY HAVE WITH LIGHTNING SOURCE.

IF YOU ARE A USER OF THE INGRAMSPARK SITE AND LOCATED IN THE EUROPEAN ECONOMIC AREA, SWITZERLAND, OR UNITED KINGDOM, THE DATA PROCESSING ADDENDUM ATTACHED HERETO AS EXHIBIT VI ACCOMPANIES THESE TERMS AND SETS FORTH OTHER TERMS OF OUR AGREEMENT THAT APPLY SOLELY TO THE EXTENT ANY INFORMATION YOU PROVIDE TO LIGHTNING SOURCE INCLUDES PERSONAL DATA OF INDIVIDUALS LOCATED IN THE EUROPEAN ECONOMIC AREA, SWITZERLAND, AND THE UNITED KINGDOM.

The obligations of each Lightning Source party will be dependent on the type of services and the location such services were rendered, as set forth below:

- For print on demand products and services in the United Kingdom – ICGUK
- For print on demand products and services in Australia – ICGAU
- For print on demand products and services in the United States and all digital (ebook) distribution services – LS

Each Lightning Source party is severally liable for its own obligations under this Agreement and is not jointly liable for the obligations of any other Lightning Source party.

1. DEFINITIONS. Capitalized terms used in this Agreement shall have the meanings ascribed to them below:

- a) "**Access Credentials**" means any username, identification number, password, license or security key, security token, PIN, or other security code, method, technology, or device, used alone or in combination, to verify an individual's identity and authorization to access and use the Services.
- b) "**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.

- c) **"Authorized Users"** means Publisher's employees, consultants, contractors, and agents (a) who are authorized by Publisher (either expressed or by implication) to access and use the Services under the rights granted to Publisher pursuant to this Agreement; and (b) for whom access to the IngramSpark Site and/or Services has been provided by Publisher hereunder.
- d) **"Conversion"** means the creation by LS of an ePub ebook file from Publisher-supplied electronic book files (e.g., press-ready PDF).
- e) **"Customer Data"** means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise accessed or received, directly or indirectly, from Publisher or an Authorized User by or through the Services or that incorporates or is derived from the processing of such information, data, or content by or through the Services. For the avoidance of doubt, Customer Data does not include Resultant Data or any other information reflecting the access or use of the Services by or on behalf of Publisher or any Authorized User.
- f) **"Database"** means a computer storage medium or device capable of storing and transferring Publisher's content by Lightning Source, as applicable to this Agreement.
- g) **"Digital Compensation"** means the amount payable to Publisher for Digital Titles sold through the Digital Distribution Services. Digital Compensation will be an amount equal to Net Sales less the Digital Distribution Fee.
- h) **"Digital Title(s)"** means the Publisher's ebook(s), or part(s) thereof, provided to LS for distribution pursuant to this Agreement. Digital Titles may include MPC Titles (defined below).
- i) **"Digital Distribution Services"** means the services provided by LS giving Publisher the opportunity to make Digital Titles available to Resellers for the purposes of selling, marketing, displaying and distributing Digital Titles to End Users. The Digital Distribution Services are more fully described in this Agreement and the User Guide.
- j) **"Digital Distribution Fee"** means the digital distribution fee paid by Publisher to LS for sales through the Digital Distribution Services. The Digital Distribution Fee will equal fifteen percent (15%) of Net Sales.
- k) **"Direct Distribution Services"** means the services provided by Lightning Source giving Publisher the opportunity to place orders directly with Lightning Source for direct distribution to Publisher or consumers and may generally include fulfillment and/or other special services as agreed by the Parties. The Direct Distribution Services are more fully described in the User Guide.
- l) **"ebook"** means a literary work, including, without limitation, novels, books, short stories, articles, chapters or excerpts provided in digital form designed for consumption on a personal computer, hand-held device, or other electronic device and identified by its associated Metadata.
- m) **"End User"** means the ultimate consumer and/or purchaser of a Digital Title.
- n) **"Espresso Book Machine Services"** means the services LS provides to Publisher through its relationship with ODB (defined below), providing Publisher the opportunity to sell Print Titles from additional sites located in various places throughout the world.
- o) **"Global Connect Program"** means the program offered by LS which provides Publisher the opportunity to sell Print Titles through its Global Connect Channels.
- p) **"Global Connect Channel"** means the third-party printers through which LS provides the Global Connect Program.
- q) **"Held Inventory"** means those Print Titles printed via Held Inventory Printing and stored by Lightning Source.
- r) **"Held Inventory Printing"** means the printing of certain Titles ahead of actual demand.
- s) **"Intellectual Property Rights"** means all rights in, to, or arising out of: (i) any U.S., international or foreign patent or any application therefore and any and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) inventions (whether patentable or not in any country), invention disclosures,

improvements, trade secrets, proprietary information, know-how, technology and technical data; (iii) copyrights, copyright registrations, mask works, mask work registrations, and applications therefore in the U.S. or any foreign country, and all other rights corresponding thereto throughout the world; and (iv) any other proprietary rights anywhere in the world.

- t) **"List Price"** means the suggested list price of the Digital Title set by the Publisher and identified in the Metadata provided by LS to Resellers. Publisher may change the List Price for a Digital Title through the IngramSpark Site not more than once every seven (7) days.
- u) **"Losses"** means any and all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- v) **"Market"** means the location(s) where Print Titles could be manufactured, including without limitation, the United States, Australia, France, the United Arab Emirates, the United Kingdom and/or other such sites or locations as made available from time to time.
- w) **"Mass Produced Content"** means any creative works and materials that are: (1) mass produced (and not subject to copyright protection), (2) in the public domain; (3) not protected by intellectual property laws, such as copyright, trademark, or patent laws; (4) not owned by any individual; or (5) able to be used by anyone without obtaining any permission, regardless of ISBN or title, or whether the work is a reproduction, a compilation, or any limited portion thereof. Mass Produced Content includes, without limitation, content that was once protected under copyright laws, scratch pads, notepads, and workbooks.
- x) **"Metadata"** means the data provided by Publisher to LS that describes the Titles. Metadata shall include, but not be limited to, the ISBN or other unique identifier, Title, Author, Publisher, List Price, On Sale Date and territorial rights. Any additional Metadata requirements required by a Reseller shall be provided to Publisher by LS. Publisher must provide the original publication date for each Title.
- y) **"MPC Title(s)"** means any Mass Produced Content provided to Lightning Source by Publisher under this Agreement.
- z) **"Net Sales"** means the aggregate amount received by Lightning Source resulting from sales of all Digital Titles to (or through) Resellers during a given month less any Refunds.
- aa) **"ODB"** means On Demand Books, LLC.
- bb) **"On Sale Date"** means the first date a Reseller may offer a Digital Title for download to End Users and shall be identified in the Metadata. Publisher shall provide the same On Sale Date for all Resellers within the same territory.
- cc) **"Pricing Schedule"** means the IngramSpark Pricing and Services Guide incorporated by reference hereto which includes current pricing and fees for those products and services available to Publisher pursuant to this Agreement. This Pricing Schedule can be found within Publisher's account on the IngramSpark Site.
- dd) **"Print on Demand Services"** means the print on demand services provided by Lightning Source, whereby Publisher's Print Titles are able to be printed, one at a time, on-demand, after an order is received by Lightning Source. The Print on Demand Services are more fully described in the User Guide. The Print on Demand Services may include Wholesale Services, Direct Distribution Services, Global Connect Program, and/or Espresso Book Machine Services.
- ee) **"Print Title(s)"** means the work made available by Publisher, in furtherance of the Print on Demand Services, identified by a unique name or number as given to a book, composition, catalog, journal, or other similar work. Print Titles may include MPC Titles (defined below).
- ff) **"Publisher Compensation"** means the amount payable to Publisher for each Print Title printed and sold through the Wholesale Services, Espresso Book Machine Services, and/or Global Connect Program. For each Print Title

printed and sold, Publisher Compensation shall be equal to the suggested retail price minus wholesale discount minus cost of printing applicable to the particular service, as specified in the Pricing Schedule.

- gg) **"Refunds"** means the amount credited back to LS by a Publisher for any Digital Title returned due to the Reseller by an End User.
- hh) **"Reseller"** means a wholesale or retail account that receives distributed Digital Titles from LS as part of the IngramSpark program.
- ii) **"Resultant Data"** means data and information related to Publisher's use of the Services that is used by Lightning Source in an aggregate and anonymized manner, including but limited to, compiling statistical and performance information related to the provision and operation of the Services.
- jj) **"Seller"** means any third-party channel, including but not limited to, wholesalers, retailers, Resellers, and Global Connect Channels.
- kk) **"Services"** means the services specified in Section 2 of this Agreement, which may be added, deleted, or modified by Lightning Source from time to time.
- ll) **"Title(s)"** means the Print Title(s) and Digital Title(s), interchangeably and includes the associated Metadata.
- mm) **"User Guide"** means the then-current documents created to describe (1) the products and services offered by Lightning Source, and/or (2) the Publisher requirements for the provision of Titles, including the systems or processes necessary to implement the IngramSpark Services. The User Guide will include, but not be limited to, the IngramSpark Publisher User Guide, Operating Manual, IngramSpark File Creation Guide, and other documents, as they may relate to those IngramSpark Services requested from Lightning Source. The User Guide can be found on the publisher dashboard under "Tools" located at www.ingramspark.com upon account log-on.
- nn) **"Wholesale Services"** means the services provided by Lightning Source whereby Lightning Source may make Print Titles available, from a Market where Lightning Source manufactures Print Titles, to wholesalers in those territories where Lightning Source has wholesale relationships. As wholesale orders are received, Lightning Source will print a book as is it ordered by a wholesale partner, purchase the book from Publisher at the wholesale discount provided by Publisher, and distribute the book to the wholesale partner.

2. INGRAMSPARK SERVICES. Lightning Source will provide Publisher the opportunity to participate in the following services and programs:

- a) **Print on Demand Services.** Lightning Source will provide the Print on Demand Services to Publisher in the Markets for the Print Titles stored in the Database. Publisher may place orders with Lightning Source through the IngramSpark Site. As orders are placed by the Publisher or wholesale partners, the appropriate Lightning Source entity will perform the Print on Demand Services in accordance with the terms of this Agreement. Lightning Source reserves the sole right to determine where to manufacture Print Titles. All orders placed by Publisher will be distributed through the Direct Distribution Services. Lightning Source will not maintain or possess any physical inventory of Publisher's Print Titles, except for the Held Inventory.
 - i) **Direct Distribution Services.** As Publisher places orders to be printed through the Print on Demand Services, Lightning Source will distribute orders through the Direct Distribution Services. Publisher will be responsible for its own accounting and other business needs not expressly set out in this Agreement or the User Guide, including but not limited to third-party pricing, terms of sale, order taking, order entry, invoicing, credit memo processing, credit, collections and customer service.
 - (1) **Risk of Loss in Transportation.** Risk of damage and/or loss of Publisher's book shall pass to Publisher upon delivery of books to the carrier at the Lightning Source dock, except where the Publisher or Publisher's

customer's orders are shipped on a prepaid basis and Lightning Source selected the transportation arrangements.

- (2) **Held Inventory Printing/ Orders.** Publisher's Print Title(s) shall be available for Held Inventory Printing and Lightning Source will forecast demand for such Print Titles for the purpose of printing only those quantities during limited times, as reasonably anticipated by Lightning Source. The Held Inventory will be stored in Lightning Source's and/or its affiliated company's facilities and made available from such facilities based on Lightning Source's demand schedule. Publisher will not be invoiced any print fees for such Held Inventory until a sale occurs. Upon a sale of Held Inventory through the Wholesale Services, Lightning Source will purchase the unit(s) as a Wholesale Services transaction. Held Inventory may also be available for Publisher's Direct Distribution orders. Title shall pass for each purchased unit from Publisher to Lightning Source at time of the applicable order invoice by Lightning Source to Publisher. Lightning Source shall determine, on a case by case basis, the duration for Held Inventory availability. After such time, Publisher shall be provided the opportunity to purchase such remaining Held Inventory at a price agreeable to both Parties within fifteen (15) days of a sales notice. Any Held Inventory not purchased shall be reduced to recyclable material by Lightning Source.
- ii) **Wholesale Services.** Publisher Print Titles may be available from a Market where Lightning Source manufactures Print Titles to territories where Lightning Source has wholesale relationships. The Publisher will determine the suggested retail list price and wholesale discount for each Print Title and each territory where Publisher authorizes Lightning Source to sell copies of the Print Title. Lightning Source will have the right, but not the obligation, to add or remove a Print Title from availability or limit a Print Title to certain territories. Publisher is not required to participate in every territory serviced by Lightning Source. The wholesale discount for MPC Titles available through Wholesale Services will be at least forty percent (40%). The retail list price for each MPC Title will be reasonably priced, based on the content and the territory of availability for each Title. Lightning Source will determine which of the MPC Titles are available in each territory, including those territories where Lightning Source has wholesale relationships. After Print Title setup is complete, Publisher may modify territory availability, suggested retail price and/or wholesale discount for any Print Title by providing Lightning Source with forty-five (45) days' advance written notice. The currency of the suggested retail price shall be the currency applicable to the territory of sales activity as outlined in the Pricing Schedule and User Guide. Lightning Source is authorized to manufacture the Print Title from any Market, however sales will be limited to the countries of the currencies provided.
 - (1) **Espresso Book Machine Services.** By enabling a Print Title for Wholesale Services with LS, Publisher also elects to participate in the Espresso Book Machine Services in all current locations and any additional locations as they become available. Lightning Source will provide ODB with the Print Title and associated Metadata. ODB will create a functional equivalent of this content and will store such information as an encrypted file in its database. As orders are received, ODB will stream files to individual machines for one-time use, which will subsequently be deleted following the successful manufacturing of the book. All files remain encrypted throughout the process. Publisher may not opt-out of participating in the Espresso Book Machine Services if a United States suggested retail price and wholesale discount are designated. Lightning Source may terminate the Espresso Book Machine Services, effective immediately, if the relationship between Lightning Source and ODB terminates.
 - (2) **Global Connect Program.** By participating in Wholesale Services with LS for a Print Title, Publisher elects to participate in the Global Connect Program for all current locations and all additional locations as they become available. LS may make Publisher's Print Titles available for sale, print, and distribution through the Global Connect Channels. As orders are received in a territory, LS will make the Print Title's file available to

a Global Connect Channel in that territory for one-time use. LS will transmit files to the Global Connect Channel using secure, encrypted connections. All files will be provided only on an as ordered basis and deleted by the Global Connect Channel partner within a reasonable time thereafter. During initial setup, Publisher may opt-out of participating in the Global Connect Program, for all or select Print Titles, within its IngramSpark account. Once a Print Title is active in the Global Connect Program, Publisher may change the Print Title and territory availability through its account or by contacting LS client services. Each Global Connect Channel is required to manufacture each book to substantially similar specifications to those produced by LS.

- b) **Digital Distribution Services.** LS will make the Digital Distribution Services available to Publisher. By making a Digital Title and related Metadata available to LS, Publisher elects to participate in the Digital Distribution Services. LS will make the Digital Titles available to all Resellers for the purposes of selling, marketing, displaying and distributing Digital Titles to End Users. LS shall distribute Digital Titles to all Resellers through the sales models specified in <https://myaccount.ingramspark.com/EbookSalesModels>, which may be modified by LS from time to time. LS will distribute all Digital Titles in accordance with the Metadata. Publisher shall not directly or indirectly distribute Digital Titles to any Reseller outside of this Agreement.
- i) Metadata; Territorial Rights; On-Sale Date. Publisher shall provide LS with Metadata for Titles through the IngramSpark Site or as otherwise specified by Lightning Source. Publisher shall expressly identify to LS the territorial rights for each Digital Title through the Metadata. Territorial rights for Print Titles is determined by the Market the Title is available from, as specified in the User Guide. Publisher allows LS to deliver Metadata to the title inventory management system to enable the delivery of such Metadata to any retail customer, including Sellers. LS shall require Resellers to use commercially reasonable methods of determining the authorized territory for each End User and sell Digital Titles pursuant to that methodology. Publisher shall identify the On-Sale Date for each Digital Title in the Metadata. Resellers, through LS, may accept pre-orders for Digital Titles prior to the On-Sale Date provided that no delivery of the Digital Titles to the End User occurs prior to the On-Sale Date. All Resellers shall be provided with the same On-Sale Date within a territory for each Digital Title.
 - ii) Promotional Content. For each Digital Title, Publisher shall, at a minimum, provide the Reseller with the ability to use promotional content for the purposes of marketing and selling Digital Titles as follows: (x) front cover image(s); (y) table of contents; and (z) up to twenty percent (20%) of the Digital Title. In some instances, such promotional content may not be subject to any form of content security.
 - iii) Content Security. LS shall require Resellers to apply commercially reasonable protections to the Digital Titles, which may include technology designed to help prevent unauthorized use and transfer of the content and reasonable protection against intellectual property infringement. Publisher acknowledges that such protections are provided and implemented by third parties and agrees that LS has no control over the provision of such protections. Publisher hereby releases LS from any and all liability resulting from any failure of such technology or protections.
- c) **General Information – IngramSpark Services**
- i) Title Submission; Removal of Titles. Publisher shall submit Titles and all related Metadata to Lightning Source in the designated format through the IngramSpark Site, or as otherwise agreed by the parties. Specific technical details are set forth in the User Guide. Publisher may delete a Title from a Lightning Source Database at any time upon giving Lightning Source thirty (30) days written notice. Lightning Source, at its sole discretion may immediately suspend or withdraw a Title, and for repetitive or egregious cases may suspend a Publisher's account, as necessary to preserve its business, status and reputation; reduce or mitigate its exposure to intellectual property infringement disputes, or as otherwise permitted in accordance with the terms of this Agreement. Fees are not refundable if a Title is withdrawn from the Database. Additionally, LS reserves the right

to immediately remove Titles if: (1) Lightning Source, in its sole discretion, has reason to believe that the Title, or any part thereof breaches any of Publisher's obligations, representations, or warranties set forth in this Agreement; (2) Lightning Source receives a bona fide request from any Reseller, business partner, or governmental authority; or (3) the Title could reasonably cause liability to Lightning Source, its parent, subsidiaries or affiliates or any of their respective officers, directors, employees, or agents. Notwithstanding the foregoing, LS may maintain archival copies of the Digital Titles and may allow Resellers to retain such Digital Titles, as is necessary to permit continuing access for those End Users who had purchased copies of the Digital Titles prior to its withdrawal from sale or any termination or expiration of the Agreement. Lightning Source shall neither be responsible nor liable to Publisher in any manner for its Resellers or End Users that fail to remove Digital Titles, continue to advertise Digital Titles that LS removed, or that continue to solicit or to process orders for Digital Titles that LS has removed from its catalogues.

- (1) **MPC Title Submissions.** MPC Titles will be made available for distribution exclusively through Lightning Source, regardless of format. Publisher specifically agrees to not make any MPC Title, or similar Title containing the same or similar Mass Produced Content, available to any other third party without Lightning Source's prior, express written permission, which permission by e-mail will not be considered sufficient. This exclusivity provision shall apply during the term of this Agreement and for a period of three (3) months after the termination of this Agreement. The Publisher can only submit the same MPC Title in a different format using a different ISBN. No duplicate MPC Titles in the same format are permitted. Publisher may not upload more than one thousand (1,000) MPC Titles within a thirty (30) day period, unless Lightning Source has confirmed in writing and provided an approved MPC Title upload quantity schedule.
 - (a) **Metadata Requirements.** Publisher must provide the original publication date, which will be used for street date or on-sale date. For clarity, Publisher will only provide the original publication date.
 - (b) **Title Removal.** Any MPC Title may be removed from distribution at Lightning Source's sole discretion. Lightning Source also reserves the right to reject new MPC Titles, and to immediately remove or suspend any Title where the same or similar Mass Produced Content is available through another third party, or if any Metadata includes misleading or improper Title information.
- ii) **Publisher Responsibilities.** Publisher shall, at its expense, be solely responsible for: (1) its technology infrastructure, including but not limited to, compatible computer software, hardware and network access systems; Web browsers, file transfer protocol services, and other access solutions; development of its network features, functions and technology; and any adaptation and reconfiguration that may be necessary for purposes of accessing the IngramSpark Site and using the IngramSpark Services in accordance with the terms of this Agreement; (2) all matters relating to the Titles, including without limitation the creation, production, editing, supply, correction, maintenance, and conversion of the Titles, as necessary, and all costs, obligations, and liabilities associated with such matters; and (3) obtaining all necessary licenses, permissions, rights or clearance for content and materials required by any third party, any act or regulation of any government, and any necessary broadcast, rebroadcast or retransmission rights or required permissions related to the Titles, and shall bear all costs, obligations and liabilities related to any such item.
- iii) **Access and Security.** Publisher shall employ and maintain throughout the term of this Agreement, all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to:
 - (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the IngramSpark Site and the Services; and
 - (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for processing by the Services.
- iv) **Defective Books; Correction of Errors.** Lightning Source will replace, at its own cost, any printed books that do not meet the quality standards set forth in the User Guide due to a manufacturing defect. Publisher

acknowledges that errors (such as mis-shipments, quantity/title discrepancies, or missed delivery dates) may occur from time to time in the normal, ongoing course of business. If an error occurs, and the error is Lightning Source's fault, it will be corrected by Lightning Source, at no cost to the Publisher, by re-shipment, arranging for the return shipment, or reimbursing the Publisher for the incurred standard or premium freight charges. These shall be Publisher's exclusive remedies for errors and Lightning Source shall have no further liability for any such errors.

- v) Returns. All Print Titles designated to be sold, printed and distributed through the Direct Distribution Services, Espresso Book Machine Services, and Global Connect Program are non-returnable. All MPC Titles and Held Inventory Titles are returnable regardless of Publisher designation. For Wholesale Services, Publisher shall designate the return status of its Print Titles as: (i) non-returnable, (ii) returnable and deliver, or (iii) returnable and destroy. Return and deliver is only available in participating Markets. Additional information regarding return status may be found in the User Guide. If Publisher designates any Print Title as returnable, returns will be made in accordance with Lightning Source's then-current returns policy, as outlined in the User Guide. **IF PUBLISHER CHANGES THE STATUS FROM RETURNABLE TO NON-RETURNABLE, PUBLISHER WILL BE RESPONSIBLE FOR ANY RETURNS FOR A PERIOD OF ONE HUNDRED EIGHTY (180) DAYS FROM THE EFFECTIVE DATE OF THE CHANGE. Publisher will be responsible for any returns if Publisher changes the status from non-returnable to returnable. Changing the status from non-returnable to returnable may cause previously purchased Print Titles of the same ISBN to be returned, even where the Print Title was not originally available through Publisher or Lightning Source.** Regardless of return status, Publisher agrees to reimburse Lightning Source for costs related to any Title returned due to inaccurate or incomplete Title set up requirements, claims of intellectual property infringement, violation of applicable laws, or where returns are made by Lightning Source customers alleging improper title information or misleading Metadata, including without limiting, street date or publication date differences from the original publication dates of a book with the same title, or other misleading or inappropriate information. In the event Lightning Source has previously paid Publisher Compensation for a Printed Title which is later returned, Publisher hereby agrees Lightning Source is permitted to hold all further Publisher Compensation and use such Publisher Compensation to offset such previously paid Publisher Compensation against any amounts Lightning Source may owe Publisher, as a reserve against Publisher indemnity obligations, or alternatively require you to immediately remit payment to Lightning Source for the returned unit. Digital Titles distributed through the Digital Distribution Services are returnable.
- vi) While Lightning Source does not routinely perform automatic compensation withholding for returns, Lightning Source reserves the right, which the Publisher hereby agrees: (i) to withhold Publisher Compensation and/or Digital Compensation, (ii) invoice Publisher a reasonably determined returns reserve; and/ or (iii) to offset the Publisher Compensation and/or Digital Compensation for returns, on a case-by-case basis. Such returns withholding shall be based on figures including, but not limited to, sell-through percentages of similar titles and applicable debit balances and credit risk. Lightning Source shall use any Publisher Compensation and/or Digital Compensation against which to apply return reserves withholding, including a reasonable assessment for ongoing sales and will regularly reassess the returns reserve withholding amount as appropriate.
- vii) Conversions. Publisher may elect to utilize Conversion services at prices quoted by LS. If Publisher selects a third-party conversion service provider, LS shall have no liability for any services performed by that third-party provider.

3. LICENSES.

- a) **License to use IngramSpark Site**. LS grants Publisher a revocable, limited, non-exclusive, non-transferable license to use the IngramSpark Services for its own internal business purposes and only for the purpose specified in this

Agreement. Publisher's use of the IngramSpark Services is conditioned on its continued compliance with all terms and conditions contained in this Agreement. Publisher may download materials and information from the IngramSpark Site solely for its own internal business use, provided that all copies retain all copyright and other applicable notices contained in such materials and information.

- b) **License to Perform IngramSpark Services.** Publisher hereby grants Lightning Source a non-exclusive, transferable and sublicensable, irrevocable (except as set forth in Section 6: Term; Termination), worldwide license to: (a) print or cause to be printed, Publisher's and/or Lightning Source's customer orders, either on-demand or in anticipation thereof, (b) provide the services in accordance with this Agreement, (c) advertise and/or market Titles, (c) display Publisher trademarks and logos in the form provided to Lightning Source or as are provided in the Titles, and (d) distribute, reproduce, and store Titles during the term of this Agreement. The rights granted to Lightning Source are sublicensable to our affiliated and subsidiary companies, and those commonly known as Ingram Content Group companies, and includes platforms owned or controlled by Ingram Content Group companies, including without limiting, websites and applications. Additionally, the license granted to Lightning Source includes the right; (a) to store Titles within the Lightning Source digital storage systems (whether owned or licensed), (b) to reformat the Titles as necessary to fulfill Lightning Source obligations and provide the Services, including, without limiting; (i) to convert physical and digital Titles to our electronic file formats, (ii) to edit, modify, reproduce, and use Title metadata provided or acquired in our sole discretion, including enhancing portions of the Title file and Metadata for purposes of advertising, marketing, and selling Titles (whether physical or electronic formats), (iii) to transmit Title Metadata to third parties for the purpose of fulfilling Lightning Source obligations and enhancing our services, (iv) to advertise Titles or generally make Titles known to potential customers, (v) to index Titles within Lightning Source or those of our affiliated companies systems and, (vi) the right to display electronically limited portions of the Title for the purpose of advertising, sales, providing the Services, and enhancing services. The rights granted herein regarding Title Metadata, whether provided by Publisher or otherwise enhanced or modified by Lightning Source, including those enhanced limited portions of the content, is perpetual, and notwithstanding anything else to the contrary, the Metadata rights shall survive any termination of this Agreement. In addition to the aforementioned license, Publisher further extends permission to Lightning Source to provide designated Print Titles to ODB for the purpose of printing and distributing Print Content.

4. **REPORTING.**

- a) **Print on Demand Services.** All sales will be accounted for and included on Publisher's current Publisher Compensation statements pursuant to this Agreement. Publisher's monthly sales reports will account for and reflect Print Titles sold, printed and distributed via Espresso Book Machine Services or Global Connect Program by territory. Lightning Source may make wholesale purchases in multiple transaction currencies based on pricing established by Publisher for each Print Title. Sales will be reported, and print charges deducted, in the currency of the sale. The applicable then current Pricing Schedule for printing will be that of the Lightning Source entity that makes the sale. Amounts due for Espresso Book Machine and Global Connect sales will be made in USD only. Any other amounts due in any currencies that are not Publisher's preferred payment currency will be converted to Publisher's preferred payment currency at the end of each sales period using exchange rates provided by our independent third-party exchange rate information service.
- b) **Digital Distribution Services.** LS will provide Publisher with monthly sales reports. Final sales reports will be issued by the tenth (10th) business day of the following month. All reports received from Resellers and processed during the previous month will be included on the final sales reports. In the event no Resellers reported sales of Digital Titles during a month, Publisher will not receive reporting for that month. In the event a Reseller fails to submit a monthly report by the month-end cut-off, the related sales will be reported in the following month. Sales will be

reported to Publisher in the currencies authorized for each market by the Publisher as communicated in the Metadata. Amounts reported in currencies that are not the Publisher's preferred payment currency will be converted to Publisher's preferred payment currency using conversion rates provided by LS's independent third-party exchange rate information service, provided, however, that the preferred sales and payment currencies are among the standard currencies that are supported by LS for reporting and payment. All amounts are converted to Publisher's preferred payment currency on the last day of the LS accounting month of the then-current sales reporting period.

5. FEES; PUBLISHER COMPENSATION; PAYMENT TERMS; TAXES.

a) IngramSpark Fees.

- i) Print on Demand Fees. Publisher shall pay Lightning Source for all printing charges, service fees (listed on the Pricing Schedule), freight and postal charges, and any taxes that may be applicable during the term of this Agreement. Lightning Source will provide Publisher with invoices detailing the fees for Print on Demand Services and reimbursable expenses. Publisher authorizes Lightning Source to charge Publisher's credit card for payment upon order submission. When placing Direct Distribution orders on the IngramSpark Site, Publisher will select which Lightning Source party the order is being placed with. All pricing will be quoted in the currency and applicable Pricing Schedule of the chosen operating unit. Where Publisher chooses ICGUK, Publisher may choose either GBP or Euro as their preferred currency. Publisher will be responsible for any applicable foreign transaction or currency conversion fees that may be charged by Publisher's credit card company if Publisher's credit card is denominated in a currency other than the currency of the chosen operating unit.
- ii) Digital Distribution Fees. Publisher shall pay Lightning Source the Digital Distribution Fee for all sales through the Digital Distribution Services.
- iii) Credit. Lightning Source will manage the credit risks for sales to Sellers and other business partners and shall have the right to establish credit limits, determine credit worthiness and establish the date payment is due. Lightning Source will use commercially reasonable credit management and collection practices and Lightning Source shall have the option, at its sole discretion, to discontinue sales to any Seller or other business partner that fails to meet Lightning Source's credit and collection requirements. In the event a Seller or business partner's account is uncollectible, Publisher shall be responsible for its portion of the resulting loss from that Seller or business partner's account. Publisher Compensation and Digital Compensation are not payable unless the Seller pays Lightning Source. LS will charge back Publisher's portion of the uncollectible amount against Publisher Compensation and Digital Compensation following the month a Seller or business partner's account becomes uncollectible. If Publisher Compensation and Digital Compensation are insufficient to cover the uncollectible amount, Lightning Source will issue an invoice to the Publisher for any shortfall and the Publisher will pay such invoices within thirty (30) days of the invoice date.
- iv) Currency; Price Increases. Unless stated otherwise, all obligations involving the payment of money shall be conducted in USD. Once annually, Lightning Source reserves the right to increase the prices in the Pricing Schedule by up to five percent (5%). Additional price changes may occur upon sixty (60) days advance notice.
- v) Offset for Past Due Balances. In the event Publisher fails to pay any amounts owed Lightning Source within five (5) business days after receiving a notice of non-payment (the "Original Notice"), Lightning Source reserves the right to place a payment hold on any other account Publisher may have with Ingram Publisher Services LLC., Ingram Book Group LLC., Lightning Source LLC., and any of their affiliated companies (collectively the "Ingram Entities") until such time as Publisher's past due amounts are paid. Lightning Source reserves the right, and Publisher hereby agrees, Lightning Source will retain any amounts payable to Publisher from any other Publisher account with the Ingram Entities in the event Publisher's past due amounts are not

paid within fifteen (15) days after Lightning Source sends the Original Notice and such funds shall be used to credit any past due payments owed any of the Ingram Entities. Additionally, the Ingram Entities each have the right to offset against any amounts payable by any of the Ingram Entities.

b) **Publisher Compensation.**

i) **Wholesale.** Publisher will be paid Publisher Compensation, subject to Section 5(a)iv, for each book printed and sold by Lightning Source to its customers in an amount equal to the suggested retail price minus the wholesale discount minus the cost of printing as specified in the Pricing Schedule at the time of purchase. Upon payment from the Seller, Publisher Compensation will be paid to Publisher within ninety (90) days following the end of the month in which such sales were made. Lightning Source may change the Publisher Compensation terms upon sixty (60) days written notice to Publisher.

(1) **Global Connect Program License Fee.** Publisher will be paid a fee for each book printed and sold by LS through a Global Connect Channel in each applicable territory where paid by the Global Connect Channel. The fee will be determined by Publisher's current US list price (or the suggested retail list price as provided by Publisher in US dollars) less the wholesale discount less the then standard US print pricing.

(2) **Espresso Book Machine.** For all Print Titles sold, printed, and distributed via Espresso Book Machine Services, the Print Titles are sold on a Wholesale basis and Publisher Compensation will be calculated at a Print Title level, as follows: units sold x (Publisher's suggested retail price x (1 – wholesale discount) – print fee). This calculation will be performed in the currency applicable to the market in which the Print Title is printed and the related pricing for that market (as outlined in the Pricing Schedule), including Publisher's suggested retail price, the wholesale discount and the print fee. Publisher's specific print discounts, rebates or promotions, if any exist, do not apply to Espresso Book Machine Services.

ii) **Digital Compensation.** Monthly, as determined by the LS accounting month, LS will account for Net Sales of Digital Titles reported by Resellers within that month. LS will remit the Digital Compensation to Publisher ninety (90) days after the end of the month in which Net Sales were reported.

iii) **Mass Produced Content.** Notwithstanding any other terms in this Agreement, Publisher Compensation will be paid 180 days from the end of the month in which a sale occurs for any IngramSpark account containing MPC Titles.

c) **Payment Terms.** Lightning Source will provide Publisher with invoices outlining the fees for all services provided for in this Agreement and Publisher will make payment by valid credit card and hereby authorizes Lightning Source to charge Publisher's credit card for any services requested or ordered by Publisher, which may include, without limitation, title setup, revision, file conversion, order submission, marketing services and other fees associated with this program. Certain fees may not be charged immediately. If Publisher's credit card is not authorized, is declined, or if Publisher later disputes valid charges, Lightning Source may, at its sole option, discontinue any and all services under this Agreement until payment is received, or at its option may immediately terminate this Agreement. Publisher further agrees their Lightning Source Account is subject to a late charge of 1.5% per month (18% per annum) on all past due invoices and any delinquent accounts may be turned over to a collection agency for the purpose of collecting such unpaid debts. If Publisher fails to repay an account deficit, Lightning Source reserves the right to deduct any such amount from any publisher compensation otherwise owed to Publisher. Any collection fees, including but not limited to attorney's fees and costs, whether incurred by Lightning Source or a collection agency, will be payable by Publisher if the Publisher's account becomes delinquent. Publisher will choose a preferred payment currency among the options available on the LS web site and provide bank account details upon account setup. Publisher authorizes Lightning Source to electronically deposit amounts due directly into Publisher's designated bank account. Any amount referred to in this Agreement which is relevant in determining a payment to

be made is, unless indicated otherwise, a reference to that amount expressed on a tax exclusive basis. Publisher shall remain responsible for any royalty or other compensation or fees due to the authors or owners of the Titles.

- d) **Taxes.** Each Party shall be responsible for any tax liability it incurs due to the performance of its duties under this Agreement for all transactions as outlined in the specific Exhibit noted below.
- i) Print on Demand Services:
 - (1) Tax for Transactions/Orders with Lightning Source LLC (US) – Exhibit I
 - (2) Tax for Transactions/Orders with Ingram Content Group Australia – See Exhibit II
 - (3) Tax for Transactions/Orders with Ingram Content Group UK – See Exhibit III
 - ii) Digital Distribution Services:
 - (1) Transactions/Orders with Lightning Source LLC (US) – Exhibit IV

6. **TERM; TERMINATION.**

- a) **Term.** This Agreement will commence on the Effective Date and continue until terminated by either Party in accordance with the terms of this Agreement.
- b) **Termination for Convenience.** Publisher may terminate this Agreement without cause by giving the other Party forty-five (45) days written notice. Lightning Source may terminate this agreement with or without cause, immediately upon written notice to Publisher.
- c) **Termination for Cause.** Either Party may terminate this Agreement immediately upon written notice if the other Party (i) is in material breach of its obligations hereunder and fails to cure such breach within thirty (30) days following written notice of such breach, or (ii) becomes insolvent or files, or has filed against it, a petition under bankruptcy or insolvency law which remains undismissed after sixty (60) days, makes an assignment for the benefit of creditors or takes any similar action under applicable bankruptcy or insolvency law. Additionally, Lightning Source may terminate or suspend this Agreement immediately, without actual cause, upon reasonable belief of inaccurate or improper Title information or account information, any act of fraud, embezzlement, theft, breach of any material provision, or any other violation of law by Publisher or Publisher's employees, agents, or designees, or if Publisher's account is not activated. In the event only one Lightning Source party terminates or suspends this Agreement, the Agreement shall remain effective as between the Publisher and the non-terminating Lightning Source parties. Where Lightning Source suspends performance or terminates the Agreement pursuant to this Section 6, Publisher agrees such suspension or termination permits Lightning Source to suspend any payment obligation owed to Publisher unless or until all matters concerning the action to suspend or terminate have been fully and completely resolved.

7. **REPRESENTATIONS & WARRANTIES.**

- a) **Publisher Representations and Warranties:** The Publisher represents and warrants that it has all necessary worldwide rights to enter into this Agreement, whether the Publisher is the owner of each of the Titles and all copyrights related thereto, or whether the Publisher has lawfully obtained the legal authority from the authors or owners of the Titles, in order to print, or have printed, and to distribute, or have distributed, the Titles in accordance with the terms hereof. For purposes of clarity, the Publisher also represents and warrants that the Titles can be sold, marketed, displayed, distributed, and/or otherwise promoted by Lightning Source without violating or infringing the rights of any other person or entity, including without limitation, infringing any copyright, moral right, trademark, trade name, patent, right of privacy, right of publicity, right of anonymity, or any other intellectual or industrial property right, title, or interest of any party or entity. The Publisher further warrants the Titles; (i) are not libelous, defamatory, obscene, (ii) accurately identifies the content of any book with appropriate and accurate title names (iii) do not and shall not contain any viruses, Trojan horses, trap doors, worms or any other malicious computer programming

routines that might damage a computer system, (iv) do not and shall not contain any disabling devices or code which could be capable of preventing any business partner's, Reseller's or any End User's use of the Titles and/or materially impairing the processing environment of any Reseller, End User, or other third party, (v) do not otherwise violate any applicable laws, rules, ordinances or regulations, including without limitation any export controls as amended from time to time, (vi) do not and shall not contain any recipes, formulae or instructions that, if implemented, might be injurious to users, and (vii) do not and shall not contain any disabling devices or code which could be capable of preventing any business partner's, Seller's or any End User's use of the Titles and/or materially impairing the processing environment of any Reseller, End User, or other third party. The Publisher warrants that it will provide accurate information related to the Titles, including identification of the Titles and any other pertinent information related to the Titles. The Publisher herein accepts sole and absolute liability for any inaccurate representation or warranty under this Section 7(a). In no event shall Lightning Source be liable for the Publisher's failure of or any breach of its obligations hereunder. Additionally, and without limitation, the Publisher represents and warrants that it is responsible for the payment of royalties owed to its authors or rights holders and will hold Lightning Source harmless for any claims brought against it for royalties.

- b) Lightning Source warrants to Publisher that:
 - i) it is a company, duly organized, validly existing and in good standing;
 - ii) it has the rights, power and privileges to execute, deliver and perform its obligations under this Agreement;
 - iii) the Print Titles that are printed shall materially conform to the standards established in the User Guide; and
 - iv) the execution, delivery and performance of this Agreement have been duly authorized by Lightning Source.
- c) Publisher will promptly notify Lightning Source in writing if it receives or otherwise becomes aware of an Action alleging facts which, if true, would be a breach of any of the foregoing representations or warranties.

8. WARRANTY DISCLAIMER. ALL SERVICES AND PRODUCTS (IF ANY) PROVIDED BY LIGHTNING SOURCE UNDER THIS AGREEMENT ARE PROVIDED ON AN "AS-IS" BASIS AND LIGHTNING SOURCE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. LIGHTNING SOURCE DOES NOT WARRANT THAT THE SERVICES OR PRODUCTS (IF ANY) PROVIDED HEREUNDER WILL BE UNINTERRUPTED OR ERROR FREE. LIGHTNING SOURCE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, QUIET ENJOYMENT, DATA ACCURACY AND SYSTEM INTEGRATION, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. LIGHTNING SOURCE MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR PRODUCTS (IF ANY), OR THE PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET PUBLISHER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. LIGHTNING SOURCE MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE MAINTENANCE OF ANY RELATIONSHIP WITH ANY BUSINESS PARTNER OR SELLER.

9. INDEMNIFICATION. Publisher shall indemnify, defend, and hold harmless Lightning Source and its affiliates, and each of its and their respective officers, directors, employees, agents, successors, and assigns (each, a "**LS Indemnitee**") from and against any and all Losses incurred by such LS Indemnitee resulting from any Action by a third party to the extent that such Losses arise out of or result from, or are alleged to arise out of or result from: (a) Customer Data, including any processing of Customer Data by or on behalf of Lightning Source in accordance with this Agreement; (b) any other materials or information (including any documents, data, specifications, software, content, or technology) provided by or on behalf of Publisher or any Authorized User, including Lightning Source's compliance with any specifications or directions provided by or on behalf of Publisher or any Authorized User; (c) allegation of facts that, if true, would

constitute Publisher's breach of any of its representations, warranties, covenants, or obligations under this Agreement; (d) any action through an Authorized Users account not permitted under this Agreement; (e) any failure to maintain Publisher's Access and Security obligations; or (d) negligence or more culpable act or omission (including recklessness or willful misconduct) by Publisher, any Authorized User, or any third party acting on behalf of or through Publisher or any Authorized User, in connection with this Agreement. Publisher hereby grants to Lightning Source, the authority to withhold any Publisher Compensation and Digital Compensation until any Action has been fully and completely resolved. This section shall survive any expiration or termination of this Agreement.

10. LIMITATION OF LIABILITY. Neither Party's liability for death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors or for fraudulent misrepresentation is excluded or limited by this Agreement. Other than that as set out above, neither Party shall be liable (whether for breach of contract, negligence or for any other reason) for any; (i) loss of profits; (ii) loss of sales; (iii) loss of revenue; (iv) loss or waste of management or staff time, or interruption to business; (v) indirect, consequential or special loss; even if the Parties have been advised of the possibility of such losses. Lightning Source' total liability under this Agreement shall not exceed the sum of Five Hundred Dollars (\$500). The Parties hereby acknowledge that the mutual covenants and agreements set forth in this Agreement reflect this allocation of risk.

11. CONFIDENTIALITY. Publisher promises and agrees to receive and hold Confidential Information in confidence and will protect the confidential and proprietary information of Lightning Source through the exercise of no less protection and care than it customarily uses in safeguarding its own confidential and proprietary information that it desires to retain in confidence, and in all cases, through the exercise of reasonable care. Publisher further agrees not to disclose Confidential Information to any third parties, except as required by law. "Confidential Information" means all non-public technical and nontechnical information concerning past, present, and future business practices, whether conveyed or distributed through oral, written, or recorded methods. Confidential Information shall include without limitation, all documents, software, reports, data, records, customer and customer lists, business plans, finances, technologies (whether owned or licensed), intellectual property, internal structure, resources, products or service offerings, promotional and marketing plans, trade secrets, forms and other materials, third party information related to this Agreement, or information obtained by Publisher in the course of this Agreement that (i) derives actual or potential independent economic value from not being generally known to, and not being readily ascertainable by proper means, by other persons who can obtain economic value from its disclosure or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or (ii) that the Lightning Source designates as confidential, or that given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Confidential Information does not include information which Publisher demonstrates by its written records, (i) was in Publisher's possession or was independently developed by Publisher before receipt from Lightning Source; (ii) is or becomes a matter of general public knowledge through no action or fault of Publisher; (iii) is rightfully received by Publisher from a third party without a duty of confidentiality, or (iv) was independently developed by persons under the control of Publisher who had no access to the Confidential Information.

12. GENERAL PROVISIONS.

a) **Notices.** Any notice provided or permitted to be given, made, or accepted by either Party to the other pursuant to this Agreement must be in writing and given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, or (iv) by electronic mail. Such notices shall

be delivered to the Publisher at its physical address and/or email address listed in its IngramSpark account, or if delivered to Lightning Source using the addresses provided below:

Lightning Source LLC
Attn: General Counsel
One Ingram Boulevard
La Vergne, TN 37086
legal@ingramcontent.com

All notices will be effective on the date of delivery.

- b) **Assignment.** Publisher may not assign or otherwise transfer this Agreement or any of its rights and obligations hereunder or any portion thereof without prior written approval of Lightning Source. This Agreement will be binding on and inure to the benefit of Publisher and Lightning Source and their respective permitted successors and assigns.
- c) **Use of Third Parties.** Publisher hereby consents to Lightning Source use of third parties in furtherance of providing services to Publisher of or related to this Agreement, which may include, without limitation, third party customer service providers or third-party content conversion providers, at Lightning Source's sole discretion.
- d) **Force Majeure.** Any delay or failure of a Party to perform its obligations under this Agreement (excluding obligations to make payment of money due) shall be excused if and to the extent that such delay or failure is caused by an event beyond the reasonable control of the non-performing party, including without limitation, any act of God, pandemic, epidemic, actions by any government authority, fires, floods, natural disasters, riots, wars, terrorism, vandalism, labor problems (including lockouts, strikes, and slowdowns), failure of or interruptions in telecommunications or data transmission systems, or the inability to obtain materials, labor, equipment or transportation.
- e) **Choice of Law; Venue; Arbitration.** This Agreement shall be governed by the laws of the State of Tennessee without giving effect to any conflicts of laws principles. Publisher agrees that any Action arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof (collectively, "Disputed Claim(s)") will be resolved, upon notification by Publisher or Lightning Source (as applicable), exclusively and finally by binding arbitration. Publisher expressly waives the right to participate as a representative or member of any class of claimants pertaining to any Disputed Claims. The arbitration of the Action will be conducted by the American Arbitration Association ("AAA") pursuant to its Commercial Arbitration Rules (including, without limitation, the Supplementary Procedures for Consumer-Related Disputes, if applicable) ("AAA Rules"). Neither you nor we will have the right to litigate arbitrated Disputed Claims in court or to have a jury trial on Disputed Claims or to engage in pre-arbitration discovery, except as provided for in the AAA Rules or by written agreement of the Parties involved. The arbitration may be conducted by telephone, online, or based solely upon written submissions.

A Party who desires to initiate arbitration must provide the other Party with a written demand for arbitration as specified in the AAA Rules ("Demand for Arbitration"). The arbitrator will be either a retired judge or an attorney licensed to practice law in the State of Tennessee and will be selected by the Parties from the AAA's roster of consumer dispute arbitrators. If the Parties are unable to agree upon an arbitrator within ten (10) business days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules. An award of damages, if any, must be consistent with the terms of Limitation of Liability section of this Agreement as to the types and the amounts of damages for which a Party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim.

- f) **Survival.** The following sections, as well as any other provision that, in order to give proper effect to its intent, should survive the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement: **Sections 2(c)(iv), 2(c)(v), 3(b), 5, 6, 7, 8, 9, 10, 11, and 12.**
- g) **Waiver.** No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other person.
- h) **Severability.** If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect the validity or enforceability of any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- i) **Status.** Except to the extent that this Agreement expressly provides otherwise, nothing in this Agreement shall or is intended to create a partnership or joint venture between the Parties, constitute one Party as agent of the other or give either Party authority to make or enter into commitments, assume liabilities or pledge credit on behalf of the other Party. Neither Party may act as if it were or represent (expressly or by implying it) that it is, an agent of the other or has such authority. Each Party confirms that, in entering into and performing this agreement, it is acting as principal and not as the agent of any undisclosed third-party principal. A person who is not a Party to this agreement shall not have any rights under or in connection with it, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- j) **Bribery.** Neither the Publisher nor any of its subsidiaries, nor any director, officer, employee, or agent thereof, in each case acting in their capacity as such, has, within the last five (5) years, either directly or indirectly through any third party, (i) made, promised, offered or authorized any unlawful payment or gift to or for the benefit of any foreign or domestic government official or employee, political party or candidate for political office; (ii) violated or is in violation of the U.S. Foreign Corrupt Practices Act of 1977, as amended ("FCPA"), the U.K. Bribery Act 2010, or any other anti-bribery or anti-corruption law of any other jurisdiction in which the Publisher operates its business, including, in each case, the rules and regulations thereunder (the "Anti-Bribery Laws"), or (iii) otherwise made any unlawful bribe, payoff, influence payment, or kickback in violation of the Anti-Bribery Laws; and the Publisher and each of its respective subsidiaries has instituted and has maintained, and will continue to maintain, policies and procedures reasonably designed to promote and achieve material compliance with the Anti-Bribery Laws, and (iv) the Publisher will at all times comply with the Anti-Bribery Laws.
- k) **Entire Agreement. This Agreement supersedes and replaces all previous versions of this agreement or any other agreement between some or all of the parties concerning the IngramSpark Services.** Each Party acknowledges that it has read this Agreement, together with all exhibits and attachments hereto, understands it, and agrees to be bound by its terms, and further agrees that this is the complete and exclusive statement of the Agreement between the parties with respect to the subject matter herein and supersedes all prior proposals, understandings and all other agreements, oral and written. This Agreement may not be modified or altered except by a written instrument duly executed by the Parties.
- l) **Signature/Counterparts.** By completing the fields in the signature section, the Publisher represents and warrants that it has the legal right, power and authority to enter into this Agreement and hereby agrees to be bound by the terms contained herein. By typing Publisher's name in the space provided below, Publisher acknowledges that Publisher's typewritten name acts as a handwritten signature complying with electronic signatures as described in the provisions of the U.S. E-SIGN Act (i.e., the Electronic Signatures in Global and

National Commerce Act. The parties may execute this Agreement in counterparts. Each executed counterpart will be considered an original document and all executed counterparts, together, will constitute the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered as of the Effective Date.

Lightning Source LLC

[Publisher/Publisher]

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Ingram Content Group UK Ltd.

Ingram Content Group AUSTRALIA Pty. Ltd.
ABN 94 147 174 374

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit I**Tax for Print on Demand Transactions/Orders with Lightning Source LLC (US)**

1. Taxes for Wholesale Purchase by LSI: LSI will purchase as a wholesale transaction Titles from Publisher with title transfer at the time the Titles are printed. LSI will become the owner for all purposes after the purchase from Publisher. LSI will be responsible for the collection and remission of all taxes relating to LSI's sales of the Titles purchased from Publisher including sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes. LSI agrees to pay Publisher any sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes that Publisher is required to charge and collect and/or are imposed due to the wholesale purchase of Titles by LSI from Publisher after receipt of a valid tax invoice and/or other appropriate documentation as required by the appropriate taxing authorities. Any applicable taxes will be paid at the same time as the tax exclusive consideration. Publisher agrees to accept valid resale and/or exemption certificates provided by LSI as justification not to charge and collect such taxes if such an exemption exists.
2. Direct Distribution Services by LSI for Publisher:
 - a) Publisher will be the owner of record for all purposes of its Titles. Publisher will be responsible for all taxes relating to the sale and distribution of the Titles, and the services provided by LSI to Publisher under this agreement including sales, use, personal property, gross receipts, business activity, VAT, GST, and/or similar type taxes and will be responsible for the collection, self accrual, reporting, and remitting of all such taxes and fees to the applicable authorities/jurisdictions.
 - b) Publisher agrees to pay LSI any sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes that LSI is required to charge and collect and/or are imposed due to services rendered under this Agreement. Any applicable taxes will be paid at the same time as the tax exclusive consideration or upon receipt of a valid tax invoice. Publisher agrees to provide to LSI resale certificates, exemption certificates, and/or other appropriate documentation as requested/ required by LSI as justification not to charge, impose, and collect sales, use, personal property, gross receipts, business activity, VAT, GST and/or similar type taxes relating to services under this agreement. If documentation cannot be provided or an exemption does not exist, LSI will work with Publisher to seek solutions or alternatives that are amicable to both parties if possible.
3. Global Connect Program ("GCP"). LSI agrees to be responsible for any taxes, if any, relating to the license fee paid by the GCP partners to LSI including sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes. GCP partners agree contractually to be the owner for all purposes of books (Titles) printed by the GCP partners. The GCP partners are responsible and liable for all taxes relating to the printing, sale, and distribution of printed Titles under the GCP including VAT, GST, sales, use, business activity, gross receipts, property tax, and/or similar type transactional taxes, and will be responsible for reporting and remitting all such taxes and fees to the applicable authorities/jurisdictions.
4. Publisher will indemnify, reimburse, defend and hold harmless from any and all tax claims and assessments (including interest and penalties) LSI, its parent, subsidiaries and affiliates, and their respective officers, directors, employees and agents may be required to pay with respect to sales, use, personal property, gross receipts, business activity, VAT, GST, and/or similar type taxes based on the services performed by LSI on behalf of Publisher pursuant to this agreement.
5. Any amount referred to in this agreement which is relevant in determining a payment to be made by one of the parties to the other is, unless indicated otherwise, a reference to that amount expressed on a tax exclusive basis.
6. Tax Audits: Both parties agree to use commercially reasonable efforts to cooperate and provide assistance to each other with respect to any potential tax audits including sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes in connection with activities under this Agreement. Furthermore, the parties agree that only information that is readily available using the parties' existing information systems will be provided under this Section. Each party agrees that any costs incurred in connection with such cooperation and assistance will be borne solely by the party incurring such costs. To the extent LSI seeks indemnity from Publisher under this section, LSI will not settle, or consent to any judgment with respect to, such assessment or claim without first consulting with Publisher and allowing Publisher to respond to the claims creating the basis for the assessment for which LSI is seeking indemnification.
7. Publisher agrees to pay LSI the full amount invoiced and due without deduction or offset of any kind with respect to any taxes including any governmental taxes at any level, income tax withholding, and/or other fees or deductions.

Exhibit II**Tax for Print on Demand Transactions/Orders with Ingram Content Group Australia**

- 1) Wholesale Purchase by ICGAUS: ICGAUS will purchase as a wholesale transaction books from Publisher with title transfer at the time the books are printed. ICGAUS will become the owner for all purposes after the purchase from Publisher. ICGAUS will be responsible for the collection and remission of all taxes relating to ICGAUS sales of the books purchased from Publisher including sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes. ICGAUS agrees to pay Publisher any sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes that Publisher is required to charge and collect and/or are imposed due to the wholesale purchase of books by ICGAUS from Publisher after receipt of a valid tax invoice and/or other appropriate documentation as required by the appropriate taxing authorities. Any applicable taxes will be paid at the same time as the tax exclusive consideration. Publisher agrees to accept valid (as determined by each jurisdictions guidelines & regulations) resale and/or exemption certificates provided by ICGAUS as justification not to charge and collect such taxes if such an exemption exists. Publisher must notify ICGAUS of their Australian GST registration status as of the contract date. Publisher also agrees to notify ICGAUS of any subsequent changes to such status during the term of this Agreement within ten (10) business days of such status change.
 - a. If the Publisher is a non-resident and non-registered for Australian GST purposes or the Publisher does not make the supply through an enterprise that it carries on in Australia at a permanent place then the parties agree to be bound by the terms of the Reverse Charge Agreement, attached as Exhibit IV. Upon entering into this Reverse Charge Agreement, GST on the supply (wholesale book purchase by ICGAUS from Publisher) will be payable by ICGAUS.
- 2) Direct Distribution Services by ICGAUS for Publisher: Publisher will be the owner for all purposes of its book product. Publisher will be responsible for all taxes relating to the sale and distribution of its book products including sales, use, personal property, gross receipts, business activity, VAT, GST, and/or similar type taxes and will be responsible for reporting and remitting all such taxes and fees to the applicable authorities/jurisdictions. Publisher will indemnify ICGAUS from any and all tax claims or charges with respect to sales, use, personal property, gross receipts, business activity, VAT, GST, and/or similar type taxes based on the production and/or fulfillment of any order by ICGAUS on behalf of Publisher pursuant to the Direct Distribution Services section of this Agreement.
- 3) ICGAUS Performance of Production and/or Fulfillment Services: Publisher agrees to pay ICGAUS any sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes that ICGAUS is required to charge and collect and/or are imposed due to services rendered under this Agreement. Any applicable taxes will be paid at the same time as the tax exclusive consideration or upon receipt of a valid tax invoice. ICGAUS will accept valid (as determined by each jurisdictions guidelines & regulations) resale and/or exemption certificates provided by Publisher as justification not to charge and collect such taxes if such an exemption exists. Publisher will indemnify ICGAUS from any and all tax claims or charges with respect to sales, use, personal property, gross receipts, business activity, VAT, GST, and/or similar type taxes imposed due to services rendered by ICGAUS pursuant to this Agreement.
- 4) Any amount referred to in this agreement which is relevant in determining a payment to be made by one of the parties to the other is, unless indicated otherwise, a reference to that amount expressed on a tax exclusive basis.
- 5) Tax Audits: Both parties agree to use commercially reasonable efforts to cooperate and provide assistance to each other with respect to any potential tax audits including sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes in connection with activities under this Agreement. Furthermore, the parties agree that only information that is readily available using the parties' existing information systems will be provided under this Section. Each party agrees that any costs incurred in connection with such cooperation and assistance will be borne solely by the party incurring such costs. To the extent ICGAUS seeks indemnity from Publisher under this section, ICGAUS will not settle, or consent to any judgment with respect to, such assessment or claim without first consulting with Publisher and allowing Publisher to respond to the claims creating the basis for the assessment for which ICGAUS is seeking indemnification.
- 6) Publisher agrees to pay ICGAUS the full amount invoiced and due without deduction or offset of any kind with respect to any taxes including any governmental taxes at any level, income tax withholding, and/or other fees or deductions.

Exhibit III**Tax for Print on Demand Transactions/Orders with Ingram Content Group UK**

1. Taxes for Wholesale Purchase by ICGUK: ICGUK will purchase as a wholesale transaction Titles from Publisher with title transfer at the time the Titles are printed. ICGUK will become the owner for all purposes after the purchase from Publisher. ICGUK will be responsible for the collection and remission of all transactional taxes relating to ICGUK's sales of the Titles purchased from Publisher including VAT, GST, sales, use, gross receipts, business activity, and/or similar type taxes. ICGUK agrees to pay Publisher and/or self-assess via a reverse charge any VAT, GST, sales, use, gross receipts, business activity, and/or similar type taxes that is required due to the wholesale purchase of Titles by ICGUK from Publisher after receipt of a valid tax invoice and/or other appropriate documentation as required by the appropriate taxing authorities. Any applicable taxes will be paid at the same time as the tax exclusive consideration. Publisher agrees to accept valid resale, exemption certificates, or other appropriate documentation as required by the appropriate taxing authorities provided by ICGUK as justification not to charge and collect such taxes if such an exemption exists.
2. Direct Distribution Services by ICGUK for Publisher:
 - a) Publisher will be the owner of record for all purposes of its Titles. Publisher will be responsible for all transactional taxes relating to the sale and distribution of the Titles, and the services provided by ICGUK to Publisher under this agreement including VAT, GST, sales, use, gross receipts, business activity, and/or similar type taxes and will be responsible for the collection, self-accrual, reporting, and remitting of all such taxes and fees to the applicable authorities/jurisdictions.
 - b) Publisher agrees to pay ICGUK any VAT, GST, sales, use, gross receipts, business activity, and/or similar type taxes that ICGUK is required to charge and collect and/or are imposed due to services rendered under this Agreement. Any applicable taxes will be paid at the same time as the tax exclusive consideration or upon receipt of a valid tax invoice. Publisher agrees to provide to ICGUK resale certificates, exemption certificates, and/or other appropriate documentation as requested/ required by ICGUK as justification not to charge, impose, and collect VAT, GST, sales, use, gross receipts, business activity, and/or similar type taxes relating to services under this agreement. If documentation cannot be provided or an exemption does not exist, ICGUK will work with Publisher to seek solutions or alternatives that are amicable to both parties if possible.
3. Publisher will indemnify, reimburse, defend and hold harmless from any and all tax claims and assessments (including interest and penalties) ICGUK, its parent, subsidiaries and affiliates, and their respective officers, directors, employees and agents may be required to pay with respect to VAT, GST, sales, use, gross receipts, business activity, and/or similar type taxes based on the services performed by ICGUK on behalf of Publisher pursuant to this agreement.
4. Any amount referred to in this agreement which is relevant in determining a payment to be made by one of the parties to the other is, unless indicated otherwise, a reference to that amount expressed on a tax exclusive basis.
5. Tax Audits: Both parties agree to use commercially reasonable efforts to cooperate and provide assistance to each other with respect to any potential tax audits including VAT, GST, sales, use, gross receipts, business activity, and/or similar type taxes in connection with activities under this Agreement. Furthermore, the parties agree that only information that is readily available using the parties' existing information systems will be provided under this Section. Each party agrees that any costs incurred in connection with such cooperation and assistance will be borne solely by the party incurring such costs. To the extent ICGUK seeks indemnity from Publisher under this section, ICGUK will not settle, or consent to any judgment with respect to, such assessment or claim without first consulting with Publisher and allowing Publisher to respond to the claims creating the basis for the assessment for which ICGUK is seeking indemnification.
6. Publisher agrees to pay ICGUK the full amount invoiced and due without deduction or offset of any kind with respect to any taxes including any governmental taxes at any level, income tax withholding, and/or other fees or deductions.

Exhibit IV

Australia Reverse Charge Agreement

Publisher makes the following taxable supply to Ingram Content Group Australia Pty Ltd.

Printed Books

Publisher warrants that the following are true and correct.

- Publisher is a non-resident and non-registered for Australian GST purposes
- Publisher does not make the supply through an enterprise that it carries on in Australia at a permanent place

Ingram Content Group Australia Pty Ltd. warrants that it is registered for Australian GST purposes.

Publisher and Ingram Content Group Australia Pty Ltd. hereby agree that the GST on the supply be payable by the recipient.

Exhibit V
Tax for Digital Distribution Transactions

1. **Taxes.** Publisher shall be the owner for all purposes of its Digital Titles. Publisher shall be responsible and liable for all taxes relating to the sale and distribution of its Digital Titles including sales, use, personal property, gross receipts, business activity, VAT, GST, and/or similar type taxes and will be responsible for reporting and remitting all such taxes and fees to the applicable authorities/jurisdictions. Publisher shall indemnify, reimburse, defend and hold harmless from any and all tax claims and assessments LSI, its parent, subsidiaries and affiliates, and their respective officers, directors, employees and agents may be required to pay and/or are imposed with respect to sales, use, personal property, gross receipts, business activity, VAT, GST, and/or similar type taxes that are related to decisions by Publisher to transact business in any jurisdiction with respect to Publisher's Digital Titles and LS's performance of any services under this agreement. Publisher agrees to pay LS for any sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes that LS is required to charge and collect and/or are imposed due to services rendered and/or rights and accesses granted under this Agreement. LS will accept valid (as determined by each jurisdiction's guidelines & regulations) resale and/or exemption certificates provided by Publisher as justification not to charge and collect such taxes if such an exemption exists.
2. **Tax Treatment in the European Union, United Kingdom, Norway & Switzerland.** In the event a Publisher is organized in the European Union, Norway or Switzerland and for purposes of Publisher's sales of Digital Media Files in the European Union, Norway and Switzerland, pursuant to this Agreement, Publisher hereby appoints LS as its non-exclusive, non-risk bearing agent to act in LS's own name on behalf of Publisher as an undisclosed principal, and LS accepts such appointment, for the sale and delivery of Digital Titles in the territories authorized by Publisher. Publisher and LS agree that for the purposes of VAT only, LSI shall in accordance with article 28 of the European Union Directive of 28 November 2006, on the common system of value added tax (2006/112/EC) be deemed to act under this Addendum as principal by virtue of it acting, as a matter of law, as undisclosed agent. Any services provided by LS to Publisher under this agreement that are subject to EU VAT will be accounted for by Publisher under the EU reverse charge procedures.
3. **Withholdings.** Both parties shall deduct and withhold from the gross amount of all payments to the other any amounts required by law to deduct or withhold as applicable. If such deduction or withholding is required, the deducting/withholding party shall remit any amounts so deducted or withheld to the appropriate governmental authority within the required time, and shall provide the other party with evidence of such remittance and deliver an appropriate document with respect to withheld taxes to support a claim for any tax credit to which the party may be entitled under any applicable laws. All such deduction/withholdings shall be at statutory rates, unless the payee provides the payor with properly completed and executed documentation as prescribed by applicable law permitting payments to be made without withholding or at a reduced rate pursuant to a relevant tax treaty.
4. **Tax Audits.** Both parties agree to use commercially reasonable efforts to cooperate and provide assistance to each other with respect to any potential tax audits including sales, use, gross receipts, business activity, VAT, GST, and/or similar type taxes in connection with activities under this Agreement. Furthermore, the parties agree that only information that is readily available using the parties' existing information systems will be provided under this Section. Each party agrees that any costs incurred in connection with such cooperation and assistance will be borne solely by the party incurring such costs.

Exhibit VI

DATA PROCESSING ADDENDUM

This Data Processing Addendum, including the Standard Contractual Clauses referenced herein ("DPA"), amends and supplements any existing and currently valid agreement, either previously or concurrently made between you (together with subsidiary(ies) and affiliated entities, collectively, "Client") and Lightning Source LLC located in the United States (together with subsidiary(ies) and affiliated entities, collectively "Ingram") and sets forth other terms that apply to the extent any information you provide to Ingram pursuant to the Agreement includes Personal Data (as defined below). This DPA shall be effective as of the first date Personal Data (as defined below) is provided to Ingram where such Personal Data is subject to Data Protection Laws (the "Effective Date").

Client acknowledges and agrees that Lightning Source LLC is located in the United States and that Client's provision of Personal Data to Ingram for processing is a transfer of Personal Data to the United States.

RECITALS

- (A) Ingram provides certain requested services related to the manufacture or shipment of physical and electronic books and related products ("**Services**") to Client under an agreement between Ingram and Client ("**Main Agreement**"). In connection with the Services, the parties anticipate that Ingram may from time to time process certain Personal Data in respect of which the Client or any member of the Client Group or clients of Client or a member of the Client Group may be a controller of that data under the Data Protection Laws.
- (B) The Client and Ingram have agreed to enter into this data processing addendum ("**DPA**") in order to ensure that adequate safeguards are put in place with respect to the protection of such personal data as required by the Data Protection Laws.

DEFINITIONS

1.1 The following definitions are used in this DPA:

- (a) "**Adequate Country**" means a country or territory that the recognized under Data Protection Laws from time to time as providing adequate protection for personal data;
- (b) "**Affiliate**" means, with respect to a party, any corporate entity that, directly or indirectly, Controls, is Controlled by, or is under Common Control with such party (but only for so long as such Control exists);
- (c) "**Client Group**" means Client and any Affiliate which are from time to time: (a) under Common Control with Client; and (b) established and/or doing business in the European Economic Area or Switzerland;
- (d) "**Data Subject Request**" means a request from or on behalf of a data subject relating to access to, or rectification, erasure or data portability in respect of that person's Personal Data or an objection from or on behalf of a data subject to the processing of its Personal Data;
- (e) "**Data Protection Laws**" means all spam laws applicable based on the residence of the recipient, including without limitation, the CAN-SPAM Act in the United States, Canada's Anti-Spam Legislation laws, and all privacy laws applicable to any Personal Data processed under or in connection with this agreement, including, without limitation, the Data Protection Directive 95/46/EC (as the same may be superseded by the General Data Protection Regulation 2016/679 (the "**GDPR**")), the Privacy and Electronic Communications Directive 2002/58/EC (as the same may be superseded by the Regulation on Privacy and Electronic Communications ("**ePrivacy Regulation**")), California Consumer Privacy Act of 2018, and all local, state, and

national legislation implementing or supplementing the foregoing and all associated codes of practice and other guidance issued by any applicable data protection authority, all as amended, re-enacted and/or replaced and in force from time to time

- (f) **"Model Clauses"** means the model clauses for the transfer of personal data to processors established in third countries approved by the European Commission, the approved version of which is set out in the European Commission's Decision 2010/87/EU of 5 February 2010 and at <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32010D0087> and which along with the Appendices to the Model Clauses included in Appendix 1 to this DPA, form a part of and are incorporated into this DPA;
- (g) **"Personal Data"** means all data which is defined as 'personal data' in the Data Protection Laws and to which Data Protection Laws apply and which is provided by the Client or member of the Client Group to Ingram or accessed, stored or otherwise processed by Ingram in connection with the Services and for which Ingram is a processor and in respect of which the Client or one or more members of the Client Group established in the European Economic Area, the United Kingdom or Switzerland is/are a data controller;
- (h) **"controller", "data subject", "supervisory authority" and "processor"** shall have the meanings ascribed to them in the Data Protection Laws; and
- (i) **"Ingram Content Group"** means each Ingram Content Group entity for which Vendor provides Service, now in existence or hereafter created or acquired including, without limitation, Ingram Content Group LLC, VitalSource Technologies LLC, Ingram Book Group LLC, ICG Ventures LLC, Ingram Fulfillment Services LLC, Ingram Publisher Services LLC, Book Network Int'l Limited, Ingram Library Services LLC, Ingram Hosting Holdings LLC, Tennessee Book Company LLC, Ingram Transportation Company LLC, Lightning Source LLC, Ingram Content Group UK Ltd., Lightning Source Australia Pty Limited, and Lightning Source Germany GmbH and any of their Affiliates.
- (j) **"Ingram Group"** means Ingram and any Affiliate, which are from time to time under Common Control with Ingram.
- (k) Capitalized terms used and not defined herein have the meanings given them in the GDPR.

1.2 An entity **"Controls"** another entity if it: (a) holds a majority of the voting rights in it; (b) is a member or shareholder of it and has the right to remove a majority of its board of directors or equivalent managing body; (c) is a member or shareholder of it and controls alone or pursuant to an agreement with other shareholders or members, a majority of the voting rights in it; or (d) has the right to exercise a dominant influence over it pursuant to its constitutional documents or pursuant to a contract; and two entities are treated as being in **"Common Control"** if either controls the other (directly or indirectly) or both are controlled (directly or indirectly) by the same entity.

2. Status of the Parties

2.1 Client (a) is the sole Controller of Client provided Personal Data or (b) has been instructed by and obtained the authorization of the relevant Controller(s) to agree to the Processing of Client Personal Data by Company as set out in this DPA. Client appoints Ingram as Processor to Process Personal Data.

2.2 The duration of the Processing corresponds to the duration of the Service, unless otherwise stated in this DPA. The nature, purpose and subject matter of the Processing is the provision of the Service as described in the applicable Main Agreement.

- 2.3** Ingram will Process Client Personal Data in furtherance of the Services and in accordance with Ingram policies and procedures. The scope of Client's instructions for the Processing of Client Personal Data is defined by the Agreement, this DPA, and, if applicable, Client's and its authorized users' use and configuration of the features of the Service. Client may provide further instructions that are legally required ("**Additional Instructions**"). If Ingram believes an Additional Instruction violates the GDPR or other applicable data protection regulations, Ingram will inform Client without undue delay and may suspend the performance until Client has modified or confirmed the lawfulness of the Additional Instruction in writing. If Ingram notifies Client that an Additional Instruction is not feasible or Client notifies Ingram that it does not accept the quote for the Additional Instruction prepared in accordance with any request for Additional Instructions, Client may terminate the affected Service by providing Ingram with a written notice within thirty (30) days after notification. Ingram will refund a prorated portion of any prepaid charges for the period after such termination date.
- 2.4** Client shall serve as a single point of contact for Ingram. As other Controllers may have certain direct rights against Ingram, Client undertakes to exercise all such rights on their behalf and to obtain all necessary permissions from all other Controllers. Ingram shall be discharged of its obligation to inform or notify another Controller when Ingram has provided such information or notice to Client. Similarly, Ingram will serve as a single point of contact for Client with respect to its obligations as a Processor under this DPA.
- 2.5** Ingram will comply with Data Protection Laws in respect of the Services applicable to processors. Ingram is not responsible for determining the requirements of laws applicable to Client's business or that Ingram's provision of the Services meet the requirements of such laws. As between the parties, Client is responsible for the lawfulness of the Processing of the Client Personal Data. Client will not use the Services in conjunction with Personal Data to the extent that doing so would violate applicable Data Protection Laws.
- 2.6** The type of Personal Data processed pursuant to this DPA and the subject matter, duration, nature and purpose of the processing, and the categories of data subjects, are as described below:
- (a) **Subject Matter of the Processing:** Ingram's provision of the Services to Client.
 - (b) **Nature and Purpose of the Processing:** the collection, analysis, storage, duplication, deletion and disclosure as necessary to provide the Services and as may be further instructed by Client in writing.
 - (c) **Duration of Processing:** Ingram will process the Personal Data for the duration of the Main Agreement, or until the data upon which processing is no longer necessary for the purposes of either party performing its obligations under the Main Agreement (to the extent applicable) unless otherwise agreed between the parties in writing.
 - (d) **Types of Data:** data relating to individuals provided to Ingram via the Services, by (or at the direction of) Client or Client Group.
- 2.6.1** Client warrants in relation to Personal Data that it will (and will procure that any of its staff and/or sub-processors), comply with the Data Protection Laws. Client shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which the Client acquired Personal Data.
- 2.6.2** In respect of the parties' rights and obligations under this DPA regarding the Personal Data, the parties hereby acknowledge and agree that the Client is the Controller of the Personal Data and Ingram is the processor of the Personal Data and accordingly Ingram agrees that it shall process all Personal Data in accordance with its obligations pursuant to this DPA.

2.6.3 Client shall notify Ingram of an individual within its organisation authorised to respond from time to time to enquiries regarding the Personal Data and each of Ingram and the Client shall deal with such enquiries promptly.

2.7 Ingram Obligations

2.7.1 With respect to the Personal Data, Ingram warrants that it shall:

2.7.1.1 only process the Personal Data in order to provide the Services and shall act only in accordance with this DPA and the Client's written instructions as necessary in performance of the Services requested by the Main Agreement;

2.7.1.2 implement appropriate technical and organizational measures as a Processor to ensure a level of security appropriate to the risks that are presented by the processing while taking into account the information processed.

2.7.1.3 take such reasonable steps to ensure that only authorized personnel have access to such Personal Data and that any persons whom it authorizes to have access to the Personal Data are under obligations of confidentiality;

2.7.1.4 Upon a verifiable incident which requires notification, Ingram will notify the Client of a verified breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data (a "**Security Breach**");

2.7.1.5 promptly provide the Client with reasonable cooperation and assistance in respect of the Security Breach and all information in Ingram's possession concerning the Security Breach;

2.7.1.6 except as required by Data Protection Laws, not make any announcement about a Security Breach (a "**Breach Notice**") without:

- (a) the prior written consent from the Client; and
- (b) prior written approval by the Client of the content, media and timing of the Breach Notice;
- (c) unless required to make a disclosure or announcement by applicable law;

2.7.1.7 promptly notify the Client if it receives a Data Subject Request. To the extent Client does not have the ability to address a Data Subject Request, Ingram shall upon the Client's request and at the Client's cost, provide reasonable assistance to facilitate a Data Subject Request to the extent Ingram is able to in accordance with applicable law;

2.7.1.8 As soon as reasonably practicable following termination or expiry of the Main Agreement or completion of the Services and taking into account Ingram's backup and retention policies, Ingram will delete all Personal Data (including copies thereof) processed pursuant to this DPA.

2.7.1.9 Provide such assistance as the Client reasonably requests (taking into account the nature of processing and the information available to Ingram) and at the Client's cost, in relation to the Client's obligations under Data Protection Laws with respect to:

- (a) Data protection impact assessments (as such term is defined in the GDPR);
- (b) Notifications to the supervisory authority under Data Protection Laws and/or communications to data subject by the Client in response to any Security Breach and/or communications to data subjects by the Client in response to any Security Breach; and
- (c) the Client's compliance with its obligations under the GDPR with respect to the security of processing.

2.8 Sub-processing

- 2.8.1 The Client grants a general authorization (a) to Ingram to appoint other members of the Ingram Group as sub-processors and (b) to Ingram and other members of the Ingram Group to appoint such sub-processors as it requires to support the performance of the Services.
- 2.8.2 Ingram will provide a list of sub-processors used in furtherance of the Services to Client upon request. If the Client has a reasonable objection to any new or replacement sub-processor, it shall notify Ingram of such objections in writing within ten (10) days of the notification and the parties will seek to resolve the matter in good faith. If Ingram is agreeable to provide the Services to the Client in accordance with the Main Agreement without using the sub-processor and decides in its discretion to do so, then the Client will have no further rights under this clause 2.8.2 in respect of the proposed use of the sub-processor. If Ingram requires to use the sub-processor and is unable to satisfy the Client as to the suitability of the sub-processor or the documentation and protections in place between Ingram and the sub-processor within sixty (60) days from the Client's notification of objections, the Client may within thirty (30) days of the end of the sixty-day period referred to above terminate the Main Agreement by providing written notice to Ingram having effect thirty (30) days after receipt by Ingram. Ingram may use the sub-processor whilst the objection procedure in this clause 2.8.2 is in process.

2.9 Audit and Records

- 2.9.1 Ingram shall, in accordance with the GDPR, make available to the Client such information in Ingram's possession or control as the Client may reasonably request and which Ingram is lawfully required to disclose with a view to demonstrating Ingram's compliance with the obligations of data processors under the GDPR in relation to its processing of Personal Data.

2.10 Data Transfers

- 2.10.1 To the extent any processing of Personal Data by Ingram takes place in any country outside the EEA (except if in an Adequate Country), the parties agree that the Model Clauses will apply in respect of that processing and Ingram will comply with the obligations of the 'data importer' in the Model Clauses and the Client will comply with the obligations of 'data exporter'.
- 2.10.2 The Client acknowledges that the provision of the Services under the Main Agreement does require the processing of Personal Data in the United States, by Lightning Source, and by sub-processors in countries outside the EEA or an Adequate Country from time to time.
- 2.10.3 If, in the performance of this DPA and/or the Main Agreement, Ingram transfers any Personal Data to a sub-processor (which shall include without limitation any affiliates of Ingram) and without prejudice to clause 2.8 where such sub-processor will process Personal Data outside the EEA or an Adequate Country, Ingram shall in advance of any such transfer request that a mechanism to achieve adequacy in respect of that processing is in place such as:
- (a) the requirement for the sub-processor to execute or procure that the sub-processor execute on behalf of the Client the Model Clauses; or
 - (b) the requirement for the third party to be certified under the Privacy Shield framework; or
 - (c) the of any other specifically approved safeguard for data transfers (as recognized under the Data Protection Laws) and/or a European Commission finding of adequacy.

2.10.4 The following terms shall apply to the Model Clauses:

Ingram may appoint sub-processors as set out, and subject to the requirements of clauses 2.8 and 2.10.3 of this DPA.

2.11 Limitation of Liability

Each party's liability arising out of or related to this DPA, whether in contract, tort or under any other theory of liability, is subject to the limitations of liability contained in the Agreement. For the avoidance of doubt, each reference herein to the "DPA" means this DPA including its exhibits and appendices.

2.12 General

2.12.1 If the Client determines that a Personal Data Breach must be notified to any supervisory authority and/or data subjects and/or the public or portions of the public, the Client will notify Ingram before the communication is made and supply Ingram with copies of any written documentation to be filed with the supervisory authority and of any notification the Client proposes to make (whether to any supervisory authority, data subjects the public or portions of the public) which references Ingram, its security measures and/or role in the Security Breach, whether or not by name. Subject to the Client's compliance with any mandatory notification deadlines under the GDPR, the Client will consult with Ingram in good faith and take account of any clarifications or corrections Ingram reasonably requests to such notifications and which are consistent with the GDPR.

2.12.2 This DPA is without prejudice to the rights and obligations of the parties under the Main Agreement which shall continue to have full force and effect. In the event of any conflict between the terms of this DPA and the terms of the Main Agreement, the terms of this DPA shall prevail so far as the subject matter concerns the processing of Personal Data.

2.12.3 Ingram's liability to the Client and to each member of the Client Group (taken together) under or in connection with this DPA (including under the Model Clauses) shall be subject to the same limitations and exclusions of liability as apply under the Main Agreement as if that liability arose under the Main Agreement. Nothing in this Addendum will limit Ingram's liability in respect of personal injury or death in negligence or for any other liability or loss which may not be limited by agreement under applicable law.

2.12.4 This DPA sets out all of the terms that have been agreed between the parties in relation to the subjects covered by it. Other than in respect of statements made fraudulently, no other representations or terms shall apply or form part of this DPA.

2.12.5 A person who is not a party to this DPA shall not have any rights to enforce this DPA.

2.12.6 Should any provision of this DPA be invalid or unenforceable, then the remainder of this DPA shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

2.12.7 Without prejudice to clause 7 (Mediation and Jurisdiction) and 9 (Governing Law) of the Model Clauses, this DPA shall be governed by and construed in accordance with the laws of the country of territory stipulated for this purpose

in the Main Agreement and each of the parties agrees to submit to the jurisdiction stipulated in the Main Agreement in respect of any claim or matter arising under this DPA.

2.12.8 Other than in respect of any accrued liabilities of either party and the provisions of clauses 1, 2 and this clause 2.11.8, this DPA shall terminate automatically on the expiry or termination for whatever reason of the Main Agreement.

Schedule 1

Appendix 1 to the Model Clauses

This Appendix forms part of the Model Clauses.

Data Exporter The data exporter is: Client

Data Importer The data importer is: Lightning Source LLC

Data Subjects: The personal data transferred concern the following categories of data subjects:

Client Employees

Client Customers

Categories of Data The personal data transferred concern the following categories of data:

Name, E-mail address, shipping address, telephone number (where applicable), Client bank account information (where applicable), connection data, localization data, and other data in an electronic form used by Client for the Services.

Special Categories of data (if appropriate)

The personal data transferred concern the following special categories of data:

None