

# Bell, Book & Candle Shop

## Fulfillment Agreement

### CONFIDENTIAL DRAFT

This AGREEMENT is entered into as of this \_\_\_\_ of \_\_\_\_\_ 20\_\_ by and between Bell, Book & Candle Shop, of the state of Nevada with its principal office at 412 Margrave Drive Reno, NV 89502 (hereinafter referred to as "Fulfiller"), its successors and assigns; and \_\_\_\_\_ (client name), with its principal offices at \_\_\_\_\_ (hereinafter referred to as "Publisher"), its successors and assigns; concerning work(s) presently titled: “ \_\_\_\_\_ ” by \_\_\_\_\_ (author) (Hereinafter referred to as the "Work").

### **WITNESSETH:**

In consideration of the mutual covenants herein contained, the parties agree as follows:

#### **1. Services:**

Fulfiller agrees to package and mail the Work provided by Publisher to the accounts and in the territories identified in this agreement. Fulfiller agrees to maintain an inventory of each of these books, CDs, DVDs, VHS and to offer them for sale through, web-sites, Internet-links and other electronic means, as applicable that Fulfiller exploits or maintains. Fulfiller shall not obligate Publisher to any catalog, display, electronic or print advertising, or other promotional expenses without Publisher's authorization in writing.

#### **2. Territory:**

Fulfiller shall provide representation internationally. Fulfiller shall service the wholesale and retail book trade consisting of hardcover and softcover (trade paper) retail bookstores, chain bookstores, Internet/e-bookstores, hardcover and softcover wholesale accounts, and the general public.

#### **3. Referrals:**

The Fulfiller and the Publisher shall each refer to the other, mutually, referrals for sales and markets reserved to the other, respectively.

#### **4. Exclusivity:**

This contract is non-exclusive. Publisher may contract with other Fulfillers and Fulfiller may contract with other Publishers and Authors.

#### **5. Title:**

Publisher shall retain title to the Work. Fulfiller shall be responsible for the Work during storage.

#### **6. Delivery:**

Publisher shall deliver to Fulfiller the Work in even-quantity increments, not in excess of 20lb cartons. Publisher shall deliver Work in uniform cartons with the title and quantity clearly marked on the outside. Publisher shall bear the expense of delivery of the Work to Fulfiller's warehouse. Fulfiller is to maintain a stock of the Work. Fulfiller shall contact Publisher regarding need for additional stock. Fulfiller shall provide Publisher with a receipt upon delivery of the Work specifying the date and number of units delivered for storage, not to exceed 3 cartons at the rate of \$1.00 per month storage fee.

#### **7. Reports:**

Fulfiller shall report sales to the Publisher monthly. This report shall record the number of books received from and returned to Publisher, the number shipped to or returned from customers, the net price of each book sold and returned, and a check for the net amount due the Publisher for the month. On each 31st of December, Fulfiller shall take a physical inventory of Publisher's books (Work) in Fulfiller's stock and forward that inventory report to Publisher on the January Statement. If the beginning inventory for the year plus additions to inventory less sales and returns to the Publisher do not equal the December 31 inventory, Fulfiller agrees to reimburse Publisher at the rate of the Publisher's cost per book or 35% of the list price, whichever is less for any book that can not be accounted for.

#### **8. Payment terms:**

All payments shall be paid in US currency. Publisher shall pay Fulfiller the sum of 20% of sale price per book based

upon Fulfiller's record of book sales during any given month. Publisher shall pay Fulfiller \$1.00 per box, per month storage fee. Publisher shall pay Fulfiller the sum of \$5.00 for the first box and \$2.00 for each additional box shipped in box quantity per request by Publisher.

**9. Storage terms:**

Fulfiller will store boxes of books, as packaged by printer and not to exceed 20 lbs., for the amount set forth previously.

**10. Publisher's samples:**

Publisher shall provide not less than two (2) complete books, CDs, DVDs or VHS tapes for representative use by Fulfiller.

**11. Insurance:**

Fulfiller shall provide Broad form fire insurance sufficient to cover the full "replacement" value of Fulfiller's inventory of Publisher's books (Work).

**12. Returns:**

Fulfiller may return books considered to be "overstock," shelf-worn or defective to the Publisher for credit. Publisher shall pay freight charges on all returns.

**13. Cancellation:**

This agreement may be canceled by either party by giving ninety (90) days written notice. This Agreement may be terminated at the option of the Fulfiller or Publisher within ten (10) days after any one of the following acts or omissions occur:

- A. Failure of Fulfiller to submit to Publisher any report required by this agreement within thirty (30) days of the date due.
- B. Failure of Fulfiller or Publisher to make any payment due within thirty (30) days of the date due.
- C. The filing by or against Fulfiller or Publisher of any petition or motion under the Bankruptcy Act.
- D. Failure of the Publisher to supply ample inventory for fulfillment purposes.

**14. Termination:**

Upon termination of this agreement, Fulfiller agrees to make available to Publisher all of Publisher's Work then held in Fulfiller's inventory. Publisher must then remove all books in inventory from Fulfiller's premises within thirty (30) days of termination or forfeit their rights to the Work.

**15. Arbitration:**

If any difference shall arise between the Fulfiller and the Publisher touching the meaning of this Agreement or the rights and liabilities of the parties thereto, the same shall be referred to the arbitration of two persons (one to be named by each party) or their mutually agreed umpire, in accordance with the Rules of the American Arbitration Association; judgment on the award rendered may be entered in any court having jurisdiction thereof.

**16. Modification or waiver:**

This agreement represents the entire contract made by the parties. Its terms cannot be modified except by a written document signed by the parties. A waiver of any breach of any form will not be construed as a continuing waiver of other breaches of the same or other provisions of the contract. If any part of this agreement is held to be illegal, void or unenforceable, this shall not affect the validity of any other part of this contract.

**17. Interpretation:**

This Agreement shall be governed by and interpreted in all respects in accordance with the Law of the United States of America. This contract is executed in, and any disputes shall be decided in the state and county where the Fulfiller is located.

**18. Disputes-attorneys' fees:**

In any action upon this agreement, including litigation and arbitration, the party that prevails will have all attorneys' fees and costs paid by the losing party.

**19. Term of Agreement:**

This Agreement shall be for an unlimited term and shall end with the written notice referenced in section 13.

**IN WITNESS WHEREOF** the parties hereto have executed and duly witnessed this Agreement as of the day and

year listed on page one.

**“Fulfiller”**

Bell, Book & Candle Shop

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Toni L. Ambiel, President

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**“Publisher”**

\_\_\_\_\_ (press)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Author

Witness: \_\_\_\_\_ Date: \_\_\_\_\_