

AGREEMENT BETWEEN TDA AND ANDRE NORTON & MERCEDES LACKEY
CONTRACT WITH AUTHOR

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TOM DOHERTY ASSOCIATES, INC.
49 West 24th Street
New York, New York 10010

ORIGINAL

AGREEMENT made on the date of Publisher's signature between

Andre Norton and Mercedes Lackey
c/o Scott Meredith Literary Agency
845 Third Avenue
New York, NY 10022

hereinafter called the "AUTHOR" and TOM DOHERTY ASSOCIATES, INC.,
hereinafter called the "PUBLISHER,"

THE PARTIES HERETO AGREE AS FOLLOWS:

GRANT OF RIGHTS

1. The Author hereby grants and assigns exclusively to the Publisher and its successors and representatives the following rights in and to an unpublished work of fiction tentatively entitled:

ELVENBANE by Andre Norton and Mercedes Lackey

(hereinafter called the "Work") during the full term of copyright and all renewals and extensions thereof in The United States, its territories and possessions, including all U.S. military installations, and Canada, and non-exclusively in the open market, in the English language, the right to print, publish and/or license and sell the Work, in a hardcover and/or paperback edition or any part or abridgement thereof. And the rights of digest, condensation, anthology, quotation, book club, second serialization, and reproduction by mechanical means with exclusive authority to dispose of said rights.

COPYRIGHT

2. The Publisher is hereby authorized to copyright the Work in the United States in the name of the Author or any party designated in writing by the Author, and agrees to imprint the notice required by the United States Copyright Law and the Universal Copyright Convention in each copy of the Work distributed hereunder. The Author agrees with respect to any rights reserved thereby to take all steps necessary to protect the copyright in the Work. Any agreement made by the Publisher or the Author to dispose of any rights to the Work shall require the licensee or grantee to take all steps necessary and appropriate to protect the copyright in the Work. Publisher shall be under no obligation to procure copyright in any country outside the United States, except that Publisher shall imprint, and all licenses and grants made by the Publisher

shall require Publisher's licensees and grantees to imprint, on each copy of the Work, a copyright notice in conformity to the Universal Copyright Convention.

DELIVERY OF MANUSCRIPT

3. The Author agrees to deliver to the Publisher a manuscript containing approximately one hundred twenty-five thousand (125,000) words on or before November 1, 1990. Said manuscript shall be a complete and legible copy of the Work, properly prepared for the press and in form and content acceptable to the Publisher. In the event of the Author's failure or inability to make such delivery within sixty (60) days after said date, the Publisher may cancel this Agreement. Publisher shall notify Author within sixty (60) days of its receipt of the manuscript as to its acceptability or non-acceptability. If, in the sole opinion of the Publisher, the work is unacceptable to the Publisher, the Publisher shall provide the Author with a detailed list of reasonably required changes, and the Author shall have sixty (60) days from the receipt of said list to make such changes. If, in the sole opinion of the Publisher, the revised Work is unacceptable to the Publisher, the Publisher may reject it by written notice within sixty (60) days of delivery of the revised manuscript and may thereby cancel this Agreement.

Upon such cancellation, the Author will repay to the Publisher all sums of money advanced.

If the Work as published will contain photographs, drawings, charts, indexes, graphs, appendices or any supplementary matter, the Author will furnish these to the Publisher along with the completed manuscript at his or her own expense. If permission for the use of material to appear in the published Work is required, the Author shall obtain such permission at his or her own expense, and deliver such permission to the Publisher along with the completed manuscript. Permissions must cover all territory licensed to the Publisher in this Agreement.

EDITING OF MANUSCRIPT

4. The Publisher has the right, in its discretion, to make any editorial changes in the Work deemed necessary by it, with the Author's approval, which shall not be unreasonably withheld. The Publisher also has the right to request additional material or revision of the Work from the Author. The Publisher will make the final decision on title, cover and/or jacket art, format, and retail price of the Work. In the event the Author is more than one person, the Publisher shall determine the order of authorship credits.

COPYEDITED MANUSCRIPT AND PAGE PROOFS

5. The Publisher agrees to provide the Author with a copy of the copy-edited manuscript of the Work for his or her approval, which approval shall not be unreasonably withheld. The Author agrees to read, correct and return the copy-edited manuscript within ten (10)

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days of receipt. The cost of any Author's changes in the proof in excess of ten percent (10%) of the initial setting cost will be charged against the Author's royalty account, except that in no circumstances will the Author be charged for corrections arising from the typesetter's failure to accurately reproduce the approved copy-edited manuscript.

WARRANTY AND INDEMNITY

6. The Author represents, warrants and covenants that he or she is the sole proprietor of said Work and has full power to make this Agreement and grant, that it in no way infringes upon the copyright or proprietary right of others and that it is original and not in the public domain; and that it contains no libelous matter and does not invade the right of privacy of anyone. The Author agrees to indemnify and hold harmless the Publisher and Seller of the Work against loss or expense, including court costs and reasonable attorney's fees, incurred by it by reason of any finally sustained claim that said Work violates any rights whatsoever. All warranties and indemnification hereunder shall survive the termination of this Agreement.

ADVANCE

7. The Publisher agrees to pay the Author as an advance against all earnings hereunder the sum of \$50,000 payable as follows:

\$25,000.00 on signing of this Agreement;
\$12,500.00 on delivery and acceptance of the completed manuscript;
\$12,500.00 six months after first paperback publication, or eighteen months after acceptance of the completed ms., whichever comes first.

SCHEDULE OF ROYALTIES

8. The Publisher shall pay to the Author the following royalties with respect to publication, copublication, and/or distribution of the Work arranged by the Publisher:

PAPERBACK EDITION

- (a) On sales of a mass market paperback edition in the United States, its territories and dependencies, a royalty of eight percent (8%) of the suggested retail cover price on the first one hundred fifty thousand copies and ten percent (10 %) thereafter of the suggested retail price on all copies, less a reasonable reserve for returns;
- (b) A royalty of five percent (5%) of the net amount received by the Publisher for copies of the Work sold for export, outside of the United States, its territories and dependencies;

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(c) A royalty of five percent (5%) of the net amount received by the Publisher for copies of the Work sold at a special discount of sixty percent (60%) or more of the suggested retail price except when these are sold at or below cost, in which case no royalty shall be paid;

(d) A royalty of five percent (5%) of the net amount received on copies of the Work sold directly to the consumer through the medium of mail-order coupon advertising, direct-by-mail circularization or solicitation by radio or television;

(e) A royalty of five percent (5%) of the net amount received for copies sold or licensed by the publisher for use as premiums, gifts or similar special use in bulk quantities, and book clubs;

(f) On sales under subparagraphs (b) - (e), in determining the "amount received" by Publisher, shipping or mailing and insurance costs or charges and excise, state, local and similar taxes shall be excluded.

(g) No royalty shall be paid on copies of the Work that are damaged or destroyed, or on copies furnished gratis to the Author, or for review, advertising, sample or like purposes;

(h) If the Publisher determines the Work has ceased to have a remunerative sale, the Publisher has the right to dispose of all existing stock of the Work and pay the Author a four percent (4%) royalty of the net amount received from such sale. However, no royalty shall be paid if such a sale is made at or beneath manufacturing cost.

HARDCOVER EDITION

(i) Except in the cases hereinafter provided, a royalty of ten percent (10%) of the retail price of the first 5,000 copies of the Work sold in hardcover edition, less reasonable reserve for returns, in the United States, its territories and dependencies;

twelve-and-one-half percent (12-1/2%) of the retail price on the next 5,000 copies sold; and fifteen percent (15%) of the retail price on all copies sold over 10,000 copies; (j) Clauses (b) - (h) (see above) are also applicable to the sale of the hardcover edition.

SECONDARY EDITIONS

(k) If the Work is published in more than one format, the applicable royalty set forth in this agreement shall apply separately to each such publication and in determining increases in royalty rates based upon whether particular sales levels have been reached, only sales in such formats of such publication for which a royalty is payable shall be included.

SUBSIDIARY RIGHTS

9. The Publisher is granted the sole and exclusive right, in the territory granted in this Agreement, to dispose of the following rights in and with reference to the Work, with payment divided

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between the Author and the Publisher as follows:

	PUBLISHER	AUTHOR
(a) Hardcover trade book publication	50%	50%
(B) Book Club	50%	50%
(c) First serialization in a magazine, newspaper or any other publication	50%	50%
(d) Second serialization in a magazine, newspaper or other publication; and syndication	50%	50%
(e) Digest abridgement, condensation, excerpts, extracts for use in periodicals or anthologies	50%	50%
(f) Advertising, cartoon strips, novelty or similar commercial use of the Work based on the Work	50%	50%
(g) Mechanical rendition and/or recording	50%	50%
(h) Translation and foreign language publication or other form	50%	50%
(i) Publication in book or other form in the English language outside the United States	50%	50%
(j) Film, performance and television adaptation or rendition of the Work	50%	50%
(k) Any other rights	50%	50%

The Publisher is granted the exclusive right to license editions of the Work without fee or royalty for publication in Braille, or photocopying, recording and microfilming of the Work for editions directed at the physically handicapped.

REPORTS AND PAYMENTS

10. (a) The Publisher shall render semi-annual statements April 30 and October 31 in each year after publication of the Work in accordance with the Publisher's regular accounting practices, showing the amounts due Author hereunder for the periods July 1 - December 31 and January 1 - June 30, respectively. Payment of the amount due on the statement, after allowance of a reasonable reserve for returns and deduction of amounts payable to the Author as advances hereunder, shall be made April 30 and October 31, but the first statement will not be issued to cover a period of less than six (6) months from the date of the Work's first publication. All works on this contract shall be jointly accounted.

MINIMUM PAYMENT

(b) If total royalties due and payable are less than fifty dollars (\$50.00), the Publisher may defer the rendering of statements and payments until such regular payment date as at least the said sum shall be due and payable to the Author. Upon written request,

statement will be given.

EXAMINATION OF PUBLISHER'S BOOKS AND RECORDS

(c) The Author or his or her duly authorized representatives shall have the right, upon reasonable notice during usual business hours but not more than once each year, to examine the books and records of the Publisher at the place where the same are regularly maintained insofar as they relate to the Work. Such examination shall be at the cost of the Author unless errors aggregating more than 10% of the total sum accrued (including advances to the Author) are found to the Author's disadvantage, in which case the reasonable cost of such examination shall be borne by the Publisher. No such examination shall be made by the Author's representatives upon a contingent fee basis. Statements rendered hereunder shall be final and binding upon the Author unless objected to in writing, setting forth the specific objections thereto and the basis for such objections, within one (1) year after the date the statement was rendered.

FREE COPIES

11. The Publisher will furnish twenty (20) copies of each edition of each Work to the Author without charge. Should the Author desire additional copies for his or her own use they shall be supplied at a forty percent (40%) discount from the retail price.

REVERSION OF RIGHTS

12. If, after five years from Tor's first publication, the Work is out of print, and the Publisher, on receipt of a certified letter from the Author requesting that the Work be reprinted, either refuses to reprint or within six (6) months of said receipt has failed to do so, or commence work on a new edition, then the license herein granted shall automatically terminate, and all rights herein granted shall revert to the Author, except that any sublicensing arrangements granted pursuant to this Agreement will continue in full force and effect. In the event that this Agreement is terminated prior to its full term, the Publisher will, upon request, supply the Author with a list of all such arrangements. It is understood that in the event that rights to the Work revert to the Author, the Publisher or its successors and assigns, will have the right to sell copies in inventory printed prior to receipt of the Author's reversion request, should such request be made.

MANDATED PUBLICATION

13. The Publisher agrees to publish and commence distribution of the Work, or arrange that the same be done by another publisher, within twenty-four (24) months of acceptance of the manuscript. In the event the Publisher shall fail to publish and distribute the

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Work by said date or arrange that the same be done by another publisher, then upon receipt of a certified letter from the Author demanding that the Publisher do so, if the Publisher either refuses to publish or arrange to do so, then this Agreement shall terminate forthwith, and all rights hereunder shall revert to the Author, and the Author shall retain any payments made under this Agreement. If the Publisher is prevented from publishing and/or distributing the Work or arranging that the same be done by another publisher by events or agencies beyond its control, this mandated date will be extended by the period during which the aforesaid events or agencies prevent publication and/or distribution.

DELAY OF PERFORMANCE

14. The Publisher's failure or inability to comply with any and all terms of this Agreement due to conditions beyond its control, such as natural disasters and government actions, shall not be deemed a breach of this Agreement.

BANKRUPTCY

15. If a petition of bankruptcy shall be filed by the Publisher, or if the Publisher shall be adjudged bankrupt by a court, or if the Publisher shall take the benefit of any bankruptcy or insolvency act, including Chapter XI, this Agreement shall terminate automatically without notice, and such termination shall be effective as of the date of the filing of such petition, adjudication, or declaration, and all rights granted thereunder shall thereupon revert to Author.

OPTION

16. The Publisher shall be offered the Author's next work in this genre at least forty-five (45) days before said work is offered to another publisher. Should the Publisher offer to publish that book and should the Author thereupon refuse the terms offered by the Publisher, then the Author may not accept the same or lesser terms from another publisher without the consent of the Publisher.

Notwithstanding the aforementioned, the Publisher shall also be offered the Author's next work set in the ELVENBANE background, under the same conditions listed hereinbefore in this clause.

AGENCY

17. The Author does hereby appoint Scott Meredith Literary Agency, Inc., 845 Third Avenue, New York, New York 10022, irrevocably as the Author's Agent in all matters pertaining to or arising out of this Agreement or related agreements, and authorizes irrevocably that all sums of money due the Author under this Agreement or related agreements shall be paid to and in the name of said Agent, whose receipt therefor shall constitute a good and valid discharge of all such indebtedness.

The Author does also hereby assign and transfer to Scott Meredith Literary Agency, Inc., and Scott Meredith Literary Agency, Inc., shall retain, a sum equal to ten per cent (10%), plus any monies advanced to or disbursements made on behalf of Author by said agent, out of all monies due and payable to and for the account of the Author under this Agreement or related agreements.

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APPLICABLE LAW AND NOTIFICATION

18. This Agreement shall be construed and interpreted according to the laws of the State of New York, and shall be binding upon the Publisher's personal representatives, successors and assigns. The Publisher shall have the right to assign any net sums due hereunder, but not its obligations. This Agreement constitutes the complete understanding of the parties. No modification or waiver of any provision hereof shall be valid unless in writing and signed by both parties.

IN WITNESS WHEREOF the parties have duly executed this Agreement.

Andre Norton
ANDRE NORTON
2/2/90
DATE OF NORTON'S SIGNATURE
~~XXXXXXXXXXXXXXXXXXXX~~
NORTON'S SOCIAL SEC. #

Tom Doherty
PUBLISHER
3/5/90
DATE OF PUBLISHER'S SIGNATURE

Mercedes Lackey
MERCEDES LACKEY
2/7/90
DATE OF LACKEY'S SIGNATURE
~~XXXXXXXXXXXXXXXXXXXX~~
LACKEY'S SOCIAL SECURITY #

James R. Dunkel
PUBLISHER'S WITNESS

Erinid A. Dieckert
NORTON'S WITNESS

Larry Dixon
LACKEY'S WITNESS