



**WARNER
BOOKS**

AGREEMENT dated August 12, 1994 by and between **WARNER BOOKS, INC.**, 1271 Avenue of the Americas, New York, N.Y. 10020 (herein called "Warner"), and **ANDRE NORTON** (the "Author"), c/o Scovil Chichak Galen, 381 Park Avenue South, Suite 1020, New York, NY 10016 (attn: Russell Galen).

1. **GRANT OF RIGHTS:** (a) The Author hereby grants and assigns to Warner with respect to Author's literary work provisionally entitled **THE WARDING OF WITCH WORLD** (the "Work(s)"), the exclusive right to print, manufacture, publish, distribute, and/or sell the Work(s) in all editions and the right to exercise and authorize others to exercise such rights and the rights described hereinbelow throughout the following territory:

the United States of America, its territories, possessions and dependencies, Puerto Rico, the Philippines and Canada; and the non-exclusive right, in the balance of the world excluding the British Commonwealth (other than Canada) in the English language (herein called the "Territory").

(b) The Work(s) is described as follows: the third book in *The Secrets of the Witch World* fantasy trilogy (the "Series") about the disappearance of the Magestone and the gates of Witch World. For the purposes of this agreement the term "Work(s)" shall mean each work described above.

(c) Without limiting the generality of the foregoing, such rights shall include the following exclusive rights exercisable throughout the Territory in any media and by any means and methods, whether now known or hereafter coming into existence:

(i) The right to license second serial, book club edition, anthology, large print edition, library edition, deluxe edition, selection, abridgment*, condensation*, digest*, educational media, textbook, microfilm, microfiche, computer and/or data storage transmission and retrieval, whether by disc, cassette, teletext or video text, syndication and electronic publishing rights. See also paragraph 30.

*(subject to Author's consent unless licensed to Reader's Digest Association)

(d) Utilization of the name and likeness of the Author on the covers and generally in connection with any advertising and promotion of Warner and the Work(s).

(e) Publication or broadcasting by radio or television, without charge, such selections from the Work(s) for publicity purposes as may benefit its sale.

(f) If there are multiple authors under this agreement, the obligations of all the authors shall be joint and several unless otherwise expressly provided in this agreement, and Warner may exercise any or all of its remedies against any or all of such authors, at its sole discretion.

(g) In the event that the Author under this agreement is not a natural person, then all references to Author in those provisions of this agreement dealing with use of Author's name and likeness, option on Author's future work or any other instances requiring the personal services of Author, shall be deemed to refer to the actual author.

(h) All rights not specifically granted herein are reserved by the Author.

2. **ADVANCE:** Warner shall pay to Author as an advance against all of the Author's earnings under this agreement the sum of fifty five thousand dollars (\$55,000), it being understood that all amounts payable under this paragraph 2 shall be referred to as the "Advance". The Advance shall be payable at the following times:

- (a) \$15,000 on the execution of this agreement; and
- (b) \$40,000 on Warner's acceptance of the completed manuscript.

3. **ROYALTIES:** Warner shall pay to Author the following after deducting a reasonable reserve against returns:

(a) On all copies of the hardcover edition of each Work(s) published by Warner, if any, royalties shall be payable on copies shipped, less returns, at the following rates:

- (i) For copies sold in the United States:
 - 10% of the gross invoice price on the first 5,000 copies sold;
 - 12.5% of the gross invoice price on the next 5,000 copies sold;
 - 15% of the gross invoice price on all copies sold thereafter.
- (ii) For copies sold outside the United States:
 - 10% of net sales revenue on all copies sold.

(b) On all copies of the mass-market paperback editions of each Work(s) published by Warner, if any, royalties shall be payable on copies shipped, less returns, at the following rates:

- (i) For copies sold in the United States:
 - 10% of the cover price on all copies sold.
- (ii) For copies sold outside of the United States:
 - 10% of the net sales revenues on all copies sold.

(c) On all copies of the English language quality paperback editions of each Work(s) published by Warner, if any, royalties shall be payable on copies shipped, less returns, at rates to be mutually agreed:

(d) On all copies of the audio edition published by Warner, if any, royalties shall be payable on copies shipped, less returns, at the following rates (see also Paragraph 28):

10% of net sales revenues on all copies sold.

(e) On all copies of the electronic edition published by Warner, if any, royalties shall be payable on copies shipped, less returns, at the following rates:

10% of net sales revenues on all copies sold.

(f) Notwithstanding the foregoing, the applicable royalty rates for copies sold in the United States at a discount in excess of fifty percent (50%) shall be reduced to three-fourths (3/4) of the respective royalty rates set forth in subparagraphs 3(a)(i), 3(b)(i), and 3(c)(i).

(g) Notwithstanding the foregoing, for copies of the Work, to customers not traditionally serviced by Warner's trade sales force, such as premiums, mail order, educational institution sales; copies of the Work(s) sold to book clubs other than licensed by Warner under paragraph 4(a) or any other non-returnable sales, a royalty of ten percent (10%) of net sales revenues on all copies of the hardcover edition sold and seven and one half percent (7.5%) of net sales revenues on all copies of any other editions sold.

(h) The term "net sales revenues" shall mean all sums actually received by Warner from sales, less any commissions to any distributors or sales agents incurred by Warner in making such sales. No deductions shall be made for normal overhead expenses. The term "gross invoice price" shall mean cover price less freight pass-through increment.

(i) Should Warner find itself with an overstock (i.e. remainders) of the Work(s) on hand, when, in its judgment, the demand for the Work(s) would not deplete this stock in a reasonable time, or should Warner find itself with a stock of damaged copies of the Work, Warner shall have the right to sell such copies at the best price it can secure subject to the payment of a royalty of ten percent (10%) of net sales revenues on all copies of the hardcover edition sold and seven and one half percent (7.5%) of net sales revenues on all copies of any other editions sold or as set forth in subdivision 3(j) below.

(j) No royalties shall be payable to Author on copies of the Work(s) destroyed, distributed for review, advertising, publicity, sample or like purposes, without compensation, or any copies disposed of at cost, or less than cost, or copies sold to Author hereunder.

4. LICENSING REVENUE: (a) All net licensing revenue (as the term "net licensing revenue" is herein defined) derived from licensing of any publication rights in the Work, or any part thereof, in any form throughout the Territory shall be divided as set forth below:

Second Serial, Book Club, Selection, Graphic Edition, Adaptation, Abridgment, Condensation, Digest, Syndication, Anthology, Hardcover, Paperback, Large Print Edition, Deluxe Edition, Library Edition, Textbook Edition, Educational Media (other than Performance Rights), Microfilm, Microfiche, Electronic and all other rights not specifically enumerated herein: 50% to Author

(b) Warner shall have the right to license free of charge the photographing, microfilming, taping, reproduction, in Braille or other publication of the Work, in whole or in part to the physically handicapped, without compensation therefor to Warner or Author.

(c) The term "net licensing revenue" shall mean all sums actually received by Warner from licensing rights in the Work(s) and shall exclude Warner's reasonable charges to licensees for the manufacture and delivery of copies of the Work.

5. DELIVERY OF MANUSCRIPT: (a) The Author agrees to deliver to Warner a complete final, typewritten manuscript, in proper shape for the press, in content and form satisfactory to Warner, of 90,000- 100,000 words in length of each Work described above not later than July 1, 1995 along with all related materials, i.e. photographs, illustrations, drawings, charts, and indexes, cleared of all permissions necessary for Warner's exercise of all rights hereunder throughout the Territory, which permissions shall be obtained at the Author's expense. If Author shall fail to deliver either the manuscript or the related materials on or before the above delivery date, Warner shall have the right, at its option either to supply such related materials and to charge the cost thereof against any sums accruing to the Author pursuant to this agreement, or to terminate this agreement at its option either as to that Work only or as to that Work and all other Work(s) subsequently due hereunder by giving written notice to Author, subject to repayment of any amounts paid by Warner on account of such Work(s). Until repayment in full by the Author to Warner of such amounts, all rights granted to Warner by the Author in this agreement with respect to the Work(s) shall remain in full force and effect, and except with Warner's prior written consent, the Author shall have no right to submit the Work(s) or to grant rights with respect to the Work(s) to any person, firm or entity. No extension of the delivery date will be effective without the written consent of Warner to a new delivery date.

(b) The Author shall retain one copy of the manuscript of the Work(s) and a copy of the artwork, illustrations and/or photographs (for the purposes of this paragraph collectively referred to as "Illustrations") submitted to Warner, unless Warner requests the Author to submit original Illustrations.

(c) If Warner loses or damages beyond reasonable wear and tear, copies of any manuscript or Illustrations, the costs of any retyping or photocopying from the copy of the manuscript and/or processing by mechanical or conventional means of duplicating Illustrations from the original Illustrations retained by the Author deemed necessary by Warner, shall be repaid by Warner.

(d) If the Author believes the original illustrations have value that exceeds the cost of mechanical or conventional reproduction or are irreplaceable, the Author agrees to provide Warner with written notification of the value of such original Illustrations prior to submitting such original Illustrations. Upon approval by Warner of the stated value, the Author may submit the original Illustrations to Warner. If, as a result of Warner's gross negligence, such original Illustrations are lost or damaged, Warner shall pay Author the agreed-upon value of such lost or damaged original Illustrations in lieu of all other remedies.

6. ACCEPTANCE OF MANUSCRIPT: (a) The payment to Author of any or all portions of the Advance due pursuant to paragraph 2 shall not constitute acceptance of any manuscript or any part thereof. If after delivery of the manuscript(s) of the Work(s) in accordance with paragraph 5, Warner determines in its sole discretion that any installment or the entire manuscript(s) or related materials of any Work(s) shall not, in the sole opinion of Warner, be both suitable for commercial publication and in conformance with the description in paragraphs 1 and 5 above, Warner shall have the right to terminate this agreement, as to that Work, or at its option, as to that Work and all other Work(s) subsequently due hereunder, by notice in writing to the Author given within sixty (60) days after delivery of the manuscript of the Work, subject to the repayment of any amounts actually paid by Warner on account of such terminated Work(s). Until repayment in full by the Author to Warner of such amounts, all rights granted to Warner by the Author in this agreement with respect to the Work(s) shall remain in full force and effect. Any request by Warner for changes or revisions in any installment of or in the entire manuscript(s), shall constitute notice to the Author that the installment or entire manuscript is not then acceptable to Warner. Any agreement by the Author to perform any such requested revisions shall automatically postpone until the date ninety (90) days following the submission of such revisions to Warner, the time period in which Warner may notify Author as to the acceptability or unacceptability of the manuscript as so revised. Any acceptance by Warner hereunder shall not limit any rights Warner may have under subparagraph 15(a) or 15(b) below.

(b) Author understands and agrees that it is Author's sole responsibility to render the manuscript acceptable and that any assistance, encouragement or critical comments provided by Warner shall not obligate Warner to accept the manuscript or to further assist Author in rendering the manuscript acceptable to Warner.

7. PRINTER'S PROOFS: (a) Author agrees to read, revise and correct, without substantial or material changes in, additions to, or eliminations from, the manuscript accepted by Warner, all galley proofs or proof sheets of the Work. Author agrees to return such corrected proofs to Warner within fourteen (14) days of the receipt thereof by Author. If the Author fails to return such corrected galley proofs within fourteen (14) days, Warner shall have the right to publish the Work(s) in the condition in which it was submitted to the Author by Warner. The cost of alterations in the galley or page proofs required by Author, other than corrections of Warner's or printer's errors, in excess of ten percent (10%) of the original cost of composition, shall be charged against the earnings of Author hereunder or shall, at the option of Warner, be paid by Author in cash; provided, however, that in either case Warner shall, upon request, promptly furnish to Author an itemized statement of such additional expenses, and shall make available at Warner's office the corrected proof for inspection by Author.

(b) The Author authorizes Warner to make the manuscript of the said Work(s) conform to its standard style in punctuation, spelling, capitalization and usage.

(c) In the event the Author believes corrections in the Work(s) are necessary after publication, they may be made at the Author's expense in the next printing.

8. PUBLICATION OF THE BOOK: (a) Warner agrees to publish, or cause to be published, the Work(s) in book form in such style(s), manner(s), imprint(s), binding(s) and print quantities, and at such prices as Warner deems appropriate not later than eighteen (18) months after Warner's acceptance of the final manuscript.

(b) Should Warner be unable to print, publish and/or sell the Work(s) for reasons beyond Warner's control, including, by way of example, governmental restrictions, strikes, war, invasion, civil riot, breakdown of market distribution facilities, or shortages of labor or material, this agreement shall remain valid and the rights and obligations it sets forth shall be resumed when Warner shall again be able to print, publish and/or sell.

(c) Warner shall determine which of the rights granted under this agreement it shall or shall not exercise (whether by itself, by license, or otherwise), and its judgments as to such matters shall be binding.

(d) Warner shall have the sole discretion to determine what, if any, advertising or promotional services Warner may perform for the Work, and Author may, after consultation with Warner, perform such advertising and promotional services for the Work, as Author believes will benefit sales of the Work.

(e) In the event Author desires to obtain or perform any publicity (i.e. interviews) in connection with the Work, Author will coordinate all such activities with Warner's Publicity Department.

9. COPYRIGHT: (a) Warner agrees, upon the first publication of the Work, to register the copyright in the name of Author in the United States of America, in compliance with the Universal Copyright Convention. If Warner shall add illustrations, charts, diagrams or any other material to the Work, the copyright in such added material shall be registered in the name of the copyright proprietor.

(b) If the Work(s) or any portion of the Work(s) has been previously published or will be published prior to Warner's publication, the Author shall register the copyright in Author's own name or obtain and deliver to Warner a duly executed and recorded assignment of copyright.

(c) If the Work(s) has been published or will be published prior to Warner's publication in any other English-speaking country, Author shall promptly deliver to Warner one copy of such prior edition together with the exact publication date and the manufacturer's name and address so Warner may register the copyright in the Work(s) as provided in paragraph 9(a) above.

(d) The Author agrees that Warner may record this agreement or a memorandum hereof in the United States Copyright Office.

10. **AUTHOR'S COPIES:** Warner shall furnish to Author fifty (50) free copies of any Warner mass-market paperback edition, fifteen (15) free copies of any Warner quality paperback edition and twenty five (25) free copies of any Warner hardcover edition of the Work. Author shall have the right to purchase additional copies of the Work(s) at forty percent (40%) off the cover price for Author's own use and not for resale. No royalty shall be due the Author for such copies.

11. **OPTION ON FUTURE WORK:** (a) Except for works currently under contract, Author represents and warrants that the Work(s) will be Author's next Work(s) (whether under Author's own name or otherwise) and agrees that in no event will Author publish or authorize publication of any other book-length work of which Author is an author or collaborator until six (6) months after publication of the Work.

(b) The Author agrees to submit exclusively to Warner, for consideration as below described, an outline for her next book-length fiction manuscript(s) in the Witch World series (whether written in collaboration or otherwise) before submitting same or proposals therefor to any other publisher.

(c) Warner shall have a period of sixty (60) days after the submission of the outline (which period shall not commence to run prior to one (1) month after acceptance of the Work(s)) within which to notify Author in writing whether it desires to publish such next work. If within said time Warner notifies Author in writing of its desire to publish the next work, Author shall thereupon negotiate in good faith with Warner with respect to the terms of such publication. If within sixty (60) days thereafter Warner and Author are unable to arrive at a mutually satisfactory agreement for such publication, or if Warner shall within the time hereinabove provided fail to notify Author in writing that it desires to publish the said manuscript, Author shall be free to submit such manuscript elsewhere. Thereafter, Author agrees not to accept an offer from any other publisher on terms equal to or less favorable than the last offer made by Warner.

(d) If Author includes more than one author, then the provisions of this paragraph 11 shall apply either to the next manuscript which is jointly written or, at Warner's option, to the next manuscript written by each author.

12. AUTHOR'S WARRANTIES: (a) Author warrants and represents to Warner that Author owns all rights and licenses herein conveyed and purported to be conveyed, and has full and sole right and authority to convey all such rights; that the Work(s) is original with the Author in all respects; that if the Work(s) is not a work of fiction, all statements in the Work(s) are true or based on reasonable research for accuracy; that the Work(s) is or may be validly copyrighted or registered for copyright in the United States of America and likewise may be protected elsewhere so far as the laws of other places and countries provide for such protection; that the Work(s) is not in the public domain; that Author shall identify any portion of the Work(s) which has been previously published; that the title of the Work(s) may be legally used by Warner in the exercise of all or any of the rights herein conveyed; that the use or reproduction of the Work(s) or any part thereof, or the exercise of any of the rights herein granted or conveyed will not in any way infringe upon any statutory or common law copyright or trademark, or constitute a libel or defamation of, or invasion of the rights of privacy or of publicity of any party or violate any law or regulation; that Author has not done and will not do any act or thing that has or will in any way prevent or interfere in any manner with the full and exclusive enjoyment by Warner of any of the rights or licenses herein conveyed or which has or will impair, impede, invalidate or encumber any such rights or licenses; that to the knowledge of the Author there are no claims or litigation pending, outstanding or threatened which may adversely affect or may in any way prejudice Warner's exclusive rights in the Work(s) or the copyright of any part thereof or any of the rights or licenses herein granted or conveyed, that the use, with reasonable care and skill, of any recipe, instruction, material, advice or formula contained in the Work(s) will not result in injury; and that the Author will include in the Work(s) appropriate warnings and safety precautions concerning any particular hazards that may be involved in the use of any such recipe, instruction, material, advice or formula.

(b) The warranties and representations contained in this paragraph 12 do not extend to materials furnished by Warner.

(c) The warranties and representations of Author hereunder, along with the indemnity set forth in paragraph 13 below, survive the termination of this agreement.

13. INDEMNITY: (a) The Author undertakes to indemnify and hold Warner and its licensees, officers, agents, employees and assigns, harmless from and against any liabilities, damages, costs, expenses (including reasonable counsel fees), judgments, settlements, penalties, or losses of any kind or nature whatsoever which may be incurred by Warner or its licensees, officers, agents, employees or assigns for or in connection with any claim, action or proceeding inconsistent with any of the representations or warranties herein contained or based upon or arising out of anything contained in the Work. Warner and Author shall each with all reasonable promptness, notify the other of any suit, claim or demand brought or made on the basis of or in connection with the Work.

(b) If any such suit, proceeding, claim or demand is brought or made against Warner and Author, Warner shall undertake the defense thereof with counsel of its own selection, providing that Author shall have the right, but not the obligation, to have separate counsel of its own selection, it being understood, however, that the conduct of the defense shall always be under Warner's control, and in any event, that Author shall cooperate with Warner in the defense.

(c) During the pendency of such suit, proceeding, claim or demand, Warner may withhold payments due to Author under this or any other agreement to the extent reasonably necessary to conduct the defense thereof and to satisfy any liability therein.

(d) Warner may include the actual author as an "additional insured" under Warner's liability insurance which covers claims of defamation, invasion of privacy, infringement of the right of publicity, copyright or trademark infringement, and unfair competition. In the event of such claim against Warner, or Warner and Author, the Author and Warner shall share equally any loss or expense up to the amount of the deductible, and thereafter the proceeds of such insurance shall be applied toward satisfaction of Author's indemnity obligations under this paragraph 13, except that Author shall not have the benefit of such insurance proceeds in the event of a willful or reckless breach by Author of any of Author's warranties hereunder. The insurance policy is subject to alteration or cancellation at Warner's election.

(e) If, in the opinion of Warner, the Work(s) contains material which may involve Warner in litigation, and if Warner elects to engage outside legal or technical expert(s) to review the manuscript, then the cost for such a review shall be shared equally between the Author and Warner, and the Author's share of such cost will be charged to and deducted from the Author's royalties and/or unpaid portion of the Advance. If the Author refuses to make such changes as are advised by Warner or its reviewer(s), Warner will have no obligation to publish the Work, and will have the right to terminate this agreement, as to that Work, or at its option, as to that Work and all other Work(s) subsequently due hereunder subject to repayment of any amounts actually paid by Warner on account of such terminated Work(s). Until repayment by the Author to Warner of such amounts, all rights granted to Warner by the Author in this agreement with respect to the Work(s) shall remain in full force and effect and, except with Warner's prior written consent, the Author shall have no right to submit the Work(s) or to grant rights with respect to the Work(s) to any other person, firm, or entity. Notwithstanding any expert review which may be obtained by Warner, nothing in this agreement shall be deemed to impose upon Warner any duty of independent investigation or relieve Author of any of the obligations assumed by Author hereunder.

14. INFRINGEMENTS: Author hereby irrevocably appoints Warner as Author's attorney-in-fact, with the right, but not the obligation, and at Warner's expense, to bring and prosecute suits, actions and proceedings of any nature under or concerning the infringement of the copyright in the Work(s) and all renewals thereof; and to take such action as Warner may deem advisable to enforce, protect, and/or defend any of the rights, privileges and property herein granted to Warner under any and all such copyrights and renewals thereof; and to litigate, collect and receipt for all damages arising from any infringement of any such rights. Any such action may be taken by Warner in the name of Author or otherwise, and Warner may join Author as a party plaintiff or defendant in any such suit, action or proceeding. If Warner shall not bring such action, Author may do so in its own name and at its own expense and the same shall be Author's sole remedy. All money damages recovered by Warner or Author shall be applied first to the repayment of such expense, and thereafter the balance shall be divided equally between Author and Warner.

15. TERMINATION: REVERSION OF RIGHTS: (a) Subsequent to the acceptance of the manuscript of any Work(s) pursuant to subparagraph 6(a) above, if Warner shall fail to publish such Work(s) within the period specified in paragraph 8 above for any reason not attributable to any act or omission by Proprietor and not attributable to any reason covered in subparagraphs 8(b) above and 15(b) below, and Warner shall not publish such Work(s) within six (6) months of Author's notice, this agreement shall terminate upon receipt by Warner or Proprietor of written notice to that effect from the other. In such event, Proprietor shall be entitled, in lieu of all other remedies, to retain all payments previously made to Proprietor under this agreement.

(b) Notwithstanding the acceptance of any Work(s) pursuant to subparagraph 6(a) above, Warner shall at any time be entitled to decline to publish such Work(s) if, in Warner's good faith judgment, the Work(s) contains potentially libelous, injurious or obscene material, or its publication would violate any law or right of any person or legal entity. In such event Warner shall be entitled to terminate this agreement, subject to the repayment to Warner of all monies actually paid to Author hereunder. Until repayment in full by the Author to Warner of such amounts, all rights granted to Warner by the Author in this agreement with respect to the Work(s) shall remain in full force and effect, and except with Warner's prior written consent, the Author shall have no right to submit the Work(s) or to grant rights with respect to the Work(s) to any person, firm or entity.

(c) In the event that after two (2) years from the date of first publication, the Work(s) shall not be in print and for sale in any edition by Warner, any of its affiliates or any of its licensees and after written demand from Author shall not within nine (9) months be reprinted and offered for sale, then Author shall have the right to terminate this agreement as to that Work, all rights granted under this agreement shall revert to Author, subject to repayment by Author of any overpayment of royalties or other sums due Warner (other than unearned advance sums), subject to the remaining term of any outstanding licenses and subject to Warner's right to share in proceeds therefrom. The Work(s) shall not be deemed out of print as long as it is under option or contract for publication or on sale in any hardcover, mass market or quality paperback edition. If motion picture or television rights in the Work(s) are under option or contract Author agrees to promptly notify Warner. Warner's right to exercise its rights to any option work granted by the Author under the terms of paragraph 11 above shall survive the termination of this agreement under this paragraph 15(c).

(d) If more than one Work(s) is described in paragraph 1 above, then in the event of any termination by Author pursuant to subparagraph (a) or (c), such termination shall apply only to the Work (and payments therefor) to which the conditions of such subparagraph apply.

(e) The exclusive rights granted to Warner hereunder shall remain in effect during the full term that copyright to the Work(s) subsists (including any renewal, extension or reversionary terms thereof) in any country in the Territory, subject to paragraph 15(c) above.

(f) If Warner is finally adjudicated a bankrupt, or if a receiver is appointed for all or a substantial part of Warner's assets and is not discharged within thirty (30) days from the date of appointment thereof, or if an assignment is made for the benefit of creditors, Author may, by notice in writing, terminate this agreement, subject to outstanding licenses; provided, however, that Warner shall have the right, subject to the payment to Author of the applicable royalties thereon, to sell all copies of the Work(s) which have already been printed or are in the process of being printed as of the date of such termination.

16. ACCOUNTING STATEMENTS: (a) Warner shall render semi-annual statements of estimated net sales and net licensing revenues as of June 30th and December 31st, and shall mail such statements to the Author not later than September 30 and March 31 following, together with the payment of amounts due thereon. With respect to each edition of the Work(s) published by Warner, the first such statement and payment shall become due three (3) months after the conclusion of the first complete accounting period (January 1-June 30, or July 1-December 31) to follow publication of such edition, and shall cover the time period from publication through the end of such accounting period. The term "estimated net sales" shall be defined as copies shipped, less actual returns and less a reasonable reserve against returns of the Work.

(b) Warner may deduct the Advance, any overpayments, or any other amounts due Warner under this agreement, from any payments due from Warner to Author under this agreement, provided however that the Advance shall be deducted only from earned royalties under this agreement.

(c) At Warner's election Author agrees to repay any overpayments made to Author and not deducted pursuant to paragraph 16(b) above.

17. AUDIT RIGHTS: Author may, at its own expense, audit the books and records of Warner relating to the publication of the Work(s) pursuant to this agreement at the place where Warner maintains such books and records in order to verify statements rendered to Author hereunder. Any such audit shall be conducted only by a reputable public accountant during reasonable business hours in such a way as to not interfere with Warner's normal business activities. In no event shall an audit with respect to any statement commence later than twelve (12) months from the date of dispatch to Author of such a statement nor shall any audit continue for longer than five (5) consecutive business days nor shall audits be made hereunder more frequently than twice annually, nor shall records supporting any such statements be audited more than once. All statements rendered hereunder shall be binding upon Author and not subject to objection for any reason unless such objection is made in writing stating the basis thereof and delivered to Warner within twelve (12) months from delivery of such statement, or if an audit is commenced prior thereto, within thirty (30) days from the completion of the relative audit.

18. WARNER NOT A TRUSTEE: In no event shall Warner be obligated to segregate from any of its other funds, any of the sums which may be paid to Warner by customers or other parties relating to the Work, nor shall Warner be considered a trustee, pledgeholder or fiduciary of Author.

19. CONFLICTING PUBLICATION: The Author shall not during the term of this agreement (a) publish or permit to be published any material in book, pamphlet or other version based upon or incorporating material in the Work(s) or which would directly compete with its sale; (b) exercise or dispose of any reserved rights in such a way as substantially to destroy, detract from or impair the value of any rights granted herein to Warner; or (c) authorize the use of more than a total of twenty percent (20%) of the Work(s) in magazines or newspapers if the Author has reserved first serial rights to the Work.

20. ASSIGNMENT: This agreement shall be binding upon the assigns, heirs, executors, and administrators of the Author, and upon the assigns and successors of Warner. This agreement and the rights and benefits hereunder shall not be assignable or transferable by Warner except to a corporate parent, affiliated company or a wholly owned subsidiary or in connection with a transfer of all or substantially all of Warner's assets or any imprint(s), or upon consent of the Author (such consent not to be unreasonably withheld). Author shall not assign any of Author's obligations hereunder, but may on written notice to Warner, assign or transfer any monies due or to become due under this agreement. If at any time more than three (3) parties shall be entitled to receive payments which would otherwise be due to Author hereunder Warner may, at its option, require that all such parties execute and deliver an agreement in form satisfactory to Warner appointing a disbursing agent for all such parties.

21. **NOTICES:** All notices which either party hereto is required or may desire to give to the other shall be in writing and given by addressing the same to the other at the address set forth on page 1 or at such other address as may be designated in writing by any such party in a notice to the other given in the manner prescribed in this paragraph. All such notices shall be sufficiently given when the same shall be deposited so addressed, postage prepaid, in the United States mail and/or when the same shall have been delivered, so addressed, to a telegraph or cable company toll prepaid and the date of said mailing or telegraphing shall be the date of the giving of such notice.

22. **ENTIRE AGREEMENT; MODIFICATION:** This agreement represents the entire agreement between the parties and supersedes all prior agreements and understandings with respect to the subject matter hereof and Author acknowledges that Author has not relied on any understanding or agreement not set forth in this agreement. This agreement shall not be modified except in writing signed by the party charged therewith. No written waiver of any term or condition of this agreement shall excuse the performance of any act other than those specifically referred to therein.

23. **CONSTRUCTION; JURISDICTION:** This agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements executed and fully performed therein. It is agreed that New York courts (state and federal) only, will have jurisdiction over any controversies regarding this agreement; any action or proceeding which involves such a controversy will be brought only in those courts, in New York County.

24. **HEADINGS:** The headings of the paragraphs of this agreement are for convenience of reference only, are not part of this agreement, and shall not limit or otherwise affect the meaning of this Agreement.

25. **AGENCY:** The Author does hereby appoint Scovil Chichak Galen, 381 Park Avenue South, Suite 1112, New York, NY 10016, irrevocably as his/her agent for 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 indebtedness. The Author does also hereby irrevocably assign and transfer to Scovil Chichak Galen, and Scovil Chichak Galen shall retain, a sum equal to ten percent (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/her Agreement or related agreements. Tax Identification Number: 13-3717123.

26. This agreement shall be of no force and effect unless signed by Author and Warner within ninety (90) days of the date first written above.

SPECIAL PROVISIONS:

27. Warner agrees to supply Author with any licensing agreements upon request.

28. Warner has an exclusive option to produce an audio version of the Work, royalties for which shall be accounted and paid as per paragraph 3(d) hereinabove. If Warner has not declared its intentions to produce such an audio version of the Work within one year of the Work's publication in book form, or if, having made such declaration, Warner does not produce such a version within twenty four months, audio rights shall revert to the Author if not produced by Warner within six (6) months of Author's written notice.

29. Warner agrees to consult with the Author concerning the cover of the Work.

30. After twenty four (24) months following publication of the Work(s) Author shall have the right to request the reversion of electronic rights if not exploited hereunder and such rights shall automatically revert to Author if not exploited by Warner within 6 months of written notice .

31. If Warner shall, during the existence of this agreement default in the delivery of semiannual statements, or in the making of payments as herein provided (unless such failure to make payments is due to a good-faith dispute between Warner and Author), and shall neglect or refuse to deliver such statements, or make such payments, or any of the above, within 30 days after written notice of such default, this agreement shall terminate at the expiration of such 30 days without prejudice to Author's claim for any monies which may have accrued under this agreement or to any other rights and remedies to which the Author may be entitled.

32. No advertisements, other than advertisements in Warner's paperback editions of the Work(s) which advertise and promote Warner books, shall be inserted in any editions of the Work(s). All licenses granted by Warner in any medium except newspapers and periodicals must explicitly prohibit the licensee from inserting advertisements in such edition of the Work(s) without the written consent of Author

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement on the latest day and year written below.

WARNER BOOKS, INC.

Andre Norton
Andre Norton
Social Security No. ~~XXXXXXXXXX~~
Citizenship US
date 8/20/94

Luanne Corff
Luanne Corff
Director of Operations
date 9-1-94