

# PublishAmerica

PublishAmerica, LLLP  
POST OFFICE BOX 151  
FREDERICK, MARYLAND 21705-0151

AGREEMENT made this 27<sup>th</sup> day of July 2007, between party of the first part, Don Davidson, hereinafter called the Author, and PublishAmerica, LLLP, a book publishing company with its principal office located in the State of Maryland, party of the second part, hereinafter called the Publisher.

Witnesseth:

Whereas, the Author is Proprietor of a literary work at present known as:

THE ETERNAL PERSPECTIVE: ESSAYS ON THE TRUTH OF CHRISTIANITY BY A FORMER SKEPTIC which work the Publisher agrees to produce in book form on the terms and conditions specified hereinafter;

1. The Author grants and assigns to the Publisher during a period of seven years from the date of the signing of this agreement by both parties thereto the exclusive right to produce, publish, sell or export, or cause to be produced, published, sold or exported, the above work in book form in any language or languages, in the United States of America, its Dependencies, and in Canada; and the exclusive right to arrange for the publication of the above work in book form in all foreign countries, and/or to export copies to these territories and countries. The Author and the Publisher agree that this agreement is renewable upon the date of its expiration and will remain enforceable during an additional and successive period of seven years, on the same terms and conditions as specified hereinafter, unless either party to this agreement shall decline such renewal in writing at least three months prior to the date of expiration as hereabove set forth.

2. The Publisher agrees to produce the said literary work in book form, in such format, type and style of paper, jacket and binding as will make the volume attractive and substantial-looking. It is

specifically understood and agreed, furthermore, that the said volume will contain all manuscript pages as submitted by the Author (unless otherwise designated hereinafter), and will be printed on good quality paper with the bound size to be, approximately, 5½ x 8½ or 6 x 9 inches, or any other size as the market demands.

3. The Publisher agrees to cause all copies of the said literary work to be printed as the market demands, and agrees, furthermore, to cause the copies so printed to be bound, from time to time, in sufficient quantities to supply purchasers of the said literary work therewith.

The Publisher shall pay to the Author the following royalties:

A royalty upon the regular edition sold in the United States and elsewhere of:

- 8 percent of the sales price thereof on the first 2,000 copies sold;
- 10 percent on the next 8,000 copies sold;
- 12.5 percent on all copies sold in excess of 10,000 .

4. Copyright shall be taken out in the name of Author in the United States of America, and in foreign countries as the Publisher may deem advisable.

5. The Author agrees that all the copies of the said literary work that may be used for review and/or publicity purposes, and all that the Publisher may deliver to the Author without receiving payment in money, and all that the Publisher may deliver to the Author at a discount from the regular retail price, shall not be subject to any payment to the Author.

6. If the work is authored or owned by more than one person, the word Author, as used herein, shall be deemed to include all collaborators, authors, or owners who are parties hereto, jointly and severally, and all sums payable to the Author shall be divided equally between or among them and the Publisher shall render separate accounts and make separate payments to each of them unless herein otherwise provided.

7. No payment shall be made to the Author on any copies of the said literary work that the Publisher may distribute for advertising and/or sales promotion purposes, that may be destroyed by fire and/or water or otherwise damaged or destroyed, or that may be lost in transit or in any other manner - such

damage, loss and/or destruction not being due to any negligence on the part of the Publisher.

8. No payment shall be made to the Author for permission gratuitously given to others to publish extracts from the said literary work to benefit the sale thereof, but all compensation received by the Publisher for the publication of extraction therefrom, or for serial use after publication in book form, or for translations, or for abridgments, or as a book club selection, shall be divided in the proportion of 50% to the Author and 50% to the Publisher. All compensation received by the Publisher for the dramatic or motion picture rights, or for the first serial rights prior to book publication, or for foreign, radio, dramatic, cheap edition, television and/or all other rights in the said literary work shall be similarly divided between the Author and the Publisher, as hereabove set forth.

9. The Publisher agrees to distribute, at his discretion, for purposes of publicity and/or review, promotional information pertaining to the said literary work, to publications throughout the United States and/or Canada, or elsewhere. Distribution of this promotional material shall be at the Publisher's own cost and expense and to media outlets of the Publisher's own choice. The Author agrees that excerpts of the said literary work may be included in this promotional information, and agrees, furthermore, that the Publisher may, at the Publisher's election and discretion, cause to promote the said literary work, as designated, in any electronic format, and that the Publisher shall have the exclusive right to distribute or cause to distribute, and to sell or cause to sell, at the Publisher's election and discretion, copies of the said literary work in any electronic format. The Publisher agrees to pay to the Author a return as specified in Provision # 3 of this agreement of the sales price of every copy in any electronic format that may be sold and for which the Publisher shall receive payment in money.

10. The Publisher agrees to deliver to the Author 2 copies of the said literary work, on publication, without charge. Should the Author wish to purchase additional copies of the said literary work directly from the Publisher, the Publisher agrees to supply the Author with such copies at a discount of 20% from the regular retail price per copy, if the Author orders up to 20 copies at a time, and at a discount of 30% from the regular retail price per copy, if the Author orders 21 copies or more at a time. The Author may dispose of these copies in any manner, and, if re-sold, may retain all monies derived therefrom.

11. The Publisher agrees to keep and maintain true and accurate records relating to the distribution of copies of the said literary work, including reports of all sales and collections therefrom.

12. The Publisher agrees to render and forward to the Author, in the months of February and August next succeeding the date of publication of the said literary work, and thereafter semi-annual statements of account for so long as copies of the work subject to royalty are sold. With respect to copies sold, the statement shall indicate the price of each copy sold. The statement shall indicate both the total royalties payable to Author on sales during the accounting period and the breakdown indicating the royalties attributable to specific kinds of sales. Author may, upon giving sufficient notice of no less than seven days, examine Publisher's records and accounts to the extent that such records and accounts are relevant to the publication of the said literary work, which shall be done at Author's expense.

13. The Publisher shall furnish the Author with an electronic page proof of the work which conforms to the completed manuscript as submitted by the Author. The Author agrees to return such proof to the Publisher with his (grammar and/or spelling and/or "typo" and/or non-substantial editing) corrections within fifteen (15) days of the receipt thereof by him. The cost of alterations in the page proof required by the Author, other than corrections of Publisher's errors, in excess of fifteen (15%) percent of the original cost of composition, shall be charged against the earning of the Author under this agreement; provided also, however, that the Publisher shall promptly furnish to the Author an itemized statement of such additional expenses, and shall make available at the Publisher's office the corrected proof for inspection by the Author or his representatives.

14. (A) If, in the Publisher's opinion, the manuscript of the said literary work requires substantial editing, the Publisher agrees to provide such editorial service without cost or expense to the Author. It is specifically understood and agreed, however, that the Publisher shall make no major revisions, changes and/or alterations therein without first consulting the Author and receiving written permission to do so. (B) The Publisher reserves the right to delete, modify and/or make such editorial changes and/or revision as they deem advisable in the event that the context, or implication, of any part of the said literary work would, in Publisher's opinion, incite prejudice, or defame any group, or any member thereof, because of race, religion or nationality; or in the event that any part or parts of the said literary work may be considered, by the Publisher, to be against the public welfare.

15. If the Author shall make any changes and/or alterations in the proofs of the said literary work as submitted by the Publisher after it has been set up in type (other than corrections of Publisher's errors), or if the Author shall add additional material thereto at any time after the signing of this agreement, the Publisher agrees to make such changes and/or alterations, and to add additional material, only on condition that the said changes and/or alterations and the inclusion of any new material shall be approved of by the Publisher as benefiting the said literary work, and on condition, furthermore, that the Author shall pay to the Publisher all the cost involved in so doing.

16. The Author agrees to revise the work on request of the Publisher, if the Publisher considers it necessary in the best interests of the First and/or future Editions of the work. The provision of this agreement shall apply to each revision of the work by the Author as though that revision were the work being published for the first time under this agreement, except that the manuscript of the revised work shall be delivered in final form by the Author to the Publisher within a reasonable time after request for revision; further, no initial payment shall be made in connection with such revision.

17. Sales promotion, advertising and publicity shall be at the Publisher's election and discretion as to the extent, scope and character thereof and in all matters pertaining thereto. The Author agrees to actively participate in promoting the sales of the said literary work in his home town area and elsewhere, by making himself available to media interviews, book readings and/or signings, and other public sales promotion appearances. It is furthermore agreed upon that the Publisher may, at the Publisher's sole expense and discretion, create, maintain, and solely own a separate domain on the Internet, exclusively dedicated to promoting the said literary work and/or the Author and/or the Publisher, and that the domain name and content may contain any combination of words and/or names, including the said literary work's title and/or the Author's legal or pen name, that the Publisher may deem benefitting the sales promotion, advertising and publicity as hereabove set forth, at the Publisher's sole discretion.

18. The Author agrees that all matters dealing with the design and production of the said literary work shall be at the discretion of the Publisher.

19. Whereas this agreement refers to a First Edition of the said literary work, as designated, the Publisher may produce as many editions thereof, consisting of as many copies as Publisher shall deem advisable, at any time after it ceases to produce copies of the First Edition. On all such subsequent editions that the Publisher may produce, the Author shall receive a return as specified

in Provision # 3 of this agreement of the sales price of every copy that may be sold and for which the Publisher shall receive payment in money.

20. Author hereby agrees that the Publisher shall have the exclusive right for the duration of this Agreement to negotiate for the sale, lease, license or other disposition of the said literary work in all hard and/or soft cover or reprint editions in book form. Author furthermore agrees that the Publisher shall have the exclusive right for the duration of this Agreement to negotiate for the sale, lease, license or other disposition of the said literary work in the motion picture, dramatic, radio, television, and/or all other fields only if so instructed by the Author in writing. It is also agreed that the Publisher may engage an agent, or agents, to negotiate, or assist in negotiating, for such sale, lease, license or other disposition. Approval of all terms, provisions and conditions of any and all contracts in connection with any such sale, lease, license or other disposition shall be given by the Author upon the recommendation of the Publisher; and, for that purpose, the Author agrees to duly execute any and all contracts, assignments, instruments and approved papers submitted by the Publisher. All gross monies and compensation received in payment for such sale, lease, license or other disposition shall be collected and disbursed by the Publisher, and all contracts for such sale, lease, license or other disposition shall provide that such monies and compensations are to be paid to the Publisher; and the Publisher is authorized to receive, collect and disburse same and to endorse and deposit all checks and/or drafts for such payment. All payments due from the Publisher to the Author hereunder shall be made within ninety (90) days from the receipt thereof by the Publisher, accompanied by statements of the amounts received and disbursed.

21. In the event of the infringement, by others, of the copyright, or other rights, in the said literary work, the Publisher may, in its discretion, sue, or employ other remedies as it may deem expedient, and shall pay to the Author 50% of the net proceeds of any recovery.

22. This agreement is entered into by both parties in good faith, with the mutual understanding that neither party has guaranteed, or is to guarantee, the sale of any specific number of copies of the said literary work, it being impossible to predict, before publication, what success any book may attain.

23. The Author acknowledges that the Publisher has not made any prior pledges, promises, guarantees, inducements, of whatever nature, either in writing, by word of mouth, or in any form, that are not contained in the terms of this agreement.

24. When in the judgment of the Publisher, the public demand for the work is no longer sufficient to warrant its continued manufacture, the Publisher may discontinue further manufacture and destroy any or all plates, books, sheets and electronic files without any liability in connection therewith to the Author. However, the Publisher agrees to notify the Author of such decision in writing, and will offer to transfer to the Author the work and its rights in the copyrights thereon, the plates (if any), the bound copies and sheet stock (if any) on the following terms F.O.B. point of shipment: the plates at their value for old metal, the engravings (to be used only in the work) at one-half ( $\frac{1}{2}$ ) their original cost, the bound stock at one-half ( $\frac{1}{2}$ ) the list price, and the sheet stock at cost of gathering, folding, sewing and preparing for shipment, all without royalties. In the latter event, unless the Author shall, within 30 days, accept said offer and pay the amount set forth in said writing, the Publisher may dispose of the work, copyrights, plates, books, sheets and other property without further liability for royalties or otherwise.

25. The Publisher agrees to commence production of the said literary work within 365 days from the date of the signing of this agreement by both parties thereto, provided Publisher is not hindered by causes beyond its own control, or by the Author.

26. This agreement shall be binding on, and inure to the benefit of, the executors, administrators, heirs and assigns of Author, and the successors and assigns of Publisher. No assignment by Author shall be binding on Publisher without the written consent of the Publisher; provided, however, that Author may assign or transfer any monies due, or to become due to him, hereunder.

27. The Author covenants and represents that the said literary work has not hitherto been published in book form; that it contains no matter that, when published, will be libelous or otherwise unlawful, or which will infringe upon any proprietary interest at common law or statutory copyright; that the Author is the sole proprietor of the said literary work and has full power to make this grant and agreement, and that the said work is free of any lien, claim, charge or debt of any kind, and that the Author and his legal successors and/or representatives will hold harmless and keep indemnified the Publisher from all manner of claims, proceeding and expenses which may be taken or incurred on the ground that said work is subject to any such lien, claim, charge or debt, or that it is such violation, or that it contains anything libelous or illegal.

28. All unresolved disputes and controversies of any kind and nature within the scope of this agreement (whether arising from fraud, mistake, questions of the existence, validity, construction,

performance, nonperformance, operation, or breach) shall be submitted to an Arbitrator selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted in the City of Frederick, Maryland in accordance with the Arbitration Rules, and the decision of the arbitrator shall be final and binding on the parties to the proceeding, subject only to the right of judicial relief as prescribed by law. This agreement shall be governed and construed in accordance with the laws of the State of Maryland. Author and Publisher irrevocably submit to the jurisdiction of any Maryland State or Federal court sitting in the City of Frederick over any suit related to this agreement.

29. Any written notice required under any of the provisions of this agreement shall be deemed to have been properly served by delivery in person or by mailing same to the parties hereto at their addresses as of the date set forth above, except as the addresses may be changed by notice in writing, provided, however, that notices of termination shall be sent by registered mail, and that all written notices not required under any of the provisions of this agreement shall be sent by electronic mail..

30. A waiver of any breach of this agreement or of any of the terms or conditions by either party hereto, shall not be deemed a waiver of any repetition of such breach or in any way affect any other terms or conditions hereof; no waiver shall be valid or binding unless it shall be in writing, and signed by the parties.

31. The Author will upon furnishing the Publisher with said literary work in its final version, as an electronic file, receive an advance dollar amount of \$ 1 (one) , which will be charged against royalties due to the Author.

IN WITNESS WHEREOF, the parties hereto set their hands and seal the day first above written.

**(SIGNATURE LINES AND SIGNATURES DELETED)**