

Being an independent writer means:

- Being a *Small business*—
 - With three functions:
 - To Create: articles, books, reports.
 - To Sell: Use of your written work.
 - To Manage: Things of value
 - Your money;
 - Your time;
 - Your creativity;
 - Your self (health, education, sanity);
 - Your contacts (friends and business);
 - Your risks.

The basic writer's tradeoff:

- You create written works
 - With *potential* value;
 - But *only* potential value
 - You control them – and that control is an asset.
- To *realize* this value,
 - must sell it to publisher:
 - Give them the right to use your work;
 - In return, they give you the benefits:
 - You get read,
 - Your get paid,
 - You get noticed.

What is a publisher?

- *Produces the book (or magazine article):*
 - Editorial polishing,
 - Graphic design and layout,
 - Printing and materials.
- *Distributes it:*
 - Gets the book into stores and onto *Amazon.com*,
 - Gets the magazine to subscribers, onto newsstands, or on-line;
 - Handles the sales and financial cash flow,
- *Markets and publicizes it:*
 - Gets reviews, arranges media coverage, books tour.

[Sometimes, the writer handles portions of these functions.]

Basic vehicle: contracts.

- Yes, they are binding;
- Yes, they mean what they say;
- They can be changed, but only by consent;
- They can take different forms:
 - By law: offer, acceptance, and mutual obligations.
 - Oral agreement (with or without handshake),
 - Exchange of E-mails,
 - Letter with confirmation,
 - Long document written by lawyers with lots of clauses.
 - Always better to get it in writing
 - Avoids honest misunderstanding.
 - Provides evidence to both sides.

Most important rule about contracts:

Always read them !!!

If you don't understand, ask !!!

What you're selling: Copyrights:

- U.S. Constitution, Article I, section 8.
 - "The Congress shall have the power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."
- You own the exclusive right to:
 - Produce and distribute copies of the work;
 - Produce derivative works;
 - Display and perform the work.
- You own it instantly, upon its creation.
 - Exceptions: Time, "Fair Use," "Work for Hire," so on.

Types of rights:

- Copyright is a package:
 - Can be broken into parts and each part sold separately.
 - First serial rights: Publish for first time.
 - If no written contract, this is the default.
 - *New York Times Co. vs. Tasini et al.* (2001)
 - Second serial (reprint) rights:
 - Non-exclusive rights:
 - Subsidiary rights: (other than the book itself: movie, TV, Audio Book, so on)
 - Book club rights:
 - Performance rights:

Typical contract terms:

- Delivery terms:
 - Deadlines (penalties?), materials, length, graphics.
- Their promise to publish
 - Time limits;
 - (Issue: Kill fees for magazines.)
- Division of rights
- Payment terms:
 - Royalties vs. flat fee;
 - Advances against royalties;
 - Size- usually the central issue of negotiation;
 - Payment schedule.
- Warranties:
 - Authorship, copyright/ permissions, libel/ slander/obscenity, plagiarism.
 - No harm of reader (for recipes or "how to" books);
- Options on next work / multi-work packages.

Resources:

- Washington Independent Writers;
 - www.washwriter.org
- Washington Area Lawyers for the Arts;
 - www.thewala.org
- The Writer's Center;
 - www.writer.org
- Library of Congress;
 - www.loc.gov
- U.S. Copyright Office;
 - www.copyright.gov
- Specialized writers' groups;
 - Biography Group, Mystery Writers, Speechwriters, so on.
