Annotated Sample Representation Agreement

**DROP CAP REPRESENTATION AGREEMENT**

This DropCap Representation Agreement (the “Agreement”), is made and entered into as of 15 November 2022 (“Effective Date”), by and between PUBLISHER NAME AND ADDRESS (“Publisher”) and DropCap Inc, a Delaware corporation (“Agent”).

1. **Definitions:** The following definitions shall apply for the purposes of this Agreement:

   a. **“Foreign Rights”** means all foreign language rights (i.e. translation rights) of the Title(s) in all print formats (e.g. hardcover, paperback, mass market), as well as all digital formats (e.g. audio and ebooks). The foreign rights shall be for all editions of the Title(s) published by or to be published by the Publisher during the term of this Agreement, unless otherwise agreed to by the parties.

   i. Foreign Rights, for purposes of this Agreement only, includes English language reprint licensing, applicable primarily in India, Indonesia, and Malaysia, in which the English language reprint is a lower-priced retail edition that does not compete with the original edition throughout the Territory.

   ii. This Agreement does not cover any other subsidiary rights (e.g. film, television, NFTs etc).

   b. **“Licensees”** shall mean all foreign rights buyers, including, but not limited to publishers or sub-agents. Licensees shall have the rights to print, publish, and distribute any books that Agent has licensed in accordance with this Agreement.

   c. **“Territory”** shall mean any location throughout the world where Foreign Language Rights (“Foreign Rights”) for books can be sold.

   d. **“Titles”** shall mean the specific book titles assigned to Agent by the Publisher as indicated when Publisher submits metadata and book files to Agent and/or when Publisher uploads that data to Agent’s website. Any added titles are covered by this Agreement.

   e. **“Minimum Pitch Threshold”** (“MPT”) means that a title has to sell at least 60 books per quarter through third-party retailers in order to be guaranteed to be

   “Publisher” refers to both publishing companies and individual authors who own the translation rights to their works.

   In a few countries, “English reprint rights” are sold and do not interfere with the original English edition of the book. For example, when we license English reprint rights in India, the new edition is published in British English and produced on cheaper paper and cover stock in order to make the book affordable to the vast majority of readers in that market.

   “Territory” is anywhere in the world where foreign language rights can be sold. It does not apply to any other rights.

   MPT: Domestic sales help us determine when and how often to pitch a title and to whom we pitch it.
pitched through Agent’s platform and other channels to its pool of potential buyers. The quantity of books sold to reach the MPT will be determined in one of two ways either (1) by verifiable quarterly sales reports uploaded by the Publisher (e.g. exported from Ingram or other distributor reporting) or in the absence of such reports then (2) by Agent’s algorithm that aggregates data from third-party online retail sites and determines an approximate number of sales each quarter. Publishers are encouraged to upload sales reports when possible as they are the most accurate. However, even if a book hasn’t achieved the MPT, all of Agent’s buyers will have access to all of Publisher’s books via Agent’s online platform. Further, Agent, at its discretion, may pitch Publisher’s books that haven’t met the MPT. Agent will track third-party online sales for up to 50 titles per quarter.

2. **Appointment:** Publisher hereby appoints the Agent as the exclusive agent for Foreign Language Rights for the Title(s) it has uploaded to Agent’s website.

3. **Exclusivity:** Publisher agrees that Agent shall have exclusive rights to sell the Foreign Rights of Titles Publisher has submitted and/or uploaded to Agent’s website. These exclusive rights shall include all Foreign Rights sales that result from inquiries and requests made to Agent or its sub-agents, as well as those originally directed to the Publisher during the term of this Agreement.

4. **Term:** The initial term of this Agreement shall commence on the Effective Date and shall continue for one (1) year ("Initial Term") unless otherwise terminated in accordance with Section 5. Thereafter, this Agreement shall automatically renew yearly ("Renewal Term") unless or until either party provides the other with written notice of its intention to terminate this Agreement in accordance with Section 5 below.

5. **Termination:** The grounds for termination and post-termination obligations are as follows:

   a. **Termination Notification.** Either Party may terminate this Agreement:

      i. **Without Cause:** by providing the other party with at least 90 days written notice of its/their intention to terminate.

      ii. **For Good Cause:** by providing the other party with at least thirty (30) days written notice of its intent to terminate and shall provide the grounds

For a title to be actively pitched, it must have at least 60 sales via third-party retailers per quarter. Publishers can provide that data, or our algorithm can estimate the sales. Even if a book hasn’t hit the MPT threshold (e.g. a newly released title), we still may pitch the book. Once a book is saved by a buyer, they continue to see the title, even if it didn't hit the MPT for a particular quarter. Regardless of MPT status, all books on DropCap are discoverable by buyers.

**Exclusivity:** As long as you work with DropCap, you allow us to be the exclusive foreign rights agent for your titles. It’s important that buyers know that there is a single point of contact when buying rights.

**Term:** We only ask for a one-year initial commitment from you. If you like our work, we'll continue. If you don't, we'll still finish up the licenses we've done and continue to manage them for you, but will remove your titles from our system going forward.

**Termination:** Even though we ask for a one-year commitment, you can terminate our agreement by giving 90 days notice. We work hard for our clients and have never had anyone terminate like this, but it's important to give this option so that you feel as comfortable as possible.
for termination. “Good Cause” means that the non-terminating party has breached a material obligation under this Agreement, has filed for bankruptcy protection, is insolvent, or has voluntarily terminated business operations.

b. Post-Termination Collection and Payments of Existing Licensing Fees.

i. Agent Fees Post Termination. Upon termination, Publisher agrees that Agent is entitled to its share of all Licensing Fees it has or may earn for all licenses concluded by Agent during the Term of this Agreement and/or through the term of each individual license, which may go past the termination date.

1. Example: if Agent secures a 5-year license for one of Publisher’s Titles during the term of this Agreement and is then terminated, Agent shall be entitled to its portion of any advance and/or royalties paid to Publisher during the entire 5-year license irrespective of when Agent was terminated by Publisher.

ii. Collection of Licensing Fees post-termination

1. When Agent is terminated without cause, Publisher agrees that Agent shall continue to collect all Licensing Fees on its behalf for the duration of any licenses executed during the Term and through their expiration. During this time, Agent will continue to pay Publisher its portion of the Licensing Fees (9b) in the timeframe set forth below (10b).

2. If Agent is terminated “For Cause”, then Publisher shall collect the Licensing Fees for licenses executed during the term and through their expiration date and shall pay Agent its portion within 30 days of receipt.

3. When Publisher is Terminated by Agent, Agent may continue to collect advances and royalties for licenses already executed and pay Publisher as set forth in sections 9(b) and 10(b), or Agent may...
delegate the collection to Publisher, so long as Agent is paid all sums due and owing to it under the Agreement.

6. **Agent Services and Obligations**: Agent agrees to perform the following services during the term of this Agreement:

   a. Market the Publisher’s Titles to the appropriate Licensee(s) in Agent’s active client database of Licensees so long as any title pitched meets Agent’s “Minimum Pitch Threshold” (MPT) or in the absence of MPT, at Agent’s discretion;

   b. Promptly perform all services reasonably necessary to execute a license and receive payment when a potential Licensee has made an offer;

   c. Collect advances and royalties due to Publisher from Licensees (“Licensing Fees”) and pay those amounts (less Agent’s fees) to Publisher as set forth in section 10(b);

   d. Provide timely royalty reports and payment within 30 days of receiving them; and

   e. Provide opportunities for Publisher’s Title(s) to be promoted in-person at international book fairs attended by Agent and/or virtual book fairs hosted by Agent. Book fair participation is subject to additional fees, which will only be charged to Publisher upon their agreement to such additional fees.

7. **Publisher Obligations**: Publisher agrees to the following during the Term of this Agreement:

   a. Hold and maintain proper right, title, and interest in and to all of the Titles submitted to Agent;

   b. Provide reasonable promotional materials, if available, in a timely manner upon Agent’s request;

   c. Submit Titles as follows:

      i. Provide Agent with Excel spreadsheet or ONIX feed that has the corresponding metadata for all Titles covered by this Agreement;

      ii. Include ISBN in metadata for each title;
iii. New titles and any updates to metadata after initial submission should be provided via ONIX feed, Excel spreadsheet, or other agreed upon method on an ongoing basis, as updated;

iv. All book files and any related marketing pieces, catalog pages, and other relevant files shall be uploaded via a secure FTP server or other electronic means as agreed upon with Agent;

v. Provide a PDF of each title and corresponding JPG front cover image at least 700 pixels wide; and


vii. Provide Agent with a list of any active and existing foreign rights licenses for the Titles submitted, which includes the start and end dates of the existing license, language and territory covered by the license and the name of the foreign publisher.

d. Ship up to three (3) printed copies of Title(s) to be used for translation, if requested by a Licensee. In most cases, however, Licensees will work from final electronic files;

e. Notify and forward all foreign rights inquiries, requests, and sales originally directed to Publisher to info@dropcap.com;

f. Send verifiable domestic sales reports each quarter for all submitted. This is not required but strongly suggested as domestic sales is one factor in determining how often and when titles are pitched to specific buyers.

8. Standard Licensee Terms:

a. Publisher authorizes the Agent to negotiate all terms with Licensees so long as the minimum license fee per language is at least $500 USD per title (“Minimum License Fee”). Publisher acknowledges there is a range of advances and royalty percentages based on genre, language, and country and that the Agent always strives to negotiate the most favorable license on Publisher’s behalf.

The “Minimum License Fee is rarely as low as $500, but we've set it at this as it is the low end of the range (mostly in very small countries and/or those that rarely license books).
b. Publisher acknowledges that the term of each license is typically five years, but in some cases can be a few years less or a few years more but none shall exceed a ten year agreement.

c. Publisher acknowledges that Licensees will choose a publication date, which typically is 18 to 24 months from when the contract between Publisher and Licensee is signed.

d. Publisher acknowledges that Licensees will set its own retail price that conforms with market norms in the Licensee’s territory.

e. Publisher acknowledges that most licenses include ebook rights for the Licensee’s language and all licenses will clearly state if that is the case.

f. Publisher acknowledges that a Licensee is allowed to edit up to five (5) percent of a book and revise the cover in order to suit the needs of Licensee’s market norms, culture, but that such edits and cover revisions will not substantially change the overall meaning of the original text.

g. Agent shall ensure that Agreements include a clause that states that a notice of copyright in the name of the Author and year of publication in a form and place that the Publisher reasonably believes to comply with the requirements of applicable copyright law and in order to obtain protection under the Universal Copyright Convention.

h. Publisher acknowledges that the Agent will sign foreign rights agreements on their behalf, process all payments and any foreign tax-related documents on Publisher’s behalf. Publisher shall have access to view all signed contracts within their personalized dashboard.

9. Agent’s Fee: Publisher agrees to pay Agent the following for its services:

a. Publisher has paid a one-time set-up fee to IBPA prior to execution of this Agreement.

b. Publisher agrees that Agent shall be entitled to twenty-percent (20%) of the total amount of gross receipts on each Title licensed in each language (“Licensing Fee”). The “Licensing Fee” is the total gross receipts for advances and royalties paid or owed
during the term of any particular license between Publisher and any Licensee. In some markets, Agent must use a sub-agent and in those cases the sub-agent will be paid an additional ten-percent (10%) of the gross receipts. The remainder shall be paid to Publisher.

10. Collection and Payments of Advances and Royalties (“Licensing Fees”)

a. Collection. Publisher agrees that Agent shall collect all Net Licensing Fees on their behalf for the duration of any licenses executed during the term of this Agreement and through the term of any individual license, whichever is longer. “Net Licensing Fee” is the Licensing Fee less Agent’s fee, sub-agent fees, foreign tax and bank fees (if applicable).

Examples:

French License
Advance: $4000
Agent Commission (20%): $800
Wire Transfer Fees: -$40
Total Due to Publisher: $3160

Indonesian License
Advance: $750
Commission (20%): -$150
Indonesian Withholding Tax (10%): -$75
Wire Transfer Fees: -$10
Total Due to Publisher: $515

Chinese License
Advance: $5000
Commission (20%): -$1000
Sub-Agent Fee (10%): -$500
Chinese Withholding Tax (16.72%): $836
Wire Transfer Fees: -$35
Total Due to Publisher: $2629

b. Payment. Agent will pay Publisher the Net Licensing Fee no later than the 15th day of the month that follows the month in which the Licensing Fees were received and verified by Agent (e.g. if Agent collects and verifies a Licensing Fee on Jan. 23rd, Publisher is paid by Feb. 15th).

c. Reports. A report detailing each transaction is provided with each payment.
d. **Right to Audit.** Publisher shall always have the right to audit the advances and royalty payments received. Any audit is at Publisher’s expense.

11. **Relationship of Parties:** The parties enter into this Agreement as, and shall continue to be, independent contractors. This Agreement does not create an employment relationship, partnership, franchise, or joint venture relationship between the parties.

12. **Indemnification:** Both parties shall indemnify and hold the other harmless from and against any and all losses, damages, liabilities, claims, demands, suits, or causes of action, including attorneys’ fees and expenses of defending against such claims, demands, suits, or causes of action, which may arise out of (i) enforcing this Agreement and/or (ii) an act of negligence or intentional act, omission, or wrongdoing of party in breach of this Agreement. However, Publisher shall indemnify and hold Agent harmless (as set forth above) for a third-party claim related to copyright infringement or any other claim related to Publisher’s right, title, or interest in and to the Titles.

13. **Confidentiality:** The parties agree that all information provided to the other party and designated as confidential shall be treated by the receiving party with the same degree of care that it provides to its own confidential information.

14. **Use of Intellectual Property:** During the term of this Agreement, Agent shall have the right to utilize Publisher’s trademarks and trade name to promote the sale of the Titles and on Agent’s website and other promotional materials.

15. **Acts of Nature:** Either party’s failure to perform any part of this Agreement, in whole or in part, shall not be deemed a breach where such failure is attributable to any act of nature, action by governmental authority or any other condition beyond the reasonable control of the party.

16. **Waiver:** A waiver by either party of a breach of any provision of this Agreement shall not constitute or be construed as a waiver of any future breach of any provision(s) in this Agreement.

17. **Assignment:** This Agreement shall be binding upon and inure to the benefit of the parties and each of their respective representatives, successors, and assignees.

18. **Notice:** Any notice required or permitted hereunder shall be deemed to have been properly given if a written notice
shall have been hand-delivered or mailed OR if emailed. For purposes of Notice, these addresses will be used:

If to Publisher:
Publisher Name
Attn: Publisher Contact
Publisher Address
Publisher Email

If to Agent:
DropCap Inc.
Attn: Allison Olson
7455 France Ave S., Suite 305
Edina, MN 55435
allison@dropcap.com

19. **Complete Agreement:** This Agreement sets forth the entire agreement and understanding of the parties concerning its subject matter, and supersedes all prior negotiations, agreements, and understandings between the parties. Any modification or change is only valid if in writing and signed by both parties.

20. **Governing Law:** This Agreement shall be governed and interpreted by the laws of the State of Delaware.

21. **Dispute Resolution:** If a dispute arises from or relates to this Agreement, the parties agree to attempt to resolve it through direct discussions. If that doesn’t work, the parties agree to mediation administered by the American Arbitration Association under its Commercial Mediation Procedures. If mediation is unsuccessful, the parties agree to binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The parties agree that claims will be heard by a single arbitrator and shall be held via Zoom or similar online conferencing platform. If Publisher is located outside of the US, the parties agree to have the arbitration through the International Centre for Dispute Resolution (ICDR).

22. **Survival:** In the event of termination when Agent is still collecting and paying Licensing Fees for and to Publisher for licenses executed prior to termination, the clauses in this Agreement that govern Agent’s facilitation and execution of this, shall survive. Similarly, if post-termination Publisher is paying Agent its fees on licenses executed prior to termination, any clauses that govern this shall also survive termination of this Agreement.
23. **Electronic Signature**: This Agreement shall be signed electronically and such signatures shall be deemed to be original signatures.

In Witness Whereof, authorized representatives of the parties hereto have executed this Agreement as of the Effective Date, intending to legally bind such party.

<table>
<thead>
<tr>
<th>AGENT</th>
<th>PUBLISHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DropCap Inc.</td>
<td>NAME OF PUBLISHER</td>
</tr>
<tr>
<td>By:____________</td>
<td>By:__________________________</td>
</tr>
<tr>
<td>Its:____________</td>
<td>Its:_________________________</td>
</tr>
</tbody>
</table>