

Copyright Licence

INDICA ET BUDDHICA PUBLISHERS LIMITED

[INSERT - NAME OF AUTHOR]

DATE [INSERT - Weekday, Day Month Year]

PARTIES

INDICA ET BUDDHICA PUBLISHERS LIMITED

Littledene, 70 Bay Road, Oxford 7430, New Zealand

Company No. 5704852, NZBN: 9429041761809 (**Publisher**)

[INSERT - NAME OF AUTHOR]

[INSERT - Address of Author] (**Author**)

BACKGROUND

- A. The Publisher is a publisher of academic works.
- B. The Author wishes to have a Work in the field of [INSERT - e.g., Buddhology] published.
- C. The Publisher acknowledges and accepts that the Author owns the copyright in the Work.
- D. The Publisher wishes to publish the Work.
- E. The Author has agreed to grant and the Publisher has agreed to take a license of the copyright in the Work under the terms and conditions set out in this Deed.

THIS DEED RECORDS

1. Definitions and Interpretation

- 1.1. **Definitions:** In this Deed unless the context otherwise requires:
 - 1.1.1. **AMINZ** has the meaning given to that term at clause 26.2;
 - 1.1.2. **Cheap Edition** means an edition sold at a wholesale discount of greater than 65% of the RRP;
 - 1.1.3. **Commencement Date** means the date of execution of this Deed;
 - 1.1.4. **Deed** means this deed as it may be amended in writing from time to time;
 - 1.1.5. **Delivery Date** has the meaning given to that term at clause 2.3;
 - 1.1.6. **Dispute** has the meaning given to that term at clause 26.1;
 - 1.1.7. **Electronic Edition Licence** has the meaning given to the licence provided for in clause 3.2.2;
 - 1.1.8. **Parties** means the parties to this Deed and **Party** means any one of them;
 - 1.1.9. **POD** means print on demand;
 - 1.1.10. **Primary Print Edition** means the [INSERT - Market, e.g., United States] print edition of the Work with the highest RRP;
 - 1.1.11. **Remainder** means copies of the Work in whatever form sold at or below the cost of production;

- 1.1.12. **Reprographic Rights** means rights in visibly perceivable facsimile copies such as photocopies, microfilm, microfiche, and storage and retrieval systems;
- 1.1.13. **RRP** means the recommended retail price of the Work which will be determined by the Publisher prior to the Work being published, subject however to change by the Publisher acting reasonably during the term of this Deed;
- 1.1.14. **Second Serial Rights** means rights in publication in journal, magazine or newspaper after publication in volume form;
- 1.1.15. **Subsidiary Rights** means those rights specified in clause 9;
- 1.1.16. **Term** means the period of time provided for in clause 2.4;
- 1.1.17. **Territory** has the meaning given to that term at clause 2.5;
- 1.1.18. **Title of the Work** has the meaning given to that term at clause 2.1; and
- 1.1.19. **Work** has the meaning given to that term at clause 2.2.
- 1.2. **General references:** In this Deed, unless the context otherwise requires:
- 1.2.1. a reference to "\$" or "dollar" is a reference to [INSERT - country, e.g., United States] dollars. The Parties agree that any money received or costs incurred in a currency which is not a [INSERT - country, e.g., United States] dollar will be converted to [INSERT - country, e.g., United States] dollars based on the foreign currency conversion rate as provided by the Publisher's bank, with such exchange rate being that as at the date that the payment is initiated;
- 1.2.2. words denoting any gender include all genders;
- 1.2.3. specifying anything in this Deed after the words 'including', 'includes', 'for example', 'such as' or similar expressions does not limit what else is included unless there is express wording to the contrary;
- 1.2.4. reference to anything of a particular nature following a general statement shall not in any way derogate from or limit the application of the general statement, unless the particular context requires such derogation or limitation;
- 1.2.5. an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly or severally;
- 1.2.6. words denoting the singular include the plural and vice versa;
- 1.2.7. a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the Commencement Date);
- 1.2.8. a reference to a clause is to a clause in this Deed unless there is express wording to the contrary;
- 1.2.9. words denoting a person shall include any individual, company, corporation, firm, partnership, joint venture, organization, trust or estate in each case whether or not having separate legal identity; and
- 1.2.10. references to the Parties to this Deed include, so far as is consistent with the provisions hereof, their legal personal representatives, and their respective successors, permitted assigns, executors and administrators or any of them.

1.3. **General construction:** No term or condition of this Deed is to be construed adversely to a Party solely on the ground that the Party was responsible for the preparation of this Deed or that provision.

1.4. **Headings and table of contents:** In this Deed headings and words in bold are inserted for convenience and do not affect the interpretation of this Deed.

2. **The Publication**

2.1. **Provisional Title of the Work:** [INSERT]

2.2. **Description of the Work:** [INSERT]

2.3. **Delivery Date:** [INSERT]

2.4. **Term:** [INSERT - years] from the Commencement Date.

2.5. **Territory:** [INSERT - Market, e.g., US, UK, EU, AU, BR, JP, Worldwide]

2.6. **Print Formats Licensed:** [INSERT - e.g., Hardcover, Softcover]

2.7. **Estimated Recommended Retail Price of the Primary Print Edition:** As at the date of this Deed, the Publisher estimates, but is in no way bound by this estimate, that the RRP will be [INSERT].

2.8. If an Electronic Edition Licence in clause 3.2.2 applies:

2.8.1. electronic format(s) licensed: [INSERT - e.g., EPUB, MOBI, PDF, Kindle Print Replica]

2.8.2. percentage of RRP for purposes of clause 8.5: [INSERT]%

3. **Grant of Licence and Territory**

3.1. The Publisher acknowledges that copyright in the Work is owned by, and will remain the property of, the Author.

3.2. The Author grants to the Publisher an exclusive licence in the Territory:

3.2.1. to print, publish and sell the Work in volume form in the format(s) specified in clause 2.6 for the Term;

3.2.2. to copy, publish and sell the Work in electronic text form in the formats(s) specified in clause 2.8.1, provided that the medium employed produces the Work in a form that is substantially similar in content

to that contained in a book for a period of 5 years from the Commencement Date; and

3.2.3. to exercise and sub-license the Subsidiary Rights for a period of 3 years from the Commencement Date.

3.3. For the avoidance of doubt, the Author confirms he/she will not during the Term assign or licence any rights that may conflict with or prejudice the Publisher's rights under this Deed.

4. Electronic Editions

4.1. The Publisher agrees to utilise reasonable technological protection measures to safeguard any electronic editions of the Work against unauthorised copying.

5. Publication

5.1. The Publisher will publish the Work in volume form to a good professional standard, within 12 months of the Delivery Date unless prevented by circumstances beyond its control, but in no circumstances later than 18 months from the Delivery Date.

5.2. Where an Electronic Edition Licence is granted, the Publisher will publish the Work in the electronic format(s) described in clause 2.8.1 within 12 months from the date of first publication in volume form.

5.3. The Publisher will pay all expenses of production and editing of the Work.

6. Term

6.1. This Deed continues for the Term and for such other period provided for in this Deed unless terminated earlier under clause 25. The Term may be extended by agreement in writing.

7. Delivery

7.1. The Author will deliver the Work to the Publisher's nominated physical and/or electronic address in such format(s) as reasonably requested by the Publisher no later than the Delivery Date. As at the date of this Deed it is anticipated that the Publisher will require both a hardcopy and electronic versions (such as, for example, a word processing and a PDF document).

8. Royalties

8.1. On copies sold at any wholesale discounts less than or equal to 50% of the RRP, the Publisher will pay to the Author the prevailing rates of:

8.1.1. 10% of the RRP on the first 3500 copies sold;

8.1.2. 12.5% of the RRP for copies 3501 to 5000 sold; and

8.1.3. 15% of the RRP thereafter for copies sold in excess of 5000.

8.2. On copies sold at a wholesale discount of greater than 50% of the RRP, the Publisher will pay the Author a royalty rate which will be 0.5% lower than the prevailing rate for each percentage point by which the discount exceeds 50%, provided that the royalty will not be reduced to lower than one-half of the prevailing rate.

8.3. On copies proposed by the Publisher to be sold as a Cheap Edition, such sales are subject to the Author's prior written consent and at a royalty rate to be agreed by the Parties acting reasonably.

8.4. For Remainders, no royalty will be paid, provided that where the purchasing firm is owned or affiliated with the Publisher the Author will be paid 10% of the price at which the stock is resold by the purchaser.

8.5. Where electronic text form editions are licensed:

8.5.1. the Author will receive the percentage set out in clause 2.8.2 of the RRP of that electronic edition, or 10% of the RRP of the Primary Print Edition, whichever is the greater; and

8.5.2. after 2 years from first publication of the Work in electronic text form either Party may request the other to renegotiate this royalty rate, having regard to the then prevailing industry standards. In the event that the Author and Publisher do not agree on a rate within 3 months from this date, the Author may give the Publisher 30 days notice, upon the expiration of which the Electronic Edition Rights will revert automatically to the Author.

9. Subsidiary Rights

9.1. For a period of 3 years from the Commencement Date, the following rights in relation to the Work are dealt with as follows:

9.1.1. To be controlled by the Publisher who will not conclude any sales without the prior approval of the Author, such approval not to be unreasonably withheld. In addition to the royalties provided for in clause 8, the following proportions of the proceeds of licences received by the Publisher will be paid to the Author without deduction of any fees, commissions or expenses:

9.1.1.1. anthology and quotation rights: 75%;

9.1.1.2. condensation for journals: 70%;

9.1.1.3. condensation for books: 70%; and

9.1.1.4. softcover or paperback editions licensed to another publisher: 70%.

9.1.2. To be controlled jointly by the Publisher and Author, and not to be negotiated without the consent of both Parties, the following proportions of the proceeds will be paid by the Publisher to the Author without any deduction of fees, commissions or expenses:

9.1.2.1. second serial rights: 75%;

9.1.2.2. translation rights: 70%;

9.1.2.3. reprographic rights: 75%;

9.1.2.4. sound recording: 75%; and

9.1.2.5. reprint under sub-licence to another publisher: 70%.

10. Cheap Editions and Remainders

10.1. The Publisher agrees that for the first 2 years from the date of first publication in volume form the Publisher will not, without the Author's prior written consent, sell any Cheap Editions or Remainders.

11. Revised Editions

11.1. To keep the Work up-to-date the Author may be called upon by the Publisher, without charge to the

Publisher, to edit and revise all editions of the Work during the Term and supply any new matter reasonably necessary for updating the Work. The Publisher shall not reprint or reissue the Work without consulting the Author as to whether any revision or correction is necessary. In the event of the Author neglecting or being for any reason unable to edit or revise the Work or supply new material necessary for updating within a reasonable period of time of being requested to do so by the Publisher and in any event no later than [INSERT] days from a request being made, the Publisher may procure some other person to do it and may deduct the expense borne as a consequence from the royalties payable to the Author.

12. Copyright Notice

12.1. The Publisher will ensure that the following copyright notice appears in all copies of the Work including all sub-licensed copies:

© Copyright [INSERT - year of first publication] by [INSERT - Author's name]. All rights reserved.

The Author asserts their moral rights in respect of this work, including their right to be identified as author.

13. Copyright Infringement

13.1. The Publisher has all the rights of an exclusive licensee in respect of any infringement of copyright in the Work.

13.2. If either the Author or the Publisher reasonably considers the copyright in the Work has or will be infringed, the Parties will preferably join together in any legal proceedings. Any monies recovered in respect of any such infringement of copyright will after deduction of all costs and expenses be divided equally between the Parties.

13.3. If either Party elects not to be involved in infringement proceedings, the Party may proceed on the basis they will pay all costs and expenses and indemnify the other Party. Any monies recovered in respect of any such infringement of copyright will still, after deduction of all costs and expenses, be divided equally between the Parties.

14. Author's Warranty

14.1. The Author warrants to the Publisher that:

14.1.1. the Work is an original work;

14.1.2. the Author is the sole owner of the Work;

14.1.3. the Work does not infringe any existing copyright and has not been or will not be published by any other third party in book or electronic formats in the Territory during the Term of this Deed; and

14.1.4. to the best of their knowledge and belief the Work contains nothing defamatory.

15. Moral Rights

15.1. The Author asserts their moral rights in relation to the Work.

15.2. The Publisher agrees to identify the Author in a prominent manner by including the Author's name, or any other identification reasonably requested by the Author, on the cover (or dust jacket where applicable), spine and internal title page, and in all appropriate publicity material.

15.3. The Publisher agrees to ensure that any permitted licensees and assignees of the Publisher:

15.3.1. respect the Author's moral rights in relation to the Work; and

15.3.2. in particular, not do or omit to do anything which would amount to a derogatory treatment of the Work.

16. Payments

16.1. The payments provided for in clauses 8 (royalties) and 9 (subsidiary rights) will be calculated half-yearly on [INSERT - dates] in any given year and will be paid to the Author's nominated account within 1 month of the end of such half yearly period, provided however that if a scheduled six monthly payment to the Author does not exceed the sum of \$100.00, such payment will be held over until the end of the next six monthly period. The Publisher agrees to supply to the Author any relevant accounts in relation to the Work which will show in sufficient detail the number of copies printed, bound, spoiled, given away and sent out.

16.2. The Publisher will provide the Author with monthly statements of sales of the Work between publication and delivering the first half-yearly statement, following which statements will be provided at six-monthly intervals.

17. Inspection of Accounts

17.1. The Author will have the right, upon written request, to examine the books of account of the Publisher as they directly relate to sales of the Work or any sub-licences of the Work. This examination will be at the cost of the Author unless errors of accounting are found to the Author's disadvantage of greater than 10%, in which case the Author's reasonable accounting costs will be borne by the Publisher.

18. Alterations

18.1. No alterations will be made to the Title of the Work without the Author's prior written consent.

18.2. The Publisher will consult the Author on editorial decisions and the Publisher will take into account the Author's reasonable views in making a decision about such matters. The Publisher will not publish the Work until any reasonable differences in editing have been resolved.

19. Format and Publishing Decisions

19.1. The Publisher will consult the Author about the:

19.1.1. appearance, format and layout of the Work;

19.1.2. cover or dust jacket;

19.1.3. manner of production, including paper and binding; and

19.1.4. distribution, promotion and advertising, and RRP of the Work, including the number and destination of promotional copies.

19.2. The Publisher will take into account the Author's reasonable views on the matters set out in clause 19.1 and the Publisher will act reasonably in making its decision about such matters, but at all times the final decision will be the sole and absolute responsibility of the Publisher.

19.3. The Publisher will prepare the biographical details and the jacket blurb in relation to the Author for the Author's review. The Publisher will incorporate the Author's reasonable requests and the Publisher will obtain the Author's approval of the biographical details and jacket blurb before it goes to press provided they

are received no later than 14 days after the date of provision to the Author.

19.4. Except as set out in clause 19.5 the Publisher will bear all expenses for the matters set out in this clause.

19.5. The cost of index, illustrations, copyright permissions, [INSERT] will be borne jointly by the Author and Publisher, with the Author's share being paid by the Publisher initially but recoverable from royalties due to the Author.

20. Marketing and Promotion

20.1. The Publisher will promote and sell the Work in a professional manner to maximize its market potential. The Publisher will give the Author the opportunity to comment on the proposed marketing plan, distribution list for review copies and to suggest publicity leads and ideas, but at all times the final decision in relation to these will be the sole and absolute responsibility of the Publisher.

21. Proofs

21.1. The Publisher will provide proofs of the Work to the Author and the Author will correct, revise and return them without undue delay and in any event no later than [INSERT] days after the date of provision to the Author, and the Author will bear the expense of all corrections (other than printer's errors or other mistakes for which the Author is not responsible) in excess of 15% of the total cost of typesetting. The Publisher will inform the Author of any excess proof correction charges within one month after the date an invoice relating to the submission to the printer of the final print ready volume is received by the Publisher.

22. Author's Copies

22.1. The Publisher will give the Author 10 free copies of the Work in volume form within 20 days of publication, and 2 copies of any reprints of the Work. The Publisher will sell to the Author further copies of the Work in volume form at 35% discount of the RRP, and for clarity no royalties will be paid in relation to these sales.

23. Return of Manuscript

23.1. The Publisher agrees, if requested in writing by the Author, to forward to the Author 1 month after the first publication of the Work in volume form any original manuscript and/or illustrations supplied by the Author and galley and page proofs with corrections or the final text and illustrations on disk.

24. Publisher's Liability

24.1. The Publisher will be responsible for the safe-keeping of manuscripts, drawings and photographs in the Publisher's possession and will pay to the Author the full cost of replacing them in the event of their loss or destruction.

24.2. The Publisher undertakes to insure stocks of the Work against loss or damage including loss or damage by fire, flood, theft or marine peril and will pay the agreed royalty provided for in clause 8 on all copies so lost or destroyed as if they had been sold. Notwithstanding such payments, all rights in the Work will revert to the Author where the loss of stock is not made good by reprinting within 6 months from the date of loss.

25. Termination and Reversion of Rights

25.1. A Party may by 1 month's notice in writing to the other terminate this Deed without prejudice to any claims outstanding or any sub-licences properly granted in the event of:

- 25.1.1. any breach or non-observance by the other of any of the terms or conditions in the Deed that has not been corrected within 14 days of provision of a written notice specifying such breach or non-observance; or
- 25.1.2. if the Work is out-of-print and the Publisher does not within 1 month of written enquiry notify the Author that it will within 6 months reprint the Work in an edition of at least 250 copies and does so reprint, or within 2 months make available the Work for printing and distribution by print on demand (POD) and does so make available.
- 25.2. This Deed will automatically terminate without prejudice to any claims outstanding or any sub-licences properly granted in the event of the Publisher going into liquidation (except a voluntary liquidation for the purpose of reconstruction) or becoming insolvent.
- 25.3. Unless otherwise mutually agreed in writing the Work will be deemed to be out-of-print where the Publisher's stocks are less than 15 and the Work is not available for printing and distribution by POD.
- 25.4. Unless otherwise mutually agreed in writing the Work will be deemed to be out-of-print where fewer than 5 copies are shown as having been sold in any 6 month accounting period.
- 25.5. Upon the termination of this Deed for any cause all rights granted to the Publisher will revert to the Author for use at any time and the Publisher will return if required to the Author all property originally furnished by the Author.
- 25.6. The Publisher may sell the remaining copies for 3 months after the effective termination date and thereupon all remaining copies will be returned to the Author or destroyed with the Author's permission at the Publisher's cost. The Publisher will continue to account to the Author for all sales within the sell-off period.
- 25.7. The Author will be given the option to purchase at 15% of the actual cost the final form of the Work as passed for press.

26. Dispute Resolution

- 26.1. Any dispute or difference arising out of or in connection with this Deed, or the subject matter of this Deed, including any question regarding its existence, validity or termination (**Dispute**), will first be referred to representatives of each Party for resolution. If they do not resolve the dispute within 10 business days, either Party may require that the dispute be submitted to mediation.
- 26.2. Upon a Dispute being referred to mediation, the Parties will agree on a suitable person to act as mediator. If the Parties fail to agree on the identity of the mediator within 10 business days of the Dispute being referred to mediation, the mediator will be appointed by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc. (AMINZ), upon the application of any Party.
- 26.3. The mediation will be conducted in accordance with the Mediation Protocol of AMINZ in force at the time the Dispute is referred to mediation.
- 26.4. If the Dispute is not resolved by mediation in accordance with the above provisions, the Dispute will be referred to and finally resolved by arbitration.
- 26.5. The arbitration will be conducted in accordance with the Arbitration Protocol of AMINZ in force at the time the Dispute is referred to arbitration.
- 26.6. The arbitral tribunal will consist of one arbitrator to be agreed upon by the Parties. If the Parties

fail to agree on the identity of the arbitrator within 10 business days from the date upon which the Dispute is referred to arbitration then the arbitrator will be appointed by the President of the AMINZ, upon the application of any Party.

26.7. The place of arbitration will be Christchurch, New Zealand

26.8. Clauses 4 and 5 of the Second Schedule to the Arbitration Act 1996 will not apply to the arbitration.

26.9. Each Party will bear its own costs in relation to any negotiation under this clause 26 of this Deed.

26.10. Clause 26 of this Deed does not prevent any Party from seeking urgent interlocutory or declaratory relief from a Court of competent jurisdiction where, in that Party's reasonable opinion, that action is necessary to protect that Party's rights.

26.11. While any Dispute is continuing the Parties will continue to perform their obligations under this Deed.

26.12. Neither of the Parties will make any press release, public announcement or statement concerning the subject matter of the Dispute to any person (except as expressly or by implication authorised in the Deed).

27. Announcements

27.1. The Parties will not (except as may be required by law) make any announcement or disclosure regarding this Deed or its subject matter except in a form and manner and at such time as the Parties shall agree.

28. Miscellaneous

28.1. Entire agreement: This Deed:

28.1.1. constitutes the entire understanding and agreement of the Parties relating to the matters dealt with in this Deed; and

28.1.2. supersedes and extinguishes all prior agreements and understandings between the Parties relating to the matters dealt with in this Deed.

28.2. Further assurances: Each Party to this Deed will do all things reasonably required by the other Party to effectively carry out and give effect to the terms and intentions of this Deed.

28.3. Waiver: Failure by a Party to enforce at any time any one or more of the terms of conditions of this Deed is not a waiver of that Party's right to subsequently enforce at any time any one or more of the terms or conditions of this Deed.

28.4. Severability: Should any part or provision of this Deed be held invalid, illegal, unenforceable or in conflict with the applicable laws of any jurisdiction, that part or provision shall be replaced with a part or provision which accomplishes, to the extent possible, the original business purpose in a valid, legal and enforceable manner, and the remainder of the Deed shall remain binding on the Parties.

28.5. Assignment: The Publisher may assign their rights and obligations comprised in this Deed without the need for the consent of the Author. The Author may not however assign its rights and obligations without the prior written consent of the Publisher.

28.6. Amendments: This Deed cannot be amended or varied except in writing signed by the Parties.

28.7. No partnership or agency: Nothing in this Deed shall evidence or be deemed to constitute a employer/

employee, agency, fiduciary, joint venture, partnership or similar relationship between the Parties.

28.8. No power of attorney: Nothing in this Deed shall be constructed or read as a grant of power of attorney or agency from one Party to another, and neither Party shall have any power whatsoever to bind the other Party or to enter into agreements on behalf of or for the account of the other Party.

28.9. Costs: Each Party must pay its own legal and other costs of and incidental to the preparation, negotiation, execution and completion of this Deed.

28.10. Counterparts: This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Deed, but all the counterparts shall together constitute the same deed. No counterpart shall be effective until each Party has executed at least one counterpart.

28.11. Governing law and jurisdiction: This Deed is governed by and must be construed in accordance with the laws of New Zealand. The Parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of all matters arising out of or relating to this Deed, its performance or subject matter.

EXECUTED as a Deed

Signed by

RICHARD BRIAN MAHONEY as Principal of **INDICA ET BUDDHICA PUBLISHERS LIMITED**

in the presence of

Signature

Witness signature

Full name

Occupation

Address

Signed by

[INSERT - NAME OF AUTHOR]

in the presence of

Signature

Witness signature

Full name

Occupation

Address