

# Escape Artists Inc.

## CONTRACT FOR ORIGINAL PUBLICATION

### Summary of Rights

This contract requests the following rights:

- First digital print publication rights
- Audio rights
- Four months exclusivity following publication
- "Best of the year" anthology exception
- Anthology rights for review and promotion only
- Promotional use of image and biographical information
- Dispute resolution via binding arbitration
- Electronic signature
- Donation option

If you have any questions or wish to discuss modifying the rights contained in this contract, please contact the editor BEFORE you sign.

*Version 3.1 (January 2019)*

### Defined Terms

"Date"	<b>[DAY] [MONTH] [YEAR]</b>
"Author"	<b>[NAME]</b> , whose address is [ADDRESS], and their licensees, heirs, assignees and successors
"Publisher"	<b>ESCAPE ARTISTS INCORPORATED</b> , whose address is Post Office Box 83, Woodstock, Georgia 30188, USA, and its licensees, heirs, assigns and successors
"Story"	" <b>[Story Title]</b> ", a [COUNT] word story created and owned by the Author
"Podcast"	<b>[PODCAST]</b> , a serial digital print and audio publication distributed in syndicated podcast form owned by the Publisher
"Episode"	the individual episode of the Podcast in which the Story is published
"Payment"	<b>USD \$[AMOUNT]</b> , calculated as USD \$0.06 per word
"Byline"	<b>[By-Line]</b>
"Payment Email Address"	<b>[PayPal email address]</b>

This contract is made as of the Date, by and between the Author and the Publisher, concerning the Story and its publication in the Podcast. The Author and the Publisher agree:

#### Author's Grant

1. The Author grants permission to include the Story in an Episode of the Podcast for publication in the English language in all countries throughout the world on the terms contained in this Agreement.

#### Payment Terms

2. The Publisher shall pay the Author the Payment within sixty (60) days of the Story's initial publication on the Podcast, by electronic funds transfer. The Author shall supply the Publisher with an appropriate Payment Email Address. Any fees incurred because of the Publisher's choice of electronic payment method will be paid by the Publisher.

3. The Author certifies and acknowledges they are an independent contractor for all purposes related to the Payment and that the Payment does not equate to a work for hire.

4. The Publisher shall make no tax withholding from the Payment under this Agreement. The Author is not entitled to receive any employment benefits, including without limitation vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability or unemployment benefits as a result of the Payment.

5. At Publisher's request, the Author shall provide such documents and information as Publisher may reasonably require for the Publisher to comply with reporting requirements of various governmental taxing entities regarding the Payment.

6. Should the Author choose to waive receipt of the Payment as indicated below, the Payment shall be accounted as a donation by the Author to the Publisher in the amount of the Payment.

#### Story Rights Purchased

7. In exchange for the Payment, the Author grants the Publisher the following rights in regard to the Story. All rights not expressly granted by the Author reside exclusively with the Author.

##### *First Print Publication Rights*

8. The Author grants the Publisher the right to publish the Story in the English language in connection with an Episode of the Podcast before it appears in any other publication or place.

### *Audio Rights*

9. The Author grants the Publisher worldwide English language nonexclusive non-dramatic audio performance rights to the Story for use in an Episode of the Podcast.

10. The Publisher distributes Episodes under the Creative Commons "Attribution Non-Commercial No-Derivatives" 4.0 International license ("CC License"). The Author and Publisher understand and agree that the CC License applies only to the Podcast audio performance of the Story; that no public license is granted for any other use of the Author's Story; and that copyright and ownership of the Episode shall vest in the Publisher.

11. The Author also grants to the Publisher the indefinite, nonexclusive right to republish the audio performance of the Story in future audio compilations consisting of material at least 50% of which was previously published by the Publisher with no further compensation due to the Author.

12. The Author understands the Publisher retains the right to offer the Episode containing the Story for sale for as long as they choose across all audio formats and platforms.

### *Exclusivity Period*

13. The Author agrees not to publish or permit others to publish the Story in any digital or print form prior to its publication in the Podcast and for a period of four (4) months after the publication of the Episode without the prior written permission of the Publisher.

14. Excluding any previously granted permissions, the Author agrees not to publish or permit others to publish the Story in audio form prior to its publication in the Podcast and for a period of four (4) months after the publication of the Episode without the prior written permission of the Publisher.

### *Best of the Year Anthology Exception*

15. If the Story is selected for inclusion in a "best of the year" anthology ("Best of the Year Anthology") and the Author agrees to said offer of publication, the Publisher agrees to waive the Exclusivity Period clause above, provided the Author gives the Publisher prior written notice of such selection.

16. For the avoidance of confusion, both "long list" and "short list" anthologies, as well as the John W. Campbell Award anthology, shall qualify as Best of the Year Anthologies subject to this provision.

*Anthology rights for review and promotion only*

17. The Publisher may wish to include the Story in anthologies incorporating work published over a period of time, such as quarterly or annually. Inclusion of the Story within such anthologies is at the Publisher's sole discretion. The Author grants the Publisher the right to include the Story in said anthologies on the sole basis that such anthologies will not be offered for sale and used only for review and promotional purposes. The Author further understands that such anthologies may be published in print and/or digital form.

*Archive*

18. The Author grants the Publisher nonexclusive electronic rights to archive the text of the Story online in perpetuity as long as the Publisher maintains the Podcast website.

19. The Author further grants the Publisher nonexclusive electronic rights to archive the Episode online in perpetuity as long as the Publisher maintains the Podcast website.

Editing

20. The Publisher will not alter the Story's text or title without the Author's prior written approval. The Publisher reserves the right to make minor copyediting and/or formatting changes to conform the style of the text to its customary usage.

Attribution

21. The Author will be credited in the Episode and on the Episode's webpage. If a Byline is provided, the Publisher will use it instead of the Author's legal name.

Promotional Use of Image

22. The Author grants Publisher the right to use the Author's Byline and/or name, image, likeness, and biographical material for all advertising, promotion and other marketing use of the Story. The Author shall provide the Publisher with a photograph and appropriate biographical material for such use.

23. For the avoidance of doubt, a photograph of the Author is not required. The image provided may be an avatar or other image which the Author wishes to use for identification in relation to the Story, subject to the Podcast editor's approval, such approval not to be unreasonably withheld.

### Author's Warranties

24. The Author represents and warrants that they are the sole creator and owner of the Story and has full power and authority, unencumbered by the rights of any third party, to enter into this Agreement and to grant the rights set forth herein to Publisher.
25. The Author further warrants that, to the best of their knowledge:
- a. the Story has not previously been published in whole or in part in any medium;
  - b. the Story does not, and, if published, will not, infringe upon any proprietary right at common law, or any statutory copyright, or trademark right, or any other right of any other third party;
  - c. the Story contains no material that is intentionally unlawfully obscene, libelous, that violates the right of privacy or publicity of any person, or is otherwise harmful to any third party so as to subject the Publisher to liability or is otherwise contrary to law;
  - d. the Story does not infringe upon any registered or unregistered copyright or upon any other proprietary or personal right of any person, firm or corporation; and
  - e. the Story is not in the public domain.

### Author's Indemnity

26. The Author agrees to indemnify the Publisher, along with its subsidiaries, affiliates and any respective agents, officers, directors and employees from any claims, demands, suits, actions, proceedings or prosecutions occasioned to the Publisher in connection with or in consequence of any breach of the warranties ("Claims") including any liabilities, losses, expenses (including reasonable attorneys' fees) or damages finally sustained and which aren't recoverable under the Publisher's insurance.

27. The Author and the Publisher agree to give prompt notice by email to the other of any Claims received by it of which it becomes aware.

### Reversion of Rights

28. If the Publisher fails to publish the Story within twenty four (24) months of the date of this Agreement, all rights granted hereunder shall immediately revert to the Author. The Author shall retain any payments made under this agreement prior to such reversion.

29. If the Author fails to execute this Agreement within sixty (60) days of receipt, the Publisher's offer to purchase the work shall be considered withdrawn and all rights granted hereunder shall immediately revert to the Author.

#### Kill Fee

30. The Publisher may terminate this Agreement in exchange for a kill fee made in accordance with the payment terms above (the "Kill Fee"). The Kill Fee shall be equivalent to 10% of the Payment.

#### Termination

31. This Agreement may be terminated without penalty by the written consent of both the Publisher and the Author.

#### Disputes

32. This Agreement will be governed by the laws of the State of Georgia. Any dispute between the Author and the Publisher regarding the Agreement that cannot be settled through negotiation shall be referred first to mediation under the Commercial Mediation Rules of the American Arbitration Association.

33. If mediation is unsuccessful, the matter will be referred to arbitration by a single arbitrator under the Commercial Arbitration Rules/Expedited Procedures of the American Arbitration Association. The Author and the Publisher agree that judgment and/or any award rendered by the arbitrator may be entered in any court having jurisdiction.

**34. NOTE: BY SIGNING THIS AGREEMENT, YOU ARE AGREEING TO SUBMIT ANY DISPUTES ARISING FROM THIS CONTRACT TO BINDING ARBITRATION AND GIVING UP YOUR RIGHT TO HAVE ANY CLAIMS HEARD BY A JUDGE AND/OR JURY.**

#### Jurisdiction

35. Regardless of its place of execution, this agreement shall be interpreted under the laws of the United States of America and the State of Georgia.

#### Miscellaneous Provisions

##### *Complete Agreement*

36. This Agreement constitutes the complete and only Agreement between the Author and the Publisher regarding the Story and supersedes any previous agreements, representations, negotiation or understandings, whether oral or in writing.

*Assignment*

37. Neither the Author nor the Publisher may assign, transfer, charge or otherwise deal with any of its rights under this Agreement, nor grant, declare, create or dispose of any right or interest in it, except with the prior written consent of the other.

38. Further, no assignment other than an assignment by operation of law or by Publisher in connection with the sale of all or substantially all of its assets, shall be valid without the provision of notice to the other party. Any purported assignment in violation of this paragraph shall be void.

*Notice*

39. Any notice required under this Agreement shall be deemed to have been properly delivered by electronic mail.

*Third Party Rights*

40. No other person, firm or corporation who is not a party to this Agreement shall have any rights under this Agreement or any applicable legislation to enforce any term of this Agreement.

*Electronic Signature*

41. By typing their names below, the Author and the Publisher agree to electronic signature of this Agreement, and further consent to be legally bound by its terms and conditions as if the Agreement had been manually signed.

42. The Author further warrants that no certification authority or other third party verification is necessary to validate their electronic signature.

Executed on the date appearing at the first page of this Agreement:

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Author

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Escape Artists Incorporated (Publisher)

**By signing below, I confirm I wish to donate the amount I am owed under this Agreement to Escape Artists Inc.**

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Author