

Box 6:7 Simon and Schuster / Silver Burdett Press

1990

Folder 1 of 2

86/97c





# SILVER BURDETT PRESS

---

VIA FEDERAL EXPRESS

Silver Burdett Press  
Julian Messner  
Schoolhouse Press

January 24, 1990

Yoshiko Uchida  
1685 Solano Avenue, Apt. 102  
Berkeley, CA 94707

Dear Ms. Uchida:

Here are five copies of the Agreement for  
IN THEIR OWN WORDS: YOSHIKO UCHIDA.

Please sign all five copies and return them  
to us for countersignature. Thereafter, a  
copy of the fully signed Agreement and the  
first half of the advance will be sent to  
you within four to six weeks.

Sincerely,

Yvonne Lucas  
SILVER BURDETT PRESS

/enc. (5)  
cc: Emily Easton



YOSHIKO UCHIDA

1685 SOLANO AVENUE, NO. 102  
BERKELEY, CALIFORNIA 94707

(415) 524-1152

February 15, 1990

Yvonne Lucas  
Silver Burdett Press  
Prentice Hall Bldg.  
Englewood Cliffs, N. J. 07632

Dear Ms. Lucas:

Just a quick note to thank you for the five copies of the Agreement for IN THEIR OWN WORDS:YOSHIKO UCHIDA and to let you know that I am now in the process of going over it. I hope to be in touch with you before too long.

Sincerely,

*Yoshiko Uchida*

✓ cc: Emily Easton - Hope to be talking to you soon -  
y.

*Emily - please let me know  
if I should contact you first  
before talking to Yvonne re  
changes I'd like made in the  
contract.*

*y*



3-1-90 - c Emily re 1st list of questions

4-19-90 - " " re revised version - she settled that they  
call back. - Inked in new changes.

4-20-90 - mailed contract.

S I M O N



S C H U S T E R

Emily Easton 201-592-3472

Library Ed'n - u7570

Trade Paper u3070

Prof  
for  
review

M. didn't think consult w/  
Carol Bunnin was worth the \$.  
He kept me over 3 wks, she has to call  
several times - ask for it back.

19m  
AGREEMENT made this 16th day of January 1990, between YOSHIKO UCHIDA  
("Author") whose address is 1685 Solano Avenue, Apt. 102, Berkeley,  
California 94707 and SIMON & SCHUSTER, INC./SILVER BURDETT PRESS  
("Publisher") whose address is the Prentice Hall Building, Route 9W,  
Englewood Cliffs, New Jersey 07632.

Publisher and Author hereby agree as follows:

#### THE GRANT AND THE TERRITORY

1. The Author grants to the Publisher during the full term of  
copyright (including any renewal or extensions thereof) the sole and  
exclusive right to print, publish and sell (herein "publish") or to  
cause to be published in book form throughout the World in all  
languages an unpublished work tentatively entitled **IN THEIR OWN  
WORDS: YOSHIKO UCHIDA** (herein the "Work"), together with the  
exclusive subsidiary rights listed in Paragraph 5.

#### COPYRIGHT

2. The Publisher shall have the exclusive right to copyright  
the Work in the United States of America and in other countries as  
may be covered by this Agreement in the name of Yoshiko Uchida. The  
Author shall, upon the Publisher's request, do all acts necessary to  
effect and protect the copyright and renewals or extensions thereof.

#### THE WORK

3. (a) Author shall deliver the Work, consisting of  
approximately 38,000 words or their equivalent, in duplicate to the  
Publisher by March 1, 1991, in content and form satisfactory and  
acceptable to the Publisher (herein the "complete manuscript"). A  
third copy shall be retained by the Author.

#### Related Materials

(b) Together with and as part of the complete manuscript  
the Author shall, at the Author's own expense, furnish to the  
Publisher approximately 10-15 black and white photographs and other  
related material (herein "related materials") necessary in the  
Publisher's opinion for publication of the Work, all in content and  
form satisfactory to the Publisher.



## ADVANCE AND ROYALTIES

4. (a) Subject to the provisions hereof, the Publisher shall make an advance against royalties to the Author of \$11,000.00, payable as follows:

(i) \$5,500.00 upon signing of this Agreement; and ✓

(ii) \$5,500.00 upon delivery of the complete manuscript (including related materials) satisfactory and acceptable to the Publisher in content and form. ✓

(b) The Publisher shall pay to the Author royalties based upon the Publisher's net sales, less a reasonable reserve for returns, as follows: *add - not to exceed 15% only for 1st 4 roy. periods.*

*pursuant to #6 (c) as follows:*

(i) If published as a trade hardcover edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(ii) If published as a library edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(iii) If published as a trade paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(iv) If published as a mass market paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(v) (1) on copies sold for export or outside the United States, its territories and dependencies, or sold directly to the consumer through the medium of mail order, or in bulk outside ordinary trade channels or at a discount in excess of 50% from the retail list price (herein "special sales"), a royalty of ~~2 1/2%~~ of the net amount received by the Publisher;

(2) on copies sold in bulk to book clubs, 5% of the net amount received by the Publisher;

(3) on copies sold to commercial purchasers as a premium or on copies sold in bulk to organizations other than book clubs for the purpose of distribution in special markets,

*no  
delete  
or add  
not to  
exceed 15%  
only for the  
first 2  
royalty  
periods*

*These  
are the  
mex 2  
editions*

*never had  
contract 2 1/2%!  
10% or  
5%*

*Define  
"net"  
gross, less  
direct costs  
of sales*

*I usually get  
10-20% contract*

*70%  
5%*

*70%  
50-50*

*of pub sets 20,000  
5% only 1000*

*See netts*

*have some  
deep discounts as 7  
as 70%*





such as the religious market, 5% of the net amount received by the Publisher; and

(4) on sales made out of any new printings or bindings of 2,000 copies or less, made more than one year after publication date, royalties shall be computed at one-half the base royalty rates provided hereunder. *not to exceed more than 1 printing*

#### Remainder

(c) If in the opinion of the Publisher any edition of the Work shall have ceased to have a remunerative sale, Publisher shall be at liberty to dispose of ("remainder") all or part of the existing stock thereof and shall pay to the Author a royalty of 4% of the amount received by Publisher, except that no royalty shall be payable on any copies sold at or below cost, and in no event more than the amount by which proceeds of such sale exceed the cost of manufacture. In any event, copies sold at a discount of 85% or more from the retail list price shall be deemed remainders upon which no royalty shall be due. Publisher shall make no such remainder sale without first offering copies to the Author at the then best obtainable price. Inadvertent failure to offer such copies to the Author shall not be deemed a breach of this Agreement.

#### Free Copies

(d) No royalty shall be payable on copies damaged or destroyed or on copies furnished gratis for review, publicity, promotion, sample, or similar purposes.

#### Recoupment of Advances

(e) The Author's right to royalty or other payments hereunder shall be subject to Publisher's prior right to deduct any and all advances payable by the Publisher hereunder.

#### SUBSIDIARY RIGHTS

5. (a) The exclusive subsidiary rights referred to in Paragraph 1 shall include the rights enumerated below and the net proceeds from the sale or license thereof shall be shared by the Author and Publisher in the percentages indicated:

(7) Translation and foreign language publication

(8) The right to sell or license publication rights in:

(a) British Commonwealth

*AT said  
wonderful  
25% profit  
not lost  
unusual*

*100% 7 1/2% OK 4/1*

*He said  
2000 not usually  
done, but they  
didn't anyway.*

*L?*

*As book added  
Deduction*

*never heard?*

*not to exceed more than 1 printing*

*remainder is always below cost*





75-25 Vicki word

my work pt in anthologies

To Author <sup>ask for</sup> ~~75~~ ~~80~~ To Publisher ~~25~~ ~~30~~ ? ✓ 4/1

(1) Digest, abridgment, condensation, anthology, selection, or novelty use

50% ~~ms~~ 50%

(2) First serialization in Publisher's Territory (prior to the Publisher's official publication date)

~~75~~ ~~80~~ 10 ms ~~25~~ ~~30~~ 50% ✓ main & ms. ✓ 4/1

(3) Book clubs or similar organizations

50% -ms 50% ✓ OK

(4) Reprint (including microfilm) edition through another publisher

50% -ms 50% ✓ OK

(5) Second serialization and syndication (including reproduction in compilations, magazines, newspapers, or books)

50% ms 50% ✓

(6) The sole and exclusive right to use or adapt, and to authorize others to use or adapt, the Work or any portion thereof, as a basis for photographic, video, audio, digital or any other form or method of copying, recording or transmission, now known or hereafter devised, including, without limitation, copying or recording by phonographic, photographic, magnetic, laser, electronic or any other means and whether on phonograph records, audio tapes, audio discs, lasers or cassettes, film, microfilm, microfiche, slides, filmstrips, transparencies, magnetictape, video cassettes, video discs, floppy disks or any other human-or-machine-readable medium, and the broadcast or transmission thereof, but excluding all uses encompassed in the definitions of Motion Picture and Television Rights.

ask for ~~100~~ ~~20~~ Salaries retain all these rights.

or Requested ~~90~~ ~~10~~ -ms. grand newings - tapes ~~80~~ ~~20~~ OK ✓ 4/1

Keep 100%

(7) Translation and foreign language publication

50% ~~40~~ ~~40~~ or ~~80~~ ~~20~~ 50% present contract ✓ 4/1

(8) The right to sell or license publication rights in:

(a) British Commonwealth

50% ~~80~~ OK 50% ~~20~~ OK M&M ✓ 4/1





4/12

(b) Other foreign countries  
(in English)

50%

50%

(9) Merchandising and Commercial  
Rights

50%

50%

(10) All other rights not specifically  
listed above

50%

50%

It may be necessary for Publisher to employ agents to make certain of the sales listed above, and any commissions paid to such agents shall be deducted first before the proceeds are divided between the Publisher and the Author

### License of Affiliates

(b) The Publisher shall have the right to license Simon & Schuster, its subsidiaries, affiliates and divisions, to exercise any of the rights herein granted, provided that the royalty rates under such a license shall not be lower than the rates which in the Publisher's reasonable judgment would be payable in all the circumstances by an unrelated third party licensee for the same rights. The Author shall be entitled to payment of the applicable share of the proceeds of any such license in accordance with this Paragraph 5.

### Licensee Permissions Costs

(c) If any sale or license of rights hereunder includes materials of others than the Author, the amounts payable to such others in respect of permissions granted by them shall be deductible from the Author's share of the proceeds of such a license.

### Braille

(d) The Publisher may license others free of charge to publish the Work in Braille or other forms for the handicapped.

### PAYMENTS

6. (a) The Publisher shall render semiannual reports of the sale of the Work during March and September of each year, covering the six-month period ending the prior December 31 and June 30, respectively, of each year, and at the time of rendering such statements shall make settlement for any balance shown to be due. The Publisher may determine and withhold a reasonable reserve against returns. Statements rendered hereunder shall be final and

*delete*  
*already covered in (b)*  
*or add conditions not to exceed 15% only for 74 statements*  
*OK*

*X*





binding upon the Author unless objected to in writing setting forth the specific objections thereto and the basis for such objections within one year after the date the statement was rendered.

(b) In the event the Author shall receive an overpayment of royalties on account of copies sold and subsequently returned, Publisher shall have the right to deduct such overpayment from any sums due to the Author under this or (any other agreement) between the parties.

*should have deleted*

*new insert 6(9) re reserves*

#### AUTHOR'S CHANGES

7. The manuscript in duplicate to be delivered by the Author to the Publisher shall be typewritten in proper form for use as copy for the printer and shall be in such form and content as the Author is willing to have appear in print. The Author shall read, if or when submitted, and within 14 days of the receipt thereof return to the Publisher, the proofs of the Work. If the Author fails to return the proofs within the period aforesaid, the Publisher shall have the right to publish the Work as submitted. The Author shall pay, or at the Publisher's option have charged against the Author, the amount of expense incurred by the Publisher because of changes and/or additions other than corrections of printer's errors made in and to the text by the Author in excess of 5% of the original cost of composition; and the Author shall pay in full for any corrections in the plates which he requires or which are necessary for the correction of the Author's actual errors (excluding printer's errors) after the plates have been made in conformity with the last proofs as corrected by the Author.

#### WARRANTIES AND INDEMNITIES

8. (a) The Author warrants and represents that:

(i) He is the sole author and proprietor of the Work.

(ii) He has the full power and authority to make this Agreement and to grant the rights granted hereunder, and has not previously assigned, transferred or otherwise encumbered the same.

(iii) The Work has not been previously published.

(iv) The Work is not in the public domain.

(v) The Work does not infringe any statutory or common law copyright.

(vi) The Work does not invade the right of privacy of any third party, or contain any matter libelous or otherwise in





contravention of the right of any third party; and, if the Work is not a Work of fiction, all statements in the Work asserted as facts are true or based upon reasonable research for accuracy.

(vii) The Work contains no matter which is obscene or matter the publication or sale whereof otherwise violates any federal or state statute or regulation, nor is it in any other manner unlawful.

(viii) The Work contains no recipe, formula, or instruction injurious to the user.

(b) The Author hereby indemnifies and holds the Publisher, any seller of the Work and the Publisher's licensees harmless from any damages, including reasonable attorneys' fees, in connection with any claim, action or proceeding inconsistent with or arising out of a breach or alleged breach of the Author's warranties, representations and agreements herein contained. In defending any such claim, action or proceeding the Publisher shall promptly notify the Author of any such claim, action or proceeding and the Author shall have the right at Author's election to participate in the defense thereof at the Author's own expense with counsel of the Author's own choosing. Any settlement of a claim, action or proceeding hereunder shall be subject to the Author's approval not unreasonably to be withheld.

*when sued due to breach of warranty - who pays? when sued I want as much shared 50-50. Can expenses be shared 50-50?*

*will check? don't think so*

(c) Author shall be insured under the Publisher's liability policy which covers claims for libel and other forms of defamation, invasion of privacy or publicity and infringement of copyright or trademark arising from publication of the Work, to the extent such policy is valid and collectible. In connection with such coverage and notwithstanding anything to the contrary contained in this Agreement, with respect to all judgments, settlements and costs of defense, including attorneys' fees and other costs of claims covered by the policy, the Publisher and the Author shall share equally the first \$100,000 of all such costs; thereafter, the Author's liability shall be limited to 10% of all such costs up to the limits of the policy. Publisher shall retain counsel to represent Publisher and Author in any proceeding brought with respect to all such claims and shall control the defense of such claims, and Author shall cooperate fully with Publisher and said counsel in such defense. Notwithstanding the foregoing, Author shall be solely responsible for the cost of counsel separately retained by the Author for any reason and for judgments, settlements and costs of defense, including all attorneys' fees, attributable to a willful or reckless breach of the Agreement by Author.

*I share costs 50-50 up to \$100,000 then 10% share after*

*NO*

(d) The warranties, representations and indemnity of the Author herein shall survive termination of this Agreement for any reason.





(e) The Publisher may, at its own cost and expense, take such legal action, in the Author's name if necessary, as may be required to restrain any infringement of copyright or to seek damages therefor, but shall not be liable to the Author for failure to take such legal steps. If the Author elects to join in such proceeding the expenses and recovery shall be shared equally. If the Publisher proceeds without Author's participation, any recovery shall belong to the Publisher. If the Publisher does not bring such action, the Author may do so in his own name and at his own cost and expense and money damages recovered by the Author for any infringement shall belong to the Author, except that any money damages recovered on account of the loss of the Publisher's profits shall be divided equally between the Author and the Publisher.

(f) Publisher shall have the right to withhold its reasonable estimate of the total damages and expenses (including reasonable counsel fees) from sums otherwise payable to the Author pursuant to this or any other agreement between the Author and Publisher, and to apply such sums to payment of such damages and expenses. *ms.*

#### FAILURE TO DELIVER THE COMPLETE MANUSCRIPT

9. (a) If the Author shall fail to deliver the complete manuscript (including related materials) within 30 days after the date herein provided, then the Publisher may at any time thereafter terminate this Agreement and upon such termination, all sums paid to the Author shall be repayable to the Publisher. Upon full repayment the Author's obligations hereunder shall terminate. *ms.?*

#### Extension of Time to Deliver

(b) The Publisher may in its discretion extend for such period as in its judgment is appropriate, or refuse to extend, the Author's time to deliver the complete manuscript. Failure to give a notice of termination for non-delivery shall be deemed to grant such an extension until such a notice of termination is given by the Publisher. In determining whether to grant such an extension and/or the length thereof, the Publisher may consider such factors as it deems relevant, including without limitation, Author illness, the changing marketability of the Work, the Author's progress towards completion and the quality of the material previously submitted.

#### Termination Prior to Publication

(c) If the complete manuscript (or related materials) delivered by the Author is not, in the Publisher's sole judgment, acceptable to it in content and form, the Publisher may terminate this Agreement by written notice and upon such notice this Agreement *delete*


*You asked me to write this ms.  
based on knowledge of the quality of my prior work.  
If work done - I retain fee pd.*

*They've seen 35 yrs of my  
writing - should know  
quality & work - & requested  
me to write.  
Should not have to worry who  
after I've put in time.*

*if rejected & I recall  
then I'll repay from new publisher*

*Just to make  
Delete  
will  
mention  
& told to  
SS*





shall terminate without further obligation or liability between the parties except that all sums paid to the Author hereunder shall be repayable by the Author within six months after termination by the Publisher. *if the work is sold within 1 yr. to another publisher.*

#### Acceptance of Manuscript by Publisher

(d) Within 120 days after delivery of the complete manuscript and related materials the Publisher shall determine whether the same are acceptable to it in content and form. In lieu thereof the Publisher may request the Author to make revisions, changes or supplements (herein "revisions") thereto. If the Publisher requests one or more revisions in the manuscript of the Work or the related materials as submitted or as thereafter revised, the Publisher's time to determine the acceptability thereof shall be extended for an additional 60 days after resubmission by the Author, or written notice by the Author that no further revisions will be made. The Author shall make revisions as promptly as possible after the Publisher's request therefor. No request for revisions shall be deemed to obligate the Publisher to accept the final revision or to constitute a conditional acceptance thereof.

*6 mos  
to make  
revisions*

*OK -*

#### Publisher's Failure to Accept

(e) If the Publisher fails to accept the complete manuscript (including the related materials) or a revision thereof within the time above provided, the Author shall thereafter have the right to notify the Publisher in writing that unless the manuscript is accepted within 45 days after delivery of such notice, the manuscript will then be deemed unacceptable and this Agreement will terminate in accordance with the provisions of Paragraph 9(c) above.

*I have to  
Repay*

(f) Notwithstanding anything herein to the contrary, if in the opinion of the Publisher's legal counsel the Work is unpublishable or will unduly subject the Publisher to risk of legal claim, the Author shall, at Publisher's request, make changes and revisions in the Work satisfactory to Publisher's legal counsel, and in the event the Author shall refuse or fail to make requested changes or revisions, then Publisher may terminate its obligations hereunder by written notice, and upon such notice all sums paid to the Author hereunder shall be repayable to the Publisher, and upon such repayment this Agreement shall terminate without liability, except as provided in Paragraph 8(d) hereof. No such revisions or changes, and no request for substantiation, shall be deemed to impose on Publisher any obligation of verification, nor to affect the Author's warranties or indemnities, which shall apply to all material in the Work, whether or not changed at the request of Publisher's legal counsel. Under no circumstances shall Publisher be obligated to publish the Work if in the opinion of Publisher's legal counsel it contains unlawful material or any material which may violate the rights of any person or party.

*OK ?*

*Don't*

*if I refuse to  
change  
review by  
legal  
counsel*

*Repay*





## PUBLICATION

10. (a) The Publisher shall publish and commence distribution of the Work at its own expense not later than two years after acceptance of the complete manuscript (including related materials). Publisher shall have the right to publish the Work under any imprint, division or subsidiary of Simon & Schuster, Inc. ✓

(b) Notwithstanding the provisions of subparagraph (a) above, the Publisher shall not be obligated to publish the Work if, whether before or after acceptance thereof, supervening events or circumstances since the date of this Agreement have, in the sole judgment of the Publisher, materially adversely changed the economic expectations of the Publisher in respect to the Work at the time of the making of this Agreement, and in such event all of the Publisher's rights in and to the Work shall terminate and revert to the Author on the giving by the Publisher to the Author of notice of its decision, or if the Publisher fails to do so, by the Author pursuant to Paragraph 9(e) of this Agreement, and in any such event, notwithstanding anything to the contrary contained herein, the Author shall be entitled to retain all payments to the Author <sup>OK</sup> theretofore made under this Agreement. *Specimen attached* *OK* *I can keep adv.*

*2 1/2 yrs to publish* (c) In the event Publisher shall fail to publish and commence distribution of the Work within the time above provided, the Author may at anytime thereafter serve a written demand upon the Publisher, by registered mail, return receipt requested, requiring the Publisher to publish and commence distribution of the Work within 180 days after receipt of such written demand, and if Publisher shall fail to comply with such demand within such 180 day period, then this agreement shall terminate without further notice at the end of such period. In the event of termination by the Author pursuant to this subparagraph, such payments as shall have been made to the Author hereunder as advances shall be deemed in full discharge of all Publisher's obligations to the Author pursuant to this Agreement and no other damages, claims, actions or proceedings, either legal or equitable, founded on breach of contract, default, or failure to publish or otherwise, may be claimed, instituted or maintained by the Author against the Publisher. *OK* *8 after 1/2 yr not paid - send reg. ltr - would end.* ✓

## PERMISSIONS

11. If permission from others is required for publication of any material contained in the Work or for exercise of any of the rights conferred by this Agreement, the Author shall obtain and deliver such permission to the Publisher at the Author's own expense, in a form acceptable to the Publisher, on the due date of the complete manuscript. Said permission shall cover all *Let permission needed.*





territories, markets and editions covered by this Agreement. The Publisher shall have the right to obtain any such permissions which the Author fails to furnish and to charge the cost thereof to the Author, or in its discretion, to terminate this Agreement in accordance with the provisions of Paragraph 9(a) above.

#### PUBLISHER'S CONTROL OF PUBLICATION

12. (a) Final decision as to format, copy editing styles, illustration, style of printing and binding, title, cover, presentation, trade name, trademark, logo, imprint or other identification, date of publication, and retail price and all other matters of sale, distribution, advertising and promotion of the Work, shall be within the Publisher's sole discretion. -

*reg. imprint?*  
*consult*  
*I would like to be consulted re title + cover*  
*✓ OK*  
*4/8*

(b) Publisher shall have the right to use the name and likeness of and biographical material concerning the Author for purposes of advertising and trade in connection with the Work and/or any rights granted hereunder. The Author shall furnish Publisher, free of charge, original photographs of the Author for advertising, publicity and promotional purposes (without liability for any permissions or other third-party payments).

#### FREE COPIES

13. The Publisher shall furnish ten copies of each edition of the published Work to the Author without charge. Should the Author desire additional copies for personal use, they shall be supplied at a 40% discount from the retail list price.

#### OUT OF PRINT TERMINATION

14. In the event that after one or more years from the date of the first publication of the Work the same, in the opinion of the Publisher is no longer saleable or profitable, it ~~may~~ give notice to the Author of its desire and intention to discontinue publication; or in the event that after three years from the date of first publication the Work shall not be in print and for sale in any edition by the Publisher or any of its licensees and after written demand from the Author shall not within nine months be reprinted by the Publisher or a licensee and offered for sale, then in either of these events, the Author shall have the right to terminate this Agreement and upon written notice to that effect by the Author to the Publisher all rights granted under this Agreement shall revert to the Author, subject to any outstanding licenses, and the Publisher's obligation to pay sums due to the Author hereunder.

*change to*  
*will*  
*no*  
*may want to*  
*do 4/3*  
*reversion*  
*rights*





### COMPETING WORK

15. The Author shall not, during the term of this Agreement, contract to publish or furnish to any other publisher for sale or trade, or otherwise authorize the publication of, any work upon the same subject that shall conflict with, destroy, detract from, impair or frustrate the value of any rights granted to the Publisher hereunder.

16. The Author shall, on the request of the Publisher, revise the first, and, if necessary, every subsequent edition of the Work, and from time to time shall, upon such request, supply new matter to keep the Work up to date. [Should the Author be unwilling to revise the Work or supply new matter requested, the Publisher shall have the right, but not the obligation, to cause the revision or new matter to be prepared, and charge the cost, including, without limitation, fees or royalties, against the Author's royalties, and may display in the revised Work, and in the advertising and promotion thereof, the name of the person or persons who revise the Work or supply new matter.]

### CHANGES

17. This Agreement shall not be subject to change, modification or discharge in whole or in part except by written instrument signed by the Author and an officer of the Publisher.

### CONSTRUCTION/HEIRS

18. This Agreement shall be construed, interpreted and governed according to the laws of the State of New Jersey applicable to agreements made and to be fully performed therein and the parties agree that in any action or proceeding arising under or relating to this Agreement, they shall be subject to the exclusive jurisdiction of the courts of the State of New Jersey. [The Publisher may assign or otherwise transfer this Agreement in whole or in part.] The Author may assign only the right to receive any amounts which may be payable to the Author after receipt by the Publisher of written notice of such assignment. This Agreement shall be binding upon the heirs, successors, personal representatives and the foregoing respective assigns of the Publisher and Author; and references to the Publisher and the Author shall include such heirs, successors, personal representatives and such assigns.

19. Captions are for reference only and shall not be deemed part of this Agreement.

20. No act or failure to act by the Publisher shall be deemed a material breach of this Agreement by Publisher unless Publisher

sub length and original work & juvenile excluded  
2 mgs to school  
or other  
add

full length and for children

Delete  
N/A  
or at least  
Delete  
write to  
see  
OK N/A  
deleted  
4/3

Delete  
or  
add  
with my  
permission  
which  
will not  
be  
unreasonably  
withheld.

OK to  
add

OK  
4/3





shall fail to cure the same within 60 days after receipt of written notice thereof from the Author, setting forth specific details.

**DAMAGE TO AUTHOR'S PROPERTY**

21. The Publisher shall not be responsible for loss or damage to any property of the Author in its possession or that of its independent contractors, or to anyone to whom delivery is made with the Author's consent. The Author shall retain copies of the manuscript (and related materials) for the Author's own protection.

*send  
copies*

**SERVICE OF NOTICES**

22. Any written notice hereunder to be effective shall be delivered by ordinary mail to the address of the other party first above set forth, except that notices of possible or alleged breaches of contract or of termination shall be sent by certified mail, return receipt requested, with duplicate copies of such notices by the Author directed to both the President of the Publisher and to the Legal Department of Publisher. Either party may change its address by written notice to the other.

SIMON & SCHUSTER, INC./  
SILVER BURDETT PRESS

By \_\_\_\_\_

\_\_\_\_\_  
YOSHIKO UCHIDA

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Citizenship



S I M O N



S C H U S T E R

*1st version of  
Contract  
before revision*

**AGREEMENT** made this 16th day of January 1990, between **YOSHIKO UCHIDA** ("Author") whose address is 1685 Solano Avenue, Apt. 102, Berkeley, California 94707 and **SIMON & SCHUSTER, INC./SILVER BURDETT PRESS** ("Publisher") whose address is the Prentice Hall Building, Route 9W, Englewood Cliffs, New Jersey 07632.

Publisher and Author hereby agree as follows:

**THE GRANT AND THE TERRITORY**

1. The Author grants to the Publisher during the full term of copyright (including any renewal or extensions thereof) the sole and exclusive right to print, publish and sell (herein "publish") or to cause to be published in book form throughout the World in all languages an unpublished work tentatively entitled **IN THEIR OWN WORDS: YOSHIKO UCHIDA** (herein the "Work"), together with the exclusive subsidiary rights listed in Paragraph 5.

**COPYRIGHT**

2. The Publisher shall have the exclusive right to copyright the Work in the United States of America and in other countries as may be covered by this Agreement in the name of Yoshiko Uchida. The Author shall, upon the Publisher's request, do all acts necessary to effect and protect the copyright and renewals or extensions thereof.


**THE WORK**

3. (a) Author shall deliver the Work, consisting of approximately 38,000 words or their equivalent, in duplicate to the Publisher by March 1, 1991, in content and form satisfactory and acceptable to the Publisher (herein the "complete manuscript"). A third copy shall be retained by the Author.

**Related Materials**

(b) Together with and as part of the complete manuscript the Author shall, at the Author's own expense, furnish to the Publisher approximately 10-15 black and white photographs and other related material (herein "related materials") necessary in the Publisher's opinion for publication of the Work, all in content and form satisfactory to the Publisher.





## ADVANCE AND ROYALTIES

4. (a) Subject to the provisions hereof, the Publisher shall make an advance against royalties to the Author of \$11,000.00, payable as follows:

(i) \$5,500.00 upon signing of this Agreement; and

(ii) \$5,500.00 upon delivery of the complete manuscript (including related materials) satisfactory and acceptable to the Publisher in content and form.

(b) The Publisher shall pay to the Author royalties based upon the Publisher's net sales, less a reasonable reserve for returns, as follows:

(i) If published as a trade hardcover edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(ii) If published as a library edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(iii) If published as a trade paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(iv) If published as a mass market paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(v) (1) on copies sold for export or outside the United States, its territories and dependencies, or sold directly to the consumer through the medium of mail order, or in bulk outside ordinary trade channels or at a discount in excess of 50% from the retail list price (herein "special sales"), a royalty of 2 1/2% of the net amount received by the Publisher;

(2) on copies sold in bulk to book clubs, 5% of the net amount received by the Publisher;

(3) on copies sold to commercial purchasers as a premium or on copies sold in bulk to organizations other than book clubs for the purpose of distribution in special markets,





such as the religious market, 5% of the net amount received by the Publisher; and

(4) on sales made out of any new printings or bindings of 2,000 copies or less, made more than one year after publication date, royalties shall be computed at one-half the base royalty rates provided hereunder.

#### Remainder

(c) If in the opinion of the Publisher any edition of the Work shall have ceased to have a remunerative sale, Publisher shall be at liberty to dispose of ("remainder") all or part of the existing stock thereof and shall pay to the Author a royalty of 4% of the amount received by Publisher, except that no royalty shall be payable on any copies sold at or below cost, and in no event more than the amount by which proceeds of such sale exceed the cost of manufacture. In any event, copies sold at a discount of 85% or more from the retail list price shall be deemed remainders upon which no royalty shall be due. Publisher shall make no such remainder sale without first offering copies to the Author at the then best obtainable price. Inadvertent failure to offer such copies to the Author shall not be deemed a breach of this Agreement.

#### Free Copies

(d) No royalty shall be payable on copies damaged or destroyed or on copies furnished gratis for review, publicity, promotion, sample, or similar purposes.

#### Recoupment of Advances

(e) The Author's right to royalty or other payments hereunder shall be subject to Publisher's prior right to deduct any and all advances payable by the Publisher hereunder.

#### SUBSIDIARY RIGHTS

5. (a) The exclusive subsidiary rights referred to in Paragraph 1 shall include the rights enumerated below and the net proceeds from the sale or license thereof shall be shared by the Author and Publisher in the percentages indicated:





	<u>To Author</u>	<u>To Publisher</u>
(1) Digest, abridgment, condensation, anthology, selection, or novelty use	50%	50%
(2) First serialization in Publisher's Territory (prior to the Publisher's official publication date)	50%	50%
(3) Book clubs or similar organizations	50%	50%
(4) Reprint (including microfilm) edition through another publisher	50%	50%
(5) Second serialization and syndication (including reproduction in compilations, magazines, newspapers, or books)	50%	50%
(6) The sole and exclusive right to use or adapt, and to authorize others to use or adapt, the Work or any portion thereof, as a basis for photographic, video, audio, digital or any other form or method of copying, recording or transmission, now known or hereafter devised, including, without limitation, copying or recording by phonographic, photographic, magnetic, laser, electronic or any other means and whether on phonograph records, audio tapes, audio discs, lasers or cassettes, film, microfilm, microfiche, slides, filmstrips, transparencies, magnetictape, video cassettes, video discs, floppy disks or any other human-or-machine-readable medium, and the broadcast or transmission thereof, but excluding all uses encompassed in the definitions of Motion Picture and Television Rights.	50%	50%
(7) Translation and foreign language publication	50%	50%
(8) The right to sell or license publication rights in:		
(a) British Commonwealth	50%	50%





(b) Other foreign countries (in English)	50%	50%
(9) Merchandising and Commercial Rights	50%	50%
(10) All other rights not specifically listed above	50%	50%

It may be necessary for Publisher to employ agents to make certain of the sales listed above, and any commissions paid to such agents shall be deducted first before the proceeds are divided between the Publisher and the Author

#### License of Affiliates

(b) The Publisher shall have the right to license Simon & Schuster, its subsidiaries, affiliates and divisions, to exercise any of the rights herein granted, provided that the royalty rates under such a license shall not be lower than the rates which in the Publisher's reasonable judgment would be payable in all the circumstances by an unrelated third party licensee for the same rights. The Author shall be entitled to payment of the applicable share of the proceeds of any such license in accordance with this Paragraph 5.

#### Licensee Permissions Costs

(c) If any sale or license of rights hereunder includes materials of others than the Author, the amounts payable to such others in respect of permissions granted by them shall be deductible from the Author's share of the proceeds of such a license.

#### Braille

(d) The Publisher may license others free of charge to publish the Work in Braille or other forms for the handicapped.

#### PAYMENTS

6. (a) The Publisher shall render semiannual reports of the sale of the Work during March and September of each year, covering the six-month period ending the prior December 31 and June 30, respectively, of each year, and at the time of rendering such statements shall make settlement for any balance shown to be due. The Publisher may determine and withhold a reasonable reserve against returns. Statements rendered hereunder shall be final and





binding upon the Author unless objected to in writing setting forth the specific objections thereto and the basis for such objections within one year after the date the statement was rendered.

(b) In the event the Author shall receive an overpayment of royalties on account of copies sold and subsequently returned, Publisher shall have the right to deduct such overpayment from any sums due to the Author under this or any other agreement between the parties.

#### **AUTHOR'S CHANGES**

7. The manuscript in duplicate to be delivered by the Author to the Publisher shall be typewritten in proper form for use as copy for the printer and shall be in such form and content as the Author is willing to have appear in print. The Author shall read, if or when submitted, and within 14 days of the receipt thereof return to the Publisher, the proofs of the Work. If the Author fails to return the proofs within the period aforesaid, the Publisher shall have the right to publish the Work as submitted. The Author shall pay, or at the Publisher's option have charged against the Author, the amount of expense incurred by the Publisher because of changes and/or additions other than corrections of printer's errors made in and to the text by the Author in excess of 5% of the original cost of composition; and the Author shall pay in full for any corrections in the plates which he requires or which are necessary for the correction of the Author's actual errors (excluding printer's errors) after the plates have been made in conformity with the last proofs as corrected by the Author.

#### **WARRANTIES AND INDEMNITIES**

8. (a) The Author warrants and represents that:

(i) He is the sole author and proprietor of the Work.

(ii) He has the full power and authority to make this Agreement and to grant the rights granted hereunder, and has not previously assigned, transferred or otherwise encumbered the same.

(iii) The Work has not been previously published.

(iv) The Work is not in the public domain.

(v) The Work does not infringe any statutory or common law copyright.

(vi) The Work does not invade the right of privacy of any third party, or contain any matter libelous or otherwise in





contravention of the right of any third party; and, if the Work is not a Work of fiction, all statements in the Work asserted as facts are true or based upon reasonable research for accuracy.

(vii) The Work contains no matter which is obscene or matter the publication or sale whereof otherwise violates any federal or state statute or regulation, nor is it in any other manner unlawful.

(viii) The Work contains no recipe, formula, or instruction injurious to the user.

(b) The Author hereby indemnifies and holds the Publisher, any seller of the Work and the Publisher's licensees harmless from any damages, including reasonable attorneys' fees, in connection with any claim, action or proceeding inconsistent with or arising out of a breach or alleged breach of the Author's warranties, representations and agreements herein contained. In defending any such claim, action or proceeding the Publisher shall promptly notify the Author of any such claim, action or proceeding and the Author shall have the right at Author's election to participate in the defense thereof at the Author's own expense with counsel of the Author's own choosing. Any settlement of a claim, action or proceeding hereunder shall be subject to the Author's approval not unreasonably to be withheld.

(c) Author shall be insured under the Publisher's liability policy which covers claims for libel and other forms of defamation, invasion of privacy or publicity and infringement of copyright or trademark arising from publication of the Work, to the extent such policy is valid and collectible. In connection with such coverage and notwithstanding anything to the contrary contained in this Agreement, with respect to all judgments, settlements and costs of defense, including attorneys' fees and other costs of claims covered by the policy, the Publisher and the Author shall share equally the first \$100,000 of all such costs; thereafter, the Author's liability shall be limited to 10% of all such costs up to the limits of the policy. Publisher shall retain counsel to represent Publisher and Author in any proceeding brought with respect to all such claims and shall control the defense of such claims, and Author shall cooperate fully with Publisher and said counsel in such defense. Notwithstanding the foregoing, Author shall be solely responsible for the cost of counsel separately retained by the Author for any reason and for judgments, settlements and costs of defense, including all attorneys' fees, attributable to a willful or reckless breach of the Agreement by Author.

(d) The warranties, representations and indemnity of the Author herein shall survive termination of this Agreement for any reason.





(e) The Publisher may, at its own cost and expense, take such legal action, in the Author's name if necessary, as may be required to restrain any infringement of copyright or to seek damages therefor, but shall not be liable to the Author for failure to take such legal steps. If the Author elects to join in such proceeding the expenses and recovery shall be shared equally. If the Publisher proceeds without Author's participation, any recovery shall belong to the Publisher. If the Publisher does not bring such action, the Author may do so in his own name and at his own cost and expense and money damages recovered by the Author for any infringement shall belong to the Author, except that any money damages recovered on account of the loss of the Publisher's profits shall be divided equally between the Author and the Publisher.

(f) Publisher shall have the right to withhold its reasonable estimate of the total damages and expenses (including reasonable counsel fees) from sums otherwise payable to the Author pursuant to this or any other agreement between the Author and Publisher, and to apply such sums to payment of such damages and expenses.

#### **FAILURE TO DELIVER THE COMPLETE MANUSCRIPT**

9. (a) If the Author shall fail to deliver the complete manuscript (including related materials) within 30 days after the date herein provided, then the Publisher may at any time thereafter terminate this Agreement and upon such termination, all sums paid to the Author shall be repayable to the Publisher. Upon full repayment the Author's obligations hereunder shall terminate.

#### **Extension of Time to Deliver**

(b) The Publisher may in its discretion extend for such period as in its judgment is appropriate, or refuse to extend, the Author's time to deliver the complete manuscript. Failure to give a notice of termination for non-delivery shall be deemed to grant such an extension until such a notice of termination is given by the Publisher. In determining whether to grant such an extension and/or the length thereof, the Publisher may consider such factors as it deems relevant, including without limitation, Author illness, the changing marketability of the Work, the Author's progress towards completion and the quality of the material previously submitted.

#### **Termination Prior to Publication**

(c) If the complete manuscript (or related materials) delivered by the Author is not, in the Publisher's sole judgment, acceptable to it in content and form, the Publisher may terminate this Agreement by written notice and upon such notice this Agreement





shall terminate without further obligation or liability between the parties except that all sums paid to the Author hereunder shall be repayable by the Author within six months after termination by the Publisher.

#### Acceptance of Manuscript by Publisher

(d) Within 120 days after delivery of the complete manuscript and related materials the Publisher shall determine whether the same are acceptable to it in content and form. In lieu thereof the Publisher may request the Author to make revisions, changes or supplements (herein "revisions") thereto. If the Publisher requests one or more revisions in the manuscript of the Work or the related materials as submitted or as thereafter revised, the Publisher's time to determine the acceptability thereof shall be extended for an additional 60 days after resubmission by the Author, or written notice by the Author that no further revisions will be made. The Author shall make revisions as promptly as possible after the Publisher's request therefor. No request for revisions shall be deemed to obligate the Publisher to accept the final revision or to constitute a conditional acceptance thereof.

#### Publisher's Failure to Accept

(e) If the Publisher fails to accept the complete manuscript (including the related materials) or a revision thereof within the time above provided, the Author shall thereafter have the right to notify the Publisher in writing that unless the manuscript is accepted within 45 days after delivery of such notice, the manuscript will then be deemed unacceptable and this Agreement will terminate in accordance with the provisions of Paragraph 9(c) above.

(f) Notwithstanding anything herein to the contrary, if in the opinion of the Publisher's legal counsel the Work is unpublishable or will unduly subject the Publisher to risk of legal claim, the Author shall, at Publisher's request, make changes and revisions in the Work satisfactory to Publisher's legal counsel, and in the event the Author shall refuse or fail to make requested changes or revisions, then Publisher may terminate its obligations hereunder by written notice, and upon such notice all sums paid to the Author hereunder shall be repayable to the Publisher, and upon such repayment this Agreement shall terminate without liability, except as provided in Paragraph 8(d) hereof. No such revisions or changes, and no request for substantiation, shall be deemed to impose on Publisher any obligation of verification, nor to affect the Author's warranties or indemnities, which shall apply to all material in the Work, whether or not changed at the request of Publisher's legal counsel. Under no circumstances shall Publisher be obligated to publish the Work if in the opinion of Publisher's legal counsel it contains unlawful material or any material which may violate the rights of any person or party.





## **PUBLICATION**

10. (a) The Publisher shall publish and commence distribution of the Work at its own expense not later than two years after acceptance of the complete manuscript (including related materials). Publisher shall have the right to publish the Work under any imprint, division or subsidiary of Simon & Schuster, Inc.

(b) Notwithstanding the provisions of subparagraph (a) above, the Publisher shall not be obligated to publish the Work if, whether before or after acceptance thereof, supervening events or circumstances since the date of this Agreement have, in the sole judgment of the Publisher, materially adversely changed the economic expectations of the Publisher in respect to the Work at the time of the making of this Agreement, and in such event all of the Publisher's rights in and to the Work shall terminate and revert to the Author on the giving by the Publisher to the Author of notice of its decision, or if the Publisher fails to do so, by the Author pursuant to Paragraph 9(e) of this Agreement, and in any such event, notwithstanding anything to the contrary contained herein, the Author shall be entitled to retain all payments to the Author theretofore made under this Agreement.

(c) In the event Publisher shall fail to publish and commence distribution of the Work within the time above provided, the Author may at anytime thereafter serve a written demand upon the Publisher, by registered mail, return receipt requested, requiring the Publisher to publish and commence distribution of the Work within 180 days after receipt of such written demand, and if Publisher shall fail to comply with such demand within such 180 day period, then this agreement shall terminate without further notice at the end of such period. In the event of termination by the Author pursuant to this subparagraph, such payments as shall have been made to the Author hereunder as advances shall be deemed in full discharge of all Publisher's obligations to the Author pursuant to this Agreement and no other damages, claims, actions or proceedings, either legal or equitable, founded on breach of contract, default, or failure to publish or otherwise, may be claimed, instituted or maintained by the Author against the Publisher.

## **PERMISSIONS**

11. If permission from others is required for publication of any material contained in the Work or for exercise of any of the rights conferred by this Agreement, the Author shall obtain and deliver such permission to the Publisher at the Author's own expense, in a form acceptable to the Publisher, on the due date of the complete manuscript. Said permission shall cover all





territories, markets and editions covered by this Agreement. The Publisher shall have the right to obtain any such permissions which the Author fails to furnish and to charge the cost thereof to the Author, or in its discretion, to terminate this Agreement in accordance with the provisions of Paragraph 9(a) above.

#### **PUBLISHER'S CONTROL OF PUBLICATION**

12. (a) Final decision as to format, copy editing styles, illustration, style of printing and binding, title, cover presentation, trade name, trademark, logo, imprint or other identification, date of publication, and retail price and all other matters of sale, distribution, advertising and promotion of the Work, shall be within the Publisher's sole discretion.

(b) Publisher shall have the right to use the name and likeness of and biographical material concerning the Author for purposes of advertising and trade in connection with the Work and/or any rights granted hereunder. The Author shall furnish Publisher, free of charge, original photographs of the Author for advertising, publicity and promotional purposes (without liability for any permissions or other third-party payments).

#### **FREE COPIES**

13. The Publisher shall furnish ten copies of each edition of the published Work to the Author without charge. Should the Author desire additional copies for personal use, they shall be supplied at a 40% discount from the retail list price.

#### **OUT OF PRINT TERMINATION**

14. In the event that after one or more years from the date of the first publication of the Work the same, in the opinion of the Publisher is no longer saleable or profitable, it may give notice to the Author of its desire and intention to discontinue publication; or in the event that after three years from the date of first publication the Work shall not be in print and for sale in any edition by the Publisher or any of its licensees and after written demand from the Author shall not within nine months be reprinted by the Publisher or a licensee and offered for sale, then in either of these events, the Author shall have the right to terminate this Agreement and upon written notice to that effect by the Author to the Publisher all rights granted under this Agreement shall revert to the Author, subject to any outstanding licenses, and the Publisher's obligation to pay sums due to the Author hereunder.





### COMPETING WORK

15. The Author shall not, during the term of this Agreement, contract to publish or furnish to any other publisher for sale or trade, or otherwise authorize the publication of, any work upon the same subject that shall conflict with, destroy, detract from, impair or frustrate the value of any rights granted to the Publisher hereunder.

16. The Author shall, on the request of the Publisher, revise the first, and, if necessary, every subsequent edition of the Work, and from time to time shall, upon such request, supply new matter to keep the Work up to date. Should the Author be unwilling to revise the Work or supply new matter requested, the Publisher shall have the right, but not the obligation, to cause the revision or new matter to be prepared, and charge the cost, including, without limitation, fees or royalties, against the Author's royalties, and may display in the revised Work, and in the advertising and promotion thereof, the name of the person or persons who revise the Work or supply new matter.

### CHANGES

17. This Agreement shall not be subject to change, modification or discharge in whole or in part except by written instrument signed by the Author and an officer of the Publisher.

### CONSTRUCTION/HEIRS

18. This Agreement shall be construed, interpreted and governed according to the laws of the State of New Jersey applicable to agreements made and to be fully performed therein and the parties agree that in any action or proceeding arising under or relating to this Agreement, they shall be subject to the exclusive jurisdiction of the courts of the State of New Jersey. The Publisher may assign or otherwise transfer this Agreement in whole or in part. The Author may assign only the right to receive any amounts which may be payable to the Author after receipt by the Publisher of written notice of such assignment. This Agreement shall be binding upon the heirs, successors, personal representatives and the foregoing respective assigns of the Publisher and Author; and references to the Publisher and the Author shall include such heirs, successors, personal representatives and such assigns.

19. Captions are for reference only and shall not be deemed part of this Agreement.

20. No act or failure to act by the Publisher shall be deemed a material breach of this Agreement by Publisher unless Publisher





shall fail to cure the same within 60 days after receipt of written notice thereof from the Author, setting forth specific details.

**DAMAGE TO AUTHOR'S PROPERTY**

21. The Publisher shall not be responsible for loss or damage to any property of the Author in its possession or that of its independent contractors, or to anyone to whom delivery is made with the Author's consent. The Author shall retain copies of the manuscript (and related materials) for the Author's own protection.

**SERVICE OF NOTICES**

22. Any written notice hereunder to be effective shall be delivered by ordinary mail to the address of the other party first above set forth, except that notices of possible or alleged breaches of contract or of termination shall be sent by certified mail, return receipt requested, with duplicate copies of such notices by the Author directed to both the President of the Publisher and to the Legal Department of Publisher. Either party may change its address by written notice to the other.

SIMON & SCHUSTER, INC./  
SILVER BURDETT PRESS

By \_\_\_\_\_

\_\_\_\_\_  
YOSHIKO UCHIDA

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Citizenship

ejg:422





# ADVANCE AND ROYALTIES

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(b) The Publisher shall pay to the Author royalties based upon the Publisher's net sales, less a reasonable reserve for returns pursuant to Paragraph 6(c), as follows:

(i) If published as a trade hardcover edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(ii) If published as a library edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(iii) If published as a trade paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(iv) If published as a mass market paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(v) (1) on copies sold for export or outside the United States, its territories and dependencies, or sold directly to the consumer through the medium of mail order, or in bulk outside ordinary trade channels or at a discount in excess of 50% from the retail list price (herein "special sales"), a royalty of 2 1/2% of the net amount received by the Publisher;

(2) on copies sold in bulk to book clubs, 5% of the net amount received by the Publisher;

(3) on copies sold to commercial purchasers as a premium or on copies sold in bulk to organizations other than book clubs for the purpose of distribution in special markets, such as the religious market, 7-1/2% of the net amount received by the Publisher; and

Call

D

not acceptable  
what if they  
won't agree?  
agree  
to 50%

etc





(4) on sales made out of any new printings or bindings of 2,000 copies or less, made more than one year after publication date, royalties shall be computed at one-half the base royalty rates provided hereunder.

#### Remainder

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	<u>To Author</u>	<u>To Publisher</u>
(1) Digest, abridgment, condensation, anthology, selection, or novelty use	75%	25%
(2) First serialization in Publisher's Territory (prior to the Publisher's official publication date)	75%	25%





It may be necessary for Publisher to employ agents to make certain of the sales listed above, and any commissions paid to such agents shall be deducted first before the proceeds are divided between the Publisher and the Author.

#### License of Affiliates

(b) The Publisher shall have the right to license Simon & Schuster, its subsidiaries, affiliates and divisions, to exercise any of the rights herein granted, provided that the royalty rates under such a license shall not be lower than the rates which in the Publisher's reasonable judgment would be payable in all the circumstances by an unrelated third party licensee for the same rights. The Author shall be entitled to payment of the applicable share of the proceeds of any such license in accordance with this Paragraph 5.

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(c) Any amounts payable to the Author hereunder shall be subject to such reasonable reserves for returns of copies of the



4/8/90

Orin San Souie

- Has 1 d.d. contract '88 -  
He has original Res. ag. Returns  
clause - no changes!
- His agent is Barbara Konts
- He pho'd termination -  
assigning rights was trouble,  
last # delete.
- He sued Silver Burdett Gt audio rights  
for July Egypt - gr. price -



Marilyn

- ~~don't change~~ ~~to P. 1~~  
Warranty clause?

- do you keep movie/TV rights?  
How about mechanical audio  
recordings, or " audio-visual  
recording?" (cassette - video)

take what % in sub rights:

85% 90-10 (Marilyn)

she if didn't know - do you have a clause ~~about~~ <sup>about</sup>  
Display rights, Jane Golden says  
new working clause

\* Rather than trying to alter clause  
Just try for 90-10 split on  
Subsid. int'l rights clause?

- did delete clause about

\* after 2 yrs of printing of 2500 copies or less  
if sales drop to 500 cop. then 1/2 req?

Try on change #'s to 1500 - 300 ?  
2000 - 400 ? 2/3  
call author  
Smith re  
specific? 5.

- subsidizing  
rights

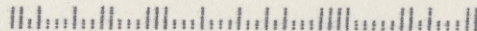
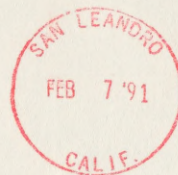
40%

(20) fee



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FIRST CLASS**





companies led to an 80% drop in **Harcourt Brace Jovanovich** stock in twelve months. Even though revenues were up slightly last year (to \$886 million from \$868 million), operating profits plunged from \$146 million to \$6 million. The company took a \$176 million charge, some of it related to textbooks, which, among other problems need more rapid revisions these days.

A somewhat similar picture emerged at **Simon & Schuster**, which took a \$180 million charge in November. Operating income for 1989 was only \$1.6 million, compared with \$180 million in 1988. In the charge, \$55 million was related to textbooks. S&S revenues were up, however, from \$1.2 billion to \$1.3 billion. The only other billion-dollar American publisher is Time-Warner.

At **Macmillan**, president William F. Reilly resigned and was replaced by David Shaffer. Mr. Shaffer's experience is in electronic publishing and management. Mr. Reilly is now president of K-III, which he and other former Macmillan executives helped to found and which is 75% owned by the investment firm Kolberg, Kravis & Roberts. The Macmillan Book Clubs and directories form the bulk of the business.

Independent publisher **Houghton Mifflin** is said on the street to be the target of takeover interest. The company's net income was down in 1989 (\$23 million, compared to \$24.1 million in 1988), although revenues climbed over \$400 million, a 9.8% rise.

**Plenum Press** was ranked number ten in the Forbes magazine list of the 200 best small companies in America. A \$10,000 investment in the firm in 1979 would have been worth over \$75,000 in 1989.

**Contemporary Books** is pulling out of the fiction business after only a one-year run. Harvey Plotnick, head of the Chicago house, explained that escalating advances made it difficult to earn an adequate return on investment. Contemporary's New York offices have been closed. Mr. Plotnick has said that he will honor outstanding contracts.

**Lynx Books**, founded by Lou Wolfe and Michael Fine, filed under Chapter 11 in bankruptcy court. It has been selling back rights to authors.

This column seems to have been off-mark last issue in observing that Alberto Vitale was being welcomed by book people at Random House—at least, the welcome didn't last long. But the warning to watch out for corner cutting still stands. We have fielded reports of editors who can't spell, publicity people in suspended animation, and one example of almost literal corner cutting: a major hardcover trade book, priced at \$24.95, with side margins of less than ¼ inch and a top margin less than ½ inch. One of these days, authors with clout are going to start stipulating production standards in their contracts.

As for the disintegration of acid-treated paper in books, The British Library claims

to have found a relatively inexpensive cure: gamma rays plus a chemical mix of monomers. The rays change a solution of monomers into polymers that coat and strengthen paper fibers. The library has taken out a patent on the process and is looking for a manufacturer.

## Lines and Lists

**Avery Publishing** is launching a line of hardcover nonfiction books. The firm, which is located in Garden City Park, N.Y., specializes in books on nontraditional approaches to health and medicine.

At **Knopf**, Judith Jones is now heading a new cookbook line: Knopf Cooks American.

**The Washington Post**, with publisher Noel Epstein, is bringing out a new series of books on the economy, designed for corporate executives and government officials. The volumes will be marketed primarily by direct mail. The first title is *The Age of Diminished Expectations*, by Paul Krugman. Given the price—\$195 per copy—maybe that ought to be *The Age of Augmented Expectations*.

## Children's Books

Children's book artist and author **Tomie dePaola** is now creative director of his own imprint, Whitebird Books, at G. P. Putnam's Sons. The imprint will publish full-color books based on folktales from around the world, including the USA. To obtain guidelines for manuscript and art submissions write: Tomie DePaola, 300 County Road, RFD #1, Box 44, New London, NH 03257.

## Book Clubs

The first book club for children has been set up by Time Warner Inc. **Children's Book-of-the-Month** will start operations in June. Kelso F. Sutton, who heads Time's book operations, announced that the club is aiming at 200,000 members in five years. The books will be discounted 30% on average.

## International

In England, A & C Black has purchased **Christopher Helm**, a spinoff of Croom Helm. Croom Helm now belongs to Associated Book Publishers, which itself is owned by International Thomson of Canada.

Cambridge University Press has picked up the religious publisher **Eyre & Spottiswood** from Octopus.

Penguin Book Australia agreed to purchase **McPhee Gribble Publishers**, which specializes in fiction.

## Authors

Globalization has its pros and cons, as we note above, but there is no question that foreign rights are increasingly important,

with foreign sales accounting for one-third to more than half of all sales of many titles. In some cases, the sale of foreign rights brings in much more money than the original advance paid by the publisher. As a result, agents and publishers are fighting for control of these rights. The Guild Recommended Contract assumes that on an agented book, the author will retain the foreign rights. If these rights are granted to the publisher, it recommends that the author receive a minimum of 75% of income from translation rights, with a split of 85%-15% for British Commonwealth rights. It also recommends that, if rights are granted to the publisher, the author should be able to terminate that clause within 18 to 36 months (12 to 24 months for British rights).

## New Ventures

Paul T. DeAngelis, former head of Obelisk Books at Dutton, has joined editorial director Minato Asakawa in the new editorial offices of **Kodansha International** in New York.

The first issue of a new scholarly quarterly for liberals is just out. **The American Prospect**, edited by Paul Starr and Robert Kuttner, is based in Princeton (P. O. Box 7645, Princeton, NJ 08543). The editors are looking for new ideas or at least good ideas. Arthur Schlesinger Jr. and John Kenneth Galbraith are among the contributors to the debut issue.

The **University of Scranton** has started an academic publishing program, specializing in religion and philosophy.

**Meteor Publishing** in Bensalem, Penn., plans to sell romance novels by direct mail. Four titles per month are planned. The president is Marilyn Black; romance writer Kate Duffy is on staff.

For authors interested in trying a new, small publisher, there is the **Yarrow Press**, founded by Anne Yarowsky and Michael Miller. Ms. Yarowsky was formerly with Harry N. Abrams Inc., but her list will include literary fiction and nonfiction, as well as titles in the visual arts.

Also, Bernard Connors, a writer, former publisher of The Paris Review, Albany businessman, and former F.B.I. agent, has founded **British American Publishing**. It, too, specializes in serious fiction and nonfiction.

The **Wynwood Press** in Manhattan, headed by William Thompson, does general trade publishing, including mysteries. The firm is owned by the religious publisher Fleming H. Revell Co.

For publicity and marketing on a grand scale, relative to most publishers' efforts, **Nancy Kahan Associates** has opened its doors. Ms. Kahan was formerly with Crown, where she was famous for spectacular publication parties.

*Foreign rights*



## Along Publishers Row

Compiled by Velva Hunter, Margaret Miner, Peggy Randall, Hugh Rawson

### State of the Industry

The miracle of Christmas sales gladdened book people at the end of a lacklustre year. Adult hardcover sales were up more than 90% in November. Even mass market books, which have gathered dust for a couple of years, moved at a brisk pace, with November sales up 50%.

But in general book publishers have yet to emerge from a period of troubles. To contain costs, publishers cut back lists last year, bringing out just 45,700 new books compared to 55,000 in 1988. Fiction, poetry and drama were the mostly sharply reduced categories. (New hardcover and trade paperback fiction was down from 3,329 new titles to 2,243.)

The cutback was in part inspired by lower 1988 profit margins. Thanks to increased sales, total 1988 profits were up, from \$1.2 billion to \$1.4 billion. But profit margins, that is profit as a ratio of sales, were down. The margin in adult hardbound books dipped to about 8% from almost 11% the previous year; the margin for mass market paperbacks, down for the third straight year, was in the 5% range; the margin for el-hi textbooks, at about 13%, was the lowest in the decade.

Globalization of publishing—the major business trend of the '80s—is supposed to take the sting out of such periods of adversity. The idea is that by internationalizing production and marketing, publishers will create a steady flow of reasonably priced products for rapid sale worldwide. It is not yet clear how well this will work out in practice. But West Germany's **Bertelsmann A.G.**, the largest international media corporation (not counting Time Warner), has been demonstrating both the advantages and drawbacks of the process. The company has generally done well worldwide (net income was up 16% percent last year to \$215 million). But in the U.S., it has stumbled. In particular, its \$475 million investment in **Doubleday** has soured.

The Doubleday book clubs and Literary Guild, which were major profit centers and Doubleday's chief single attraction at the time of purchase three years ago, are now losing money, perhaps as much as \$10 million last year. The general crisis in the club business, due primarily to competition from discount stores, was aggravated by German executive and marketing methods that didn't work here. (The German approach didn't work all that well in England either, where Bertelsmann is selling Leisure Circle, Britain's second largest club. Bertelsmann has a

50% interest in that club as well as in the larger Book Club Associates.)

Bertelsmann is also looking at disappointing results in Doubleday's book publishing ventures, where income on sales is apparently stuck at 5 to 6 percent. The Doubleday imprint, run by Nancy Evans since 1987, regained some badly needed prestige, partly by offering huge advances, but acceptable earnings were not forthcoming. Ms. Evans was abruptly dismissed and replaced by Stephen Rubin of Bantam, amid rumors (stoutly denied) that the division is for sale. Bantam and Dell have been doing much better than Doubleday financially, but lost their c.e.o. Alberto Vitale to Random House last summer. The Doubleday bookstores, which were profitable, were nevertheless sold. (See Bookstores.)

By getting rid of the retail business and cutting back on printing, Bertelsmann ignored Doubleday's traditional strength: vertical integration, from printing plant to check-out counter. What it gained remains to be seen.

The most famous of publishing globalizers, Rupert Murdoch, scored a goal in 1989, when **Harper Collins** (Harper & Row and William Collins) revenues rose 40% over the previous year to \$470.5 million; operating profit was up 12.5%. But Mr. Murdoch's **News Corp.** overall posted weak numbers, with debt soaring over \$6 billion and earnings at a two-year low. The sale of the Star tabloid magazine to the National Enquirer for \$400 million and stock helped a little. The projected sale of the **J.B. Lippincott** medical books unit will help a little more. It should bring in more than \$100 million.

The I.R.S. took on the **Newhouse** family and lost in a March ruling in Federal Tax Court in Washington. At issue was the value of Advance Publications and Condé Nast in the estate of Samuel I. Newhouse, particularly a class of voting stock that controlled appointments to the board of directors. The I.R.S. claimed that the Newhouses had undervalued this stock by \$609 million. The court disagreed. The total estate-tax bill came to just \$48 million, which the Newhouse family had already paid.

### Information Sought

Authors Guild member Gerald Winter is interested in hearing from other members who have dealt recently with the publisher Todd Honeywell. Please contact Mr. Winter through the Guild office, 234 West 44th St., New York, NY 10036.

The tax savings might well be put toward a personnel-management advisor for S. I. Newhouse, who takes a beating every time he fires someone. Considering the dreadful publicity generated, is the Newhouse organization really that much better off without William Shawn at The New Yorker, Grace Mirabella at Vogue (to say nothing of Diana Vreeland before her), Annie Flanders at Details, and Robert Bernstein and André Schiffrin at Random House? (The Pantheon mess is discussed earlier in this issue on page 5.)

### Book Business

In 1989, **Random House** for the fifth straight year topped the hardcover best seller list in The New York Times, with 39 titles.

**Grove Weidenfeld** has been put up for sale by Ann Getty, with bids apparently upwards of \$12 million. The house was formed five years ago by the merger of Grove Press, founded by Barney Rosset, and Weidenfeld and Nicolson, founded by Ms. Getty and Lord Weidenfeld. Among the potential buyers were Mr. Rosset and a group of five other independent publishers, but their bid of \$11.6 million was not sufficient to keep them in the game. Mr. Rosset commented later that at a higher price it was going to be impossible to make money with the firm. (Mr. Rosset sold his company to Ms. Getty in 1985 for \$2 million and tried unsuccessfully to buy it back in 1986 for \$4.5 million.)

Despite risk, Random House, Harper, and Penguin are said to be still among the potential buyers. The Grove backlist is tremendously rich in literary titles, which produce more than \$2.5 million in income annually. Mr. Rosset, however, told Michael Coffey at Publishers Weekly that he feared that hundreds of titles would be abandoned, with only the top twenty saved. Those twenty account for two thirds of earnings.

The value of **Time Warner** stock is back down to the range in which Time Inc. traded fifteen months ago, that is, around \$100 per share. Last spring Paramount offered \$200 per share, which no doubt would have been seized upon by most stockholders, but thanks to a ruling in July by the Delaware Supreme Court, Time directors were allowed to reject Paramount's offer and buy Warner. Earlier, Time had restructured its deal with Warner so as to avoid a stockholder-approval requirement under New York state law. In a March 7 article in The Wall Street Journal, L. Gordon Crovitz noted that now in takeover struggles, lawyers often prepare the minutes of board meetings in advance so that the discussion will meet the criteria established by the Delaware court for rejecting hostile tender offers. Meanwhile larger institutional investors are taking steps to protect shareholders' rights by getting themselves positions on corporate boards.

Disenchantment with heavily indebted



# The University Press Contract Survey

In 1869, a press was founded at Cornell University for the sole purpose of publishing scholarly works by faculty members who were unable to find trade book publishers because of the limited commercial value of their work. Leading figures in the specialized field of university press publishing today contend that the original purpose has never changed and to this day remains the fundamental reason for the existence of such a press.

Much about the industry, university as well as trade, has changed since 1869, however. No longer solely devoted to the mission of publishing scholarly monographs or esoteric studies of exotic insects, university presses with increasing frequency have turned to the publication of trade books. Occasionally, a university press has produced a best-seller in the process, but this is rare; usually such works have been written by first-time authors who have suffered multiple rejections in the commercial publishing world. As large conglomerates have taken over much of commercial trade publishing, the midlist book is increasingly becoming an endangered species. Some of these books are finding their way to academic presses. University presses have also become the home of some of the most successful regional publishing in the industry. State university presses in particular have been able to carve out a niche in this sometimes lucrative field. The following study was based on the submission of contracts from sixty-eight university presses. All samples are standard form contracts. The study reflects no changes authors may have been able to negotiate with various publishers.

Except for the very largest academic publishers, university presses cannot and do not compete with regular trade book companies. Much of the new impetus toward publishing general-interest books derives from funding reductions of the 1970s and 1980s which have forced university presses to become more business-oriented in order to survive. Reduced funding from parent institutions and the government, a more stringent grant process at the National Endowment for the Humanities and some foundations, and the extraordinary shrinkage of library budgets have forced university presses to rely less on subsidies and focus more on sales as a main source of revenue. The renaissance of the independent bookstore has also helped foster the broadening of lists of university presses. Further, despite the deep discount requirement, academic press books are more and more becoming a part of the Ingram/Baker & Taylor distribution network for trade books.

Royalties in university press contracts are nearly always based on net receipts as opposed to list price, the standard in the trade book industry. The vast majority of university presses provide for registration of the author's work in the publisher's name. Rights, of course, are held for the duration of the copyright term.

The area about which there seems to be the least disagreement between university and trade presses relates to "warranties and indemnification." This clause can be found in nearly all university press contracts. With one rare exception, all contracts having the clause place the burden of expense for libel, invasion of privacy, copyright infringement, and related causes of action on the author. In only one contract submitted is the author covered by the publisher's insurance and initially liable only up to a specific dollar amount.

## Subsidiary Rights

Division of subsidiary rights is normally dealt with simply by splitting all income 50/50. This includes not only print-related matter such as book club and mass market reprint rights but also movie, television, stage, and commercial merchandising rights. While the 50/50 split on print rights always remains the same, over a quarter of the contracts surveyed allow for a more favorable division of sub-rights income on dramatic and commer-

cial rights. The more generous splits on these rights range from a high of 90/10 (the division traditionally contained in the adult-trade boilerplate of commercial publishers) in favor of the author to a low of 65/35. Perhaps because most sub-right possibilities are infrequently exploited in the university press setting, some university press contracts do not even address the issue of subsidiary rights.

Advances, usually given first and most immediate attention in trade book contract negotiations, are almost never included as a standard provision in university press contracts. Authors with some clout are able to negotiate advances into the contracts of some of the larger academic presses, but for the less well-known author or the college professor caught in the "publish or perish" bind, advances usually are non-existent or negligible at best.

University press contracts generally provide that royalty statements will be sent out once a year as opposed to the standard two times a year in trade book contracts. As with all other contract provisions, there are variations. Payment can be expected to arrive anywhere from two weeks to five months following the statement. Normally, the waiting period is one month.

Consistent with trade practice, the author is expected to pay for all permissions, illustrations—and usually but not always—indices. And while it may be provided that the preparation, manufacture, and marketing of a particular book will be done with the author's "consultation" and less frequently with the author's "approval," usually the press maintains total control over decisions in these areas.

Although present in the overwhelming majority of university press contracts, the infamous "satisfactory manuscript" clause cannot be found in all of them (perhaps because there is not often an advance to be returned). Other unfavorable clauses such as the "non-compete" provision are found in high percentages, while the option clause is rarely present. An item that in all likelihood will never be found in a typical trade book arrangement is the boilerplate in two university press contracts, which goes like this: "Finally, although we hope and expect that our association with each of our authors will extend through the publication of many books, we do not believe in requiring commitments for the future and so do not ask for options."



Obviously, all university press contracts are not identical. Nor are they usually as complex as comparable trade book contracts. This is due to a long-standing tradition in the university field between publisher and author, where both realize the need for production of important books without popular appeal—ones in which the common trade book purchaser would have little or no interest. The important thing has been that the works are available in book form. Money was never the prime or even a motivating factor. The need for longer, all-encompassing contracts was unnecessary because usually no money was involved. The fundamental philosophical adherence to the belief that their primary mission is to publish and make available important works of science, literature, and criticism is the common thread which has bound all university press organizations. It remains so to this day, regardless of differences in size, staff, output, marketing skills, or revenue, and despite recent trends to broaden university press lists.

This tension between publication for a transcendent reason and publication with an eye to the world of profits (or at least break-even) should not obscure the importance of understanding and negotiating the contract between author and publisher. This is true of both academic and nonacademic authors.

University presses, to their credit, tend to keep books in print much longer than is the practice in the commercial publishing world. Yet, with books in print longer, contracts also remain in force longer, including undesirable clauses. Moreover, as university presses increase efforts to work subrights, both mass market and foreign rights, as an additional source of revenue, inattentive authors who never bothered to understand their contracts because they were not being published by a commercial publisher, may be in for a rude awakening. At the very least, the author should insist that copyright be registered in the author's name and that the contract contain an out-of-print clause.

### University Press Contract Survey Information

Based on 68 Responses

		Number	Percent			Number	Percent
Copyright registration in the name of:	PRESS	54	(79.4)	Royalty statements:	ONCE A YEAR	53	(77.9)
	AUTHOR	8	(11.8)		TWICE A YEAR	9	(13.2)
	EITHER	3	(4.4)		FOUR TIMES/YEAR	1	(1.5)
	N.M.*	3	(4.4)		N.M.	5	(7.4)
Rights granted for the duration of:	COPYRIGHT	63	(92.6)	Payment follows:	WITH STATEMENT	14	(20.6)
	N.M.	5	(7.4)		IN TWO WEEKS	1	(1.5)
Advance:	YES	2	(2.9)		IN SIXTY DAYS	10	(14.7)
	NO	66	(97.1)		IN THREE MONTHS	13	(19.1)
Hardcover royalties based on:	NET	43	(63.2)		IN FOUR MONTHS	1	(1.5)
	LIST	10	(14.7)		IN FIVE MONTHS	1	(1.5)
	BOTH	1	(1.5)		ON OR BEFORE 3/21	1	(1.5)
	N.M.	14	(20.6)		N.M.	27	(39.7)
Paperback royalties based on:	NET	43	(63.2)	Pass-through clause for sub-rights:	NO	67	(98.5)
	LIST	9	(13.2)		YES	1	(1.5)
	BOTH	1	(1.5)	Contract terminates when book out-of-print:	YES	47	(69.1)
	N.M.	15	(22.1)		NO	2	(2.9)
Satisfactory manuscript clause:	YES	57	(83.9)	YES IF AUTHOR BUYS BACK	YES IF AUTHOR BUYS BACK	6	(8.8)
	NO	11	(16.1)		N.M.	13	(19.1)
Non-compete clause:	YES	61	(89.7)	Who obtains and pays for permissions:	AUTHOR	67	(98.5)
	NO	7	(10.3)		PRESS	0	(0.0)
Option clause:	YES	17	(25.0)		N.M.	1	(1.5)
	NO	51	(75.0)	Who obtains and pays for illustrations:	AUTHOR	67	(98.5)
Division of subsidiary rights:	STRAIGHT 50/50	46	(67.7)		PRESS	0	(0.0)
	Print, Non-print				N.M.	1	(1.5)
	50/50, 75/25	5	(7.4)	Who pays for preparation of index:	AUTHOR	64	(94.1)
	50/50, 85/15	6	(8.8)		PRESS	3	(4.4)
	50/50, 80/15	4	(5.9)		N.M.	1	(1.5)
	50/50, 90/10	2	(2.9)	(a) Author indemnifies publisher against libel, copyright infringement, invasion of privacy, etc.	YES	66	(97.0)
	50/50, 70/30	1	(1.5)		NO	1	(1.5)
	50/50, 65/35	1	(1.5)		N.M.	1	(1.5)
Style and manner of publication:	N.M.	3	(4.4)	(b) Publisher extends its libel insurance to cover author:	YES	1	(1.5)
	PRESS CONTROL	57	(83.3)		NO	66	(97.0)
	AUTHOR APPROVAL	1	(1.5)		N.M.	1	(1.5)
	AUTHOR CONSULT	4	(5.9)	(c) Authors liability limited to a \$ amount:	YES	2	(2.9)
New and revised editions:	N.M.	6	(8.8)		NO	65	(95.5)
	PRESS CONTROL	37	(54.4)		N.M.	1	(2.9)
	AUTHOR APPROVAL	8	(11.8)	Deductions of sums owing under other contracts clause:	YES	1	(1.5)
	AUTHOR CONSULT	6	(8.8)		NO	65	(95.5)
	N.M.	17	(25.0)		N.M.	2	(2.9)

\* Not mentioned in contract.



Emily  
8/19/90

Telephone  
message

July  
11-17  
11-17-90

We need <sup>to discuss contract</sup> further discussion on the contract

~~It's a good time~~ ←

I'm beg. to feel a ~~bit~~ discouraged about ~~everything~~ <sup>everything</sup>  
~~the contract~~ I've never had ~~such~~ much diff. - a contract before  
A but perhaps we can  
still work things out.

- There were several changes you agreed to when  
we last spoke that were not incorporated into the  
revised contract. I'd like to go over those /sh.

-12:10-



TOTAL	575.11
-------	--------

Revenue Service. If you are required to file a return, a negligence penalty  
IRS determines that it has not been reported.

s. We suggest you contact your tax advisor with any questions on how this  
Gains and Losses and Reconciliation of Forms 1099B.



But actually,

I've since learned that printings of 2000

are not at all unusual, which means that  
~~every~~ ~~subsequent~~ reprinting <sup>after 1st</sup> might be 2000 or less

\* I would be getting only  $\frac{1}{2}$  of all my royalties.

That's <sup>not</sup> acceptable. — @ writer's a fairly recent  
SS. contract does not <sup>contain</sup> ~~have~~ that clause. & he <sup>should</sup> probably

says it's unheard of. — Even ~~if~~ limiting it to

1 printing is really not acceptable.

↓ more



TOTAL	177.50
-------	--------

177.50

Internal Revenue Service. If you are required to file a return, a negligence penalty will be assessed if the IRS determines that it has not been reported.

ings. We suggest you contact your tax advisor with any questions on how this  
Gains and Losses and Reconciliation of Forms 1099B.



Emily I'm afraid I need to discuss ~~contract~~ <sup>contract</sup> - ~~is it a good~~ <sup>is it a good</sup> conversation about ~~contract~~ <sup>contract</sup>.  
~~We have to have a long conversation about the contract and~~

- I'm afraid I still can't sign your contract with me.

- Several ~~changes~~ <sup>changes</sup> you agreed to when we last spoke which were not corrected. <sup>Perhaps inadvertent oversight.</sup> Can we go over those now.

ink over initial?   
p. 2. 4 <sup>sub</sup> (v) (1) - you agreed to change 2 1/2 to 5% - not corrected  
2 1/2 is just not acceptable. <sup>Can I just cross out & initial?</sup>

p. 3 - 4 (v) (4) - <sup>I wanted this clause</sup> ~~I asked you to delete~~ & you said you'd add "not to exceed more than 1 printing" That was omitted. - ~~(Not acceptable without that limit.)~~  
~~Even if that limit - I've been to~~

- Actually, I'd like that <sup>clause</sup> ~~deleted~~ - I've <sup>been advised</sup> ~~learned~~ that Reprints of 2000 are not at all unusual. That means all my royalties could be cut in 1/2 after 1st printing <sup>each printing reprint might be 2000 less.</sup>  
<sup>with 1500 at</sup> ~~Publication~~ <sup>fairly</sup> ~~Winter~~ <sup>recent</sup> S.S. contract does not have that clause. He <sup>is a sales - publisher</sup> said it's unheard of! <sup>really not acceptable</sup>  
Everyone I've spoken to about this has said it's unheard of

p. 3. Remainder 14 - you agreed to (5%) not 4% not changed.  
<sup>Just ink in change with 4% at 4%</sup>

~~p. 4 -~~ Sub. Rights (9). ~~Ofm~~ <sup>Ofm</sup> agreed to 90-10 - not ~~corrected~~ <sup>corrected</sup>  
Merchandising & Comm'l Rights <sup>Just ink in change?</sup>





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# American Friends Service Committee

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Stephen G. Cary, *Chairperson*

Asia A. Bennett, *Executive Secretary*

March 1990

Dear Friend:

I present this Annual Report to you with pride and appreciation. This is work that we have all done together, and I give thanks. Thanks to our staff, advisors and volunteers; and to you, our supporter, who shares our aspirations. We hope that you will see our programs in the United States and the world as unified by the desire to build community, to alleviate suffering, to seek equality, to eradicate violence.

All over the world in 1989, events of enormous significance demanded a new understanding and a sorting out of the hope and the tragedy that are often mixed in rapid change. If it is true that those events have brought us to the verge of a new time, that time will not come easily. Building a peaceful world is hard work.

As you read this report, a joyful testimony of gratitude, please remember that each of our programs represents a commitment. Wonderful things are happening in many places, as you will see, and they all need to be nurtured. So we are counting on you once more. Your check is a vote of confidence, an affirmation of our partnership in the tough business of working for justice. I ask you to be as generous as you can and join us again in 1990.

Sincerely,


*Asia A. Bennett*

Asia A. Bennett  
Executive Secretary

Encls.

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**National Office:** Philadelphia 1501 Cherry Street, Philadelphia, Pennsylvania 19102  
**Atlanta, Georgia** 30303 92 Piedmont Avenue, NE  
**New England Region** Cambridge, Massachusetts 02140 2161 Massachusetts Avenue  
60605 59 E. Van Buren Street, Suite 1400  
**North Central Region** Des Moines, Iowa 50312 4211 Grand Avenue  
**New York Metropolitan Region** New York, New York 10003 15 Rutherford Place  
California 91103 980 N. Fair Oaks Avenue  
**Northern California Region** San Francisco, California 94121 2160 Lake Street  
**Pacific Northwest Region** Seattle, Washington 98105 814 N.E. 40th Street

 printed on recycled paper



Payments pp 5 & 6.

Re Reserves ~~5~~ 6(c)

? 1st printing  
library ed'n  
500s?  
trade paperback  
500s

- new # is so complex. I want to go over carefully w/ you.  
to be sure I understand it.

(1) 1st 4 accounting periods. - no limit to reserves - <sup>Multi 2 yrs</sup>  
~~After~~ From 5<sup>th</sup> - not to exceed 15% <sup>(2000 or less)</sup> except  
~~delete?~~ ~~delete~~ { (1) after ea substantial printing - What's substantial? 2000, 3000.  
can be reasonably inc'd for 4 add'l accounting periods <sup>extends to 4 yrs.</sup>  
<sup>seems excessive</sup>

Reserves <sup>seems excessive</sup>  
4 yrs <sup>seems excessive</sup> <sup>on a standard up print</sup>  
- ~~When are reserves paid back?~~ Macmillan contract

Pub usually  
buys in 6-9 mos  
& returns  
After  
initial  
accept  
n?

reserves are ~~at~~ 15% for 1st 2 statements, 7 1/2% for next 2 statements

Multi: 2 yrs only - Then reserves are pd. back.

Could we delete (i). actually it should be based on history & return  
covered in (ii)

OK (ii) Excess of 15% - based on history of returns of preceding period  
or consecutive periods. - That seems reasonable if history is high

OK (iii) higher - for period preceding or during which work reconsidered or UP. OK

Reserves sep'd ea. edition - I suppose no change.

~~If above no longer negotiable - will they not I'd like a~~  
~~clause indicating when reserves will be pd. back.~~

(\*) When are reserves pd. back? What provisions in contracts - no paying back.  
"Publisher shall pay author any royalties reserved  
but not applied to returns, with the payment due  
for the 3rd royalty accounting period after the reserved  
royalties have accrued."





(c) any amounts payable to the Author <sup>Reserves</sup> shall be subject to such reasonable reserves for returns of copies of Work as the Publisher shall establish in its reasonable discretion. Following the fourth full accounting period after publication, Publisher's reserve for returns shall not exceed 15% of the total copies theretofore shipped and not returned, except that (i) after each subsequent substantial printing, the reserve may be reasonably increased above 15% for four additional accounting periods, (ii) Publisher may maintain a reserve in excess of 15% which reserve is equal to the actual percentage of returns in the preceding period or consecutive periods, and (iii) Publisher may maintain a higher reserve for any period preceding or during which it is expected that the Work will be or is out of print or is remaindered. Reserves shall be maintained separately with respect to each edition (hardcover, softcover, etc.).

It's only limited after 4th accounting period

delete 3

based on history

will be into

when pay back

### AUTHOR'S CHANGES

7. The manuscript in duplicate to be delivered by the Author to the Publisher shall be typewritten in proper form for use as copy for the printer and shall be in such form and content as the Author is willing to have appear in print. The Author shall read, if or when submitted, and within 14 days of the receipt thereof return to the Publisher, the proofs of the Work. If the Author fails to return the proofs within the period aforesaid, the Publisher shall have the right to publish the Work as submitted. The Author shall pay, or at the Publisher's option have charged against the Author, the amount of expense incurred by the Publisher because of changes and/or additions other than corrections of printer's errors made in and to the text by the Author in excess of 5% of the original cost of composition; and the Author shall pay in full for any corrections in the plates which she requires or which are necessary for the correction of the Author's actual errors (excluding printer's errors) after the plates have been made in conformity with the last proofs as corrected by the Author.

no one else has requested

### WARRANTIES AND INDEMNITIES

8. (a) The Author warrants and represents that:

- (i) She is the sole author and proprietor of the Work.
- (ii) She has the full power and authority to make this Agreement and to grant the rights granted hereunder, and has not previously assigned, transferred or otherwise encumbered the same.
- (iii) The Work has not been previously published.
- (iv) The Work is not in the public domain.
- (v) The Work does not infringe any statutory or common law copyright.



# Termination Prior to Publication

This is <sup>just an</sup> not a normal 1st proceeds clause.

I think your lawyers have just complicated this clause in such a convoluted & disagreeable manner - <sup>overzealous in protecting the Co.</sup>

(b) is totally unacceptable -

I think they're thinking of about the whole advance <sup>of millions</sup> ~~of millions~~ <sup>of \$.</sup> cross out (b.) + initial)

Why can't it just read - ... is unacceptable, ...

"Author shall repay any sums advanced hereunder out of the 1st proceeds of any subsequent sale of the work"

Totally unacceptable to "transfer & assign rights to Pub."  
unheard of -

also "repaid from payments due author for any reason"

all of (b) is totally unacceptable.

<sup>all have</sup> I spent a year - working in good faith on a ms. you invited me to write - I should not be expected to repay \$500 - if I ~~also not~~ <sup>also not</sup> sell the work else where.

as long as I recall I repay.

You said highly unlikely this would happen - anyway - why is S.S. making this whole process so disagreeable.

→ In 30 yrs as prof'l writer I've never had such a troublesome contract.

— I'm ~~very~~ <sup>getting</sup> discouraged about a whole project

\*→

Who has actually signed on now?

Richard Peck  
Lawrence Yep  
Koenigsberg

\*→

You said <sup>it printing with the</sup> library & trade paperback? How many co.?

Betsy Bayers  
Mildred Taylor



Termination

9

(c) In the event of termination of this agreement because the complete ms. or revised complete ms. is

unacceptable, notwithstanding anything in this Agreement to the contrary, for a period of one year following written notice by the Publisher that the manuscript is unacceptable, the Author or her duly authorized representative shall make every effort to sell the Work elsewhere, and the Author shall be obligated to repay advances hereunder; but such obligation shall be limited to repayment from (a) the first (and all) proceeds of any contracts with others concerning the Work or any rights thereto, including without limitation, rights listed in Paragraph 5 of this Agreement, and (b) any payments due Author from Publisher for any reason. Author hereby transfers and assigns to Publisher, as security for the repayment of any advances which may become repayable pursuant to this paragraph, any and all monies which may hereafter become due or owing to Author from other persons or entities as a result of any of Author's rights with respect to the Work, and Author hereby authorizes Publisher to apply such monies as and when received in liquidation of Author's obligation to repay such advances, until such obligation shall have been fully paid. Author hereby authorizes such other person or entity to give full force and effect to this assignment, and hereby releases and discharges such other person or entity from any and all liability to Author for any and all payment or payments made to Publisher pursuant to this paragraph. Notwithstanding anything to the contrary contained herein, at the end of such one year period the Author shall become directly liable for repayment of any portion of such advance not heretofore repaid by her or repaid by such third party publisher, or repaid from payments due the Author for any reason.

5500

and here

Deleg.

1st in line delete

delete

she'll

Del.

delete?

#### Acceptance of Manuscript by Publisher

(d) Within 120 days after delivery of the complete manuscript and related materials the Publisher shall determine whether the same are acceptable to it in content and form. In lieu thereof the Publisher may request the Author to make revisions, changes or supplements (herein "revisions") thereto. If the Publisher requests one or more revisions in the manuscript of the Work or the related materials as submitted or as thereafter revised, the Publisher's time to determine the acceptability thereof shall be extended for an additional 60 days after resubmission by the Author, or written notice by the Author that no further revisions will be made. The Author shall make revisions as promptly as possible after the Publisher's request therefor. No request for revisions shall be deemed to obligate the Publisher to accept the final revision or to constitute a conditional acceptance thereof.

#### Publisher's Failure to Accept

(e) If the Publisher fails to accept the complete manuscript (including the related materials) or a revision thereof within the time above provided, the Author shall thereafter have the



October 15

new

one book length  
authorial work  
in the market

## - Competing Work -

Something came up recently that made me concerned about this clause -

I don't want to be ~~limited~~ prevented from writing about my life or <sup>my</sup> experiences - since this contract seems so restrictive. Wonder if I could add:  
"publication of, any" full length book for children (unpublished work)  
dealing with the same subject. -

Short pieces  
articles  
etc. -

~~Then~~ I might do some short stories or adult pieces - based on my exper. - I don't want to be restricted.

- Don't know if I even want to do it - but was asked to do a short <sup>non-fiction</sup> story-bk (32p.) (800 words) ~~non-fiction~~ based on my life some exper. - my life as a child of immigrants - would that be considered as competing work?

Copyright

Larry G. - asked that his has been checked for possible liability suits by lawyers. - E. said she'd do same for me.

I'm in such fragile health now -  
if ~~all~~ this becomes so upsetting stressful  
I may just have to bow out of project  
My health has to come 1st money

- Other authors signed on.





## SILVER BURDETT PRESS

Silver Burdett Press  
Julian Messner  
Schoolhouse Press

March 28, 1990

Yoshiko Uchida  
1685 Solano Avenue, Apt. 102  
Berkeley, CA 94707

Dear Yoshiko:

I'm sorry the contract took so long to revise, but here it ~~is~~<sup>are</sup> at last. Yvonne Lucas will give you specific instructions as to how to process the contract, but I wanted to point out some of the changes Simon & Schuster put in as a response to your requests.

Clause 6(c): This new clause is the company's concession to spelling out our reserve policy. They won't limit themselves any further. *worse?*

Clause 8(b): Simon & Schuster won't agree to sharing your legal expenses.

Clause 9(c): Simon & Schuster won't take out the termination clause, but has instead substituted a first proceeds clause. I think this gives you sufficient protection in the very unlikely event that the contract is terminated. *huge new P worse!*

Clause 14: The company won't change may to will. However, if notification was somehow overlooked, you would find out about this at your next royalty statement, so you would become informed fairly quickly anyway.

All the other points we discussed have been incorporated into the contract. If you have any further questions about the contract, don't hesitate to call.

Sincerely,

*Emily*

Emily Easton  
Senior Editor





# SILVER BURDETT PRESS

---

VIA FEDERAL EXPRESS

Silver Burdett Press  
Julian Messner  
Schoolhouse Press

March 29, 1990

Yoshiko Uchida  
1685 Solano Avenue, Apt. 102  
Berkeley, CA 94707

Dear Yoshiko:

Here are five copies of the revised contract for  
IN THEIR OWN WORDS: YOSHIKO UCHIDA.

Please sign all copies and return them to us for  
countersignature. A copy of the fully signed  
Agreement will be sent to you for your records,  
along with a check for the first half of the  
royalty advance.

Also, enclosed is a letter from Emily Easton  
regarding the changes in the contract in response  
to your requests.

Sincerely,

Yvonne Lucas  
SILVER BURDETT PRESS

/enclosures  
cc: Emily Easton



Finally  
rec'd my  
copy + advance  
6/18/90

April 20, 1990

Dear Emily -

Nice talking to you yesterday!  
Here are the 5 signed copies of my  
contract. I'll look forward to receiving  
a counter signed copy + my check  
for  $\frac{1}{2}$  the advance soon -

All the best.

Goshiko -

Enc:



S I M O N



S C H U S T E R

*Copy of Final - signed & mailed  
4-20-90*

*Orig in S.D. Box  
w/lls Fargo*

AGREEMENT made this 19th day of March 1990, between YOSHIKO UCHIDA ("Author") whose address is 1685 Solano Avenue, Apt. 102, Berkeley, California 94707 and SIMON & SCHUSTER, INC./SILVER BURDETT PRESS ("Publisher") whose address is the Prentice Hall Building, Route 9W, Englewood Cliffs, New Jersey 07632.

Publisher and Author hereby agree as follows:

#### THE GRANT AND THE TERRITORY

1. The Author grants to the Publisher during the full term of copyright (including any renewal or extensions thereof) the sole and exclusive right to print, publish and sell (herein "publish") or to cause to be published in book form throughout the World in all languages an unpublished work tentatively entitled **IN THEIR OWN WORDS: YOSHIKO UCHIDA** (herein the "Work"), together with the exclusive subsidiary rights listed in Paragraph 5.

#### COPYRIGHT

2. The Publisher shall have the exclusive right to copyright the Work in the United States of America and in other countries as may be covered by this Agreement in the name of Yoshiko Uchida. The Author shall, upon the Publisher's request, do all acts necessary to effect and protect the copyright and renewals or extensions thereof.

#### THE WORK

3. (a) Author shall deliver the Work, consisting of approximately 38,000 words or their equivalent, in duplicate to the Publisher by March 1, 1991, in content and form satisfactory and acceptable to the Publisher (herein the "complete manuscript"). A third copy shall be retained by the Author.

#### Related Materials

(b) Together with and as part of the complete manuscript the Author shall, at the Author's own expense, furnish to the Publisher approximately 10-15 black and white photographs and other related material (herein "related materials") necessary in the Publisher's opinion for publication of the Work, all in content and form satisfactory to the Publisher.





#### ADVANCE AND ROYALTIES

4. (a) Subject to the provisions hereof, the Publisher shall make an advance against royalties to the Author of \$11,000.00, payable as follows:

(i) \$5,500.00 upon signing of this Agreement; and

(ii) \$5,500.00 upon delivery of the complete manuscript (including related materials) satisfactory and acceptable to the Publisher in content and form.

(b) The Publisher shall pay to the Author royalties based upon the Publisher's net sales, less a reasonable reserve for returns pursuant to Paragraph 6(c), as follows:

(i) If published as a trade hardcover edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(ii) If published as a library edition, 10% of the retail list price on the first 10,000 copies sold; and 12 1/2% of the retail list price on all such copies sold thereafter, subject to the exceptions set forth in subparagraph (v) below;

(iii) If published as a trade paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(iv) If published as a mass market paperback edition, 7 1/2% of the retail list price on all such copies sold, subject to the exceptions set forth in subparagraph (v) below;

(v) (1) on copies sold for export or outside the United States, its territories and dependencies, or sold directly to the consumer through the medium of mail order, or in bulk outside ordinary trade channels or at a discount in excess of 50% from the retail list price (herein "special sales"), a royalty of ~~2-1/2%~~ of the net amount received by the Publisher;

*you*  
5% *you*  
(2) on copies sold in bulk to book clubs, 5% of the net amount received by the Publisher;

(3) on copies sold to commercial purchasers as a premium or on copies sold in bulk to organizations other than book clubs for the purpose of distribution in special markets, such as the religious market, 7-1/2% of the net amount received by the Publisher; and





(4) ~~on sales made out of any new printings or bindings of 2,000 copies or less, made more than one year after publication date, royalties shall be computed at one half the base royalty rates provided hereunder.~~

yr

#### Remainder

(c) If in the opinion of the Publisher any edition of the Work shall have ceased to have a remunerative sale, Publisher shall be at liberty to dispose of ("remainder") all or part of the existing stock thereof and shall pay to the Author a royalty of ~~4%~~ 5% of the amount received by Publisher, except that no royalty shall be payable on any copies sold at or below cost, and in no event more than the amount by which proceeds of such sale exceed the cost of manufacture. In any event, copies sold at a discount of 85% or more from the retail list price shall be deemed remainders upon which no royalty shall be due. Publisher shall make no such remainder sale without first offering copies to the Author at the then best obtainable price. Inadvertent failure to offer such copies to the Author shall not be deemed a breach of this Agreement.

5% yr

#### Free Copies

(d) No royalty shall be payable on copies damaged or destroyed or on copies furnished gratis for review, publicity, promotion, sample, or similar purposes.

#### Recoupment of Advances

(e) The Author's right to royalty or other payments hereunder shall be subject to Publisher's prior right to deduct any and all advances payable by the Publisher hereunder.

#### SUBSIDIARY RIGHTS

5. (a) The exclusive subsidiary rights referred to in Paragraph 1 shall include the rights enumerated below and the net proceeds from the sale or license thereof shall be shared by the Author and Publisher in the percentages indicated. The Publisher shall consult with the Author with respect to the disposition of such rights.

	<u>To Author</u>	<u>To Publisher</u>
(1) Digest, abridgment, condensation, anthology, selection, or novelty use	75%	25%
(2) First serialization in Publisher's Territory (prior to the Publisher's official publication date)	75%	25%





	<u>To Author</u>	<u>To Publisher</u>
(3) Book clubs or similar organizations	50%	50%
(4) Reprint (including microfilm) edition through another publisher	50%	50%
(5) Second serialization and syndication (including reproduction in compilations, magazines, newspapers, or books)	50%	50%
(6) The sole and exclusive right to use or adapt, and to authorize others to use or adapt, the Work or any portion thereof, as a basis for photographic, video, audio, digital or any other form or method of copying, recording or transmission, now known or hereafter devised, including, without limitation, copying or recording by phonographic, photographic, magnetic, laser, electronic or any other means and whether on phonograph records, audio tapes, audio discs, lasers or cassettes, film, microfilm, microfiche, slides, filmstrips, transparencies, magnetictape, video cassettes, video discs, floppy disks or any other human-or-machine-readable medium, and the broadcast or transmission thereof, but excluding all uses encompassed in the definitions of Motion Picture and Television Rights.	80%	20%
(7) Translation and foreign language publication	80%	20%
(8) The right to sell or license publication rights in:		
(a) British Commonwealth	80%	20%
(b) Other foreign countries (in English)	75%	25%
(9) Merchandising and Commercial Rights	90% <del>50%</del>	10% <del>50%</del> <i>you</i>





It may be necessary for Publisher to employ agents to make certain of the sales listed above, and any commissions paid to such agents shall be deducted first before the proceeds are divided between the Publisher and the Author

#### License of Affiliates

(b) The Publisher shall have the right to license Simon & Schuster, its subsidiaries, affiliates and divisions, to exercise any of the rights herein granted, provided that the royalty rates under such a license shall not be lower than the rates which in the Publisher's reasonable judgment would be payable in all the circumstances by an unrelated third party licensee for the same rights. The Author shall be entitled to payment of the applicable share of the proceeds of any such license in accordance with this Paragraph 5.

#### Licensee Permissions Costs

(c) If any sale or license of rights hereunder includes materials of others than the Author, the amounts payable to such others in respect of permissions granted by them shall be deductible from the Author's share of the proceeds of such a license.

#### Braille

(d) The Publisher may license others free of charge to publish the Work in Braille or other forms for the handicapped.

#### PAYMENTS

6. (a) The Publisher shall render semiannual reports of the sale of the Work during March and September of each year, covering the six-month period ending the prior December 31 and June 30, respectively, of each year, and at the time of rendering such statements shall make settlement for any balance shown to be due. The Publisher may determine and withhold a reasonable reserve against returns. Statements rendered hereunder shall be final and binding upon the Author unless objected to in writing setting forth the specific objections thereto and the basis for such objections within one year after the date the statement was rendered.

(b) In the event the Author shall receive an overpayment of royalties on account of copies sold and subsequently returned, Publisher shall have the right to deduct such overpayment from any sums due to the Author under this (or any other agreement) between the parties. *she has not deleted*

(c) Any amounts payable to the Author hereunder shall be subject to such reasonable reserves for returns of copies of the





Work as the Publisher shall establish in its reasonable discretion. Following the fourth full accounting period after publication, Publisher's reserve for returns shall not exceed 15% of the total copies theretofore shipped and not returned, except that (i) ~~after each subsequent substantial printing, the reserve may be reasonably increased above 15% for four additional accounting periods,~~ (ii) Publisher may maintain a reserve in excess of 15% which reserve is equal to the actual percentage of returns in the preceding period or consecutive periods, and (iii) Publisher may maintain a higher reserve for any period preceding or during which it is expected that the Work will be or is out of print or is remaindered. Reserves shall be maintained separately with respect to each edition (hardcover, softcover, etc.).

*Reserve  
ag.  
return.  
you*

#### AUTHOR'S CHANGES

7. The manuscript in duplicate to be delivered by the Author to the Publisher shall be typewritten in proper form for use as copy for the printer and shall be in such form and content as the Author is willing to have appear in print. The Author shall read, if or when submitted, and within 14 days of the receipt thereof return to the Publisher, the proofs of the Work. If the Author fails to return the proofs within the period aforesaid, the Publisher shall have the right to publish the Work as submitted. The Author shall pay, or at the Publisher's option have charged against the Author, the amount of expense incurred by the Publisher because of changes and/or additions other than corrections of printer's errors made in and to the text by the Author in excess of 5% of the original cost of composition; and the Author shall pay in full for any corrections in the plates which she requires or which are necessary for the correction of the Author's actual errors (excluding printer's errors) after the plates have been made in conformity with the last proofs as corrected by the Author.

#### WARRANTIES AND INDEMNITIES

8. (a) The Author warrants and represents that:

- (i) She is the sole author and proprietor of the Work.
- (ii) She has the full power and authority to make this Agreement and to grant the rights granted hereunder, and has not previously assigned, transferred or otherwise encumbered the same.
- (iii) The Work has not been previously published.
- (iv) The Work is not in the public domain.
- (v) The Work does not infringe any statutory or common law copyright.





(vi) The Work does not invade the right of privacy of any third party, or contain any matter libelous or otherwise in contravention of the right of any third party; and, if the Work is not a Work of fiction, all statements in the Work asserted as facts are true or based upon reasonable research for accuracy.

(vii) The Work contains no matter which is obscene or matter the publication or sale whereof otherwise violates any federal or state statute or regulation, nor is it in any other manner unlawful.

(viii) The Work contains no recipe, formula, or instruction injurious to the user.

(b) The Author hereby indemnifies and holds the Publisher, any seller of the Work and the Publisher's licensees harmless from any damages, including reasonable attorneys' fees, in connection with any claim, action or proceeding inconsistent with or arising out of a breach or alleged breach of the Author's warranties, representations and agreements herein contained. In defending any such claim, action or proceeding the Publisher shall promptly notify the Author of any such claim, action or proceeding and the Author shall have the right at Author's election to participate in the defense thereof at the Author's own expense with counsel of the Author's own choosing. Any settlement of a claim, action or proceeding hereunder shall be subject to the Author's approval not unreasonably to be withheld.

(c) Author shall be insured under the Publisher's liability policy which covers claims for libel and other forms of defamation, invasion of privacy or publicity and infringement of copyright or trademark arising from publication of the Work, to the extent such policy is valid and collectible. In connection with such coverage and notwithstanding anything to the contrary contained in this Agreement, with respect to all judgments, settlements and costs of defense, including attorneys' fees and other costs of claims covered by the policy, the Publisher and the Author shall share equally the first \$100,000 of all such costs; thereafter, the Author's liability shall be limited to 10% of all such costs up to the limits of the policy. Publisher shall retain counsel to represent Publisher and Author in any proceeding brought with respect to all such claims and shall control the defense of such claims, and Author shall cooperate fully with Publisher and said counsel in such defense. Notwithstanding the foregoing, Author shall be solely responsible for the cost of counsel separately retained by the Author for any reason and for judgments, settlements and costs of defense, including all attorneys' fees, attributable to a willful or reckless breach of the Agreement by Author.





(d) The warranties, representations and indemnity of the Author herein shall survive termination of this Agreement for any reason.

(e) The Publisher may, at its own cost and expense, take such legal action, in the Author's name if necessary, as may be required to restrain any infringement of copyright or to seek damages therefor, but shall not be liable to the Author for failure to take such legal steps. If the Author elects to join in such proceeding the expenses and recovery shall be shared equally. If the Publisher proceeds without Author's participation, any recovery shall belong to the Publisher. If the Publisher does not bring such action, the Author may do so in her own name and at her own cost and expense and money damages recovered by the Author for any infringement shall belong to the Author, except that any money damages recovered on account of the loss of the Publisher's profits shall be divided equally between the Author and the Publisher.

(f) Publisher shall have the right to withhold its reasonable estimate of the total damages and expenses (including reasonable counsel fees) from sums otherwise payable to the Author pursuant to this or any other agreement between the Author and Publisher, and to apply such sums to payment of such damages and expenses.

#### FAILURE TO DELIVER THE COMPLETE MANUSCRIPT

9. (a) If the Author shall fail to deliver the complete manuscript (including related materials) within 30 days after the date herein provided, then the Publisher may at any time thereafter terminate this Agreement and upon such termination, all sums paid to the Author shall be repayable to the Publisher. Upon full repayment the Author's obligations hereunder shall terminate.

#### Extension of Time to Deliver

(b) The Publisher may in its discretion extend for such period as in its judgment is appropriate, or refuse to extend, the Author's time to deliver the complete manuscript. Failure to give a notice of termination for non-delivery shall be deemed to grant such an extension until such a notice of termination is given by the Publisher. In determining whether to grant such an extension and/or the length thereof, the Publisher may consider such factors as it deems relevant, including without limitation, Author illness, the changing marketability of the Work, the Author's progress towards completion and the quality of the material previously submitted.

#### Termination Prior to Publication

(c) In the event of termination of this Agreement because the complete manuscript or revised complete manuscript is





unacceptable, notwithstanding anything in this Agreement to the contrary, for a period of one year following written notice by the Publisher that the manuscript is unacceptable, the Author or her duly authorized representative shall make every effort to sell the Work elsewhere, and the Author shall be obligated to repay advances hereunder; but such obligation shall be limited to repayment from (a) the first (and all) proceeds of any contracts with others concerning the Work or any rights thereto, including without limitation, rights listed in Paragraph 5 of this Agreement, and (b) any payments due Author from Publisher for any reason. Author hereby transfers and assigns to Publisher, as security for the repayment of any advances which may become repayable pursuant to this paragraph, any and all monies which may hereafter become due or owing to Author from other persons or entities as a result of any of Author's rights with respect to the Work, and Author hereby authorizes Publisher to apply such monies as and when received in liquidation of Author's obligation to repay such advances, until such obligation shall have been fully paid. Author hereby authorizes such other person or entity to give full force and effect to this assignment, and hereby releases and discharges such other person or entity from any and all liability to Author for any and all payment or payments made to Publisher pursuant to this paragraph. ~~Notwithstanding anything to the contrary contained herein, at the end of such one year period the Author shall become directly liable for repayment of any portion of such advance not heretofore repaid by her or repaid by such third party publisher, or repaid from payments due the Author for any reason.~~ yes


#### Acceptance of Manuscript by Publisher

(d) Within 120 days after delivery of the complete manuscript and related materials the Publisher shall determine whether the same are acceptable to it in content and form. In lieu thereof the Publisher may request the Author to make revisions, changes or supplements (herein "revisions") thereto. If the Publisher requests one or more revisions in the manuscript of the Work or the related materials as submitted or as thereafter revised, the Publisher's time to determine the acceptability thereof shall be extended for an additional 60 days after resubmission by the Author, or written notice by the Author that no further revisions will be made. The Author shall make revisions as promptly as possible after the Publisher's request therefor. No request for revisions shall be deemed to obligate the Publisher to accept the final revision or to constitute a conditional acceptance thereof.

#### Publisher's Failure to Accept

(e) If the Publisher fails to accept the complete manuscript (including the related materials) or a revision thereof within the time above provided, the Author shall thereafter have the





right to notify the Publisher in writing that unless the manuscript is accepted within 45 days after delivery of such notice, the manuscript will then be deemed unacceptable and this Agreement will terminate in accordance with the provisions of Paragraph 9(c) above.

(f) Notwithstanding anything herein to the contrary, if in the opinion of the Publisher's legal counsel the Work is unpublishable or will unduly subject the Publisher to risk of legal claim, the Author shall, at Publisher's request, make changes and revisions in the Work satisfactory to Publisher's legal counsel, and in the event the Author shall refuse or fail to make requested changes or revisions, then Publisher may terminate its obligations hereunder by written notice, and upon such notice all sums paid to the Author hereunder shall be repayable to the Publisher, and upon such repayment this Agreement shall terminate without liability, except as provided in Paragraph 8(d) hereof. No such revisions or changes, and no request for substantiation, shall be deemed to impose on Publisher any obligation of verification, nor to affect the Author's warranties or indemnities, which shall apply to all material in the Work, whether or not changed at the request of Publisher's legal counsel. Under no circumstances shall Publisher be obligated to publish the Work if in the opinion of Publisher's legal counsel it contains unlawful material or any material which may violate the rights of any person or party.

#### PUBLICATION

10. (a) The Publisher shall publish and commence distribution of the Work at its own expense not later than two years after acceptance of the complete manuscript (including related materials). Publisher shall have the right to publish the Work under any imprint, division or subsidiary of Simon & Schuster, Inc.

(b) Notwithstanding the provisions of subparagraph (a) above, the Publisher shall not be obligated to publish the Work if, whether before or after acceptance thereof, supervening events or circumstances since the date of this Agreement have, in the sole judgment of the Publisher, materially adversely changed the economic expectations of the Publisher in respect to the Work at the time of the making of this Agreement, and in such event all of the Publisher's rights in and to the Work shall terminate and revert to the Author on the giving by the Publisher to the Author of notice of its decision, or if the Publisher fails to do so, by the Author pursuant to Paragraph 9(e) of this Agreement, and in any such event, notwithstanding anything to the contrary contained herein, the Author shall be entitled to retain all payments to the Author theretofore made under this Agreement.

(c) In the event Publisher shall fail to publish and commence distribution of the Work within the time above provided,





the Author may at anytime thereafter serve a written demand upon the Publisher, by registered mail, return receipt requested, requiring the Publisher to publish and commence distribution of the Work within 180 days after receipt of such written demand, and if Publisher shall fail to comply with such demand within such 180 day period, then this agreement shall terminate without further notice at the end of such period. In the event of termination by the Author pursuant to this subparagraph, such payments as shall have been made to the Author hereunder as advances shall be deemed in full discharge of all Publisher's obligations to the Author pursuant to this Agreement and no other damages, claims, actions or proceedings, either legal or equitable, founded on breach of contract, default, or failure to publish or otherwise, may be claimed, instituted or maintained by the Author against the Publisher.

#### PERMISSIONS

11. If permission from others is required for publication of any material contained in the Work or for exercise of any of the rights conferred by this Agreement, the Author shall obtain and deliver such permission to the Publisher at the Author's own expense, in a form acceptable to the Publisher, on the due date of the complete manuscript. Said permission shall cover all territories, markets and editions covered by this Agreement. The Publisher shall have the right to obtain any such permissions which the Author fails to furnish and to charge the cost thereof to the Author, or in its discretion, to terminate this Agreement in accordance with the provisions of Paragraph 9(a) above.

#### PUBLISHER'S CONTROL OF PUBLICATION

12. (a) Final decision as to format, copy editing styles, illustration, style of printing and binding, title, cover presentation, trade name, trademark, logo, imprint or other identification, date of publication, and retail price and all other matters of sale, distribution, advertising and promotion of the Work, shall be within the Publisher's sole discretion. Publisher shall consult with the Author with respect to the final title and cover presentation.

(b) Publisher shall have the right to use the name and likeness of and biographical material concerning the Author for purposes of advertising and trade in connection with the Work and/or any rights granted hereunder. The Author shall furnish Publisher, free of charge, original photographs of the Author for advertising, publicity and promotional purposes (without liability for any permissions or other third-party payments).





#### FREE COPIES

13. The Publisher shall furnish ten copies of each edition of the published Work to the Author without charge. Should the Author desire additional copies for personal use, they shall be supplied at a 40% discount from the retail list price.

#### OUT OF PRINT TERMINATION

14. In the event that after one or more years from the date of the first publication of the Work the same, in the opinion of the Publisher is no longer saleable or profitable, it may give notice to the Author of its desire and intention to discontinue publication; or in the event that after three years from the date of first publication the Work shall not be in print and for sale in any edition by the Publisher or any of its licensees and after written demand from the Author shall not within nine months be reprinted by the Publisher or a licensee and offered for sale, then in either of these events, the Author shall have the right to terminate this Agreement and upon written notice to that effect by the Author to the Publisher all rights granted under this Agreement shall revert to the Author, subject to any outstanding licenses, and the Publisher's obligation to pay sums due to the Author hereunder.

#### COMPETING WORK

15. The Author shall not, during the term of this Agreement, contract to publish or furnish to any other publisher for sale or trade, or otherwise authorize the publication of ~~any work upon the same subject~~ that shall conflict with, destroy, detract from, impair or frustrate the value of any rights granted to the Publisher hereunder.

*a book length autobiographical work  
for the juvenile  
market*  
*you*


#### CHANGES

16. This Agreement shall not be subject to change, modification or discharge in whole or in part except by written instrument signed by the Author and an officer of the Publisher.

#### CONSTRUCTION/HEIRS

17. This Agreement shall be construed, interpreted and governed according to the laws of the State of New Jersey applicable to agreements made and to be fully performed therein and the parties agree that in any action or proceeding arising under or relating to this Agreement, they shall be subject to the exclusive jurisdiction of the courts of the State of New Jersey. The Publisher may assign or otherwise transfer this Agreement in whole or in part in conjunction with the sale or transfer of substantially all of its assets to an entity which intends to engage in the business of





publishing. Any other assignment or transfer shall be subject to Author's consent, which shall not be unreasonably withheld or delayed. The Author may assign only the right to receive any amounts which may be payable to the Author after receipt by the Publisher of written notice of such assignment. This Agreement shall be binding upon the heirs, successors, personal representatives and the foregoing respective assigns of the Publisher and Author; and references to the Publisher and the Author shall include such heirs, successors, personal representatives and such assigns.

18. Captions are for reference only and shall not be deemed part of this Agreement.

19. No act or failure to act by the Publisher shall be deemed a material breach of this Agreement by Publisher unless Publisher shall fail to cure the same within 60 days after receipt of written notice thereof from the Author, setting forth specific details.

#### DAMAGE TO AUTHOR'S PROPERTY

20. The Publisher shall not be responsible for loss or damage to any property of the Author in its possession or that of its independent contractors, or to anyone to whom delivery is made with the Author's consent. The Author shall retain copies of the manuscript (and related materials) for the Author's own protection.

#### SERVICE OF NOTICES

22. Any written notice hereunder to be effective shall be delivered by ordinary mail to the address of the other party first above set forth, except that notices of possible or alleged breaches of contract or of termination shall be sent by certified mail, return receipt requested, with duplicate copies of such notices by the Author directed to both the President of the Publisher and to the Legal Department of Publisher. Either party may change its address by written notice to the other.

SIMON & SCHUSTER, INC./  
SILVER BURDETT PRESS

By \_\_\_\_\_





Yoshiko Uchida  
YOSHIKO UCHIDA

133-26-7281

Social Security Number

USA

Citizenship

wfs:422



5-30-90

C - Emily Easton.

Re Contract - asked to  
expedite.

Re ~~held~~ Ret. Reserves.

They release as 70's & don't

EV - 15% held 1st period

10% " 2nd " - they release  
50%

It's shown in sales fig - not  
as ret. of reserves. Have  
to call them to find out. "  
Emily can't do any. about it

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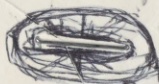
Emily on Mat. leave  
Aug - Oct.

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Ans due 3/91

Bk out Fall 91





RECEIVED NOV 22 1989  
 Bonaire  
 Dutch

Emily Easton  
 Silver Burdett  
 Press

autobiography

6 vols - series  
 2 per series  
 Fall '91

ea author  
 writes  
 autoq.

[112] pp

[38,000] wth

White  
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Dr.!



11-13  
Carter

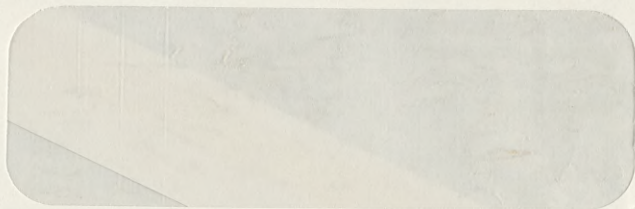
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Feb 91  
Mar 91  
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Laurence Gyp  
Michael Peck  
Gary Paulson.

~~8-12~~  
Jan 11-13

<sup>like</sup> events that  
kids & see  
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my work

but no sugg'd structure

Emily Easton - (N.J.)  
Silver Bur -

14 201-592-3472

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rights  
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RECEIVED JUN 18 1990



SILVER BURDETT PRESS

---

VIA FEDERAL EXPRESS

Silver Burdett Press  
Julian Messner  
Silver Press

June 14, 1990

Yoshiko Uchida  
1685 Solano Avenue, Apt. 102  
Berkeley, CA 94707

Dear Ms. Uchida:

I am pleased to enclose our check in the amount of \$5,500,  
representing the first half of the royalty advance for  
IN MY OWN WORDS: YOSHIKO UCHIDA.

Also, enclosed is your copy of the fully signed contract.

Sincerely,

Yvonne Lucas  
SILVER BURDETT PRESS

/enc. (2)  
cc: Emily Easton



C from Emily Easton 8/17/90

write  
→

Linda Huber  
Art director

could tell me  
whether copies  
can be reproduced

Emily Huber Jan-

Sept baby

Ed in Chief - Bonnie Brook

201-461-6257

Emily Easton

Home:

201-955-0332

hold ms unit  
~~unit~~

Jan

92.42  
- 91.53  
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115

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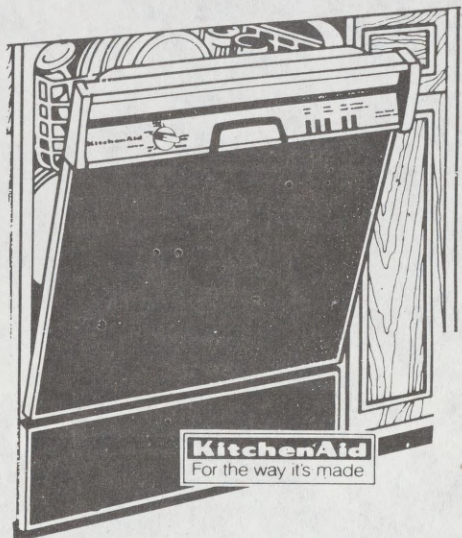
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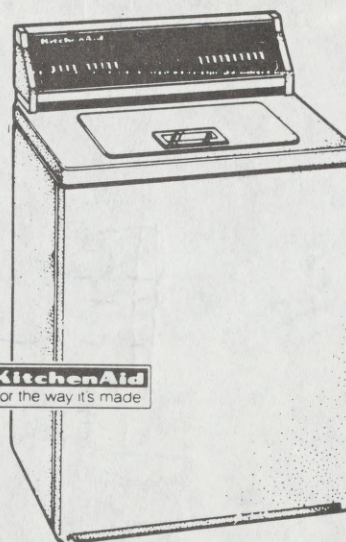
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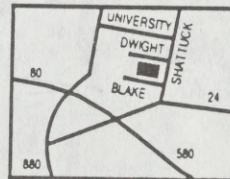
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October 3, 1990

Ms. Emily Easton  
Silver Burdett Press  
Prentice Hall Bldg.  
Englewood Cliffs, N. J. 07632

Dear Emily:

I hope all is well with you and that you are now enjoying the pleasures of motherhood.

This is just to let you know that I completed my autobiography sooner than I'd expected, and am quite pleased with it. Although I wasn't going to send it in until January, it occurred to me that you might want to read a copy of it *now*, and discuss it after your return to the office. *during the summer or there*

I realize your life must be very full, however, so if I don't hear from you, I'll just hold it until next year. In any case, I do not want the balance of my advance until after January 1.

Take good care of yourself.

All the best,



Adriane Ruggiero → called 12/17/90 - also re Des. Ex.  
Silver Burdett SAAS I

63

Emily  
had  
a girl

190 Sylvan Ave  
Englewood Cliffs, N.J.  
07632

Dec. 17, 1990

(201) 592-3472

Adriane Ruggiero  
Silver Burdett —

Dear Adriane —

Enclosed are a bio, a photo - another  
write-up you might find useful -

I didn't ask when the deadline  
was for your catalog copy - but if I could  
get my res. to you before that date, it would  
certainly make sense to mail it earlier  
than Jan. I may call you about this.

Harbly,

Goshiles

P.S. I'd appreciate seeing the catalog copy  
before it is sent to the printers.

Encl: Ther Airborne Express A/c# - 542-774-42





# SILVER BURDETT PRESS

---

Silver Burdett Press  
Julian Messner  
Silver Press

December 18, 1990

Yoshiko Uchida  
1685 Solano Avenue #102  
Berkeley, CA 94707

Dear Ms. Uchida:

It was a pleasure speaking with you the other day. It probably is a good idea to send in your manuscript early in the new year if you think you have finished work on it.

Best wishes for a peaceful and healthy 1991!

Sincerely,

*Adriane Ruggiero*

Adriane Ruggiero  
Editor



December 26, 1990

Adriane Ruggiero  
Emily Easton  
Silver Burdett Press  
190 Sylvan Ave.  
Englewood Cliffs, N. J. 07632

Dear Adriane and Emily (when you return):

I am pleased to enclose the completed manuscript (156 pp)  
for my autobiography, tentatively titled, THE INVISIBLE THREAD.

I also enclose copies of the photos and other material which  
we might include in the book. When a final selection is made,  
I will send you the original photographs, although I hope the  
copies can be used for the material from my diaries and the  
first books.

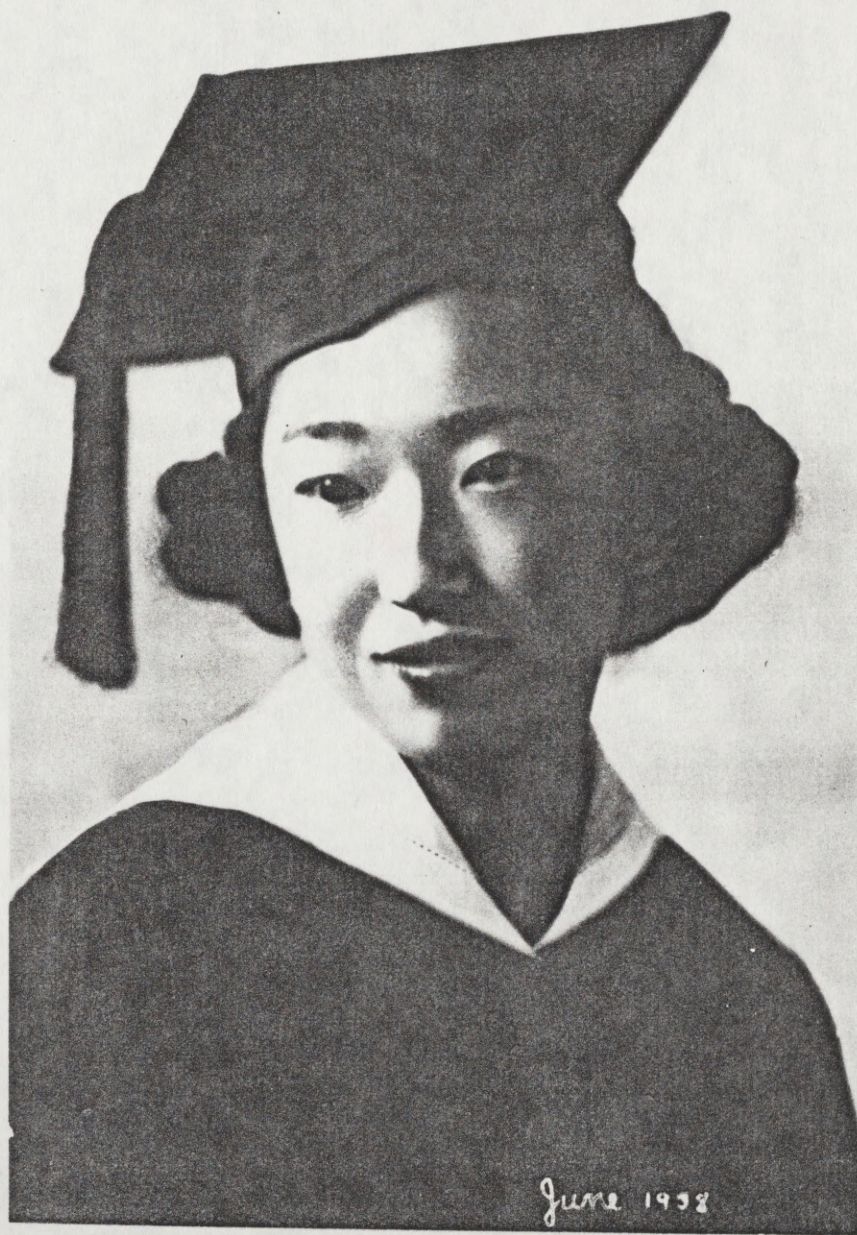
I'll be sending a second copy of the manuscript after the first  
of the year by first class mail, unless you would like me to  
use Airborne for that as well.

I look forward with much anticipation to hearing what you both  
think of the manuscript, and would appreciate a postcard  
notifying me of its safe arrival.

Best wishes for the new year.

Sincerely,





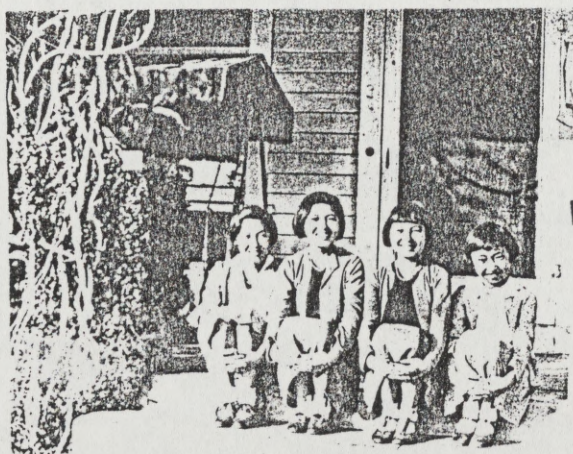
















WILLIE  
THE  
SQUIRREL

By

Yoshi Ue Hida



549  
 You are not happy  
 →

envelope. One, two, three, guesses. Nope  
 I'll have to open it, and this is what  
 Jimmy read on a piece of paper in the  
 envelope.

a looking glass letter  
 mirror rail

Jimmy gabbled him at once  
 room to the postman, I'll go

and back  
 mirror box

"Now what in the Jimmy crickets is  
 this?" exclaimed surprised Jimmy.  
 He ran home to his mother and

said "Mommy, Mommy I found sompin  
 in the woods. Looky, looky, what is it.  
 What is it? Tell me quick!"

Mrs. Chipmunk sat down in the big  
 arm chair with little Jimmy on her lap.  
 "Now let me see," she said as she  
 put on her tiny glasses. "Well this is  
 the queerest thing I ever saw since I  
 was born, and I've lived a long while well."

~~Well~~ I don't know sonny. I guess  
 we'll have to go to Mr. Owl to find  
 out for he is so wise. Come on now,  
 Jimmy come get your lunch and after





S I L V E R   B U R D E T T   P R E S S

---

Silver Burdett Press  
Julian Messner  
Silver Press

December 27, 1990

Yoshiko Uchida  
1685 Solano Avenue  
No. 102  
Berkeley, CA 94707

Dear Yoshiko:

The materials you sent--bio, photo, and author write-up--arrived yesterday; the manuscript for THE INVISIBLE THREAD arrived safe and sound today.

It's probably OK to send the second copy of the ms regular, first class mail.

Best wishes for a happy New Year.

Sincerely,

*Adriane Ruggiero*

Adriane Ruggiero