



Illustration Agreement

This agreement is made between Shannon Smith ("client"), with a principal place of business at:
1445 West Flat Street Suite 2b Elizabethtown, NJ 20112

and Whimsical LLC d.b.a. DragonPencil, with a principal place of business at 115 Bluebill Dr, Savannah, GA 31419.

Whereas Client desires to publish a high quality illustrated storybook.

Whereas DragonPencil desires to provide commissioned illustrations through its team of talented children's book illustrators.

Client and DragonPencil hereby agree as follows:

1. Services to be Performed

DragonPencil agrees to provide the following services, to be carried out by the hand of Kenny Dewitt ("Illustrator").

- A. Create 16 full color illustrations, for the book entitled, Terrible Tom Tealeaf by Shannon Smith. Of the 16 illustrations, 11 will be single page, 5 will be spread and 0 will be spot. The size of a single illustration shall be 8x10 + 1/4" bleed on all sides.

2. Credit

Dragon Pencil will receive credit on the front cover, which will read: "Illustrated by Kenny Dewitt". Said credit may be significantly less prominent than that of the author(s) but no smaller than 12pt. DragonPencil will receive credit on the copyright page of the book which will read Published with assistance of the good people at DragonPencil.com.

3. Portfolio

DragonPencil may use all artwork, in part but not in whole, as part of DragonPencil's portfolio, including display on DragonPencil's websites and/or portions of other websites devoted primarily to portfolios.

4. Payment

Client will pay DragonPencil \$1,729.75 for the cost of the illustration based on the following schedule:

- A. \$864.88 shall be paid to DragonPencil before work is to commence. This amount will be compensation for the first 8 illustrations.
- B. \$864.88 shall be paid to DragonPencil after the first 8 illustrations are completed. This amount will be compensation for the remaining 8 illustrations.
- C. Additional illustrations may be commissioned under this agreement at the same rate of \$93.50 per single illustration, \$140.25 per spread illustration and \$46.75 per spot illustration, payable before delivery of all illustrations.
- D. Your 15% discount has been applied to these rates. Your discount has already saved you \$305.25.

5. Late Fees

Late payments by Client shall be subject to late penalty fees of 1% per month from 30 days following the due date until the amount is paid.

6. Expenses

DragonPencil shall be responsible for all expenses incurred while performing services under this Agreement.

7. Materials

DragonPencil will furnish all materials, tools, and equipment used to provide the services required by this Agreement.

8. Intellectual Property Ownership

To the extent that the work performed by DragonPencil under this Agreement (DragonPencil's Work) includes any of Authorship entitled to protection under the copyright laws, the parties agree to the following provisions:

* DragonPencil's Work has been specially ordered and commissioned by Client to pictorially illustrate text provided by Client to appear in multiple formats, media and combinations, a supplementary work, or other category of work eligible to be treated as a work made for hire under the United States Copyright Act.

* DragonPencil's Work shall be deemed a commissioned work and a work made for hire to the greatest extent permitted by law.

* Client shall be the sole author of DragonPencil's Work and any work embodying the DragonPencil Work according to the United States Copyright Act.

* To the extent that DragonPencil's Work is not properly characterized as a work made for hire, DragonPencil grants to Client all right, title, and interest in DragonPencil's Work, including all copyright rights, in perpetuity and throughout the world.

* DragonPencil shall help prepare any papers Client considers necessary to secure and copyrights, patents, trademarks, or intellectual property rights at no charge to Client. However, Client shall reimburse DragonPencil for reasonable out-of-pocket expenses incurred. DragonPencil agrees not to use any of the intellectual property mentioned above for the benefit of any other party without Client's prior written permission.

* Client has full rights to the images created under this agreement not limited to the production and promotion of the book specified in section 1 and any merchandise directly related to said book or characters within. Client is free to sell or license these rights to any other party without compensation to Dragonpencil or the original artist(s).

* The likenesses and style of characters created in the Work are solely the intellectual property of Client and may be used, sold, or licensed to any other party without restriction or compensation to Dragonpencil or original artist(s).

* Individual artists may retain ownership of original artwork, if any, but will agree to sell said artwork to Client at a reasonable market price if asked. Client will have 90 days from the date of each piece's completion to purchase that piece from the artist.

9. Term of Agreement

This agreement will become effective when signed by both parties and will terminate on the earlier of:

* the date DragonPencil completes the services required by this Agreement

* the date a party terminates the Agreement as provided below.

10. Terminating the Agreement

This contract may be terminated by either party with 30 days written notice. If terminated by the Client, Client agrees to pay for any work which has been completed. If terminated by DragonPencil with cause, DragonPencil agrees to refund any amount that is in excess of the actual work product completed. If terminated by DragonPencil without cause, Client shall be fully refunded for any illustrations either completed or not completed. At time of termination, all work in progress and completed work will be forwarded to the Client. Termination notice must be made as indicated in contract.

11. Independent Contractor Status

DragonPencil is an independent contractor, and neither DragonPencil nor DragonPencil's employees or contract personnel are, or shall be deemed, Client's employees. In its capacity as an independent contractor, DragonPencil agrees and represents, and Client agrees, as follows:

- * Contract personnel have the right to perform services for others during the term of this Agreement.
- * Contract personnel have the sole right to control and direct the means, manner, and method by which the services required by this Agreement will be performed.
- * Contract personnel have the right to perform the services required by this Agreement at any place or location and at such times as they may determine.
- * Contract personnel shall not receive any training from Client in the professional skills necessary to perform the services required by this Agreement.
- * Contractor shall not be required by Client to devote full time to the performance of the services required by this Agreement.

12. Local, State, and Federal Taxes

Client will not:

- * withhold FICA (Social Security and Medicare taxes) from DragonPencil's payments or make FICA payments on DragonPencil's behalf
- * make state or federal unemployment compensation contributions on DragonPencil's behalf, or
- * withhold state or federal income tax from DragonPencil's payments.

DragonPencil and/or the contract personnel shall pay all taxes incurred while performing services under this Agreement--including all applicable income taxes and, if DragonPencil is not a corporation, self-employment (Social Security) taxes.

13. Warranties and Representations

DragonPencil warrants and represents that:

- * DragonPencil is free to enter into this Agreement
- * The work created or developed by DragonPencil under this Agreement ("Work Product") shall be original or all necessary permissions and releases obtained and paid for, and
- * DragonPencil's Work Product shall not infringe upon any copyright or other proprietary right of any other person or entity.

14. Exclusive Agreement

This constitutes the entire Agreement between DragonPencil and Client.

15. Confidentiality

For a period of one (1) year, DragonPencil shall maintain as confidential and proprietary any information that the Client so identifies and any information that can reasonably be presumed to be such. Sub-contractors shall be held to this confidentiality by contract. This obligation shall cease when such information becomes publicly available by the Client or rightful publication by others.

16. Resolving Disputes

