



Terms and Conditions for Proofreading, and/or Editing, and/or Publishing

These are the standard Terms & Conditions of AM Publishing New Zealand, Auckland, New Zealand, and/or AM Proofreading and Editing, Auckland, New Zealand, for editing, proofreading and/or publishing services for clients on a freelance basis. Where the name AM Proofreading and Editing appears below, it also covers AM Publishing New Zealand for any appropriate services provided, and shall henceforth be known as The Company. Where the word Project appears below, it covers proofreading, and/or editing and/or publishing services provided, individually or as a full project, as appropriate to any particular client.

1. Definitions

For the purpose of these Terms & Conditions, the following words and phrases shall have the meanings given below:

'Client' means any publisher, magazine, agency, or any other company or individual to whom The Company provides services.

'Confidential Information' means any confidential customer information, trade secrets, technical data and know-how relating to the Client's products, processes, methods, equipment, and business practices. It includes, but is not limited to, technical and business information relating to the Client's inventions or products, research and development, strategies and methods which are not standard industry practices, specifications, proposals, reports, analyses, finances, client details, marketing, production and future business plans, business and personal data relating to clients and affiliates of the Client.

'Text' means all textual material written or prepared by the Client, or by a third party acting on the Client's instructions, in printed or electronic format, which is submitted to The Company for proofreading. Unless agreed otherwise between the Client and The Company, 'Text' shall always mean text written in the English language only.

'Proofreading' means the checking and correction by The Company of errors of grammar, punctuation and style (and other aspects of writing as may be specifically agreed between the Client and The Company) in Text submitted by or on behalf of the Client to The Company. It specifically does not include, unless agreed otherwise between the Client and The Company, editing functions (which for the purposes of these terms and conditions means the preparation for publication, or for other purposes, of text; and can include, but is not limited to, correcting, shortening, reformatting, and otherwise improving the text).

'Proofread' shall be understood as the verb form of the activity of 'Proofreading'.

'Proofreading Services' means the carrying out of Proofreading (as defined above) by The Company on a commercial basis for financial gain.

2. Rejection of Services

Any queries relating to any services provided by The Company, or the invoice, must be raised immediately upon receipt by the Client, and in any case no later than within seven (7) days of receipt.

3. Refusal of Project

The Company reserves the right to decline to carry out Projects proposed by the Client, without giving reasons for such refusal. Such refusal must, however, be communicated to the Client within ten (10) days of the receipt of notification by The Company from the Client of the proposed Project.

4. Transaction of Projects

The Company shall carry out Projects subject to the following terms:

(1) The time and manner of delivery of the Project shall normally be agreed between The Company and the Client prior to acceptance by The Company of the Project. The Company shall make every reasonable effort to ensure, but shall not guarantee, that delivery dates are met.

(2) Delivery dates may be varied by the mutual agreement of the parties in circumstances including but not limited to the following:

- a) the scope of the Project is enlarged by agreement between the parties following commencement; or
- b) the Project is delayed through the fault of the Client; or
- c) the Project is suspended at the request of the Client.

(3) Any changes or alterations to the scope, content or specification of the Project requested by the Client after The Company has commenced the Project shall be charged to the Client at The Company's full standard rate.

5. Fees

(1) Except where agreed otherwise between The Company and the Client in respect of a particular Project or Projects, all work carried out by The Company shall be charged at The Company's standard rate applicable for the service.

(2) The Company reserves the right to charge at a rate higher than the standard rate where circumstances including but not limited to the following apply:

- a) the Project is of unusual complexity or difficulty; and/or
- b) any Text to be Proofread has been written by a person or persons whose native language is not English; and/or
- c) the Project calls for highly specialised professional knowledge or skill in order for it to be successfully completed; and/or
- d) the subject matter of the Project is particularly obscure; and/or
- e) the Project must be completed within an unusually short timescale.

(3) Where appropriate, The Company will provide estimates relating to the cost, duration and other aspects of Editing, Proofreading and Publishing Projects proposed by the Client. Such estimates shall remain valid for a period of thirty (30) days. If the Project costs more than the estimate, based on time taken, the actual time will be charged for.

6. Invoicing and Payment

(1) Invoices in respect of Projects shall be delivered by The Company to the Client prior to, or contemporaneously with the start of the Project in question and shall be paid in full by the Client prior to the work being completed and released to the Client.

(2) Where the value of the Project exceeds NZ\$500.00, The Company shall be entitled to payment of a non-refundable deposit amounting to 50 per cent of the value of the Project prior to commencement. This deposit shall be offset against the final amount charged upon project completion.

(3) Where the duration of the Project for which The Company is engaged by the Client is over one month, The Company may issue one or more interim invoices at various times in respect of further work to be carried out.

(4) All invoices delivered by The Company to the Client must be paid prior to the work being completed and released to the Client. In any case where there may be overdue invoices, they shall be subject to interest charges. Interest on overdue debts will be charged at 8% above the Reserve Bank of New Zealand's base rate.

(5) Payment may be made by direct credit, cheque or banker's draft. Overseas payments made be made by credit card. UK orders may be paid in Pounds Sterling.

(6) If an interim invoice remains unpaid after it has become due, The Company shall be entitled to suspend work immediately and until the invoice is paid.

(7) If payment has not been received after 14 days, a statement of account will be delivered to the Client detailing the outstanding balance, including interest, for immediate payment. A third and final invoice prior to initiating Disputes Tribunal or District Court proceedings will be dispatched after 30 days from the initial invoice date. Any discounts given by The Company shall be automatically revoked and the full amount charged on all invoices not paid within 7 days.

7. Liability

(1) The Company shall not be liable for any loss to the Client arising from:

- a) delays not caused by The Company;
- b) legal action taken against the Client as a result of publishing any Text Proofread by The Company, nor for errors in that Text, once approval of the Text has been given by the Client;
- c) loss or disappearance of the subject-matter of any Project in transit between the Client and The Company via email, post, courier, fax, or any other method of sending, regardless (i) of which party is the sender, and (ii) the identity of the intended recipient.

(2) Though The Company shall take every care in the provision of services to the Client, the content and accuracy of Text remains at all times the responsibility of the Client. Approval by the Client of Text Proofread by The Company, or publication of the Text, implies the Client's acceptance of legal responsibility for the accuracy and content of the Text. The Client shall have sole liability for any costs incurred in rectifying errors in the Text discovered after the Client's approval of the Text has been communicated to The Company.

8. Indemnity

(1) The Company shall be indemnified by the Client in respect of any claims, costs, and expenses brought by a third party against The Company in respect of any infringement of copyright or other proprietary or personal rights contained in Text Proofread by The Company for the Client. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

(2) The Company shall be indemnified by the Client in respect of any claims, costs, and expenses brought by a third party against The Company in respect of any charges of libel or defamation of character contained in publications produced for the Client. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

9. Subcontracting

(1) The Company may subcontract Projects, or any part thereof, contracted for with the Client to a third party or parties.

(2) If The Company subcontracts Projects, or any part thereof, to a third party or parties, the Client shall remain liable for all costs involved and The Company retains the right to seek payment from the Client at all times.

9. Confidentiality

(1) The Company and the Client acknowledge to one another that as a result of their business relationship, The Company may acquire possession of Confidential Information (as defined above).

(2) The Company agrees that it shall maintain in confidence and shall not disclose or use, at any time without the prior written consent of the Client, any Confidential Information whether or not it is in written or permanent form.

(3) Upon completion of the Project or Projects in respect of which The Company's services are engaged by the Client, The Company shall deliver to the Client in respect of:

(a) Editing and Proofreading – a Word file incorporating the Confidential Information or otherwise, relating to the Client's business.

(b) Publishing – a PDF file, or files, suitable for print, of the finished Project. The Company always own the source files (i.e. in Photoshop, Illustrator, InDesign or any other applicable software programs) but they can be purchased for an extra sum if required. If they are purchased, they are only to be used to make minor changes to the file(s), and not reused, in any form, by the Client for any other project, or any future project, or resold to any third party. The Client is paying for the final work, not the tools to make it. If a Client purchases source files, they are also liable to purchase any copyright fonts which may have been used, which The Company is licensed to use, but the Client would not be.

(c) These obligations with respect to the Confidential Information extend to information belonging to clients and suppliers of the Client, or persons or entities which licence confidential information or technology rights to the Client, who may have disclosed such information to The Company as a result of The Company's business relationship with the Client.

10. Insolvency

If the Client ceases to pay its debts in the normal course of business or cannot pay its debts as they become due, or being a company is deemed unable to pay its debts or has a winding up petition issued against it, or being a person commits an act of bankruptcy or has a bankruptcy petition issued against him or her, The Company shall, without prejudice to other remedies, have the right not to proceed further with any Project then in hand and be entitled to charge for work already carried out (whether completed or not).

11. Precedence

These Terms and Conditions take precedence and cannot be varied or altered, or overridden by the imposition of any such conditions by the Client that negate or alter any of the material clauses in these terms and conditions of business.

12. Law

These Terms and Conditions and all other express terms of any contract entered into between The Company and the Client pursuant to these Terms and Conditions shall be governed by and construed in accordance with the laws of New Zealand.

13. Force Majeure

The Company shall be under no liability if it is unable to complete Projects contracted for with the Client for any reason beyond The Company's control including (without limitation) Acts of God, legislation, war, fire, flood, drought, failure of power supply, terrorist attack, lock-out, strike, or any other action taken by employees of The Company or subcontractors engaged by The Company to assist with Projects in accordance with the terms of clause 9(2) above. During the continuance of such a contingency the Client may, by written notice to The Company, elect to terminate the contract and pay for work done but subject thereto shall otherwise accept delivery when possible.

14. Validity

If any provision of these terms and conditions is found to be invalid by any court having competent jurisdiction, the invalidity of that provision shall not affect the validity of the remaining provisions of these terms and conditions, which shall remain in full force and effect. Failure either by the Client or The Company to exercise any right or remedy under or in accordance with these terms and conditions does not constitute a waiver of that right or remedy.

15. Headings

The headings in these Terms and Conditions are for convenience only and shall have no effect on the interpretation thereof.