

'You're only as good as your briefs', presented at the biennial conference of IPEd/CSE, Canberra, 8 May 2015

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Contracts

What constitutes a contract?

- ♦ Meetings and discussions
- ♦ Telephone/Skype calls
- ♦ Emails
- ♦ Memos and letters
- ♦ Formal supplier contracts
- ♦ **Briefs and briefing documents**



The First Golden Rule

Commit it to writing



The Second Golden Rule

File it

The necessary clauses in a contract – a checklist

1. The contracting parties
2. The function and designation of the supplier (project manager, translator, editor, designer, etc)
3. What the supplier will supply
 - a. Nature
 - b. Quantity
 - c. Medium
4. The brief – the specifications of what is wanted
5. Responsibilities of the supplier
 - a. Reporting lines and reporting procedures
 - b. Who handles copyright permissions
 - c. Edited hard copy or disk
 - d. Translation language
 - e. Index length and style
6. Standards and quality requirements
7. Confidentiality and conflict of interest
8. Penalties
9. Presentation: what will be delivered, in what format
10. Delivery – times and schedules
11. Penalties for non-delivery
 - a. Recovery of advances
12. Payment – the amount and the payment terms
 - a. Payment dates
 - b. Advances
13. Payment and copyright: does payment incorporate the transfer of rights?
(service fee and copyright fee)
14. Failure to deliver to the required standard
 - a. Recovery of advances
15. Transfer of ownership (copyright)
16. Attribution and acknowledgements
17. Arbitration
18. Domicilium

Memorandum of Agreement as a standard contract

Memorandum of Agreement made and entered into by and between

(hereinafter referred to as the “_____” on behalf of himself/herself and his/her heirs, executors, administrators, legal personal representatives and assigns of the one part

AND

(hereinafter referred to as the “Publisher”) on behalf of itself, its successors in business and assigns of the other part.

Whereby it is mutually agreed as follows:

1. SERVICES TO BE SUPPLIED

The _____ agrees to supply services listed on the Schedule to the Agreement with respect to an original work at present entitled

(hereinafter referred to as the “Work”). The _____ agrees not to subcontract any of these services without the written permission of the Publisher.

2. PRESENTATION OF TYPESCRIPT

The Publisher will provide the _____ with the typescript of the Work on computer diskette in MSWord or another Microsoft Office programme, and the _____ will return the edited typescript to the Publisher in the same form unless otherwise agreed. The Publisher will also provide the _____ with a print-out of the typescript and may require the _____ to indicate all editorial changes on this print-out. When preparing the typescript electronically the _____ will strictly follow the rules contained in the Publisher’s document entitled “Guidelines for the preparation of documents on diskette”. The

_____ undertakes to do daily back-ups of the Work and to exercise the greatest possible care in all other ways during the electronic preparation of the Work to prevent the typescript from being erased or becoming corrupt.

3. STANDARD OF WORK

Should the Publisher within its sole discretion consider that the work produced by the _____ is not of a sufficiently high standard, the _____ shall be informed of the Publisher’s objections to the said work and shall be given a reasonable opportunity to rectify such deficiencies. Should the _____ within agreed reasonable time not sufficiently rectify such deficiencies, the Publisher shall be entitled within its sole discretion either to cancel this Agreement and claim expenses including damages from the _____ or, alternatively, to instruct a third party to rectify the deficiencies and subtract any expenses thereby incurred from any payments due to the _____.

The Publisher will pay for the corrections to _____ which may reasonably be considered to be as a result of misunderstanding in or alterations to the original briefing, but is not responsible for corrections which occur as a result of the _____ not following the art brief. The latter will be done at the _____ expense.

4. COPYRIGHT AND OWNERSHIP

The _____ hereby assigns to the Publisher, for the full term of copyright and without limitation, the copyright and ownership in the said work, including any special characters or features which may have been specially created for the Work.

5. DEADLINES

The _____ agrees to provide each of the services listed on the Schedule by the specified deadlines. Should the _____ fail to meet these deadlines, without reasons which are acceptable to the Publisher within its sole discretion, then the Publisher may withhold the payment specified in this Agreement, or a pro-rata portion of the payment (such portion to be determined by the Publisher), or cancel this Agreement and commission another _____ to perform the work required.

Should the Publisher have made payments to the _____ in advance and in anticipation of receiving the services specified in the Schedule and should the _____ subsequently fail to provide such services, the _____ shall refund all such monies advanced to him/her by the Publisher.

6. PAYMENT

The Publisher shall pay the _____ the sum of R_____ (in words as well) (specified in the Schedule) within 30 days of receipt and approval of the agreed services on receipt of invoice from the _____. In the event of changes to the Publisher’s brief, the _____ shall notify the Publisher of any extra costs likely to be incurred before proceeding.

The payment specified in this clause and on the Schedule is a one-off fee covering all editions and impressions of the Works, and the _____ acknowledges that no further payments of any kind shall be made to him/her in connection with the services supplied in terms of this Agreement, unless the Publisher at a later date should require the _____ to work on a new edition of the Work, in which event a separate Agreement shall be entered into between the Publisher and the _____ for such work.

7. ATTRIBUTION OF WORK

The _____ will receive due credit in the Work on the imprint page. The form of the credit shall be at the Publisher’s discretion.

8. FREE COPY

The _____ will be entitled to receive on publication ONE free copy of the first impression of the Work.

9. ARBITRATION

This Agreement shall be subject to the laws of the [relevant country] and if any difference shall arise between the Publisher and the _____ touching the meaning of the Agreement or the rights and liabilities of the parties hereto or any matters arising herefrom the same shall be referred to the arbitration of two persons (one to be named by each party) or their umpire, in accordance with the provisions of the Arbitration Act No XX of 20YY or any subsisting statutory modification or re-enactment thereof. Such arbitration shall take place in [designated jurisdiction].

10. DOMICILIUM CITANDI ET EXECUTANDI

It is agreed by the _____ and the Publisher that their respective addresses as set out above shall be the addresses to which all notices, processes or other documents may be served or sent in terms of this Agreement.

SIGNED AT _____

This _____ day of 20__

PUBLISHER

SUPPLIER

In the presence of the undersigned witnesses

WITNESS 1: _____

WITNESS 2: _____

Schedule: Freelance Editor's Agreement

TITLE OF WORK

ISBN

The following editorial services are required:

	Language editing
	Content and language editing
	Checking against syllabus/curriculum
	Preparation of prelims and end-matter
	Acknowledgements copy
	Caption writing
	Indexing
	Editing on diskette
	Editing on hard copy
	Artwork brief
	Photo list/brief
	Design brief
	Attendance at pre-production meeting
	Briefing of artist(s)
	Artwork approval
	Photo collection/picture research
	Applying for and co-ordinating permissions
	Meetings with in-house staff
	Meetings with author
	Full MS mark-up for typesetting
	Coding/tagging of text for typesetting
	Proofreading of galleys
	Proofreading of page proofs
	Checking all paste-ups
	Checking dyeline proofs
	Cover design brief
	Cover copy (back-cover blurb)
	Brochure copy
	Press release
	Other House Style Manual to be consulted Style sheet supplied & to be followed

DEADLINES

Fully edited disk/MS and design brief to Publisher:

Galleys/1st pages proofread by

2nd pages proofread by:

Other:

Fee: _____

Signed (Editor)

Signed (Publisher)

Schedule: Freelance Indexer's Agreement

TITLE OF WORK

ISBN

The following indexing services are required:

	Type of index: Subject Author Title
	Levels: One Two
	Run-in Run-on
	Separation of alphabetical groups Space Capital letter and space
	Headwords All uppercase Proper nouns only uppercase
	Final page proofs supplied as Hard copy PDF Both hard copy and PDF
	Indexing using: MS Word Windex Citrex Other
	Word by word Letter by letter
	Number of pages allocated: 6 / 8 / 10 / 12 / 14 / 16 / 18 / 20
	Number of columns per page: 1 / 2 / 3
	Alphabetical order to be checked: Headwords Subentries
	Author queries directed at: Copyeditor Author
	Style of cross-references: <i>see</i> <i>see also</i>
	Other Style sheet supplied & to be followed

DEADLINES

Fully edited index to Publisher:

Proofread by:

Indexer's responses to Author/Editor by:

Other:

Fee per indexible page:

Signed (Indexer)

Signed (Publisher)

[PUBLISHER'S LETTERHEAD]
(Editing contract and brief)

[Editor's name and address]

[Date]

Dear X

[TITLE OF PUBLICATION] [EDITION]

Thank you for agreeing to [copyedit/proofread] the above publication for us. The specifications are as follows:

Title:	[Book title]
Author/editor:	[Author/editor name]
Book format:	228 x 152 mm
Extent:	320 pages
ISBN:	978 1 91998 123 4
Copyedit:	[Copyeditor's brief spelled out here, including a reference to the House Style that should be followed.]
Background:	[Description of the authors, the purpose/objective of the book and the target audience; also the level at which it is pitched]

Please pay particular attention to the following aspects of the author's writing:

- Passive voice: convert, wherever possible, to active voice
- Unnecessary punctuation: use minimal stops and commas (Dr, eg, ie, Mr, Prof, Rev)
- Initial cap or lowercase letter in headings: will differ, depending on heading level
- No serial commas: red, white and blue, not red, white, and blue
- All 'ise' should be 'ize'
- Single quotes instead of double quotes (also secure the tools required)
- Cross-references to specific terms/words: italics, not quotation marks
- Spell out century numbers (eighteenth century)
- Racial labels: do not capitalise black, coloured, white; but Asian and Indian must take an initial cap
- 'Among', not 'amongst'; 'while', not 'whilst'; 'amid', not 'amidst'
- Adverbial participles (eg warmly received, freshly ground): do not hyphenate.

Pay close attention to consistency in the use of symbols (*, #, etc) and the formats of words (abbreviations, bold, italics, alternative fonts, etc). The unedited hard copy will be supplied as a reference.

Target readership: Academics in the field of [subject field] but also to non-academics interested in the subject. It will be distributed through bookstores nationally.

Editorial style sheet: To be supplied at handover.

Tasks to be undertaken:

Task	Yes/No
Author queries: mark up for the author's attention	Yes
Check spelling, punctuation, consistency, language	Yes
Check artwork labelling, especially against conventions in text	No
Check bibliography in detail, and against intext references	Yes
Copyright permissions	Possibly; flag if detected
Proofread up to 2nd pages	Yes
Check typesetting style for consistency – use of different fonts, bold, italics, etc	Yes – at all proofreading stages
Check prelims, including contents pages/folios against body text	Yes – at final proofs
Check that line breaks and paragraphing are acceptable	Yes – at first proof stage
Check and eliminate widows and orphans	Yes – at all proofreading stages

Deadlines & production schedule: [insert dates for copyediting and/or proofreading here] A timeline for the project will be supplied.

Fee: [insert fee here for the copyediting and reading two sets of proofs]
The publisher deducts/does not deduct 25% for PAYE from the invoiced amount.

Case studies

1. Janice has been contracted to deliver the fully edited manuscript on disk by 15 July. There are penalties if she does not deliver in time. The author delayed her by responding slowly to editorial queries and you agreed verbally that she would be given an extension until 30 July. But when the job comes in, your publishing manager insists that the job has been delivered late (again!) and that Janice must be penalised.

- *What can be done?*
- *Does Janice have a case against you?*
- *How could this situation have been avoided through an adequate brief?*

2. You have agreed in writing with Anwar that editing will be carried out on disk and that you will receive a clean text, with changes redlined/tracked, and ready for the typesetter.

However, when he delivers marked-up hard copy, Anwar claims that, in a telephone conversation, he explained that the disk was not reading properly and that you said that he could revert to using hard copy. You have no recollection of this conversation. You are now running late for deadline and will incur extra costs having to have corrections input.

- *What rights to you have? And Anwar?*
- *And how can these rights be enforced?*
- *How would an adequate brief have prevented this outcome?*

3. You hired an indexer, Jan, to compile a two-level index for a 320-page academic text. Your copyeditor/proofreader finds serious gaps in the content of the index, gaps that render the index only 80% useful to readers. The index also runs to 12 pages instead of the budgeted-for 10. There are no cross-references. In addition, inconsistencies in spelling, punctuation and capitalisation that exist in the text have been carried through to the index headwords and subentries.

As managing editor, you have little knowledge of the requirements of a good index, thanks to your lack of exposure to dealing with indexers and indexes. Jan insists that you agreed, during a briefing session, that he would have 12 pages to fill and that he would not be expected to 'edit' inconsistencies while compiling the index. Your computer has had a virus infection and some of your email exchanges with the indexer have been lost. You can find no record of this correspondence.

- *With the index compiled (unsatisfactorily), what can you do to remedy the situation at this late stage?*
- *Is it possible for the indexer to make good? If so, how, in the time available?*
- *How could a thorough indexing brief have prevented this outcome?*