

Trafford Terms and Conditions

RECITALS

A. Trafford (hereinafter “we” or “us”) is engaged in the business of providing services and products to authors seeking to publish, promote, and sell their manuscripts (“Works”) to which they own the copyright.

B. You desire to utilize us for hire as your provider of selected formatting, copy editing, proofing, printing, selling, and distribution services and other services as may be mutually agreed upon from time to time (the “Services”) in conjunction with the publication, distribution, selling, marketing, and promotion of your Work. We desire to perform these Services selected by you subject to the following terms and conditions (the “Terms and Conditions”). These Terms and Conditions are part of each Service offered by us and purchased by you.

1. AGREEMENTS

1.1. You will complete the following before we will perform any Services:

1. Services Order Form
2. Payment for Services Selected
3. Work in a form acceptable to us

1.2. You understand that if there is more than one author contributing to the Work (“Joint Work”), the individual who completes the Services Order Form will be the sole point of contact with whom we will communicate regarding all matters related to the Work and all parts constituting these Terms and Conditions. By completing the Joint Work Addendum and affirming their acceptance of these Terms and Conditions below, each author of the Joint Work agrees to these Terms and Conditions.

1.3. You will submit to us a copy of the Work in a format that is ready to publish. Any subsequent changes or editorial revisions requested by you shall result in additional charges. You will also pay additional charges if the Work is NOT submitted in a format acceptable to us.

1.4. We will retain in our possession all of the materials submitted by you. We will have no obligation to provide to you any submitted materials or production files at anytime or for any reason. We will have the right to compile and use statistical information about the sale of the Work.

You will retain all rights to the content of the Work. We do not own rights to your Work and we are NOT responsible for editing the Work and have no editorial control over your Work. As part of the Services, you may purchase copy editing services provided by us. You will have final authority with respect to suggested editing changes made by our copy editors. You will edit galleys of the Work sent by us and provide such other assistance as we may reasonably request regarding purchased Services.

1.5. We will format the Work and the Work’s Cover, in paperback, hardcover or in an electronic format (eBook) that is readable using a computer or other electronic device, as specified in the Submission Information Form provided the specifications meet our requirements and capabilities. We will determine the details of publication, including the appearance (including on-line presentation), price, production and manufacturing of the Work. We will also retain final discretion over style and formatting of the Work and its cover. We have exclusive right to determine whether or not to utilize digital rights management (DRM) technology. You acknowledge that you may not utilize the formatted Work, International Standard Book Number (ISBN), and cover with any other publisher.

We also reserve the right to introduce additional versions of the Work. As the Work can be available in multiple formats, we reserve the right to terminate and recommence individual ISBN’s of work.

1.6. We will provide the Work to you in all formats purchased by you within 180 days after we have received all required materials. If we do not provide you with the Work within the appropriate timeframe, you may request a refund of monies paid for Services that have not been completed. The 180 days does NOT include time Work is in your possession for any reason or in the possession of our copyeditors for the purpose of copyediting. You, at your option, may elect to subscribe the Work to a Priority Service, which will place each step of the publication process for the Work in an expedited fulfillment queue solely for Priority Service subscribers.

1.7. Upon your completion of the Galley Signoff Form, we will make the completed Work available through the distribution channels (including online or electronic distribution channels such as e-retailers, websites, Amazon Kindle, Kindle for iPhone, and the like) selected by you. You agree to pay all applicable shipping and handling fees associated with purchasing copies of your own Work.

1.8. We will use reasonable efforts to assist you in promoting the Work consistent with the promotional services purchased by you. You acknowledge that some promotional offerings will not be fulfilled until after the Work is available for distribution. However, we cannot guarantee sales of any of your Work. We make no guarantees or promises as to the minimum success of the Services or the amount of book sales which may result from the Services. We have no control over the purchasing decisions of consumers and are not liable to anyone if the Work does not sell to your expectations.

1.9. We reserve the right to send free review copies to members of the working media including editors, college newspapers, professors and other potential book reviewers at their discretion.

2. YOUR LEGAL RESPONSIBILITY

2.1. You represent that

(i) you are the sole copyright owner of the Work and all of its content, or

(ii) you are the co-author of a Joint Work, and you and your co-author have both executed the Joint Work Addendum to these Terms and Conditions. The Joint Work Addendum is provided upon your request.

2.2. You represent that the Work does not infringe upon any statutory or common law right of copyright, libel or privacy of any third party.

2.3. You represent that you are the owner of any trademarks and/or trade names associated with the Work and that the usage of such trademarks or trade names does not infringe upon the rights of third parties.

2.4. You further represent that the Work does not contain illegal, unlawful or objectionable material including, but not limited to, pornography, obscenity or hate speech. You acknowledge that the Work is not plagiarized and does not include falsely attributed statements of third parties.

2.5. You completely and wholly accept responsibility for the content of the Work. We reserve the right to discontinue all Services if you violate the above representations and retain a \$75 fee to defray setup costs.

3. OUR LEGAL RESPONSIBILITY

We are not legally responsible in any way or means for your Work.

3.1. We are not liable to any third party for the Work, regardless if we had any knowledge or could have reasonably known of any illegal, unlawful or objectionable content in Work.

3.2. We reserve the right to refuse to provide and/or to discontinue ALL Services upon our discovery of any violation by you of these Terms and Conditions, any other actions, omissions or misconduct by you with respect to Work, and/or your performance under these Terms and Conditions. In the event a complaint is made by a third party regarding the Work, we reserve the right to suspend the Services in accordance with Section 7.1 until such time as the complaint is satisfactorily resolved, as determined by us in our sole discretion.

3.3. We will not be responsible for retrieving the Work or for any sales of Work in the possession by an entity other than us.

3.4. We will be permitted to publicize information concerning the Work in connection with the advertisement, promotion and marketing of the Services offered by us, including, but not limited to, publication of the name and a description of the Work, your name and address (city and state only), and success relating to the sale of your Work. We also have the right to use, display, promote, market, distribute, exhibit, and make excerpts from the Work or from information regarding you or the Work, in electronic or print format. Electronic excerpts shall be viewable on our website, or partner websites that have entered into agreements with us, in order to facilitate promotion, marketing, distribution, and sales of the Work. This grant includes our vendors and affiliates. You agree to promptly provide any information requested by us.

3.5. We will not be liable for delays, errors, or non-performance of Services caused by any of our third party vendors or suppliers.

3.6. From time to time, we will discontinue offering certain promotional items. We reserve the right to substitute a different promotional item of equal or greater value to you with or without notification in the event of a discontinuation. In all situations, we will endeavor to notify you of a cancellation of any promotional item that you have purchased.

4. INDEMNIFICATION AND LEGAL DISCLAIMER

EXCEPT AS STATED IN THESE TERMS AND CONDITIONS, WE DISCLAIM ANY AND ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESSED OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE SERVICES, OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, COMPATIBILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT WE KNOW, HAVE REASON TO KNOW, HAVE BEEN ADVISED, OR ARE OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED, ARISING BY OPERATION OF LAW, CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. IN ADDITION, WE EXPRESSLY DISCLAIM ANY WARRANTIES OR REPRESENTATIONS TO ANY PERSON OTHER THAN YOU WITH RESPECT TO THE SERVICES OR ANY PART THEREOF. IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY OTHER PERSON FOR LOST PROFITS OR REVENUES OR INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT OR PUNITIVE DAMAGES. We assume no liability for any loss, damage, injury, or claim of any kind or character to any person or property, including, but not limited to, you or any third party, arising from, relating to, or in connection with the submission of the Work for the Services undertaken by us under these Terms and Conditions and the subsequent sale or distribution of the Work. You agree that submission of the Work (including, without limitation, manuscripts, pictures and diskettes) to us is at your own risk and agree that we will have no liability related to the misplacement or loss of the Work for any reason.

If a claim is presented against us alleging that the Work is an infringement or the Work otherwise violates or adversely affects the rights of third parties, we are hereby authorized, at our election: to negotiate, compromise, or settle such claim, subject to your approval, which approval shall not be unreasonably withheld or delayed; or defend the institution of any action there under at your expense. You agree to defend, indemnify and hold harmless us and our employees, shareholders, directors, representatives, successors and assigns of and from all and any manner of claims, demands, suits, actions, losses, costs, liabilities, damages, settlements, awards, judgments, attorneys' fees, professional fees, costs and expenses arising from or relating to: claims of third parties regarding ownership, trademark, copyright, libel, slander, plagiarism, privacy, misappropriation, and similar claims relating to the Work; the sale and distribution of the Work; and any misrepresentation, breach or default by you under these Terms and Conditions or any other agreements or understandings between the parties. Until our claim for indemnity has been fully satisfied, we may, at our sole discretion, retain all payments due you under Section 5 of these Terms and Conditions, cease providing any further Services, and you shall have no right to receive a refund of any monies paid to you by us. In addition, you agree to abide by and comply with the policies promulgated by us with respect to requests or complaints from third parties regarding the Work.

5. PRICING AND ROYALTY AGREEMENTS

5.1 Royalties

(a) Print Royalties

On all sales by us of printed copies of the Work, we will pay you a royalty as follows:

You will select an Author Selected Royalty Percentage ("ASRP") of either 10% or 20% during the submissions process for both paperback and hardcover versions of the book if applicable.

On retail, wholesale or consumer sales, excluding sales to you, we will pay you a royalty equal to the ASRP of the payments we actually receive from sales of printed copies of the Work, less any taxes, shipping charges and returns unless you purchased the Booksellers Return Program.

Royalties will not be paid on copies provided free of charge or sold to you.

(b) eBook Royalties

On all sales by us of eBook formats of the Work, we will pay you a royalty equal to fifty percent (50%) of the payments we actually receive from the sales of eBook copies of the Work, less any distribution and technology fees, taxes and returns.

Royalties will not be paid on copies provided free of charge or sold to you.

5.2. Pricing. All eBooks will have a default price of nine dollars and ninety-nine cents (\$9.99). However, if the paperback format of the Work has a price less than the default price, the Work will be sold at the lower price.

We reserve the exclusive right to modify the price of the paperback, hardcover, and eBook format of the Work, at our discretion, should costs change or market conditions warrant. Should this happen, the selected royalty payments will remain the same. You may suggest a higher price, however we will retain final discretion over the price of the Work.

5.3. Payment and Royalty Fees Statement. If the Annual Cumulative Royalty due on book sales for a particular Work equals or exceeds \$25 for the period ending on March 31st, June 30, or September 30, we will remit payments to you within 60 days of such date. All Royalties not paid due to limitations outlined above will be paid within 60 days of year December 31. The royalty payments made to you will be the amounts as defined in the Book Pricing Agreement, less any outstanding amounts owed by you to us and/or withheld pursuant to Sections 5.4 and 5.5 below and governing laws. We reserve the right to make royalty payments to authors within the United States through electronic funds transfer unless another method of payment is requested. Royalty payments made to authors outside of the United States will be made by check unless another method of payment is requested. If another method of payment is requested a service charge may be imposed.

Royalties paid by check which are not submitted for payment within six months will be charged a service fee equal to 10% of the face value of the check for each additional month it not submitted for payment. Requests for reissuance of Royalty check will be processed with the next Royalty payment. A service fee of ten dollars (\$10) will be charged for requests for information related to Royalties paid or accrued more than a year old.

5.4. Tax Withholding and Taxpayer Identification Number. All royalty payments to you will be subject to applicable tax requirements. You will provide us with all necessary information and documentation to comply with tax requirements including your Taxpayer Identification Number ("TIN") and a completed Internal Revenue Service ("IRS") form W-9. If you are a single person, the "Taxpayer Identification Number" is understood to be the personal Social Security Number. If you are not a U.S. citizen or permanent resident alien, you must submit appropriate documentation to allow us to fulfill tax obligations for foreign persons. In the event that you fail to provide us with the proper aforementioned documentation and information, or fail to fully comply with the provisions of these Terms and Conditions, we will have the right to withhold from royalties owed to you any moneys required to be deducted or withheld in compliance with the tax code or other governing laws. You understand that you will have no right to seek reimbursement from us for such withholdings and payment by us to the proper authorities.

5.5. Withholding of Royalty Payments. When you do fully comply with the provisions of Section 5.4, we will cease withholding payments. However, you will have no right to receive from us any amounts withheld and remitted to taxing authorities pursuant to Section 5.4.

5.6. **Transfer of Ownership of Work.** You may assign the ownership of the Work and the right to receive royalty payments to a different party by completing all of the following: providing payment to us for all Services selected, providing us with the new party's TIN and W-9 or other applicable documentation (see above), providing the new party's agreement to the Services Order Form and these Terms and Conditions in its entirety, and by obtaining the prior written approval of us. This approval may be withheld by us at our sole discretion for any reason. In the event that we consent to the assignment of payments, you and such transferee shall jointly and severally reimburse, indemnify, and hold harmless us for any tax liability, penalty, interest or fee imposed by any federal, state or local taxing authority, for any reason in connection with the assignment of any payment pursuant to this Section. In such event, you and such transferee shall execute such indemnification or other agreements as may be requested by us.

All applicable payments to us must be made prior to its commencement of the selected Services. All payments made by you to us are non-refundable, except as may be specifically provided otherwise in these Terms and Conditions.

5.7. **Check Payment.** When you provide a check as payment, you authorize us either to use the information from your check to make a one-time electronic funds transfer from your account or to process as a check transaction. When we use information from your check to make an electronic funds transfer, funds may be withdrawn from your account as soon as the same day your payment is received, and you will not receive your check back from your financial institution.

5.8. **Book Returns.** Unless you have purchased the Book Sellers Return Program at the time of book purchase, all books sold either by us or from a third-party retailer are non-returnable.

6. YOUR REMEDIES

6.1. **YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM RELATING TO OUR PERFORMANCE UNDER THESE TERMS AND CONDITIONS WILL BE FOR US, AT OUR CHOOSING AND UPON WRITTEN NOTICE TO YOU, TO EITHER A) USE COMMERCIALY REASONABLE EFFORTS TO CURE, AT OUR EXPENSE, THE MATTER THAT GAVE RISE TO THE CLAIM FOR WHICH WE ARE AT FAULT, OR B) TO RETURN TO YOU ONLY THE FEES PAID FOR THE PARTICULAR SERVICE WHICH PROMPTED THE CLAIM.** You shall review and inspect the Work. Any claim under these Terms and Conditions must be made within thirty (30) days of delivery or performance by us of your selected Services. You will work with us to resolve all issues and disputes regarding Services prior to seeking any remedy under this Section 6. To the fullest extent legally permitted, you agree not to allege that the remedies in this Section fail their essential purpose.

7. TERMINATION OF AGREEMENT

7.1. **Suspension of Services.** Upon a breach, default, or failure by you to comply with these Terms and Conditions or the failure to cooperate with us in the provision of any Services, we will have the right to suspend any or all performance until you cooperate with these Terms and Conditions and/or cooperate with us in the provision of Services.

7.2. **Termination.** Our agreement and these Terms and Conditions shall continue until one of the following occurs:

- a. Upon thirty (30) days' written notice, you terminate our agreement for any reason other than a breach of contract by us. You agree to pay us for any amounts due on items purchased on the Services Order Form, and we will retain all moneys previously paid by you to us.
- b. Upon thirty (30) days' written notice, we terminate our agreement for any reason other than a breach of contract by you. We agree to refund all monies paid by you for the Services if termination occurs within one year of the Agreement's commencement unless the Agreement is terminated pursuant to Section 2.4.
- c. By us immediately upon written notice if you have failed to pay us for any selected Services after we have given prior written notice to you of such nonpayment (in which case we will have the right to retain all moneys previously paid by you to us).
- d. Except pursuant to Section 7.2(c), upon either party terminating the agreement in the event of breach or default by a party to these Terms and Conditions which remains unresolved after thirty (30) days' written notice.
- e. Termination by mutual written agreement of the parties.

In the event of termination of the agreement, we will discontinue distribution of the Work, and the provisions addressing future performance shall survive the termination, including, but not limited to, Sections 3, 4, 5, 6, and 13.

8. RECOMMENCEMENT

After we provide the Work to you in all formats you have purchased, we agree to make the Work available for sale for the period of two (2) years. After this two-year period, we reserve the right to discontinue making the Work available. If you later decide to make the Work available again for purchase, you agree to pay a resubmission fee, after which we will agree that the Work will be made available for sale for the period of one (1) year after resubmission. In such event, all previous terms will recommence in accordance with your previously-signed Services Order Form.

As the Work can be available in multiple formats, we reserve the right to terminate and recommence individual ISBN's of the Work.

9. NO WAIVER

Any waivers of rights must be in writing and no prior waiver will affect a party's rights as to a subsequent breach. Our rights and remedies shall be distinct, separate, and cumulative. No action or inaction by us shall operate to exclude or deprive us of any other rights allowed to us by law.

10. FORCE MAJEURE

We will be excused from our obligations if our performance is prevented by events outside of our reasonable control, including, without limitation, acts of God, wars, riots, strikes or other labor disputes, natural disasters, fire, or severe weather. In such event, we will notify you and will provide an estimate of how long performance will be delayed. If performance will be delayed more than 90 days, you may terminate the agreement.

11. SEVERABILITY

If any part of these Terms and Conditions is found to be invalid or unenforceable, the remaining provisions of these Terms and Conditions shall continue to be binding and effective.

12. NOTICES

All notices, requests, demands and other communications pertaining to these Terms and Conditions shall be in writing and shall be deemed given when received upon delivery by hand, transmission by facsimile or mailing by registered or certified mail, return receipt requested, first class postage prepaid, addressed as follows:

(a) If to us:

Trafford
1663 Liberty Drive
Bloomington, IN 47403
Fax: 812/961-1023

(b) If to you:

All material sent from us to you will be sent to the address indicated in the "Author's Information" section of the Services Order Form.

13. GOVERNING LAW; ARBITRATION; JURISDICTION

Our agreement and these Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Indiana without recourse to conflicts of law principles. Any dispute between the parties MUST be submitted to binding arbitration administered by the American Arbitration Association ("AAA") to take place in Bloomington, Indiana, before one arbitrator in accordance with the Commercial Arbitration Rules and Mediation Procedures of the AAA ("AAA Rules"). You acknowledge and agree that the Services provided to you are solely for commercial or business purposes and NOT for personal or household use. The parties hereby expressly acknowledge and agree that the Supplementary Procedures for Consumer-Related Disputes under the AAA Rules shall not apply to arbitration pursuant to these Terms and Conditions. In the event you institute such arbitration, then without limiting the applicability of the AAA rules, you must serve the complaint initiating arbitration upon us at the address provided above at the same time as you submit such complaint to the AAA. The arbitrator will be obligated to award the prevailing party of any such proceedings all costs, attorneys' fees and other expenses incurred by such prevailing party in the arbitration proceedings. Any award entered by the arbitrator may be enforced in any court of competent jurisdiction.

14. HEADINGS

The headings of the Sections of these Terms and Conditions are inserted for convenience only and shall not be deemed to constitute a part hereof.

15. TRANSMISSION BY YOU; ACCEPTANCE BY US

You will be bound by these Terms and Conditions upon completion of the Services Order Form and clicking "I Accept" where indicated herein. The Services offered pursuant hereto are only valid if you click "I Accept" where indicated below. If you do not agree to be bound, click "Cancel" where indicated. As to us, these Terms and Conditions will be deemed to be accepted by, and binding upon, us at such time as we receive confirmation that full payment from you for the initial Services has been received and irrevocably credited to us.

16. ASSIGNMENT

Our agreement and these Terms and Conditions may not be transferred, delegated or assigned by either party without the prior written consent of the other party, except that we may assign the agreement and these Terms and Conditions in connection with the sale of our business or a merger with a third party. These Terms and Conditions shall be binding upon, and shall inure to the benefit of, the successors and assignees of you and us.

17. AMENDMENTS

We may amend these Terms and Conditions, including but not limited to amendments to royalty payment structure and timing, at any time with 30 days electronic or written notice to you. Such notice may be made to you via electronic mail, facsimile, or postal mail. You will be deemed to have accepted and agreed to these amendments unless you submit a written request to terminate this agreement via written notice to us within 30 days at the address in Section 12 of these Terms and Conditions, which shall be your sole and exclusive remedy in the event of your disagreement to such an amendment.

18. PURCHASE OF ADDITIONAL SERVICES

In the event of you purchase additional services, these Terms and Conditions take precedence for all services. Information regarding other services are available on the Trafford website at www.Trafford.com and subsequent pages. That information, in conjunction with these Terms and Conditions, shall be binding for use and fulfillment of each service that you may select.

19. ENTIRE AGREEMENT

The Services Order Form and these Terms and Conditions contain the entire agreement of the parties and supersedes all prior agreements or communications between the parties concerning the subjects contained herein. These Terms and Conditions may not be amended orally, but only by an agreement in writing that is signed by both parties.