



# Ella Smith Communications

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## TERMS AND CONDITIONS

Thanks for taking the time to review Ella Smith Communications' Terms and Conditions ('our Ts & Cs').

We're about to embark on a business journey together that involves trust and clear communication. And our time together will be much more enjoyable if we understand our roles, responsibilities and obligations to each other.

***PLEASE NOTE: By indicating you want to work with us and paying your deposit, you are also stating that you have taken the time to read and agree to the Terms and Conditions of our working arrangement.***

# General Agreement Terms and Conditions

## 1) The briefing process

**1.1 All clients (that's you) of Ella Smith Communications (that's me/us) undertake a briefing process.** This involves discussing your project needs via phone (first preference), face-to-face meeting (preferred for Sydney clients with larger projects), or Skype for 30-60 minutes (third preference). During this phase, we will ask you the particulars of your project and any clarifying questions. We may record our briefing session by taking notes and in some cases, audio. We do this to ensure we know, from the very beginning, what you need.

**1.2 You understand that our job is to market, write for or provide counsel to your organisation and/or your project.** As the project owner, you are required to have an understanding of what your project entails prior to engagement. Our role as your strategic communications consultants or copywriters is to distil your business story into a marketable format. Therefore, your idea needs to be in production and moving towards development in order to qualify for marketing services unless it is classed as being in the 'idea development stage' (see 1.5).

**1.3 You provide us with the information we need to review your project needs effectively.** If you are a start-up, a fledgling business with no online presence and/or in the middle of a rebrand/revamp of your business, we will need to see supporting documentation of your idea.

This includes, but is not limited to a business plan, product documentation and/or some form of written proof of concept. All of these details are dealt with in the strictest confidence. We make a commitment to you to treat your business idea with genuine respect. And we have an expectation that this will be reciprocated by you supplying the information we need to create your quotation.

**We will also be given access to your existing public presence.** During the process, you will be asked to supply your existing relevant marketing materials, including social media channels, your website URL and/or any other pertinent documentation, so that an informed proposal can be prepared for your project.

**1.4 We keep all this information confidential.** The materials are reviewed by us to ensure we have an informed appreciation for your needs and are able to make appropriate recommendations during the Quotation stage. If a formal non-disclosure agreement is required, we sign it at this stage.

**1.5 In the case of idea development (i.e. where your business is not formed yet and you are unable to produce appropriate proof of concept) you MUST commit to a marketing foundation plan as your first level of engagement with us.** This level of understanding and study needs to be completed prior to other services commencing. While some potential clients want to start a chat over coffee and pick our brain on how to turn your dream into a reality, the fact remains you need a handle on what your business is first.

The aim of a Marketing Foundation Plan is to obtain the level of information required to create an actionable plan for your project going forward. This is billed at \$1,999 + GST and is customised to your particular business idea.

## 2) Quotations and proposals

**2.1 Quotations are based on the scope of the work given at the time of our initial contact during the briefing stage.** When we provide you with a quote, it is usually in the form of a proposal that outlines your project's background, what you need assistance with, what our approach to the project will be, and a quotation based on the elements within that proposal. It includes a breakdown of what we will do. Your quotation is valid for 30 days from the date noted on the proposal.

**2.2 You need to read the quotation proposal.** We know that sounds like a given. Some people have a tendency to jump to the money part, so we need to make this clear. Your proposal acts as the Scope Of Work and is a living, breathing document that we work from. So the time to say, "*Hold on a second, I am not sure we need that*" or "*What does that mean?*" is after you have read and reviewed the proposal and **before** you pay the deposit invoice.

**2.3 Your quotation includes revisions and re-writes.** As this varies based on the scope of the project, how many rounds of revision you are entitled to will be noted within the Proposal. The standard offering is 2 revisions per quotation for websites and 1 revision for PR/communications/marketing plans. Additional revisions will be charged per the rate outlined in your proposal. You need to approve these extra charges prior to the additional work commencing. This is another reason why you need to read the proposal to ensure that what we deliver in the draft stage matches what you expect.

**2.4 Scope creep and on-the-fly changes cost extra money.** As each proposal and its quotation is created after careful consideration of your project's needs and time requirements, and based on efficient business systems and timely approvals at your end, any modifications, changes and/or additions to the original scope will cost you extra. In the instances where additions, modifications and changes apply beyond the agreed scope of work, you will be notified via email of the cost and work required to support your changes. In order for the changes to take place, you need to respond to the affirmative in writing by letter or email.

So we can keep your budget on target right from the start, we urge our clients to advise us of any and all additional ideas, requests or requirements prior to paying the holding deposit or invoice so they can be incorporated into your proposal.

**2.5 We only accept approval of quotes and proposals in writing.** We need an email from you to state the project is approved. We cannot accept verbal confirmation by phone or in person under any circumstances.

**2.6 We work with you to craft a proposal that suits your project requirements.** In most instances, this will include a baseline quotation that centres on your specific needs, as well as any additional public relations, corporate communications, marketing, copywriting, coaching, strategy, content and/or social media support that would work for your project. You can choose the elements you see fit the project based on your budget and needs. Once you make the decision on the elements in the proposal, we will send a revised, amended quote and/or deposit invoice. You are always in control of what you will be spending. As such, you can decline elements you think are not necessary and request their removal from your proposal. But like any good professionals, we will look at what we can do to improve your situation and that will include choices.

**2.7 The prices we quote are done so with both our budgets in mind.** So please don't ask for discounts. We're helpful, reasonable and open to feedback. But we can't - and will not - compete with the guy down the road who is fresh out of university who will do it for a wink and a handshake, or someone overseas who has moved from working in a call centre into writing marketing copy.

Because we need money to pay our suppliers, feed kids and pay the mortgage we'll decline any offer of founder status, deferred payment and/or promises of future profit share deals in lieu of actual payment for work completed.

## 3) Financials

**3.1 We will supply you an invoice together with appropriate payment details for your project.** You'll review it, agree and organise payment.

**3.2 For projects over \$500,** a non-refundable deposit of 50% is payable prior to work commencing.

**3.3 For projects of \$500 or less,** the entire balance needs to be paid prior to work commencing.

**3.4 For retainers,** we'll be making a 3 month commitment to each other based on an agreed monthly fee depending on how many days you need. These are billed monthly in advance, and payable within 14 days.

**3.5 Once you make the payment, and we receive Proof of Payment and/or clearance in our bank account prior we will provide you with a scheduled work date.** This is so work can be scheduled accordingly. Once work is complete, the balance of your invoice is due within 14 days of issue. Copyright is transferred to you once payment is received. Payments are GST inclusive.

**3.6 We expect you to be a responsible businessperson with your financials in order.** By accepting a quote and engaging our services, you accept responsibility for any invoice that remains unpaid for more than 15 days. This responsibility includes paying 10% interest on your overdue account from the 15<sup>th</sup> day through to the 22<sup>nd</sup> day. For accounts more than 21 days in arrears, a 20% invoice late fee will be charged. If we need to engage debt collectors you will be responsible for paying for the debt collectors, too. Bottom line: pay on time and we'll have a great relationship. Make our accountant chase you, and we both get pretty sad and stressed pretty quickly.

**3.7 Any costs associated to the project (e.g. couriers, other media, travel, purchases you request I make to help support your work, online fees, software etc) are to be paid directly by you.** We will send through the costs and invoices to you to make payment. That way, you can keep track of what you spend on outside costs and have the appropriate records for your tax. We don't buy things on client's behalf because it becomes a right pain come EOFY.

**3.8 If at any time you wish to terminate your project with us, we will bill you for work undertaken up until at that time.** Please remember your deposit is non-refundable. We will send what we have to any new supplier you choose. We've never encountered this situation, but we recognise that sometimes what looked like a beautiful business partnership may have been only worthy of a brief flirtation. So as long as you don't leave us to pick up the tab, we will be able to part in a friendly and professional manner.

**3.9 In the case of an early cancellation of a retainer, you'll need to pay us for the work completed plus the 50% of the retainer that remains.** This is because we only accept a limited amount of retainers per month and schedule days 3 months in advance. In order to fill that gap, we'd need to do some pretty dandy footwork so there needs to be a little compensation in those cases. Plus it also prohibits the occasional business that thinks a retainer is a great way to get a cheaper rate. We can only offer that discount for ongoing work, so the cancellation clause helps deter that temptation.

## 4) Work processes

**4.1 Meetings are often big sinkholes of time that neither of us really require to work effectively on your project.** To keep things as lean and efficient as possible - unless a quarterly meeting is included as part of your retainer - we keep face-to-face meetings to a minimum. To help wean any previous meeting addicts off this often costly, undocumented and fruitless process, we charge travel time and booking fees.

**4.2 Timelines are transparent.** We make a commitment to schedule your project in and let you know when the work will begin, when you should expect drafts, and based on draft feedback, when your finished project will be completed. You in turn need to make a commitment to providing us with the information we need to start your project, turn around your feedback and give approval in a timely manner.

**4.3 Life is messy and things happen.** So if either of us finds that the timeline is unachievable due to equipment and power failure, personal injury, or wholly unexpected major events, we both need to be responsible enough to let the other know.

**4.4 We work with you to have a timeline that suits.** We know you are probably working on 17 other things while we toil away at your marketing and/or content so we prefer not to nag. If you are busy and your turnaround on feedback or edits need an extra bit of breathing space, be sure to let us know.

**4.5 Maintaining a full and complete schedule ensures that we can keep a roof over our heads and food in our kids and pets' tummies.** As such, we schedule work based on who pays reliably and what timeline suits that customer. If you think you'll be running late in supplying assets and edits, please drop us an email in advance. We'd much prefer an email that lets us know that we have to find someone else to fill your space in an emergency rather than expecting work that does not show. A lost work day means we miss out on income for that day. Let us know! That way we'll keep things ticking along nicely.

**4.6 To avoid upsetting clients who have already booked in and are chomping at the bit, it is highly unusual for us to take on last-minute jobs.** To avoid burnout and to maintain personal health, it's also rare we will work evenings, weekends and public holidays. If you want a rushed project, the minimum spend is \$1,000 and you'll need to pay a 25% 'Rush Rate' on the quote. Payment also needs to be in full and upfront. Yes, you can tell we prefer a normal schedule and reading books at night to wrangling last-minute changes.

**4.7 In the case of a retainer, we set aside a day or days of your choosing as your preferred day of service per week.** You will need to send us anything pertinent to completing the day's work by midday the day before so we get the chance to ask questions if needs be. This is your booked day. So if something happens that you need to change it, you need to let us know ASAP. In some instances, we can roll your retainer day to a later stage in the month. However, you need to be responsible for scheduling your work, too. Your monthly retainer is a set fee for each month. So if you choose not to use your days in a month, if we can't roll them over in agreement, you will forgo them.

**4.8 Reasonable communication helps the project come to life.** We welcome emails and feedback. We like to look after our clients with regular communication and updates, and we have no problem with introducing you to people that can help with the journey or taking the lead on communicating what you need with a designer or developer. However, there is a limit to what is reasonable. Extra project management with other freelancers, your staff and companies associated with your projects development will be at additional cost if outside a reasonable limit. If this starts to become an issue, we'll be sure to let you know. If you need extra support, we can arrange a mentoring situation (fees apply).

**4.9 Phone calls tend to disrupt our flow and we prefer they are kept to a minimum.** We can schedule regular check-in meetings on Skype or by phone about your project or retainer as part of your delivery. Due to needing quiet to get writing done during the day, you may get diverted to voicemail. Email is better for both of us as it is quicker, and it also means we have a reference point. We are also happy with being on Skype for quick questions and answers via IM.

## 5) Expectations

### **5.1 You can expect a professional, hard working, honest and WYSIWYG work experience with us.**

While we can't make any guarantees about the success of your marketing (anyone who says they can get you on the first page of Google or to lunch with Richard Branson to discuss your startup idea is on...something. I hope you understand that), we do guarantee we will be professional, considerate of your time and budget, and that we will deliver a high quality experience geared towards giving you the best possible chance of success with your project.

**5.2 Truth and creativity in marketing.** We will always market your project in a way that highlights its need in the eye of the customer and in a way that doesn't get you into hot water. We will bring fresh, tailored and customised ideas to your project while being ethical, transparent and honest in our advice and approach.

**5.3 Our aim is to empower you and your business.** So you can expect a coach-like attitude to your project. We want you to have a hassle free and positive experience with us. We also want to future-proof your experience by sharing what we know with you so you can keep making improvements after we leave. So you can be assured we won't be making it sound complicated when it isn't, or that the information we provide is there just to look pretty.

**5.4 Gaining consensus from the stakeholders in your business is your responsibility.** We have one point of contact for your project alone. This is you, or a person you nominate within your business/organisation. If revisions, feedback and reviews need to pass by Boards, co-founders, business partners, employees, someone at the water cooler, a mate at the footy, or your spouse, that's up to you (or your nominated contact) to glean and incorporate into your feedback. We cannot and will not revise your project because your partner had a last minute addition or based on 7 different opinions from 23 different people. You need to have a unified and singular response during our feedback cycles to minimise the margin for error and workload.

**5.5 You accept that you are not our sole client.** To help our relationship remain rewarding and pleasant, you will need to personally commit to:

- giving reasonable times for responses (so please don't email us, text me and call within 20 minutes demanding a response)
- accepting unforeseen illness/injury can happen and that we may need time to get well again
- not taking our refusal to move our booked and paid for annual holiday personally, and
- not insisting we spend our evenings off with you as a mandatory 'team bonding' experience.

While this probably all sounds a little OTT to reasonable business people, these examples, sadly, are based on real life experiences we have encountered. So we just wanted to say we are interested in having a respectful relationship through this bunch of safe words and by setting clear boundaries.

## 6) Copyright and intellectual property

**6.1 Until you pay your invoices for work completed, the copyright and IP remains with Ella Smith Communications.** This is to protect me from you skipping the final invoice and using our work without paid permission. Once you pay the bill, the work I have given you is yours.

**6.2 I promise not to share your business intelligence, marketing ideas, keywords or anything prepared and discussed with a competitor.** Say no more. Confidentiality is critical.

**6.3 I promise not to work with anyone who is your direct competitor while I look after you.** We both know that with each client, I acquire experience and knowledge in your industry that may prove useful with other work down the track. However, this will be knowledge of the industry, not specifically of your business, that will be informing future projects. While we're together, it's all about you.

**6.4 Cross promotion floats our boat.** This is why I will openly share your business and/or product with my audience via sharing your marketing campaigns, writing case studies for my website and helping you reach eyeballs by leveraging my following. However, if you need a quieter approach (such as in a ghost-writing situation) or your organisation prefers NDAs to be in place, just say the word.

**6.5 You are responsible for securing your trademarks, IP and making sure you aren't copying someone else's idea accidentally or intentionally.** If you've been naughty and stolen someone else's idea and that leads to major problems, I cannot be held responsible for this. Your business registration and not infringing on someone else's lawful property is your responsibility.

**6.6 If someone does try to sue you due to breaches of IP or associated problems, you agree to indemnify me from all legal fees, claims, costs and expenses.** And to buy me a very nice case of red wine for putting me through such a scary ordeal. I in turn promise not to do anything intentionally that could be considered campaign theft or repurposing.

**6.7 Once you receive your assets from me, you can edit it, change it and even slice it into small tiny pieces if you wish.** However, beyond making me cry because you've potentially changed the appearance of one of my wordy little children, you also accept that changes to my work will remove my responsibility to them. So (for example) if you ask for me to do some SEO copywriting based on approved keywords and then you change the copy and your rankings lower, that's not my fault. Or if I improvise a campaign based on tests and metrics, if you change the basis, parts and/or modify that campaign in any way, any targets set as part of the campaign become null and void. The short story is I create to a brief based on knowledge acquired at the time. If you make changes after hand over, you need to take responsibility for any negative outcomes.

## 7) SEO and knowledge-based performance

**7.1 Nobody can predict what the next change to the Google algorithm may be.** I will however endeavour to use the best possible SEO practices at the time of your project being undertaken to ensure that everything from an SEO copywriting perspective has been done. All decisions based on SEO will be to Google Webmaster Guidelines.

**7.2 I will supply you information related to on-page and off-page SEO to be used to support the project.** This includes (but isn't limited to) recommendations regarding WordPress plug-ins, back-link acquisition, directory submission, social proof and social media, and anything else that is needed to help your website rank. You and your developer can turn that into confetti if you want to, however if you choose to bypass the recommendations, I can't be held responsible for issues you have in terms of ranking or Google being cranky, penalising or banning you.

**7.3 I will always advise based on current marketing practices and social media requirements.** It's within my mandate to stay as up to date as possible. It's in your mandate to accept my advice and also accept that nothing in marketing will succeed 100% of the time all the time. I will ensure that my advice meets the guidelines and codes of each platform. You will agree to understanding that all things in social media take time to get a community buzzing.

**7.4 Content isn't just for Christmas.** While content marketing is a great way to market your business, you accept that it will take time to build a library of articles and to develop an engaged, trusting audience via content. I will at all times pursue opportunities to ensure your content gains exposure with the right audience and will support the marketing of your business. You in turn will not freak out if 3 blogs into the process, Pam Anderson hasn't got you on speed dial. You understand that content is a slow burn in the marketing world and will require time to build.



## 8) Entire agreement

These Terms and Conditions form the basis of our working relationship moving forward. These Terms and Conditions supersede any assumptions and/or verbal conversations. Additional terms and conditions and/or agreed modifications will be supplied to you as part of your proposal. Any waiver of breach of specific conditions cannot be construed as a waiver and/or breach of the entire agreement or non-related clauses. Australian law governs these Terms and Conditions, and you agree and submit to exclusive jurisdiction in the Australian courts. Any disputes will be held within the New South Wales courts. You agree through payment of monies (deposit or otherwise) and verbal agreement of a working relationship that we will abide this agreement at all times.

You made it to the end. Excellent job.

### **Please review, sign and date:**

Signed

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Name

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Company

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Title

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Date

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