

## ***General Terms of Business for Translation Offices***

### ***1. Scope of the service***

- 1.1 Unless agreed otherwise in writing, the following conditions shall apply with respect to the scope of the service.
- 1.2 The Principal undertakes to declare the purpose for which he intends to use the translation, e.g. if it is intended
  - 1.2.1 solely for information,
  - 1.2.2 for publication and advertising,
  - 1.2.3 for legal purposes or for patent proceedings,
  - 1.2.4 or for any other purpose in relation to which special translation of the texts by the translator undertaking the assignment is important.
- 1.3 The Principal may only use the translation for the specified purpose. In the event that the Principal uses the translation for a purpose other than that for which it was commissioned and supplied, then he shall have no rights whatsoever to claim damages from the translation office, who shall be referred to hereinafter as the Contractor.
- 1.4 If the Contractor is not informed of the purpose of a translation, then he shall execute the translation to the best of his knowledge for information purposes (see point 1.2.1).
- 1.5 Unless agreed otherwise, translations are to be presented by the Contractor in the form of a single typed copy on A 4 paper.
- 1.6 Unless agreed otherwise, the rules laid down under point 6.3 of DIN 2345 ("translation assignments") shall apply with respect to the formal structure.
- 1.7 If the Principal desires the use of specific terminology, he must declare this to the Contractor, and must at the same time supply the requisite documents to this end. The same shall apply in relation to linguistic alternatives.
- 1.8 The Principal shall be exclusively responsible for the technical and linguistic accuracy of the source text.
- 1.9 The Contractor shall have the right to pass on the assignment to equally qualified third parties. In this case however he shall remain the sole contractor.
- 1.10 The name of the Contractor may only be attached to the published translation provided the entire text has been translated by him, or provided no amendments have been made, to which the Contractor has not given his consent.

### ***2. Fees***

- 2.1 The fees (prices) for translations shall be based on the Contractor's fee scales (price lists), which shall be applicable to the special type of translation concerned in each case.

Translations shall be charged on the basis of the number of lines of the translated text, with the exception of documents, which shall be charged by the page.  
1 line = 50 to 55 keystrokes, 1 page = approx. 25 typed lines (DIN A4).  
A minimum charge of one page shall be applied.
- 2.2 Services for which the work involved exceeds the scope of simple text processing shall be charged on an agreed basis (e.g. copy is supplied in special file formats; a special graphic form, which requires its own software, is required by the Principal).
- 2.3 Unless agreed otherwise, the charging basis shall be the target text (the text after translation).
- 2.4 If a cost estimate has been given, this shall only apply provided it has been given in writing.
  - 2.4.1 Other cost estimates shall only constitute a non-binding guide.
  - 2.4.2 The cost estimate shall be produced to the best of the Contractor's professional knowledge, however no guarantee of accuracy can be given. If cost increases of more than 15 % should arise after award of the assignment, then the Contractor shall immediately notify the Principal. In the event of unavoidable cost overruns of up to 15%, no special agreement shall be required, and such costs may simply be invoiced.

- 2.5 Cost estimates which are given without sight of the documents for translation shall only constitute a non-binding guide. If no new cost estimate is prepared by the Contractor, then even if no information in accordance with point 2.4.2 is provided to him, the Principal shall be obliged to pay the actual costs of the translation in accordance with point 2.1.
- 2.6 Unless agreed otherwise, amendments to the assignment or supplementary assignments may be charged at reasonable prices.
- 2.7 Wage and salary increases under collective bargaining agreements shall entitle the Contractor to apply subsequent price increases.
- 2.8 The receivable and subsidiary receivables shall retain a stable value. The consumer price index published monthly by the Austrian Central Office of Statistics, or a replacement index, shall serve as a measure for calculation of the stable value. The index figure for the month of contract conclusion shall serve as reference variable. Upward or downward fluctuations in the index figure of a scope of up to and excluding 2.5% shall be ignored. In the event of greater fluctuations in either direction, this scope is to be recalculated, whereby in all cases the first index figure outside the applicable scope must form the basis both for determining the new receivable amount and for calculation of the new scope. The amounts thus ascertained are to be rounded up to one decimal place.
- 2.9 The full new translation fee may be charged for checking translations produced by third parties.
- 2.10 Appropriate supplements may be charged for urgent and weekend work.

### **3. *Delivery***

- 3.1 The deadline for delivery of the translation shall be determined on the basis of written declarations by both parties. If the delivery date is a key constituent of the assignment accepted by the Contractor, then the Principal must explicitly declare this fact in advance.  
The receipt in good time of all the specified requisite documents to be supplied by the Principal (e.g. original texts and all necessary background information), and also observance of the agreed payment terms and other obligations, shall be prerequisites for observance of the delivery date.  
If these prerequisites are not met on time, then the delivery date shall be extended accordingly.
- 3.2 Failure to observe the delivery date shall only entitle the Principal to withdraw from the contract provided the delivery date was explicitly agreed to be a fixed date (see first paragraph of point 3.1) and the Principal has met all the prerequisites of the second paragraph of point 3.1. The Principal shall have no rights to claim damages, except in the case of loss caused intentionally or through gross negligence.
- 3.3 Unless agreed otherwise, delivery shall be by post.
- 3.4 The Principal shall bear the risks associated with delivery (transmission).
- 3.5 Unless agreed otherwise, the documents provided to the Contractor by the Principal shall remain in the possession of the Contractor after completion of the translation assignment. The latter shall not be obliged to store these or to deal with them in any other way. However the Contractor must ensure that such documents are not used in a manner which is in breach of the contract.

### **4. *Force Majeure***

- 4.1 In an instance of force majeure, the Contractor must notify the Principal immediately. An instance of force majeure shall entitle both the Contractor and the Principal to withdraw from the contract. However the Principal must reimburse the Contractor for expenditure or work already undertaken.
- 4.2 The following in particular shall be deemed to be instances of force majeure:  
Accident, industrial disputes, acts of war, civil war, the occurrence of unforeseeable obstacles, which decisively prejudice the Contractor's ability to complete the assignment as agreed.

### **5. *Liability for defects (warranty)***

- 5.1 All complaints with respect to the quality of the translation must be made within four weeks of delivery (posting) of the translation. Complaints must be adequately explained and substantiated by the Principal in writing.

- 5.2 For the purposes of eliminating the defects, the Principal must set the Contractor a reasonable deadline for making good the translation, and must give him the opportunity to do so. If he refuses to do so, then the Contractor shall be exempted from liability for defects. If the defects are made good by the Contractor within the reasonable deadline, then the Principal may not claim a price reduction.
- 5.3 If the Contractor allows the reasonable extended deadline to pass without eliminating the defect, then the Principal may withdraw from the contract or reduce the remuneration (diminution of price). No right of withdrawal or diminution of price shall exist in the event of minor defects.
- 5.4 Warranty claims shall not entitle the Principal to retain agreed payments or to offset.
- 5.5 For translations which are used for printed materials, liability for defects shall only exist provided the Principal explicitly declares in his order that he intends to publish the text, and provided the Contractor is presented with proofs (correction by author) up to and including the version of the text after which no further amendments are made. In this case the Contractor is to be paid a reasonable cost reimbursement for the correction or else a reasonable hourly rate to be invoiced by the Contractor shall be payable.
- 5.6 No liability for defects shall exist for the translation of poorly legible, illegible or incomprehensible original texts. The same shall apply for the checking of translations as described under points 2.9 and 5.5.
- 5.7 Stylistic improvements and the harmonisation of specific terminology (in particular sector-related or in-house terms) etc. shall not be acknowledged as defects in the translation.
- 5.8 No liability for defects shall exist for abbreviations specific to the assignment, which were not declared or explained by the Principal when the assignment was placed.
- 5.9 The Contractor shall not be liable for the correct reproduction of names and addresses in the case of original texts which are not written in Roman script. In such cases the Principal is recommended to print out the spelling of names and own designations on a separate sheet in block capitals in Roman script. The same shall apply for illegible names and figures in birth certificates or other documents.
- 5.10 Figures shall only be reproduced in accordance with the original manuscript. No liability shall be accepted for the conversion of figures, measurements, currencies and the like.
- 5.11 The Contractor shall be liable for manuscripts, originals and the like provided by the Principal, where these are not returned with the translation, as a custodian within the meaning of the General Civil Code, for a period of four weeks after completion of the contract.  
No duty to insure shall exist. Point 3.5 shall apply accordingly for their return.
- 5.12 No liability whatsoever shall be accepted for the provision of translators and interpreters, other than for losses caused intentionally or through gross negligence during their selection.
- 5.13 No liability shall be accepted for correction work according to point 2.9, if the original text is not provided.
- 5.14 If translations are transmitted via data transfer (such as e-mail, modem etc.), the Contractor shall not be liable for defects and prejudice caused during such transfer (such as the transmission of viruses, breach of confidentiality obligations), provided the Contractor has not acted with gross negligence.

## **6. Damages**

- 6.1 All claims for damages against the Contractor shall be limited to the (net) amount of the invoice, unless imperatively prescribed otherwise by law. Instances in which the loss was caused through gross negligence or intentionally shall be excluded from this restriction of damages. No liability for lost profit or consequential loss shall exist.
- 6.2 If the Contractor has contracted a liability policy for financial losses, then claims for damages shall be limited to the amount indemnifiable under the policy in the specific case concerned.

## **7. Payment**

- 7.1 Unless it has been agreed otherwise, payment shall be made in cash on hand-over of the translation or immediately upon receipt of the delivery.  
The Contractor shall be entitled to demand a reasonable payment on account. Payment in advance of the full amount for the assignment may be demanded from private individuals and foreign principals.

If collection is agreed and if the translation is not collected on time by the Principal, then the Principal shall be liable for payment on the date on which the translation was ready for collection.

7.2 In the event of default in payment, the Contractor shall be entitled to retain documents relating to the assignment which have been provided (e.g. manuscripts for translation). In the event of default in payment, default interest in the amount of 2% above the National Bank base rate shall be charged.

7.3 In the event of failure to observe the payment terms agreed between the Principal and the Contractor, the Contractor shall be entitled to suspend work on the contracts in hand until such time as the Principal meets his payment commitments. The same shall apply for contracts for which a fixed delivery date was agreed (see point 3.1).

If the value of the payment obligation is well below the value of the document, then retention shall only be possible up to the value of the payment obligation.

The Principal shall not derive any legal claims through suspension of work, and the rights of the Contractor shall in no way be prejudiced as a result.

#### **8. *Confidentiality obligation***

The Contractor shall be obliged to observe confidentiality. He must ensure that persons commissioned by him are obliged to observe confidentiality. The Contractor shall not be liable for failure by the person commissioned to abide by this obligation, provided he has not been grossly negligent in the choice of the person commissioned.

#### **9. *Place of jurisdiction***

The place of performance for all contractual relationships underlying these Terms of Business shall be the Contractor's place of business. For legal disputes concerning the existence or non-existence of such a legal relationship and for legal disputes arising out of such contractual relationships, the Contractor's place of jurisdiction or the Principal's general place of jurisdiction, at the Contractor's choice, shall have exclusive competence for actions brought by the Contractor, whilst the Contractor's general place of jurisdiction shall have exclusive competence for actions brought against the Contractor. It is agreed that Austrian law shall apply.

#### **10. *Binding nature of the contract***

Even if individual points of the contract should be invalid in law, the remainder of the contract shall remain binding.

#### **N.B. – Note for the user of these General Terms of Business!**

**In the case of the following rules, the provisions of the Consumer Protection Act (KSchG) are to be observed, where these General Terms of Business are used during orders placed by consumers ("Consumer transactions").**

##### *Re point 2.4*

Art. 5 (2) KSchG states that cost estimates are imperatively binding.

##### *Re point 2.4.2*

Art. 6 (2) no. 3 KSchG states that exceeding the cost estimate must be explicitly individually negotiated and cannot be agreed with legal effect through General Terms of Business.

*Re point 2.6*

The restrictive provisions of Art. 6 (1) no. 5 KSchG are to be observed. The envisaged escalation clause should however be valid.

*Re point 5*

The special rules of Arts. 8 and 9 of the KSchG (Warranty) are to be observed.

The same applies to the provisions of Art. 6 (1) nos. 7 and 8 of the KSchG relating to restriction of the right of retention and of the opportunity to offset.

*Re point 5.12*

Art. 6 (2) no. 1 KSchG prevents restriction of liability.

*Re point 7.2*

In the event of default in payment, the interest may be a maximum of 5 % per year, according to Art. 6 (1) no. 13 KSchG.

*Re Art. 9*

According to Art. 14 KSchG, the place of jurisdiction may only be determined by the consumer's place of residence, the normal place of abode or the place of employment.

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