



# GERMAN TRANSLATION SERVICES

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## General terms and conditions of business

In this document any numbered clause shall be put in context with any other part. Section headings are provided for convenience of reading only.

### 1. Definitions

**1.1.** Translator shall mean the party providing a translation in the normal course of business. The Translator shall normally be the creator of a translation unless the Client has been explicitly informed that the act of translation (the translation task) will be subcontracted or the translator customarily trades as an intermediary. Translation task shall mean the preparation of a translation or any other translation-related task such as revising, editing etc., which calls upon the translation skills of a translator, but not copywriting or adaptation.

**1.2.** Client shall mean the party commissioning a translation in the normal course of business. The parties may be natural or legal persons, including as an example only, private individuals, associations, partnerships, economic interest groupings or corporate entities. A translator may act as an intermediary. A relationship involving an intermediary acting in the normal course of business shall comprise two (or more) direct and discrete translator/client contracts. Source material shall be understood to mean any text or medium containing a communication that has to be translated and may comprise text, sound or images.

### 2. Copyright in source material and translation rights

**2.1.** The translator accepts an order from the client on the understanding that performance of the translation task will not infringe any third party rights. The client undertakes to keep the translator harmless from any claim from infringement of copyright and/or other intellectual property rights in all cases. The client likewise undertakes to keep the translator harmless from any legal action including defamation that may arise as a result of the content of the original source material or its translation.

### 3. Fees: binding quotations and non-binding estimates

**3.1.** In the absence of any specific agreement, the fee to be charged shall be determined by the translator on the basis of the client's description of the source material, the purpose of the translation and any instructions given by the client. The translator shall give no fixed quotation until she has seen or heard all the source material and has received firm instructions from the client. Any fee quoted, estimated or agreed by the translator on the basis of the client's description of the task may be subject to amendment by agreement between the parties if, in the translator's opinion on having seen or heard the source material that description is materially inadequate or inaccurate. Any fee agreed for a translation that is found to present latent special difficulties of which neither party could be reasonably aware at the time of offer and acceptance shall be renegotiated, always provided that the circumstances are made known to the other party as soon as reasonably practical after they become apparent. An estimate shall not be considered contractually binding, but given for guidance or information only.

**3.2.** Subject to the second paragraph of clause 3.1. above, a binding quotation once given after the translator has seen or heard all the source material shall remain valid for a period of thirty days from the date on which it was given, after which time it may be subject to revision.

**3.3.** Costs of delivery of the translation shall normally be borne by the client. Where delivery requested by the client involves expenditure greater than the cost normally incurred for delivery, the additional cost shall be chargeable to the client. If the additional cost is incurred as a result of action or inaction by the Translator, it shall not be borne by the Client, unless otherwise agreed.



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**3.4.** Other supplementary charges, for example those arising from: discontinuous text, complicated layout or other forms of layout or presentation requiring additional time or resources, hardly legible copy or hardly audible sound media, terminological research, certification, priority work or work outside normal office hours in order to meet the client's deadline or other requirements, may also be charged. The nature of such charges shall be agreed in advance.

**3.5.** If any changes are made in the text or to the client's requirements at any time while the task is in progress the translator's fee, any applicable supplementary charges and the terms of delivery shall be adjusted in respect of the additional work.

## **4. Delivery**

**4.1.** Any delivery date or dates agreed between the translator and the client shall become binding only after the translator has seen or heard all of the source material to be translated and has received complete instructions from the client. The date of delivery shall not be of the essence unless specifically agreed in writing. Unless otherwise agreed, the translator shall dispatch the translation in such a way that the client can reasonably expect to receive it not later than the normal close of business at the client's premises on the date of delivery. Unless otherwise agreed, the translator shall provide the translation by e-mail.

## **5. Payment in advance**

**5.1.** The translation fee is based on the price list of the translator, applicable for the respective type of translation ordered. Translations are charged according to the word count of the original document (source text) provided for the work of translation.

**5.2.** For express orders and orders to be finished over the weekend reasonable surcharges may apply.

**5.3.** Payment in full or in instalments to the translator shall be effected in advance before the work of translation commences. Only for long assignments or texts with more than 15000 words, the translator may request an initial payment and periodic partial payments on terms to be agreed.

**5.4.** Settlement of any invoice, part-invoice or other payment shall be made by the due date agreed between the parties or in the absence of such agreement within the period stipulated in the above mentioned clause.

**5.5.** Where delivery is in instalments and notice has been given that an interim payment is overdue, the translator shall have the right to stop work on the task in hand until the outstanding payment is made or other terms are agreed. This action shall be without prejudice to any sums due and without any liability whatsoever to the client or any third party.

## **6. Copyright of the client's document**

**6.1.** The translator is not obliged to check, whether a client is entitled to translate or have the source texts translated. The client expressly represents that he/she holds all those rights which are required for performance of the work of translation provided by the translator.

**6.2.** The client shall make known the purposes for which a translation is to be used, if the translation is protected by copyright laws. The client shall acquire only those rights that correspond to the stated purpose of the translation.

**6.3.** The client shall be obliged to indemnify and hold harmless the translator against any and all claims asserted by third parties on the grounds of infringement of copyrights, rights related



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to copyrights, other industrial property rights or personal rights. This shall also apply, if the client fails to inform the translator about the intended use and/or uses the translation for purposes other than the purpose indicated. The translator undertakes to immediately notify the client of such claims and in the case of legal action the translator shall give the client notice of intervention. If upon notification of intervention the client fails to join the proceedings as the translator's joint litigant, the translator shall be entitled to accept the claim of the plaintiff and to recover its loss from the client irrespective of whether the claim accepted was lawful or not.

## **7. Copyright of the translated document**

**7.1.** In the absence of specific written agreement to the contrary, copyright in the translation remains the property of the translator. Copyright in any completed or residual part of a translation shall remain the property of the translator, and the conditions applicable to assignment of copyright and the grant of a license to publish shall be in relation to a completed translation. The name of the translator may only be added to a published translation, if the entire text was translated by the translator and no changes were made to the translation. When the translator retains the copyright, unless otherwise agreed in writing, any published text of the translation shall carry the following statement: © (English or German) text (Translator's name) (Year date) as appropriate to the particular case.

**7.2.** Where the translator assigns the copyright and the translation is subsequently printed for distribution, the client shall acknowledge the translator's work in the same weight and style of type as used for acknowledgement of the printer and/or others involved in production of the finished document, by the following statement. (English or German) translation by (Translator's name), as appropriate to the particular case. Unless otherwise agreed the provisions of BS EN Standard 15038 shall apply with respect to formal requirements.

**7.3.** Where a translation is to be incorporated into a translation memory system or any other corpus the translator shall license use of the translation for this purpose for an agreed fee. Such incorporation and use shall only take place after the license for the purpose has been granted by the translator in writing and the agreed fee has been paid in full. It shall be the duty of the client to notify the translator that such use will be made of the translation.

**7.4.** All translations are subject to the translator's right of integrity. If a translation is in any way amended or altered without the written permission of the translator, she shall not be in any way liable for amendments made or their consequences. If the translator retains the copyright in a translation, or if a translation is to be used for legal purposes, no amendment or alteration may be made to a translation without the translator's written permission. The right of integrity may be specifically waived in advance by the translator in writing.

## **8. Confidentiality and safekeeping of the clients documents**

**8.1.** No documents for translation shall be deemed to be confidential unless it is expressly stated by the client. However the translator shall at all times exercise due discretion in respect of disclosure to any third party of any information contained in the client's original documents or translations thereof without the express authorisation of the client. Nevertheless a third party may be consulted over specific translation terminology queries, provided that there is no disclosure of confidential material.

**8.2.** The translator shall be responsible for the safekeeping of the client's documents and copies of the translations for a limited time. to be mutually agreed.

**8.3.** If requested to do so by the client the translator shall insure documents in transit from the translator, at the client's expense.



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## 9. Cancellation and frustration

**9.1.** If a translation task is commissioned and subsequently cancelled, reduced in scope or frustrated by an act or omission on the part of the client or any third party, the client shall except in the circumstances described in clause 10.2. pay the translator the full contract sum unless otherwise agreed in advance. The work completed shall be made available to the client.

**9.2.** If the client cancels an already confirmed order, the following cancellation cost rates shall come into effect, cancellation after:

21 days before delivery	free of charge
less than 21 days before delivery	25%
less than 14 days before delivery	50%
less than 7 days before delivery	75%
less than 3 days before delivery	100%

of the final price stated in the free quote for the client.

**9.3.** If a client goes into liquidation or becomes insolvent the translator shall have the right to terminate a contract.

**9.4.** Neither the translator nor the client shall be liable to the other or any third party for consequences, which are the result of circumstances wholly beyond the control of either party.

## 10. Complaints and disputes

**10.1.** Failure by the translator to meet agreed order requirements or to provide a translation, which is fit for its stated purpose shall entitle the client to reduce, with the translator's consent, the fee payable for work done by a sum equal to the reasonable cost necessary to remedy the deficiencies. Such entitlement shall only apply after the translator has been given one opportunity to bring the work up to the required standard. This entitlement shall not apply unless the translator has been notified in writing of all alleged defects.

**10.2.** Any complaint in connection with a translation task shall be notified to the translator by the client (or vice-versa) within one month of the date of delivery of the translation. If the parties are unable to agree, the matter may be referred by the more diligent party to the Arbitration Committee of the Chartered Institute of Linguists. Such referral shall be made no later than two months from the date on which the original complaint was made.

**10.3.** If a dispute cannot be resolved amicably between the parties, or if either party refuses to accept arbitration, the parties shall be subject to the jurisdiction of the Courts of England and Wales.

## 11. Responsibility and liability

**11.1.** The translation task shall be carried out by the translator using reasonable skill and care and in accordance with the provisions and spirit of the Code of Professional Conduct of the Chartered Institute of Linguists. Time and expense permitting, the translator shall use her best endeavours to do the work to the best of her ability, knowledge and belief. A translation shall be fit for its stated purpose and target readership, and the level of quality specified. Unless specified otherwise, translations shall be deemed to be required to be for information quality. The liability of the translator on any grounds whatsoever shall be limited to the invoices value of the work.



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## 12. Applicability and integrity

**12.1.** These Terms and Conditions of Service are construed jointly with the Code of Professional Conduct of the Chartered Institute of Linguists, in order to be effective. They shall also be subject to any detailed requirements or variants expressly specified in the order relating to a particular translation task. No waiver of any breach of any condition in this document shall be considered as a waiver of any subsequent breach of the same or any other provision.

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