

GENERAL TERMS & CONDITIONS

1. Scope of services

1.1 These General Terms & Conditions shall apply to all present and future business relations between a customer (the Client) and the company providing the services listed in clause 1.2 (hereinafter referred to as the Language Service Provider), unless expressly agreed otherwise in individual cases.

1.2 The scope of the services provided for the Client shall essentially include translation, project management and the planning and execution of any additional services.

1.3 The Language Service Provider undertakes to carry out all the assigned jobs to the best of its knowledge and in accordance with the principles of economic efficiency.

1.4 The Client undertakes to inform the Language Service Provider at the time of preparing the quotation of the intended use of the translation, specifying whether the translation is intended for the following purposes, for example:

1.4.1 for a specific country;

1.4.2 for information only;

1.4.3 for publication and advertising;

1.4.4 for legal purposes or patent procedures;

1.4.5 for any other purpose where certain specifications are relevant to the translation of the texts by the Language Service Provider.

1.5 The Client may use the translation for the specified purpose only. In the event that the Client uses the translation for a purpose other than agreed, the Language Service Provider shall not be liable.

1.6 The Client shall submit the orders for translation jobs in electronic form or in some other form. An order shall be deemed to have been placed only if it has been confirmed in writing by the Language Service Provider.

1.7 Unless agreed otherwise, a single copy of any given translation must be delivered by the Language Service Provider in electronic form.

1.8 The Client shall inform the Language Service Provider of the target language into which the text is to be translated. The Client must notify the Language Service Provider of any request for the use of a particular technology, at the same time providing the necessary documents for this purpose.

1.9 The Client must issue the Language Service Provider with any information and documents which are needed for the production of the translation (customer glossaries, illustrations, drawings, tables, abbreviations, etc.) and must do so without being asked at the time the order is placed. The Client shall be answerable for any errors resulting from the failure to meet these obligations.

1.10 The Client shall have sole responsibility for the technical and linguistic accuracy of the source text.

1.11 The Language Service Provider shall have the right to assign the job to equally qualified subcontractors but shall in this case remain the sole Language Service Provider and contractual partner of the Client.

1.12 The name of the Language Service Provider may only be acknowledged in the published translation if the entire text has been translated by the Language Service Provider and if no changes were made to the translation which were not approved by the Language Service Provider.

2. Fees and additional invoicing terms

2.1 The fees (prices) for translations shall depend on the rates charged by the Language Service Provider for the particular type of translation in any given case. Translation charges shall be based either on standard lines of translated text (1 standard line = 55 characters including spaces) or on the number of words in the source text, with the exception of short translations which are charged at flat rates. A flat rate can also be quoted, however, for a longer translation and agreed in advance. Revisions shall be charged at an hourly rate according to the difficulty of the text.

2.2 Special charges shall be agreed for services which require more time and effort than simple word processing (e.g. templates supplied in special file formats; special graphic forms requiring proprietary software requested by the Client).

2.3 Unless agreed otherwise, the target text (the translated text) shall form the basis for calculation or, if quoted on the basis of words, the number of words in the source text.

2.4 Cost estimates shall only be deemed binding if set out in writing and issued after submission of the documents to be translated. Other cost estimates shall always be understood to be entirely approximate and subject to confirmation.

Cost estimates shall be prepared to the best of our knowledge, but no guarantee can be given for the accuracy of such quotations. The Language Service Provider shall inform the Client immediately of any cost increases of more

than 15% after the order has been placed. No special notice need be given of unavoidable excess costs of up to 15%, and these costs can be invoiced without additional notification.

2.5 Cost estimates submitted without viewing the documents requiring translation shall be strictly subject to confirmation. The Client shall be obliged to pay the actual costs of the translation pursuant to subsection 2.1, including in the absence of any notification pursuant to subsection 2.4, unless a new cost estimate is issued by the Language Service Provider.

2.6 Unless agreed otherwise, changes to orders or additional orders may be invoiced at reasonable prices.

2.7 Increases or cuts in wages or salaries under collective labour agreements shall also entitle the Language Service Provider to make subsequent amendments to prices.

2.8 Unless agreed otherwise in individual cases, the full translation fee may be charged for reviewing third-party translations.

2.9 Appropriate surcharges may be agreed separately for express jobs and weekend work.

3. Delivery

3.1 The Client shall be notified of delivery times to the best of our knowledge and belief. These can only ever be estimated dates. A delivery shall be deemed to have been made when the translation has been sent to the Client.

3.2 If the delivery date is a firm deadline essential to the order accepted by the Language Service Provider and if the Client has no interest in a later delivery, the Client must make this clear in advance. Where binding terms are agreed, adherence to the lead time and delivery deadline shall be conditional upon due receipt of all the documents to be supplied by the Client as specified (e.g. source texts and all the necessary background information) and upon compliance with the agreed terms of payment and other obligations. If these requirements are not met on time, the delivery deadline for the Language Service Provider shall be extended sufficiently to take account of the delay in supplying the required documents; where binding terms have been agreed, it shall be up to the Language Service Provider to assess whether the agreed delivery deadline can still be met given that the client has supplied the documents late.

3.3 Failure to meet the delivery deadline shall entitle the Client to withdraw from the contract only if the delivery deadline was expressly agreed as a fixed date (cf. subsection 3.2 (first paragraph)) and the Client has fulfilled all the requirements set out in subsection 3.2 (second paragraph). The Client may not make claims for damages, with the exception of damages caused by deliberate intent or gross negligence.

3.4 Unless agreed otherwise, delivery shall be made by email.

3.5 The risks associated with the delivery (transmission) shall be borne by the Client.

3.6 Unless agreed otherwise, the documents sent to the Language Service Provider by the Client shall remain with the Language Service Provider after the translation job has been completed. The Language Service Provider shall be under no obligation to store the documents or to take any other action with the documents. The Language Service Provider must take measures, however, to ensure that these documents are stored carefully so as to obstruct unauthorised access, to abide by the duty of confidentiality, and to prevent any use of the documents which would be in breach of contract.

4. Force majeure

4.1 The Language Service Provider must notify the Client immediately in any event of force majeure. Force majeure shall entitle both the Language Service Provider and the Client to withdraw from the contract. The Client must compensate the Language Service Provider, however, for any expenses already incurred or services already rendered.

4.2 Force majeure shall most notably include industrial disputes, acts of war, civil war, and occurrence of unforeseeable events which can be shown to have significantly impeded the ability of the Language Service Provider to complete the assignment as agreed.

5. Liability for defects (warranty)

5.1 Unless special agreements have been made regarding the quality standards required of the translations, the Language Service Provider shall translate the text in all conscience and in full for informational purposes.

5.2 Any complaints regarding the quality of the translation must be made within five days of delivery of the translation (date on which it was sent by email) otherwise the translation shall be deemed to have been accepted. The Client must provide adequate written explanation and evidence of the defects.

5.3 The Client must grant the Language Service Provider a reasonable period of time and sufficient opportunity to remedy the defects and make the necessary improvements. Refusal to make such allowances shall release the Language Service Provider from liability for defects. If the Language Service Provider remedies the defects within the time allowed, the Client shall not be entitled to a price reduction.

- 5.4 If the Language Service Provider fails to take the necessary action to rectify the defects by the extended deadline, the Client may withdraw from the contract or seek a decrease in the payment (price reduction). In the case of minor defects, there shall be no entitlement to withdraw from the contract or to claim a reduction in price.
- 5.5 Warranty claims shall not entitle the Client to withhold agreed payments or to offset them.
- 5.6 Liability for defects in respect of translations which are used for printed works shall apply only if the Client gives express written notice in the order of the intention to publish the text and if proofs (author's alterations) are submitted to the Language Service Provider for review until such time as the version of the text is final and no further changes are made. In this case, the Language Service Provider shall be paid a reasonable amount in remuneration for the proofreading or a reasonable hourly fee as invoiced by the Language Service Provider.
- 5.7 No liability for defects shall apply in respect of the translation of indecipherable, illegible or incomprehensible documents. This shall also apply to revisions of translations pursuant to subsections 2.8 and 5.6.
- 5.8 Stylistic improvements or agreed changes to specific terminology, etc. (especially terms used within an industry or a company) shall not be considered to be translation defects.
- 5.9 There shall be no liability for defects in respect of abbreviations in the text which were not indicated or explained by the Client when the order was placed.
- 5.10 The Language Service Provider shall not accept any liability whatsoever for the correct reproduction of names and addresses in the case of documents which are not written in Latin script. In any such cases, the Client is advised to spell names and titles on a separate sheet in Latin block letters. This shall also apply to illegible names and numbers in birth certificates or in other documents.
- 5.11 Numbers shall be reproduced only as given in the source text. The Client shall be responsible for the conversion of numbers, measurements, currencies and suchlike.
- 5.12 The Language Service Provider shall be liable for the safe keeping of source texts, originals and suchlike provided by the Client, unless they are returned to the Client with the delivery, acting as custodian as defined in the Austrian Civil Code (Allgemeines bürgerliches Gesetzbuch – ABGB) for a period of four weeks after completion of the job. There shall be no obligation to take out insurance. Subsection 3.6 shall apply analogously to the act of restitution.
- 5.13 No liability shall be assumed for the provision of translators, except for damages caused by deliberate intent or gross negligence in the selection process.
- 5.14 No liability shall be assumed for proofreading services pursuant to subsection 2.8 if the source text is not provided.
- 5.15 The Language Service Provider shall send the finished translations by means of data transfer systems conforming to the latest available standards. Due to the technical circumstances, however, the Language Service Provider cannot furnish any guarantee or assume any liability in respect of defects and adverse effects arising in this context (such as transmission of viruses, breach of duty of confidentiality, damage to files), unless the Language Service Provider is found to have acted with gross negligence at the very least.
- 5.16 If claims are made against the Language Service Provider for copyright infringement in connection with a translation, or if claims are made by third parties, the Client shall release the Language Service Provider in full from all liability.

6. Damages

6.1 All claims for damages against the Language Service Provider shall be limited to the (net) invoice amount, unless the law dictates otherwise. This limitation of damages shall not apply to cases in which the damages were caused by gross negligence or deliberate intent, nor shall it apply to personal injury. No liability shall be accepted for loss of profit or consequential damages.

7. Retention of title

7.1 All the documents provided to the Client in connection with the job shall remain the property of the Language Service Provider until such time as all liabilities arising from the contract have been paid in full. The Client shall have no right of use until this time. The Language Service Provider shall hold the copyright to the translation.

7.2 Any kinds of documents not included in the job, such as parallel texts, software, brochures, catalogues and reports, and all documents entailing costs, such as literature or scripts, shall remain the intellectual property of the Language Service Provider and shall be protected by the relevant statutory provisions.

7.3 Their transfer and reproduction shall be strictly subject to the consent of the Language Service Provider.

8. Copyright

8.1 The Language Service Provider shall be under no obligation to check whether the Client has the right to translate the source texts or to have them translated. The Client shall give express assurance of disposal of all rights necessary for the execution of the job.

8.2 In the case of translations protected by copyright, the Client must specify the intended purpose. The Client shall only acquire those rights which correspond to the stated purpose of the translation.

8.3 The Client shall be obliged to indemnify and hold harmless the Language Service Provider in respect of all claims made by third parties arising from infringements of copyrights, ancillary copyrights, other industrial property rights or personal rights. This shall also apply if the Client does not specify any intended purpose or uses the translation for purposes other than those stated. The Language Service Provider shall notify the Client of any such claims without delay and shall notify the Client of any legal action which will be taken. If the Client does not join the proceedings as a party to the dispute beside the Language Service Provider following said notification, the Language Service Provider shall be entitled to acknowledge the claim of the plaintiff and to obtain compensation from the Client regardless of the legality of the acknowledged claim.

9. Payment

9.1 All prices shall be quoted in euro excluding VAT.

9.2 Invoices shall be payable strictly net within 10 days of their receipt in the currency stated on the invoice.

9.3 The Language Service Provider shall be entitled to ask for a reasonable amount of payment on account in advance. Private individuals and foreign clients may be asked to pay the full order amount in advance.

9.4 Payments shall be remitted to the bank account specified.

9.5 In the event of late payment, the Language Service Provider shall be entitled to retain order documents which were provided (e.g. manuscripts to be translated). Interest on arrears shall be charged at an appropriate rate in the event of late payment.

9.6 In the event of failure to adhere to the terms of payment agreed between the Client and the Language Service Provider (e.g. payment on account), the Language Service Provider shall be entitled, after prior notification, to discontinue work on the relevant jobs until such time as the Client meets the payment obligations. This shall also apply to jobs in respect of which a fixed delivery time has been agreed (cf. subsection 3.2). The discontinuation of work in this connection shall not entitle the Client to bring legal claims of any kind, nor shall the rights of the Language Service Provider be prejudiced in any way.

10. Duty of confidentiality

10.1 The Language Service Provider shall have a duty to maintain confidentiality and must also impose the same duty of confidentiality upon any subcontractors. The Language Service Provider shall not be liable for the failure of any subcontractors to comply with this duty, except in case of gross negligence in the selection of the subcontractor.

10.2 The Language Service Provider cannot provide any absolute guarantee of protection of trade secrets and confidential information and other classified data and information during the electronic transfer of texts and data and any other communications in electronic form between the Client and the Language Service Provider as it cannot be ruled out that unauthorised third parties might gain electronic access to the texts during their transmission.

10.3 With regard to compliance with data protection legislation, please refer to our data privacy statement which is published on the website www.prolingua.at.

11. Severability clause

11.1 The invalidity of individual clauses in these terms shall not affect the validity of the remainder of the conditions. Should any clause be or become invalid or unenforceable, both parties undertake to replace it with a legally permissible, valid and enforceable clause which comes closest to the economic intention behind the clause requiring replacement.

12. Written form

12.1 Any amendments and additions to these General Terms & Conditions and any other agreements between the Client and the Language Service Provider must be set out in writing.

13. Applicable law and place of jurisdiction

13.1 The place of performance for all contractual arrangements subject to these General Terms & Conditions shall be the registered place of business of the Language Service Provider. The court having local jurisdiction as regards the subject matter at the registered office of the Language Service Provider shall rule on any legal disputes arising from this contractual relationship. Austrian law shall apply.