

## **General Terms and Conditions of Schweickhardt Das Übersetzungsbüro (July 2019)** **Schweickhardt Das Übersetzungsbüro is certified according to Standard EN ISO 17100**

### **1 Scope of performance**

- 1.1 Unless otherwise agreed in writing, the following conditions apply in respect of the scope of performance.
- 1.2 The Client must state what he wishes to use the translation for, e.g. whether it is intended
  - 1.2.1 for information only,
  - 1.2.2 for publication and advertising,
  - 1.2.3 for legal purposes or patent proceedings,
  - 1.2.4 or for any other purpose, in the context of which it is important for the texts to be translated by the translator in a particular way. Translations by "e-mail", data carrier or fax can only be delivered as for the purpose envisaged in 1.2.1.
- 1.3 The Client may only use the translation for the stated purpose. In the event that the Client uses the translation for a purpose other than the purpose for which the translation has been commissioned and delivered, the Client has no entitlement of any kind to any compensation from the Translation Agency (hereinafter the Contractor).
- 1.4 If the purpose of a translation is not made known to the Contractor, the Contractor must according to its best knowledge and belief execute the translation for the purpose of information (see 1.2.1).
- 1.5 Translations are to be presented in electronic form. Other ways of submission can be agreed with the Client.
- 1.6 Unless otherwise agreed, the regulations of 6.3 of DIN 2345 ("Translation Contracts") apply in respect of the formal structure.
- 1.7 If the Client requires specific terminology to be used, he must inform the Contractor and at the same time hand over the necessary documents. The same applies in regard to any language variants.
- 1.8 The Client has exclusive responsibility for the technical and linguistic accuracy of the source text.
- 1.9 The Contractor has the right to pass on the translation job to third persons who are equally qualified, but in such cases remains exclusively the Contractor.
- 1.10 The name of the Contractor may only be attached to the published translation if the entire text has been translated by the Contractor, or if no changes have been made to which the Contractor has not agreed.

### **2 Charges**

- 2.1 The charges (prices) for translations are based on the Contractor's tariffs (price lists) which are to be applied for the respective type of translation. Translations are charged for on the basis of the number of lines of the translated text, except in the case of documents, which are charged for on the basis of the number of pages. 1 line = 50 to 55 key strokes, 1 page = approx. 25 standard lines (DIN A4). The minimum charge made for a translation is as for one page.
- 2.2 Services which extend beyond the framework of simple processing of the text, in terms of the amount of work involved, will be charged for on the basis of agreement (e.g. texts delivered in special file formats; a particular graphic form requiring special software as requested by the Client).
- 2.3 Unless otherwise agreed, the charge is calculated on the basis of the target text (translated text).
- 2.4 Any cost estimates provided are non-binding.  
Cost estimates are drawn up according to the Contractor's best professional knowledge, but no guarantee can be provided as to their accuracy. If cost increases of over 15% arise after the order has been placed, the Contractor will inform the Client immediately. If unavoidable cost increases of up to 15% arise, no separate communication is necessary and these costs can be invoiced.
- 2.5 Cost estimates which are issued without any inspection of the documents for translation apply only as a non-binding guideline. Unless a new cost estimate is drawn up by the Contractor, the Client must pay for the actual costs of the translation as envisaged in 2.1, even if no information pursuant to 2.4 has been provided.
- 2.6 Unless otherwise agreed, an appropriate charge can be made for changes to orders or additional orders.
- 2.7 The full charge as for a first translation can be invoiced for the checking of translations performed by third parties.
- 2.8 Appropriate surcharges may be applied for urgent or weekend work.

### **3 Delivery**

- 3.1 The written declarations issued by both parties are authoritative as far as the deadline for the delivery of the translation is concerned. If the delivery date forms an essential component of an order which has been accepted by the Contractor, the Client must expressly communicate this in advance. It is a precondition for the observance of the delivery deadline that all the documents to be provided by the Client are received in a timely manner and in the stated extent (e.g. source texts and all necessary background information) and that the agreed payment conditions and other obligations are observed. If these preconditions are not fulfilled in a timely manner, the delivery deadline is deferred accordingly.
- 3.2 Non-observance of the delivery deadline only entitles the Client to withdraw from the contract if the delivery deadline has been expressly agreed in respect of a specified date (see 3.1 first paragraph) and the Client has fulfilled all preconditions as stated in 3.1 second paragraph. If the Client decides to withdraw from the contract, he must reimburse the Contractor for the costs arising up to the

point of withdrawal. Compensation claims of the Client are excluded, except in the event of damages caused by malicious intent or gross negligence.

- 3.3 Translations are delivered by e-mail. A different way of delivery (by post or personal pick-up) can be agreed with the Client.
- 3.4 The risks associated with delivery (transmission) are borne by the Client.
- 3.5 Unless otherwise agreed, the documents provided to the Contractor by the Client, and any translation memories and glossaries created by the Contractor, are retained by the Contractor after the translation order has been executed. The Contractor is not under any obligation to preserve these or to deal with them in any other way, and in particular is not obliged to hand them over to the Client, but must ensure that these documents cannot be used in any way which is not in accordance with the contract.

#### **4 Force majeure**

- 4.1 The Contractor must inform the Client immediately if any event of force majeure occurs. Force majeure entitles both the Contractor and the Client to withdraw from the contract. However, the Client must compensate the Contractor for any costs already incurred or work already performed.
- 4.2 The following are in particular to be regarded as force majeure: chance events, labour disputes, the occurrence of unforeseeable obstacles which demonstrably result in the possibility of the Contractor completing the order as agreed being decisively impaired.

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

- 5.1 All complaints concerning the quality of the translation are to be made within two weeks following delivery (transmission by e-mail or date of posting). Any defects must be adequately commented on and proven by the Client in writing.
- 5.2 The Client must grant the Contractor an appropriate period to deal with the complaint, and the opportunity to do so, in order for the defect to be rectified. If the Client refuses to do so, the Contractor is released from his liability in regard to the defect. If the defects are rectified by the Contractor within the appropriate period, the Client is not entitled to any price reduction.
- 5.3 If the Contractor allows the appropriate grace period to elapse without rectifying the defect, the Client can withdraw from the contract or demand a reduction in the remuneration.  
No right of withdrawal or right to a reduction applies in the context of minor defects.
- 5.4 Claims under warranty do not entitle the Client to hold back payments which have been agreed or to undertake any offsetting.
- 5.5 For translations which are used for printed matter, liability for defects applies only if the Client expressly makes it known in his order that he intends to publish the text, and if proofs are presented to the Contractor (author's alterations) up to and including the version of the text after which no further alterations are made. In this case the Contractor is to be paid an appropriate cost reimbursement for the proofreading undertaken, or an appropriate hourly rate to be invoiced by the Contractor.
- 5.6 For translations of texts which are difficult to read (e.g. texts sent by fax) or which are illegible or incomprehensible, no liability of any kind applies in regard to defects. This applies also in respect of the proofreading of translations as envisaged in 2.8 and 5.5.
- 5.7 Stylistic improvements and modifications of specific terms (in particular sector-specific or company-specific terms), etc. are not regarded as translation defects.
- 5.8 No liability for defects applies in respect of abbreviations which are not stated or explained by the Client when the order is issued.
- 5.9 The Contractor accepts no liability for the correct rendering of names and addresses contained in texts which are not in Roman script. In such cases the Client is recommended to provide the spelling of names and special designations in Roman block capitals on a separate sheet. The same applies in respect of illegible names and figures on birth certificates or other documents.
- 5.10 Figures are reproduced solely on the basis of the manuscript. No liability is accepted for the conversion of figures, dimensions, currencies and similar.
- 5.11 No liability is accepted in regard to the provision of translators and interpreters, except in the context of damage caused by malicious intent or gross negligence.
- 5.12 No liability is accepted in regard to proofreading services as envisaged in 2.8 if the source text has not been made available.
- 5.13 Where translations are delivered by data transfer (such as e-mail, etc.), no liability of the Contractor applies in respect of defects and impairments arising in that context (e.g. transmission of viruses, violation of confidentiality obligations), except in the event of gross negligence on the part of the Contractor.

#### **6 Compensation for damages**

- 6.1 Unless otherwise specified as mandatory by law, all compensation claims asserted against the Contractor are limited to the amount of the invoice (net), except in cases where the damage has been caused by gross negligence or malicious intent. Liability for loss of profit or consequential damage does not apply.
- 6.2 If the Contractor has taken out liability insurance for pecuniary damage, compensation claims are limited to the amount reimbursed by the insurer in the specific case.
- 6.3 The Contractor undertakes to impose an obligation upon his employees concerning the confidentiality of the content of the translations. The Contractor is not liable for the non-observance of this obligation by the employees.

#### **7 Copyright**

- 7.1 The Contractor is not obliged to check whether the Client has the right to translate the source texts or have them translated. On the contrary, the Contractor is entitled to assume that the Client has obtained all rights in regard to third parties that are necessary for the execution of the order. The Client gives his express assurance that he has such rights.
- 7.2 In the case of translations which are copyright protected, the Client must state the intended purpose. The Client only acquires those rights that accord with the stated intended purpose of the translation.
- 7.3 The Client must hold the Contractor harmless against all claims asserted by third persons on the basis of violation of copyright, ancillary copyright, other industrial property rights or personal rights. This applies even if the Client does not state any intended purpose or uses the translation for purposes other than the stated purposes.
- 7.4 The Contractor must immediately notify the Client of any such claims and give third party notice if a claim is asserted in the courts. If the Client does not, upon such notice being given, enter the proceedings as a joint litigant, the Contractor is entitled to acknowledge the Claimant's claim and to hold himself harmless vis-à-vis the Client, irrespective of the legality of the acknowledged claim.

## **8 Payment**

- 8.1 Unless otherwise agreed, payment must be effected in cash upon handover of the translation or directly after the translation has been delivered. The Contractor is entitled to request an appropriate payment on account. Advance payment of the entire order total can be required from private persons and foreign clients. If collection has been agreed, but the translation has not been collected by the Client in a timely manner, the Client's payment obligation arises on the day on which the translation is made available for collection.
- 8.2 If payment is in arrears, the Contractor is entitled to retain contract documents (e.g. manuscripts to be translated). In the event of delay in payment, interest is charged at the rate of 2% above the respective interest rate of the national bank.
- 8.3 In the event of non-observance of the payment conditions agreed between the Client and the Contractor, the Contractor is entitled to suspend work on the orders placed with him until such time as the Client fulfils his payment obligations. This also applies in respect of orders for which a fixed delivery time has been agreed (see 3.1). The suspension of work does not give rise to any legal claims of any kind for the Client, on the one hand, neither are the rights of the Contractor prejudiced in any way on the other hand.

## **9 Duty of secrecy**

The Contractor is under an obligation of secrecy, and is responsible for ensuring that persons acting on his instruction are under an obligation of secrecy.

## **10 Place of jurisdiction**

The place of performance for all contractual relationships which are subject to the present terms and conditions is the place where the Contractor's registered office is situated. For legal disputes concerning the validity or non-validity of any such legal relationship, and for legal disputes arising from such contractual relationships, either the Contractor's place of jurisdiction or the Client's general place of jurisdiction (at the Contractor's choice) is competent for actions which are brought by the Contractor, and the Contractor's general place of jurisdiction is exclusively competent for actions which are brought against the Contractor. Austrian law is deemed as agreed.

## **11 Binding nature of the contract**

Even if individual points of the contract are legally invalid, the remaining parts of the contract continue to be binding.