

E.P.A. Language Services Ltd. Terms & Conditions of Business

IMPORTANT

These conditions contain provisions which define the contractual obligations of the Company as to price and performance. You accept that these conditions shall apply to the supply of any goods or provision of any services by the Company.

1. INTERPRETATION

- 1.1 In these Conditions:
"Client" means the person, firm or company who has requested the work;
"Conditions" means the standard terms and conditions of business set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed between the Company and the Client in accordance with clause 2.1.
"Contract" means any agreement to carry out work for the Client;
"Goods" means translations and other goods (such as proofreading, DTP or other), or any part thereof, to be supplied or produced by the Company for the Client;
"Services" means the services to be provided by the Company to the Client;
"the Company" means E.P.A. Language Services Ltd.;
"Work" means either the supply of Goods or provision of Services or both of them.
- 1.2 The headings shall not affect the construction of these Conditions.
1.3 In these Conditions the singular shall include the plural and vice versa; references to persons shall include bodies corporate, partnerships and unincorporated associations; and words importing the masculine shall include the feminine or neuter and vice versa, where the Contract so permits.

2. GENERAL

- 2.1 These Conditions shall apply to all Work for the Client and no variation or abrogation of any kind whatsoever shall be effective unless it is evidenced in writing, signed by a duly authorised officer of the Company and contains a specific reference to these Conditions being varied or abrogated.
2.2 The giving by the Client of any instruction for Work or any part thereof or the acceptance by the Client of delivery of the Goods or any conduct by the Client in confirmation of the transaction set out in the Company's quotation or letter of confirmation shall constitute unqualified acceptance by the Client of these Conditions, and any order placed by the Client for Work shall, notwithstanding that it may be expressed to be subject to certain terms and conditions, be deemed to have been placed subject to these Conditions and any acceptance by the Company of such an order shall be on and subject to these Conditions.
2.3 All information in the Company's website and other published matter are of a generally informative nature only and none of them form part of or are intended to form part of any Contract or give rise to any independent or collateral liability of whatsoever nature on the part of the Company.
2.4 A Contract shall commence on commencement of work by the Company on the Client's behalf.
2.5 Subject to earlier termination in accordance with Clause 9 a Contract shall terminate on completion of the Work and payment therefore by the Client.

3. PRICE AND DELIVERY

- 3.1 Prices quoted are exclusive of VAT.
3.2 Amendments made to the source text by the Client after the quotation stage may incur additional charges.
3.3 The price includes transmission to the address specified in the Company's quotation or letter or e-mail of confirmation. Delivery is deemed to have taken place on posting, delivery to a carrier, or after transmitting the Work by e-mail, and the risk shall thereby pass to the Client.
3.4 Any length of time or any date named or accepted by the Company for delivery of the Goods or provision of the Services is an estimate only.
3.5 The Company shall not be under any liability for any failure to perform any of its obligations under a Contract due to an act of God, war, riots, strikes and trade disputes (including by and with the Company's own employees), lock outs, fires, breakdowns, mechanical failures, disruption of energy supplies, interruption of transport, Government action or any other cause whatsoever outside the Company's control which affects the Company's business whether or not of like nature to those specified above.
3.6 If deliveries of the Work by instalments have been agreed the Company shall be entitled to make partial deliveries and to withhold deliveries of further instalments until the Work comprised in earlier instalments has been paid for in full.

4. PAYMENT OF THE PRICE

- 4.1 Payment shall be made within 30 days of the date of the invoice, and shall be made in full without any deduction, set off or abatement on any grounds, unless otherwise agreed in writing.
4.2 Where only part of the Contract Goods are delivered or only part of the Services performed, payment shall be made of the Contract price attributable to that part.
4.3 In the event of any delay or delays in performance of Services or despatch or delivery of Goods which are attributable to the Client's actions or failure to act, the Client must make payment to the Company in accordance with the above as if Services had been performed or the Goods had been delivered at the times at which but for such delay or delays such performance or delivery would have taken place. Any extra costs incurred as a result of such delay or delays will be added to the Contract price and will be payable by the Client.
4.4 Time for payment shall be of the essence and if the Client shall fail to pay for the Work when due the Company reserves the right to charge monthly interest on the outstanding amount at a rate of 2% above the base rate of Barclays Bank plc from time to time until the price is paid in full and in addition, but without prejudice to such right and all other rights and remedies, if the Client shall fail to pay for the Work when due the Company may treat the Contract as repudiated by the Client and may suspend the performance of the Contract until all overdue sums have been paid.

5. INTENDED USAGE AND LIABILITY

- 5.1 The Company shall use all reasonable skill and care in selecting the translators and other suppliers and personnel who will produce the Goods or perform the Services. No other terms as to care and skill whether express or implied shall be incorporated herein.
5.2 The Company warrants that the Goods shall be reasonably fit for the purpose made known in writing or orally to the Company by the Client prior to the start of the Contract. No terms, conditions or warranties, whether express or implied, about quality or fitness for purpose shall apply other than those set out in this Sub-Clause 5.2.
5.3 The obligations of the Company under a Contract are limited such that in the event of any failure to perform any obligation in accordance with the terms of the Contract (whether the same be due to any act, omission, negligence or wilful default of the Company or its servants or agents, or to any other cause whatsoever) the Company shall only be obliged, at the Client's option, either to re-perform the obligation in question or to refund to the Client the price (if already paid) attributable to the obligation in question.
5.4 For the purposes of Sub-Clause 5.3 an obligation shall be considered as re-performed when the Company has performed the obligation in question in all material respects in accordance with the terms of the Contract other than as to time of performance.
5.5 Notwithstanding Sub-Clause 5.3 the Company shall not be liable for any errors or defects in the Goods or Services unless the same is notified to the Company within a period of 21 days of receipt by the Client. The notice to the Company must specify the nature of the defect.
5.6 The Company shall be under no obligation to indicate or correct any errors or omissions in the original material supplied to the Company by the Client.

- 5.7 Notwithstanding anything contained in these Conditions (other than Sub-Clause 5.7), in no circumstances shall the Company be liable, in contract, tort (including negligence or breach of statutory duty), or otherwise howsoever and whatever the cause thereof, (i) for any loss of profit, business, contracts, revenues or anticipated savings, or (ii) for damage to the Client's reputation or goodwill, or (iii) for any loss resulting from any claim made by a third party, or (iv) for any special, indirect or consequential damage or loss of any nature whatsoever.
5.8 Nothing in these Conditions shall exclude or limit the Company's liability to a natural person for death or personal injury caused to that person by the Company's negligence.
5.9 The Company shall incur no liability to the Client for innocent or negligent misrepresentation by virtue of any statement made by or on behalf of the Company prior to the Contract, whether orally or in any letter, document or sales literature, and the Client shall not be entitled to rescind the Contract on the grounds of any such misrepresentation.
5.10 The Company has professional indemnity insurance.

6. CANCELLATION

- 6.1 If Work is commissioned and subsequently cancelled, the Client shall pay the Company a proportion of the price for all Work completed before cancellation.

7. NON-SOLICITATION

- 7.1 The Client agrees that, save with the prior written consent of the Company, during the term of a Contract and for a period of one year after termination of the Contract neither it nor any of its associated companies (as defined in section 416(1) of the Companies Act 1985) nor a partner of the Client will, either directly or indirectly, on its own account or for any other person, firm or company, solicit, employ, endeavour to entice away from the Company or use the services of a translator or other supplier who has provided Services or Goods on the Company's behalf to the Client under the Contract concerned ("Relevant Person").

8. CONFIDENTIALITY

- 8.1 All material handled by the Company will be treated as confidential. The Company will sign separate confidentiality agreements if so required by the Client.

9. CLIENT WARRANTIES

- 9.1 The Client warrants that:
9.1.1 material submitted by the Client for translation ("Material") shall not contain anything of an obscene, blasphemous or libellous nature and shall not infringe the copyright or other intellectual property rights of a third party;
9.1.2 in the event that the Client intends to use the Material for advertising purposes the Material conforms to all advertising regulations relevant to the Client's particular industry or business (including voluntary rules) and to all regulations which regulate advertising generally;
9.1.3 material submitted by the Client for translation or other Services shall not contain viruses or be corrupted in any way which might cause any inconvenience to the Company.
9.2 The Client shall keep the Company and all its employees and agents indemnified from and against all costs, claims, demands, expenses, fines, penalties and all liability whatsoever which may be made against the Company, its employees or agents or which the Company, its employees or agents may sustain, pay or incur as a result whether directly or indirectly of the Client's breach of any of the warranties set out above.

10. BREACH AND CLIENT'S INSOLVENCY

- 10.1 If the Client shall default in or commit any breach of any of its obligations to the Company or if any distress or execution shall be levied upon the Client or if the Client shall enter into any negotiations for arrangement or composition with its creditors or commit any act of bankruptcy or if any petition in bankruptcy shall be presented against it or, if the Client is a corporate body, any resolution is proposed or petition presented to wind up the Client or if a receiver of the Client's assets or undertaking or any part thereof shall be appointed or if the Client shall be deemed to be unable to pay its debts as they fall due the Company shall be entitled to determine forthwith any Contract then subsisting (whether or not these Conditions apply to such contract) without prejudice to any other claim or right the Company might make or exercise. In such circumstances the Company shall have the right to suspend or cancel further Work, and payment for all Work already supplied, provided or ordered shall become due immediately.

11. DISPUTE RESOLUTION

- 11.1 In the event of disputes of whatever nature in respect of the quality of translations or other services supplied by the Company, the matter shall be referred for resolution to a person agreed by the parties or, in default of agreement within seven days of notice from either party to the other and calling upon the other so to agree, to a person chosen, on the application of either party, by the Chairman for the time being of the Association of Translation Companies. Such person shall act as an expert and not as an arbitrator and shall be required by the parties to make his determination within 28 days of appointment. His decision shall be final, conclusive and binding on the parties. The costs of such expert shall be paid as he may direct or, in the absence of any direction, such costs shall be paid equally by the parties.

12. MISCELLANEOUS

- 12.1 Any notice to be given by one party to the other shall be deemed to be given upon its being posted or sent by telex or confirmed telefacsimile to the other party's registered office or, in the case of an individual or firm, to the last known address.
12.2 The Client shall not assign or transfer or purport to assign or transfer any Contract or the benefit thereof to any other person whatsoever without the prior written consent of the Company.
12.3 All contracts to which these Conditions apply shall be governed by, and construed in accordance with English law. The parties hereto agree to submit to the exclusive jurisdiction of the English courts.
12.4 The termination of a Contract, howsoever occasioned, shall be without prejudice to any obligation or rights on the part of either party which have accrued prior to such termination and shall not affect or prejudice any provision of the Conditions which is expressly or by implication provided to come into effect on, or continue in effect after, such termination.
12.5 No waiver by the Company of any breach of these Conditions by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
12.6 The Conditions constitute the entire agreement between the parties with respect to all matters referred to herein and supersede all earlier warranties, representations or statements made by the parties (whether oral or in writing). All other understandings, agreements, warranties, conditions, terms or representations whether express or implied (whether by statute, common law or otherwise) are excluded to the fullest extent permitted by law.
12.7 The Company may engage any person, firm or company as its subcontractor to perform all or any of its obligations under a Contract and the Company may assign any or all of its rights and obligations thereunder.
12.8 Any translation memory, glossary or any other tools used in creating the Work ordered by the Client and which are created by the Company for use on Work for the Client shall be considered the intellectual property of the Company.

13. CONSUMERS

- 13.1 Where the Goods are supplied under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Client are not affected by these Conditions.