

Terms and Conditions

1. Interpretation

- 1.1. 'Terms and Conditions' means these standard terms and conditions as set out below.
- 1.2. The clause headings are for convenience of reference only and shall not affect the construction or interpretation of these Terms and Conditions.
- 1.3. References to 'documents', 'records', 'books' and 'data' shall include information contained in computer programs, disks, records or any other machine readable form or records kept other than in a legible form, but capable of being produced into a legible form.
- 1.4. The word 'including' shall be understood to mean 'including without limitation' and the word 'includes' shall be understood to mean 'includes without limitation'.
- 1.5. Words of a technical nature shall be construed in accordance with general trade usage in the computer industry in England.
- 1.6. In the event of any conflict between any part of a Contract, the documents constituting the agreement between the parties shall have priority in the following order:
 - 1.6.1. Service level agreement (if any) entered into between the parties.
 - 1.6.2. These Terms and Conditions.
- 1.7. 'Confidential Information' means information (in any form) which is confidential either to you or to us and which either you disclose to us or we disclose to you in connection with the Services.
- 1.8. 'Intellectual Property Rights' means any rights in or to any patent, copyright, database right, registered design, design right, utility model, trade mark, brand name, service mark, trade name, business name, chip topography right, know how or Confidential Information, Translation Memory and any other rights in respect of any other industrial or intellectual property, whether capable of being registered or not and including all rights to apply for any such rights.
- 1.9. 'Order' means an order for the Services provided by you from time to time.
- 1.10. 'Original Works' means the documents, files, materials and works provided by you for the purposes of carrying out the Services.
- 1.11. 'Services' means translation services performed by us for you.
- 1.12. 'Translated Works' means the documents, files, materials and works translated and produced from the Original Works in accordance with your instructions and provided to you by us.
- 1.13. 'We, us, our,' means Acute Translations OÜ (registry code 12056023, VAT: EE101427171) whose registered office is in Estonia.
- 1.14. 'You, your' means the company, firm, body or person to whom we are supplying the Services and / or the Work Products.
- 1.15. 'Work Products' means all the products and/or Services supplied by us.
- 1.16. 'Contract' means the contract between the customer and us, and consisting of the purchase order from the customer and these Terms and Conditions.

2. General

- 2.1. Quotations are not binding on us and a Contract will only come into being when we issue a written confirmation of your Order, or when we deliver the Translated Works to you.
- 2.2. The Contract will be subject to these Terms and Conditions. All Terms and Conditions appearing or referred to in the Order, or otherwise stipulated by you, shall have no effect. Any variation of the Contract must be

confirmed in writing by one of our directors.

2.3. Our written quotations are given on the basis that the terms quoted will remain open for the placing of orders for 30 days from the date of the quotation.

2.4. Quotations are given on the basis of your description of the source material, the purpose of the translation and any other instructions. Such quotations may be amended at any time if, in our opinion, the description of the source materials is materially inadequate or inaccurate.

2.5. Information provided in our brochures, catalogues or other published material is a general description only and does not form part of the Contract.

2.6. These Terms and Conditions apply to all Services provided to you unless otherwise agreed between the parties in writing.

3. Price and Payment

3.1. Unless otherwise stated, prices are in EURO and are exclusive of value added tax and any other tax or duty. We shall invoice you for all appropriate taxes and expenses for which we are liable to collect. You shall be liable to pay any penalties or interest on such taxes which are payable by us as a result of your delay in paying such taxes.

3.2. Discounts included on quoted prices are only applicable if invoices are paid within 15 days of receipt.

3.3. Price includes transmission to the address specified in our quotation or confirmation of Order.

3.4. Quotations in a currency other than EURO are based on the rate of exchange at the time of quoting and, unless otherwise stated, the price may be subject to revision up or down if any different rate of exchange is ruling at the date of invoice.

3.5. Services lasting over 21 days will be invoiced 50% on commencement and 50% on completion. Services running under 21 days will be invoice in full on completion.

3.6. Payment shall be made within 30 days from the date of invoice. All payments shall be made without deduction or set-off of bank charges.

3.7. In the event that payment has not been received then an administration charge of €75.00 will be applied after 60 days and a further €75.00 after 90 days. For foreign currencies the exchange rate will be taken from SEB Bank on the appropriate day.

3.8. Failure to pay any invoice in accordance with the foregoing terms, or other terms specified in the Contract, shall entitle us to suspend further work both on the same order, and on any other order from you, without prejudice to any other right we may have.

3.9. We reserve the right to charge interest on overdue accounts, such interest to be calculated daily on the amount outstanding at the rate of 8 per cent above the published base rate of SEB Bank.

4. Delivery

4.1. The dates for delivery of the Translated Works, or the dates for carrying out the Services, are approximate only and, unless otherwise expressly agreed by us, time is not of the essence for delivery or performance, and no delay shall entitle you to reject any delivery or performance or to repudiate the Contract.

4.2. We will not be liable in any circumstances for the consequences of any delay in delivery or performance or failure to deliver or perform if the duration of the delay is not substantial or if the delay or failure is due to late delivery or performance or non-delivery or non-performance by suppliers or subcontractors, shortage of labour, an act of God, fire, inclement or exceptional weather conditions, industrial action, hostilities, governmental order

or intervention (whether or not having the force of law) or any other cause whatever beyond our control or of an unexpected or exceptional nature.

4.3. Posting or delivery to a carrier (including post, facsimile, e-mail) for the purpose of transmission to you shall, for the purposes of the Contract, constitute delivery to you. Risk in the Translated Works shall pass to you on delivery.

4.4. We may deliver by installments in such quantities as we may reasonably decide; such installments shall be separate obligations and no breach in respect of one or more of them shall entitle the You to cancel any subsequent installments or repudiate this contract as a whole.

5. Our Responsibility and Liability

5.1. The Services shall be carried out using reasonable skill and care in accordance with the standards of the industry.

5.2. We shall use all reasonable skill and care in selecting translators, interpreters and other personnel used to produce the Translated Works and perform the Services.

5.3. No terms, conditions or warranties, whether express or implied, about the quality or fitness for purpose of the Services or the Translated Works shall be incorporated unless expressly set out in the Contract.

5.4. We shall incur no liability to you for innocent or negligent misrepresentation by virtue of any statement made by or on behalf of us prior to the Contract, whether orally or in writing, and you shall not be entitled to rescind the Contract on the grounds of any such misrepresentation.

5.5. We do not warrant that the Translated Works will meet your specific requirements and, unless otherwise agreed, we do not warrant that the operation of any Translated Works sent to you will be uninterrupted or error free. Furthermore, we do not warrant that or make any representation regarding the use of the Translated Works in terms of their accuracy, correctness, reliability or otherwise.

5.6. You acknowledge that any Original Works and Translated Works submitted by and to you over the Internet cannot be guaranteed to be free from the risk of interception, even if transmitted in encrypted form, and that we have no liability for the loss, corruption or interception of any Original Works or Translated Works.

5.7. Save in respect of death or personal injury resulting from our negligence and subject to clause 5.8, our liability to you in respect of the provision of the Services and / or the Translated Works shall be limited as follows:

5.7.1. We shall not be liable for loss of profits, business, contracts, revenue, damage to your reputation or goodwill, anticipated savings, and or any other indirect or consequential loss or damage whatsoever.

5.7.2. Our entire liability to you under any Contract, including but not limited to in respect of the Services and the Translated Works, shall not exceed the price payable to us by you under the Contract to which any claim relates.

5.8. You must notify us within 30 days of delivery of the Translated Works of any claim arising out of the provision of the Services and /or the Translated Works, together with full details of such Claim. In any event, we shall not be liable to you if you fail to notify us of any Claim within a reasonable time of delivery of the Translated Works.

5.9. You must notify us within 30 days of delivery of the Translated Works of any alleged inaccuracies in the Translated Works, at which point our liability will be no more than to rectify any such alleged inaccuracies, that we feel to be justified, to our satisfaction. At no time will such allegations delay payment.

6. Translated Works shall be limited as follows:

- 6.1. We shall not be liable for loss of profits, business, contracts, revenue, damage to your reputation or goodwill, anticipated savings, and or any other indirect or consequential loss or damage whatsoever.
- 6.2. Our entire liability to you under any Contract including but not limited to in respect of the Services and the Translated Works shall not exceed the price payable to us by you under the Contract to which any claim relates.
- 6.3. You must notify us within 30 days of delivery of the Translated Works of any claim arising out of the provision of the Services and /or the Translated Works, together with full details of any claim. In any event, we shall not be liable to you if you fail to notify us of any claim within a reasonable time of delivery of the Translated Works.

7. Your Responsibility and Liability

- 7.1. You warrant, represent and undertake that the materials submitted by you shall not contain anything of an obscene, blasphemous or libellous nature and shall not (directly or indirectly) infringe the Intellectual Property Rights of any third parties. Unless otherwise agreed by us, you (which for the purposes of this clause includes any of your associated companies) shall not, for a period of one year after termination of the Contract, either directly or indirectly, on your own account or for any other person, firm or company, solicit, employ, endeavour to entice away from us or use the services of a translator or interpreter who has provided the Services and/or Translated Works to you on our behalf under the Contract. In the event of your breach under this clause, you agree to pay us an amount equal to the aggregate remuneration paid by us to the translator for the year immediately prior to the date on which you employed or used the services of the translator.
- 7.2. You agree, upon demand, to indemnify us (which for the purposes of this clause includes our employees, agents and sub-contractors), and keep us indemnified, from all losses, damages, injury, costs and expenses of whatever nature suffered by us to the extent that the same are caused by or related to:
- 7.2.1. The use or possession by us of any of the Original Works or materials provided by you in relation to the provision of the Services, including the breach of any Intellectual Property Rights of any third party in or to any such Original Works or materials.
 - 7.2.2. The processing by us of any data (where 'processing' and 'data' have the meaning given in section 1(1) of the Data Protection Act 1998) in the provision of the Services as anticipated by clause 10 below.
 - 7.2.3. Any breach of warranty given by you in this clause 7.
 - 7.2.4. Any other breach by you of these Terms and Conditions.
- 7.3. In the event you require us to provide the Services on your premises, or any other premises designated by you, you shall:
- 7.3.1. Assign members of staff with suitable skill and experience to be responsible for our activities.
 - 7.3.2. Provide such access to premises, interpretation systems and other facilities which may be reasonably required by us.
 - 7.3.3. Provide such information as may be required by us to carry out the Services and ensure all such information is correct and accurate.
 - 7.3.4. Ensure that all necessary safety and security precautions are in place at your premise
 - 7.3.5. We shall be entitled to charge you for any additional costs and expenses which we may incur as a result of any hazardous conditions or material encountered at your premises.
 - 7.3.6. We shall not be obliged to continue to perform the Services where we consider, at our sole discretion, this would constitute a breach of warranty given by you in this clause 6, an illegal act or a safety hazard.

8. Intellectual Property

8.1. All Intellectual Property Rights (including, but not limited to copyright) in the Original Works and the Translated Works shall vest in you (or your licensors) but, for the avoidance of doubt, you hereby grant to us (and our sub-contractors) a license to store and use the Original Works and the Translated Works for the duration of the Contract and for the purposes of providing the Services to you.

9. Confidentiality

9.1. Subject to clause 9.3, and (on our part) save as necessary in order for us to provide the Services neither party may use any of the other party's Confidential Information.

9.2. Subject to clause 9.3, neither party may disclose to any other person any of the other party's Confidential Information.

9.3. Either party may disclose the Confidential Information of the other:

9.3.1 When required to do so by law or any regulatory authority, provided that party required to disclose the Confidential Information, where practicable and legitimate to do so:

9.3.1.1. Promptly notifies the owner of any such requirement; and

9.3.1.2. Co-operates with the owner regarding the manner, scope or timing of such disclosure or any action the owner may take to challenge the validity of such requirement.

9.3.2. To its (or any of its associated company's) personnel, sub-contractor's personnel or any person whose duties reasonably require such disclosure, on condition that the party making such disclosure ensures that each such person to whom such disclosure is made:

9.3.2.1. Is informed of the obligations of confidentiality under these Terms and Conditions; and

9.3.2.2. Complies with those obligations as if they were bound by them.

9.4. The obligation of confidentiality contained within this clause 9 shall survive termination of the Contract howsoever caused.

10. Data Protection

10.1. Each party shall ensure that in the performance of its obligations under these Terms and Conditions it will at all times comply with relevant provisions of the Data Protection Act 1998

10.2. We acknowledge that if we are required to process any data in the course of providing the Services we shall do so only on your instructions.

11. Non-Solicitation

11.1. Unless otherwise agreed by Acute Translations, the Customer (which for the purposes of this clause includes any of the Customer's Affiliates) shall not, for a period of one year after termination of the agreement, either directly or indirectly, on its account or for any other person, firm or company solicit, employ, endeavour to entice away from Acute Translations or use the services of Acute Translations' Staff or any of its freelance linguists. In the event of any breach under this clause, the Customer shall pay to Acute Translations an amount equal to the aggregate remuneration paid by Acute Translations to that member of Staff for the year immediately prior to the date on which the Customer employed or used the services of that member of Staff.

In the case of a freelance linguist the amount will be equal to the equivalent of a full year full time salary. This clause shall not apply where the customer has an existing relationship before contract start-date.

12. Termination

12.1. If you subsequently cancel, reduce in scope or frustrate (by an act or omission on your part, or any third party relied upon by you) the Contract, the full price for the Contract shall remain payable unless otherwise agreed in advance. Any Original Works provided to us, and Translated Works completed by us, under the Contract shall be made available to you on termination of the Contract.

12.2. We shall be entitled to terminate the Contract immediately by written notice to you if:

12.2.1. You commit a material breach of the Contract and, in the case of such a breach which is capable of remedy, you fail to remedy the same within 7 days of receipt of a written notice specifying the breach and requiring it to be remedied,

12.2.2. You make any voluntary arrangement with your creditors or (being an individual or firm) become bankrupt or (being a company) become subject to an administrative order or go into liquidation, or an encumbrance takes possession or a receiver is appointed over any of your property or assets, or you cease or threaten to cease business, or an equivalent or analogous event occurs in any other jurisdiction.

12.2.3. Any termination of the Contract shall not prejudice any rights or remedies which may have accrued to either party.

13. Dispute Resolution

13.1. If any dispute arises between the parties with respect to translation or other similar services provided by us, then such dispute shall, at the request of either party, be referred to a person agreed between the parties or (in default of agreement within 7 days of notice from either party) to a person chosen on the application of either party by the Chairman for the time being of the Institute of Translation and Interpreting.

13.2. Such a person shall be appointed to act as an expert and not as an arbitrator, and the decision of that person shall be final and binding.

13.3. The cost of such an expert shall be borne equally by the parties, unless such expert otherwise directs.

14. Miscellaneous

14.1. Neither party shall be liable to the other for any delay in, or failure of, performance of its obligations under the Contract arising from any cause beyond its reasonable control including act of God, government act, war, fire, flood, explosion or civil commotion.

14.2. We may engage any person, firm or company as our sub-contractor to perform any or all of our obligations, and we may assign any or all of our rights and obligations under the Contract.

14.3. Any notice or other communication to be given under these conditions must be in writing and may be delivered or sent by prepaid first class letter post, facsimile transmission or e-mail. Any notice or document shall be deemed served: if delivered, at the time of delivery; if posted, 48 hours after posting; and if sent by facsimile transmission or e-mail, at the time of transmission.

14.4. No waiver by us of any breach of the Contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.5. If any provision of these Terms and Conditions is or becomes invalid or unenforceable it will be severed

from the rest of the Terms and Conditions so that it is ineffective to the extent that it is invalid or unenforceable and no other provisions of the Terms and Conditions shall be rendered invalid, unenforceable or be otherwise effected.

14.6. A person who is not party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

The Contract (and any proceedings whereby one party might be entitled to join the other as a third party) shall be governed by and construed in all respects in accordance with Estonian law and the parties hereby submit to the non-exclusive jurisdiction of the Estonian courts.

These terms and conditions are subject to change without prior written notice.

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