

GENERAL TERMS AND CONDITIONS OF BUSINESS

These General Terms and Conditions of Business are issued by Charlotte Marston (hereinafter referred to as the Service Provider) and are the basis on which she executes translation and related work.

1. Definitions

In these General Terms and Conditions of Business:

- a) **Agreement** refers to these General Terms and Conditions of Business;
- b) the **Client** is the person or corporate body placing a Commission;
- c) the **Commission** is the assignment or work placed with the Service Provider by the Client and may comprise translation, revision, editing, proofreading or any other similar work or associated work to be agreed between the Client and the Service Provider;
- d) for the purpose of translation, revision, editing, proofreading and related work, **Requirements** shall include the required layout, software, deadlines, target language, the purpose of the Commission (e.g. whether for publication or information), the method of delivery, any special terminology to be used, and whether proofreading/checking will be performed by the Client;
- e) the **Service Provider** is the practitioner who accepts the Commission;
- f) the **Source Language** is the language in which the text or **Source Material** to be translated is written;
- g) the **Target Language** is the language into which the text of the Commission is to be translated; any text to be revised, edited or proofread will also be in the Target Language;
- h) **Third Party** means any party who is not a party to this Agreement.

2. Purpose

These General Terms and Conditions of Business are intended:

- a) as a basis for executing Commissions and shall be made available to Clients on request; and
- b) to form the basis of a good working relationship between Clients and the Service Provider.

3. Acceptance

A Commission shall not be considered as agreed until confirmation is made in writing between the Client and Service Provider. This confirmation shall constitute a contract between the Client and Service Provider.

4. Force majeure

- 4.1 If the Service Provider is unavoidably prevented from fulfilling the Commission, the Service Provider shall notify the Client of the circumstances, which shall entitle the Client and Service Provider to withdraw from the contract. The Client shall pay the Service Provider for any work completed and in consultation with the Client, the Service Provider shall use reasonable endeavours to source a replacement Service Provider of equivalent competence and qualifications.
- 4.2 As a safeguard against hard disk failure or theft of computer equipment, the Service Provider shall back up all work externally on a daily basis.

5. Fees

- 5.1 In the absence of any specific agreement, the fee to be charged shall be determined by the Service Provider on the basis of the Client's description of the material to be translated, revised, edited or proofread, the purpose of the Commission and any instructions provided by the Client.
- 5.2 The fee shall be agreed before the Commission is commenced. Any quotation based on the Client's description of the work shall only be binding once the Service Provider has seen all the material to be translated, revised, edited or proofread and once the Client has confirmed full details of the Commission and the Requirements in writing.
- 5.3 Where VAT is chargeable, it shall be charged in addition to the quoted fee.
- 5.4 Any fee quoted, estimated or agreed by the Service Provider on the basis of the Client's description of the task may be subject to amendment by agreement between the parties if, in the Service Provider's opinion on having seen the material, that description is materially inadequate or inaccurate.
- 5.5 Any fee agreed for a task which 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.
- 5.6 An estimate shall not be considered contractually binding, but given for guidance or information only.
- 5.7 Subject to clause 5.2 above, a binding quotation given after the Service Provider has seen all the material shall remain valid for a period of thirty (30) days from the date on which it was given, after which time it may be subject to revision.
- 5.8 Costs of delivery of the translated, revised, edited or proofread material shall normally be borne by the Service Provider. Where delivery requested by the Client involves expenditure greater than the cost normally incurred for delivery (for example, delivery by post or courier and/or recorded or special 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 Service Provider, it shall not be borne by the Client, unless otherwise agreed.

- 5.9 Other supplementary charges may also be charged, such as those arising from:
- discontinuous text, complicated layout or other forms of formatting requiring additional time or resources;
 - poorly legible copy;
 - extensive terminological research;
 - certification;
 - urgent work or work outside normal office hours in order to meet the Client's deadline or other Requirements.

The nature of such charges shall be agreed in advance.

- 5.10 If it emerges after the Commission has commenced that not all the relevant information has been provided and/or if there are any changes to the Requirements, the Service Provider may vary the fees/rates accordingly.
- 5.11 The Service Provider shall not provide free "test" translations.

6. Payment

- 6.1 All work must be paid for and payment shall be made within thirty (30) days of the date of the invoice issued by the Service Provider to the Client.
- 6.2 In the case of long Commissions, the Service Provider may require payment in instalments, which shall be agreed in advance.
- 6.3 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 clause 6.1.
- 6.4 Where delivery is in instalments and notice has been given that an interim payment is overdue, the Service Provider shall have the right to stop working on the Commission at hand until the outstanding payment is made or other terms agreed.
- 6.5 The Service Provider reserves the right to add interest at the rate of three percent (3%) above the base rate of Barclays Bank calculated on a daily basis from the date when such payment fell due until the date of payment.
- 6.6 This action shall be without prejudice to any sums due and without any liability whatsoever to the Client or any Third Party.

7. Cancellation and frustration

- 7.1 If a Commission 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, with the exception of any Third Party to whom work is outsourced or subcontracted by the Service Provider as outlined in 10 below, the Client shall, except in the circumstances described in clause 7.4, pay the Service Provider the full fee unless otherwise agreed in advance.
- 7.2 The work completed shall be made available to the Client.

- 7.3 If a Client goes into liquidation (other than voluntary liquidation for the purposes of reconstruction), or has a receiver appointed or becomes insolvent, bankrupt or enters into any arrangement with creditors, the Service Provider shall have the right to terminate the contract.
- 7.4 Neither the Service Provider 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.
- 7.5 The Service Provider shall notify the Client as soon as is reasonably practical of any circumstances likely to prejudice the Service Provider's ability to comply with the terms of the Client's order, and assist the Client as far as reasonably practical to identify an alternative solution.

8. Copyright in translating

- 8.1 In the absence of a specific written agreement to the contrary, copyright in the Commission remains the property of the Service Provider.
- 8.2 When it is agreed that copyright is to be assigned to the Client after translation, such copyright shall only be assigned when full payment for the Commission has been received. Until such time, the copyright shall be owned by the Service Provider.
- 8.3 If the Service Provider assigns copyright and the translation is subsequently published, the Service Provider expects the Client to acknowledge their work in the same way as for others involved in the publication, unless otherwise agreed (for example, in the case of promotional material).
- 8.4 If the translation is to be incorporated in a translation memory, the Service Provider shall license use of the Commission for this purpose.
- 8.5 If the Commission is in any way amended or altered without the Service Provider's written permission, the Service Provider shall not be in any way liable for the amendments made or their consequences.

9. Confidentiality

- 9.1 No documents on which the Service Provider is commissioned to work shall be deemed to be confidential unless this is expressly stated by the Client.
- 9.2 However, the Service Provider shall at all times exercise due discretion in respect of disclosure to any Third Party of any information contained in the Client's Source Material or translations thereof and shall not disclose it to Third Parties without the express authorisation of the Client. Furthermore, the Service Provider shall process all personal data in accordance with the provisions of the General Data Protection Regulation. Further information on this can be found in the Service Provider's Privacy Policy.
- 9.3 Notwithstanding clause 9.2, the parties agree that a Third Party may be subcontracted as outlined in 10 below or consulted over specific translation and terminology queries in relation to the Source Material.
- 9.4 The Service Provider shall be responsible for the safe-keeping of the Client's Source Material and copies of the Commissions, and shall, where necessary, ensure their secure disposal.

9.5 If requested to do so by the Client, the Service Provider shall insure documents in transit from the Service Provider, at the Client's expense.

9.6 The Client shall not, without the express written consent of the Service Provider, disclose to Third Parties any information relating to the fees charged by the Service Provider.

10. Outsourcing

10.1 The Service Provider reserves the right to subcontract or otherwise outsource all or part of the Commission to any Third Party she selects and shall be under no obligation to notify the Client of either the selection of such Third Party or of any subsequent change to the identity of the selected Third Party.

10.2 The Service Provider shall ensure that the Third Party has the necessary qualifications, experience and expertise to perform the work outsourced or subcontracted. All work will be checked in house by the Service Provider prior to delivery to the Client to ensure it is of sufficiently high quality, meets the Client's requirements and meets the provisions and spirit of the Code of Professional Conduct of the Institute of Translation and Interpreting.

10.3 The Third Party shall be bound by the terms of confidentiality set out in these Terms and Conditions.

11. Complaints

11.1 Failure by the Service Provider to meet agreed order Requirements or to provide a Commission that is fit for its stated purpose shall entitle the Client to:

- 1) reduce, with the Service Provider's consent, the fee payable for work done by a sum equal to the reasonable cost necessary to remedy the deficiencies; and/or
- 2) cancel any further instalments of work being undertaken by the Service Provider. Such entitlement shall only apply after the Service Provider has been given a reasonable opportunity to bring the work up to the required standard.

11.2 The entitlement referred to in clause 11.1 shall not apply unless the Service Provider has been notified in writing of all alleged defects.

11.3 Any complaint by the Client about the Service Provider's work shall be submitted to the Service Provider within one month of the date of delivery of the Commission.

12. Liability

12.1 The Commission shall be carried out by the Service Provider using reasonable skill and care and in accordance with the provisions and spirit of the Code of Professional Conduct of the Institute of Translation and Interpreting.

12.2 Time and expense permitting, the Service Provider shall use her reasonable commercial endeavours to do the work to the best of her ability, knowledge and belief, and consulting such authorities as are reasonably available to her at the time.

12.3 Subject to clause 12.4, a Commission shall be fit for its stated purpose and target readership, and the level of quality specified.

- 12.4 Unless specified otherwise, Commissions shall be deemed to be of “for information” quality only.
- 12.5 Neither party shall, under any circumstances whatsoever, be liable to the other, whether in contract, tort (including negligence) or restitution, or for misrepresentation, or otherwise, for any:
- a) loss of profit;
 - b) loss of goodwill;
 - c) loss of business;
 - d) loss of business opportunity;
 - e) loss of anticipated saving;
 - f) loss or corruption of data or information; or
 - g) special, indirect or consequential damage, suffered by the other party that arises under or in connection with the contract.
- 12.6 Without prejudice to clause 12.5, the Service Provider’s total liability arising under or in connection with the contract, whether in contract, tort (including negligence) or restitution, or for misrepresentation, or otherwise, shall in all circumstances be limited to the cost of the Commission being undertaken when the liability arises.

13. Applicable law

- 13.1 This Agreement shall come into effect either (1) when the Client signs the Agreement; or (2) when the Client commences delivery of the material to be translated, revised, edited or proofread; or (3) when the Service Provider provides any services under the Agreement, whichever is earliest.
- 13.2 This Agreement may be subject to any detailed requirements or variants expressly specified in the order relating to a particular task.
- 13.3 No waiver of any breach of any condition in this Agreement shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 13.4 These General Terms and Conditions of Business shall be governed by the laws of England and the Client agrees to submit to the exclusive jurisdiction of the English courts.