

General terms and conditions of translation and business

§1 General provisions and scope

1. The following terms and conditions of translation and business apply to all contracts between **Diplom-Übersetzer Martin Nitschel (hereinafter referred to as the “translator”)** and his clients, insofar as these are business persons or legal entities under public law.
2. Deviating or supplementary general terms and conditions of the client shall only form part of a contract where these are expressly acknowledged by the translator.
3. The contractual language is German. German law applies exclusively. The German version of these general terms and conditions is binding. The English version is for information purposes only.

§2 Agreement of the contract

1. Upon oral request, written enquiry or enquiry via e-mail, the translator shall provide the client with a quotation for the requested translation or service. Forwarding of an order by e-mail or fax or sending of a signed purchase order by the client are prerequisites for binding agreement of a contract. The contract shall take effect once the translator confirms the content of the order to the client in writing, in text form or by way of fulfilling the service.
2. Quotations from the translator are non-binding and subject to change. The fees stated in the specific quotation are applicable. The relevant applicable rate of VAT shall also be payable in addition to the net fees stated in quotations.

§3 Services and terminology

1. The translator undertakes to translate the text provided by the client into the agreed target text with no errors. The translator shall ensure that the translation is completed without abridgement, addition or other alterations to content. The translator reserves the right to insert comments, footnotes, etc. to aid understanding of the text in the target language and/or to correct obvious errors. The translator shall inform the client of such corrections.

2. Unless agreed otherwise, the translator's service exclusively comprises the translation of a text provided by the client into the target text. Proofreading, subsequent text formatting, copy-editing, transfer of images and graphics, text composition, creation of printing templates or HTML / XML documents, etc. shall be invoiced according to time expenditure unless the parties have agreed otherwise. In terms of spelling, grammar and linguistic usage, all translations shall be performed in accordance with the generally recognised rules of the agreed target language. Technical terms and specialised vocabulary shall be translated using their common or standard meaning. Where the client has preferred forms or terminology for the translation that deviate from the generally recognised rules, these shall only be used if expressly agreed in the contract. In such cases, the client shall provide instructions (sample texts, parallel texts, glossaries and similar). The client shall provide technical consultation at the request of the translator.

§4 Client obligations to co-operate

1. When requesting provision of a quotation, the client shall inform the translator of the desired form of delivery of the translation (intended purpose, delivery on data media, file format, number of copies, where applicable, readiness for print, external form of the translation, etc.). Texts for translation shall normally be provided to the translator by the client in electronic format. The source material must be legible and must be provided by the date or time specified by the translator and in the format specified by the translator.
2. The client shall provide the translator with information and documentation necessary for producing the translation upon confirming the order (specialised terminology of the client, illustrations, drawings, tables, abbreviations, internal terms, etc.).
3. The client represents and warrants that the translation of the source text as well as the publication, distribution, sale or other use of the translation to be supplied does not infringe any rights of third parties and that it is unreservedly authorised to commission a translation of the text. The client shall indemnify the translator against all related claims of third parties.

§ 5 Acceptance, obligation to give notification of defects, rectification, warranty period

1. Following completion of the service, the text or agreed service shall be supplied to the client in the desired format in writing or in text form. If the client does not raise any objections within 14 days of receiving the translation or agreed service, the translation or agreed service shall be deemed as accepted in accordance with the contract.
2. Any obvious defects must be raised promptly and no later than within 14 days.
3. The client shall notify the translator of any obvious defects in writing or in text form within 14 days, requesting that the translator rectify the defects indicated within an appropriate period. In the event that the rectification is unsuccessful, the client shall grant the translator a second opportunity to rectify. Where this is also unsuccessful, the client shall be entitled to rescission of the contract or a reduction of the agreed fee.
4. The translator must be notified of any hidden defects within a period of 14 days following discovery. In addition, § 5 para. 3 of these general terms and conditions applies.
5. The warranty period is 12 months following acceptance. This shall not apply in the event of mandatory liability of the translator under the statutory provisions as set out under § 6. In such cases, the statutory provision shall apply.

§ 6 Liability

1. In the event of wilful intent or gross negligence, the liability of the translator shall be governed by statutory provisions. Liability for claims under guarantee is independent of fault.
2. In the event of ordinary negligence, the translator shall be liable exclusively in accordance with the directives of the German Product Liability Act (Produkthaftungsgesetz) on account of loss of life, physical injury or damage to health or infringement of material contractual obligations. A material contractual obligation means an obligation that makes orderly fulfilment of the contract possible and on whose fulfilment the client may regularly rely.

Compensation for the infringement of material contractual obligations owing to ordinary negligence is, however, limited to foreseeable damage typical for the

contract, provided that no liability exists as a result of loss of life, physical injury or damage to health. Foreseeable damage typical for the contract means damage that falls within the protective purpose of the contractual or statutory provision infringed. The translator shall be liable to the same extent for the fault of vicarious agents and representatives.

3. The provisions in the above paragraph extend to compensation in addition to performance, compensation in lieu of performance and the right to reimbursement of futile expenditure, on whatever legal grounds, including liability owing to defects, default or impossibility.
4. The above provisions do not constitute a change in the burden of proof to the detriment of the client.

§ 7 Delivery dates and default

1. Where the translator has not expressly defined a delivery date as a **binding** deadline, this shall not represent a binding or guaranteed delivery date.
2. Where the translator negligently defaults on the agreed service and the client credibly demonstrates that it has suffered damage as a result of the default, the client may claim liquidated damages. The liquidated damages shall be equivalent to 1% of the agreed fee per complete day of delay, subject to a maximum of 50% of the agreed fee. The client's right to withdraw from the contract shall remain unaffected.
3. The above provisions do not constitute a change in the burden of proof to the detriment of the client.

§ 8 Rights of use and copyright

1. Where the services of the translator, either in part or in whole, create work covered by copyright law, the client may use and exploit the work in consideration of the service provided to the client with regard to its content, for an unlimited time and for the contractually intended purpose. The client is entitled to edit, amend or forward the work to third parties within the scope of the contractually intended purpose. Use of the work of the translator beyond the contractually intended purpose requires the express approval of the translator.

2. § 8 para. 1 clauses 1 and 2 of these general terms and conditions do not apply to the creation of certified translations. A certified translation is a translation whose complete agreement with the original is confirmed by a legally authorised translator. Translations of official documents (e.g. commercial register extracts, deeds or certificates) must generally always be certified. The client is not entitled to edit or amend a certified translation.
3. Notwithstanding § 8 para. 1, where the translator creates a specific terminology database or translation memory (TM) for a client as part of its services, the translator shall retain exclusive copyright and usage rights in respect of the database. This shall not apply where the parties have expressly agreed otherwise.

§ 9 Confidentiality

1. The translator shall treat assignments and information received in the course of assignments as strictly confidential even following completion of the respective assignment.
2. The translator is willing to enter into separate confidentiality or non-disclosure agreements with clients.

§ 10 Fees and payment terms

1. Unless the parties have expressly agreed otherwise, the translator shall invoice the client for the agreed service immediately following delivery of the translation or the services agreed in accordance with § 3. The invoice shall be immediately due for payment without deduction.
2. In the case of orders totalling above €1,500, 30% of the agreed fee shall be due upon confirmation of the order. § 10 para. 1 of these general terms and conditions applies in respect of the remaining amount.
3. All rights associated with the translation or service remain exclusively with the translator until full payment of the fee.

§ 11 Data protection provision

1. Clients of the translator can not only expect translations of appropriate quality, they can also expect seamless processing of an order. The translator takes data protection issues seriously and aims to ensure that the rights of the client are also protected.
2. The translator shall only collect, process and use personal data with the consent of the client or where this is allowed by a legal directive. The translator will only collect, process and use such personal data that is necessary for the performance and demands of the service or that is provided voluntarily to the translator by the client. Personal data means all data containing information about the personal or material circumstances of a specific or specifiable client. This includes, for example, names, e-mail addresses and residential or business addresses.

The translator requires personal data for processing orders (e-mail address, business address, delivery address) and responding to queries of the client or asking questions to the client (e-mail address or telephone number where appropriate).

3. Personal data is only retained for as long as necessary to fulfil the service or to maintain the client relationship for the desired duration of the client. Occasionally, it may be necessary to store data for a longer duration owing to statutory or legal obligations.
4. The translator has taken technological and organisational safety precautions to protect data, particularly against loss, manipulation or unauthorised access. The translator regularly adapts such safety precautions to reflect ongoing technological developments.
5. The client is entitled to request information regarding data stored by the translator free of charge at any time. Where data is incorrect or is stored wrongfully, the translator shall correct, block or delete such data. The translator requests that the client gives notification of any changes to personal data. Clients should address any questions, complaints or suggestions regarding data protection to **Martin Nitschel**, Mannheimer Str. 242, D-69123 Heidelberg, Tel: +49 (0) 6221 1866400

§ 12 Place of jurisdiction

The exclusive place of jurisdiction in respect of all contracts with registered traders (Vollkaufmann), legal entities, legal entities under public law or special funds under public law (öffentlich-rechtliches Sondervermögen) is Heidelberg.

The text of the general terms and conditions above has been drafted by the lawyer Hermann J. Bauch, Paul-Finger-Str. 12, 50858 Köln, except where it conveys legal requirements either verbatim or in substance. The contents are subject to German copyright law. Reproduction, processing, distribution and any other form of re-use beyond the scope of copyright law requires the written consent of the law firm of Hermann J. Bauch.