

TERMS AND CONDITIONS

These Terms and Conditions apply to all work provided by Claire Sjaarda ("WordsforWords") and to all contractual relationships between [Claire Sjaarda] ("Translator") and its Clients. These Terms and Conditions constitute the whole Agreement between the parties, except where agreed otherwise in writing. All other terms and conditions express or implied by statute or otherwise are excluded to the fullest extent permitted by law. New Zealand law shall apply to the contract, and the parties submit to the jurisdiction of the New Zealand Courts. If any provision of these Terms and Conditions is invalid or unenforceable in whole or in part, the validity and enforceability of the other provisions of these Terms and Conditions and the remainder of the provision in question shall not be affected.

1. DEFINITIONS

In this Agreement, unless the context otherwise requires, the following expressions shall be given the following meanings:

'Agreement' means these standard terms of business.

'Assignment' means the period during which a Translator performs services or carries out work for or on behalf of the Client or as otherwise agreed between the Client and the Translator, commencing at the time the Translator first starts such work and services and ending upon the cessation by the Translator of all such work and services.

'Client(s)' means the Party(ies) commissioning a Translation in the normal course of business.

'Confidential Material' means any sensitive or private information with regard to the Client or their business.

'Source Material' means any text or other medium provided by the Client to the Translator and which contains a communication which has to be translated, and may comprise text, sound and/or images.

'Translator' means the Party providing a Translation in the normal course of business. The Translator shall normally be the creator of a Translation unless the Client has been explicitly informed that the Translation Task will be subcontracted, or the Translator customarily trades as an intermediary.

'Translation Task' means the preparation of a Translation or any other translation-related task such as revising, editing, etc., which calls upon the translation skills of a Translator, but not copywriting or adaptation.

'Translation' means the commissioned work produced by the Translator.

'Third Party' means any party who is not a party to this Agreement

2. SERVICES

2.1 The Services offered to Clients are those of translation from the specified source language into the specified target language or the revision of a specified translation or of a document drafted in the target language.

2.2 The Translation is for the exclusive use of the Client in its ordinary course of business and will not be published or otherwise distributed for profit, without the prior written consent of the Translator. Furthermore, it is understood that the Translation will not form the substance of any legal agreement without prior review by an appropriate legal advisor.

3. FEES

3.1 In the absence of any specific agreement, the fee to be charged shall be determined by the Translator on the basis of the Client's description of the Source Material, the purpose of the Translation and any instructions given by the Client.

3.2 No fixed quotation shall be given by the Translator until he/she has seen or heard all the Source Material and has received clear and complete instructions in writing from the Client.

3.3 Any fee quoted, estimated or agreed by the Translator on the basis of the Client's description of the Translation Task may be subject to amendment by agreement between the Parties if, in the Translator's opinion on having seen or heard the Source Material, that description is materially inadequate or inaccurate.

3.4 Any fee agreed for a Translation 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.

3.5 An estimate shall not be considered contractually binding, but given for guidance or information only.

3.6 Costs of delivery of the Translation shall normally be borne by the Translator. Where delivery requested by the Client involves expenditure greater than the cost normally incurred for delivery (for example, 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 Translator, it shall not be borne by the Client, unless otherwise agreed.

3.7 Other supplementary charges, for example those arising from:

- discontinuous text, complicated layout or other forms of layout or presentation requiring additional time or resources, and/or
- poorly legible copy or poorly audible sound media, and/or
- terminological research, and/or
- certification, and/or
- priority work or work outside normal office hours in order to meet the Client's deadline or other requirements, may also be charged.

The nature of such charges shall be agreed in advance

4. COPYRIGHT IN SOURCE MATERIAL

The Client warrants that any Source Material and its use by the Translator as requested by the Client shall be lawful and will not infringe the copyright or other rights of any third party, and the Client shall indemnify the Translator against any loss, damages, cost, expenses or other claims arising from any such infringement or illegality.

5. CONFIDENTIALITY

5.1 No documents for translation shall be deemed to be confidential unless this is expressly stated by the Client.

5.2 However the Translator 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 without the express authorisation of the Client.

5.3 Notwithstanding clause 5.2, the Parties agree that a Third Party may be consulted over specific translation terminology queries in relation to the Source Material.

5.4 Any translated or revised work of Confidential Material shall be kept confidential by the Translator. But the foregoing shall not apply to any documentation or other information which is or becomes public knowledge through no breach of this provision by the Translator.

6. DELIVERY AND CANCELLATION

6.1 Delivery of Translations shall be in the form and at the time agreed. Notwithstanding, time shall not be of the essence.

6.2 Any delivery date or dates agreed between the Translator and the Client shall become binding only after the Translator has seen or heard all of the Source Material to be translated and has received complete instructions in writing from the Client.

6.3 Unless otherwise agreed, the Translator shall dispatch the Translation in such a way that the Client can reasonably expect to receive it no later than the normal close of business at the Client's premises on the date of delivery.

6.4 If the Client cancels or withdraws any portion of an item to be translated or revised prior to completion by the Translator, then the Client shall pay the Translator the portion of the fee agreed for the complete Assignment represented by the portion of total text translated or revised, but in any event not less than 50% of the fee.

6.5 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 Translator shall have the right to terminate a contract.

6.6 The Translator shall notify the Client as soon as is reasonably practical of any circumstances likely to prejudice the Translator's ability to comply with the terms of the Assignment, and assist the Client as far as reasonably practical to identify an alternative solution.

7. DISPUTES

7.1 Any dispute as to the accuracy of any Translation or revision or the quality of any service provided under these Terms and Conditions must be advised, in writing, within twenty working days of delivery.

7.2 The Translator shall be given the opportunity to correct the Translation before payment terms or rates are changed.

7.3 Within the limits of the law, all claims will be limited to the amount of the invoice.

8. LIABILITY

8.1 To the extent permitted by law, liability is limited to the return of any amount paid and/or waiver of any amount payable for the Translation, revision or other service, and no responsibility or liability is accepted for any consequential losses.

8.2 To the extent permitted by law, all implied warranties are excluded.

8.3 The Translator shall have no liability to the Client for any loss, damage, cost, expense, or other claim arising from any Source Material, original documentation or instruction supplied by the Client being incomplete, inaccurate, incorrect, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival. The Translator shall not be liable to correct any errors, inaccuracies or omissions that may be inherent in the original Source Material and original documentation and which may or may not affect the quality of the Translation.

8.4 The Translator shall have no responsibility whatsoever for any change made to a Translation or revision by any person other than the Translator and shall not be in any way liable for their consequences.

8.5 The Translator shall have no liability to the Client for delays due to any cause beyond the Translator's reasonable control.

9. PAYMENT TERMS

9.1 All invoices will be rendered in, and payable in New Zealand dollars, British pounds sterling or US dollars unless agreed otherwise with the Client.

9.2 Additional fees will be payable in the event any of the following are required to complete any work:

- i. any investigation, inquiry, or research beyond that for a normal routine translation required because of ambiguities in the item(s) to be translated;
- ii. additional services required because the Client has made changes in the item(s) to be translated after confirmation of the order; and
- iii. changes to a translated or revised text not required for accuracy, but requested by the Client after delivery, because of the Client's preferences as to style or vocabulary.

9.3 If the Client is employed by an end Client or Third Party, the Translator's business agreement is with the Client only. The Client must pay the Translator as agreed upon, regardless of the end Client or Third Party's payment policies.

9.4 The Client shall reimburse the Translator for necessary expenses incurred by the Translator that are not a normal part of a routine Translation Task, such as urgent or overnight document delivery services requested by the Client, long distance telephone and facsimile expenses to clarify document ambiguity, or verification services contracted to third parties.

9.5 Payment shall be made within 30 days from the date of the invoice by the method of payment specified. Any payments for fees or costs not received by the Translator by due date will be deemed late and interest at the Translator's overdraft rate plus 5% per annum may be charged. The Client shall also pay all the Translator's costs in collecting late payments due from the Client, including all legal fees (on a solicitor client basis).

9.6 For long Assignments, the Translator may request an initial payment and periodic partial payment on terms to be agreed.

9.7 Settlement of any invoice, part-invoice or other payment shall be made within the period stipulated in clause 9.5.

9.8 Where delivery is in instalments and notice has been given that an interim payment is overdue, the Translator shall have the right to stop working on the Translation at hand until the outstanding payment is made or other terms agreed.

10. COPYRIGHT IN TRANSLATIONS

The Translator shall retain copyright to the Translation until the invoice for the Translation has been paid in full.