

## **Cancellation Policy pursuant to § 10 + § 11 FAGG (Distance and Off-Premises Contracts Act)**

According to the Austrian Distance and Off-Premises Contracts Act (FAGG), you have the right to cancel contracts concluded online within 14 days. However, you waive this right if you instruct me to start translating immediately.

For more information, please see this document (PDF format):  
**Cancellation Policy pursuant to § 10 + § 11 FAGG**

## **General Terms and Conditions (GTC) for Language Services**

### **1. General Remarks/Scope of Application**

1.1. All legal transactions between the Client and the Translator shall be governed exclusively by these General Terms and Conditions (GTC). The version valid at the time of the conclusion of the contract shall be authoritative in each case. The Translator shall conclude contracts only on the basis of the following terms and conditions. The Client expressly acknowledges that they have taken legally binding notice of these General Terms and Conditions, which have thus become part of the contract. This shall also apply if the Client refers to their own General Terms and Conditions.

1.2. These GTC shall also apply to all future contractual relationships, i.e. they also apply if not they are not expressly referred to in additional contracts.

1.3. These GTC apply, to the extent applicable, to all language services provided by the Translator, in particular to translations, editing and proofreading. All references to “translations” in these GTC shall also apply to all the other language services provided by the Translator.

1.4. Any conflicting general terms and conditions of the Client shall not form part of the contract unless expressly accepted by the Translator in writing.

1.5. If terms referring to natural persons are stated only in the masculine or only in the feminine form in these GTC, they refer to all genders equally.

### **2. Scope of Services**

2.1. The Translator shall provide language services to the Client; these include in particular translations, editing and proofreading.

2.2. The Translator undertakes to perform all assigned tasks to the best of her knowledge and in accordance with the general rules for language service providers and the principles of economic efficiency. However, the Translator does not owe any success. She is not responsible for ensuring that her service fulfills the purpose desired by the Client. This is the sole responsibility of the Client.

2.3. The Client undertakes to inform the Translator, together with the transmission of the source text and before the Translator provides a quotation, what the translation will be used for, e.g. whether it

2.3.1. is intended for a specific destination country,

2.3.2. serves informational purposes,

2.3.3. is intended for publication and marketing,

2.3.4. is required for legal purposes or patent procedures,

2.3.5. or shall serve any other purpose for which the translation of the texts by the Translator is of importance.

2.4. The Client undertakes to provide the Translator with all documents necessary for the provision of the service. This includes the source text(s), background information, style specifications, in-house terminology, existing translations, existing glossaries and translation memories, publications mentioned in the source text, parallel texts, background texts, technical documentation, training materials, Internet addresses, etc.

2.5. The Client may only use the translation for the purpose specified by the Client. In the event that the Client uses the translation for a purpose other than the agreed purpose, the Translator shall not be liable in any way, even if the service is contrary to the general rules for language service providers.

2.6. The Client must provide the Translator with a contact person for queries in advance.

2.7. The translation shall be delivered in the same formatting as the source text, provided that it is a text editable with standard office applications (. doc, . xls, . ppt). Translations shall be delivered by the Translator in single copy in electronic form (by email), unless otherwise agreed.

2.8. If the Client wants the Translator to use a certain technology, the Client must inform the Translator of this and – if it is not a common application for Translators (e.g. Auto-CAD or web content applications) – give the Translator access to the requested technology.

2.9. The Translator shall point out obvious defects, contradictory information, etc. in the source text to the Client and resolve these issues ahead of the translation. In doing so, she may draw the client's attention to typos and similar mistakes, but she is not obliged to do so.

2.10. The technical and linguistic accuracy of the source text is the sole responsibility of the Client and shall not be checked by the Translator. The Translator shall not be liable for defects due to insufficient information, linguistic and terminological inaccuracies in the source text, etc.

2.11. The Translator shall not assume any liability for the correct reproduction of names and addresses that are not written in Latin script in the source text. In such cases, the Translator recommends that the Client provide the names and denominations in Latin block letters in a separate document.

2.12. The Translator shall only provide numbers and figures as stated in the source text. The conversion of numbers, measurements, currencies and the like is the sole responsibility of the Client.

2.13. The Translator shall have the right to subcontract the order to (a) qualified subcontractor(s); however, in this case she shall remain the Client's contractual partner with sole responsibility towards the Client.

2.14. The Translator's name may be attached to the published translation only if the entire text has been translated by the Translator and no changes have been made to the translation without the Translator's consent.

2.15. By placing an order, the Client accepts these General Terms and Conditions of the Translator and takes note of the cancellation policy pursuant to § 10 + § 11 FAGG (Distance and Off-Premises Contracts Act).

## **2. Prices, Auxiliary Conditions for Invoicing**

3.1. Unless otherwise agreed, the prices for the language service shall be determined by the Translator's rates applicable to the respective type of service provided.

3.2. The basis of calculation shall be agreed upon in each case, e.g. word count, standard line, hourly rate, target text, source text.

3.3. A quotation shall only be considered binding if it has been prepared in writing and after submission of the documents to be translated. Quotations which are provided in any other form shall always be considered as non-binding guidelines.

3.4. The quotation shall be prepared to the best of the Translator's knowledge, but may be subject to change. Should costs increase by more than 15% after the order has been placed, the Translator shall notify the Client thereof without delay. In the case of an unavoidable cost increase of up to 15%, a separate notification is not required and these costs can be invoiced without notifying the Client.

3.5. Unless otherwise agreed, order changes or additional orders shall be invoiced at reasonable prices.

3.6. The Translator is entitled to request a reasonable advance payment.

3.7. Unless otherwise agreed, payment shall be made upon delivery of the language service and within 14 days after invoicing. If a collection has been agreed and the translation is not collected by the Client on the specified day, the Client's obligation to pay shall commence on the agreed day for collection.

3.8. If payment is delayed, the Translator shall be entitled to retain the translation as well as any order documents provided (e.g. manuscripts to be translated). In the event of late payment, the Translator shall charge default interest at the statutory rate (4% above the prime rate for private clients and 9.2% above the prime rate for

corporate clients) as well as reasonable reminder fees.

3.9. If partial payment has been agreed between the Client and the Translator (e.g. partial delivery of services or payment in installments), the Translator shall be entitled, in the event of default of payment by the Client, to cease work on current orders for this Client without legal consequences for the Translator until the Client meets their payment obligations. However, the Translator shall inform the Client immediately of the suspension of work.

#### **4. Dates, Delivery**

4.1. The delivery date shall be agreed between the Translator and the Client. The delivery date shall form an integral part of the order accepted by the Translator. If no delivery date has been agreed, the service shall be provided within a reasonable period of time. In the event that the translation cannot be delivered by the agreed date, the Translator shall inform the Client immediately and state the date by which the service will be provided. If the delivery date is an essential part of the order accepted by the Translator which cannot be extended by a reasonable grace period, and if the Client has no interest in a delayed delivery ("fixed-date transaction"), the Client must communicate this in advance.

4.2. A prerequisite for observing the delivery date, in particular in the case of a fixed-date transaction, is the timely receipt of all documents to be provided by the Client to the extent specified (e.g. source texts and all necessary background information) and in the file format specified, as well as compliance with the agreed terms of payment in the case of partial delivery of services or similar and any other obligations. If the Client does not fulfill their obligation to provide the documents and pay on time, the delivery deadline shall be extended accordingly by the period of time by which the Client was late in providing the required documents to the Translator. In the case of a fixed-date transaction, it is the Translator's responsibility to assess whether the agreed delivery date can be met even if the Client is late in providing the documents. If this results in surcharges for express and weekend work, the Translator shall inform the Client immediately. If the Client cannot be reached, these surcharges shall apply if they are necessary to meet the deadline of the fixed-date transaction.

4.3. If the agreed service is not performed for reasons for which the Client is responsible, e.g. because the Client does not provide the Translator with the required documents or does not provide them in time or violates the Client's duty to cooperate, the Translator shall be entitled to a cancellation fee, which is not subject to judicial reduction, in the amount of 50% of the order value of the agreed service or partial delivery. No deduction shall be made for what the Translator has saved as a result of not performing the work or what she has acquired by any other use or intentionally failed to acquire (cf. Section 1168 of the Austrian Civil Code).

4.4. The risks associated with the transmission of the documents to be provided by the Client as well as the risks associated with the delivery (transmission) of the translation shall be borne by the Client.

4.5. 3.5 Unless otherwise agreed, the documents provided by the Client to the Translator shall remain with the Translator after the translation order has been completed. The Translator shall ensure that these documents are carefully stored so

that no unauthorized persons have access to them, the obligation of confidentiality is not violated and the documents cannot be used in violation of the contract. Afterwards, the Translator shall be entitled, but not obliged, to destroy the documents.

## **5. Force Majeure**

5.1. In the event of force majeure, the Translator shall notify the Client immediately. Force majeure shall entitle both the Translator and the Client to withdraw from the contract. However, the Client shall compensate the Translator for any expenses already incurred and shall pay a reasonable fee for the expenses already incurred and services already performed.

5.2. Force majeure shall be deemed to include in particular: Labor disputes, acts of war, civil war, interruption of means of communication, occurrence of unforeseeable events beyond the Translator's own control, which demonstrably have a decisive impact on the Translator's ability to complete the order as agreed.

## **6. Warranty and Damages**

6.1. Any and all defects must be sufficiently explained and proven by the Client in writing (error report). This must be done within one week after delivery of the service.

6.2. The Client shall grant the Translator a reasonable period of time and the opportunity to rectify and improve the Translator's delivered service. If the defects are rectified within a reasonable period of time by the Translator, the Client shall not be entitled to a price reduction or cancellation of the contract.

6.3. If the Translator lets the reasonable grace period elapse without rectifying the defect, the Client may withdraw from the contract (cancellation) or demand a reduction of the remuneration (price reduction). In the case of minor defects, there shall be no right to withdraw from the contract (Section 932 (4) of the Austrian Civil Code).

6.4. Warranty claims shall not entitle the Client to retain the entire invoice amount but only a reasonable part thereof; in this case, the Client also waives any right to offset amounts.

6.5. The Translator shall be liable for defects in translations used for printed works only if the Client expressly states in writing in its order that it intends to publish the text and if proofs are submitted to the Translator for this purpose up to and including that version of the text after which no further changes are made by the Client.

6.6. There is no warranty for the translation of source texts which are difficult to read, illegible or incomprehensible; the same applies to the review of translations by other language service providers.

6.7. Stylistic improvements or adjustments of specific terminology (especially

industry- or company-specific terms) etc. shall not be considered translation defects.

6.8. The translator shall not be liable for order-specific abbreviations not specified or explained by the Client when the order was placed.

6.9. The Translator shall not assume any liability for the correct reproduction of names and addresses that are not written in Latin script in the source text. In such cases, the Contractor advises the Client to write the names and denominations in Latin block letters on a separate sheet.

6.10. Numbers and figures shall be reproduced as stated in the source text. The conversion of numbers, measures, currencies and the like is the Client's responsibility.

6.11. Unless they are returned to the Client upon delivery of the translation, the Translator shall only be liable for source texts, original documents and the like as a custodian as defined in the Austrian Civil Code for a period of four weeks after the completion of the order. There is no obligation to take out an insurance for these documents and other media provided. Article 4.5. shall apply mutatis mutandis to reimbursement.

6.12. The Translator shall transmit target texts via data transfer (e.g. by email) in accordance with the current state of the art. Due to the technological circumstances, however, no guarantee or liability can be assumed by the Translator for defects and impairments arising in this process (such as breach of confidentiality obligations, damage to files, etc.), unless in a case of at least gross negligence on the part of the Translator.

6.13. All claims for damages against the Translator, including for consequential harm caused by a defect, shall be limited to the net invoice amount, unless otherwise stipulated by mandatory law. This excludes cases in which the damage was caused by or was the fault of the Translator (i.e. only by/of the translation itself, not the source text) due to gross negligence or intent, or in cases of personal injury under the Product Liability Act.

6.14. Claims for damages of the Client shall be asserted in court within six months after learning of the damage and the damaging party, but no later than 12 months after termination of the respective service contract, otherwise their assertion shall be excluded. An extension of the cooperation does not extend this period. The Client has to prove that the damage is due to the Translator's fault.

6.15. In the event that the Client uses the translation for a purpose other than that stated when placing the order, the Translator shall not be liable for damages.

## **7. Retention of Title, Copyright and Obligation of Confidentiality**

7.1. All documents provided to the Client in connection with the order shall remain the property of the Translator until all liabilities arising from the contract have been paid in full.

7.2. All documents not included in the order, such as translation memories, terminology databases, parallel texts, software, brochures, catalogs and reports created by the Translator, as well as all cost-generating documents, such as literature or scripts, shall remain the intellectual property of the Language Service Provider and shall be protected by the relevant legal provisions. The documents may only be passed on and reproduced with the consent of the Translator.

Unless otherwise agreed, translation memories created in the course of one or more orders shall be the property of the Translator. Should the Client wish to have them handed over by the Translator, this shall constitute an additional order which shall be remunerated accordingly.

7.4. Unless otherwise agreed, translation memories and terminology databases provided by the Client shall remain the property of the Client.

7.5. The Translator is not obliged to check whether the Client has the right to translate the source texts or to have them translated. The Client expressly warrants that they hold all the rights necessary for the execution of the order.

7.6. The Client shall indemnify and hold the Translator harmless from and against any and all claims asserted by third parties arising from infringements of copyright, neighboring rights, other industrial property rights or privacy-protection rights. This shall also apply if the Client has not specified a purpose of use or uses the translation for purposes other than those specified. The Translator shall immediately notify the Client of any such claims and, in the event of legal action, notify the Client of the dispute. If the Client does not join the Translator in the proceedings as a joint litigant after notification of the dispute, the Translator shall be entitled to acknowledge the claim of the plaintiff and to obtain compensation from the Client without regard for the legitimacy of the acknowledged claim.

7.7. As the intellectual creator of the translation, the Translator shall remain the author thereof and shall therefore be entitled to be named as the author. Upon full payment of the fee, the Client shall acquire the respective agreed rights to use the translation. The Translator's name may be attached to the published translation only if the entire text has been translated by the Translator and no changes have been made to the translation without the Translator's consent.

7.8. The Translator undertakes to keep confidential all business matters of the Client that come to her knowledge, in particular business and trade secrets. However, she shall be released from her obligation of confidentiality vis-à-vis vicarious agents of

which she makes use. She shall, however, transfer her obligation of confidentiality to these agents and shall be liable for any violation of confidentiality on their part in the same way as if she herself had breached the confidentiality obligation. The confidentiality is limited to 5 years after termination of the contractual relationship.

7.9. The Translator shall be entitled to process data transmitted to her or personal data otherwise entrusted to her within the scope of the purpose of the contractual relationship and to store such data even after the end of the contractual relationship if such storage or processing is necessary to fulfill the order or legal obligations (e.g. data for invoicing). After this period has expired, the data will be deleted.

7.10. As far as the Client's communication details are concerned (e.g. email address, telephone number), the Client agrees that these contact details may be processed and stored and that messages may be sent to the Client for advertising purposes in accordance with Article 107 of the Austrian Telecommunications Act (TKG). This consent may be revoked by the Client at any time.

7.11. In accordance with the provisions of the Data Protection Act, the Client also has the right to demand the deletion of their data. However, this right shall only be granted if the Translator has no legal obligation to store the personal data.

## **8. Severability Clause**

8.1. The invalidity of individual provisions of these terms and conditions shall not affect the validity of the remainder of the contract.

8.2. Should a clause be or become invalid or unenforceable, both parties undertake to replace it with a legally permissible, valid and enforceable clause that comes as close as possible to the economic intention of the provision to be replaced.

## **9. Written Form**

9.1. All amendments and supplements to these General Terms and Conditions and other agreements between the Client and the Translator must be made in writing.

## **10. Applicable Law and Place of Jurisdiction**

10.1. The place of performance for all contractual relationships which are governed by these Terms and Conditions shall be the Translator's registered office.

10.2. The competent court with subject-matter jurisdiction for the Translator's registered office shall have local jurisdiction to decide on all legal disputes arising from this contractual relationship.

10.3. Austrian law shall apply.



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