

General terms and conditions of HK Translation Services GmbH – as of: August 2015

1. Scope of Application

- (1) These general terms and conditions („General Terms“) of HK Translation Services GmbH („HK Translations“) apply to the entire business relationship between HK Translations and the customer.
- (2) Contradicting purchasing, supply or business terms and conditions of the customer apply only if HK Translations has expressly accepted them in the individual case.
- (3) The General Terms are accepted by the customer upon placement of the order and apply for the entire duration of the business relationship (including future transactions), even if HK Translations does not make reference again to the General Terms when accepting individual orders.

2. Subject Matter of the Customer's Order

- (1) The commissioned services are provided by HK Translations in accordance with the order and these General Terms. HK Translations does not owe any service or performance extending beyond the order.
- (2) Except as otherwise agreed in writing, HK Translations prepares and provides a working translation, with the proviso that the source text has to be transmitted as a computer file via e-mail and the translation is provided by HK Translations also as a computer file.
- (3) Any services or forms of order execution required in addition (in particular official certifications, number of certified copies, delivery of the translation on data storage devices, preparation of bilingual or synoptic text versions, readiness for printing, publications, preparation and adaptation of foreign-language advertising texts, website and software localisation, creation of texts, layout and printing work, formatting and conversion work, proofreading, urgent orders, the building, extension and use of a specified terminology or a glossary) have to be notified in a timely fashion upon placement of the order and are invoiced additionally with a surcharge or in accordance with the working time expended.
- (4) Subsequent modifications or supplements of already completed translations resulting from modifications or supplements of the original text by the customer are invoiced separately in accordance with the applicable hourly rates for translation work.
- (5) If the translation is intended to be printed, the customer has to provide HK Translations with a galley proof for approval before the passing for press. If the customer proceeds to printing without such release, he shall be fully responsible and shall also be liable to the full extent for any consequential damages.

3. Cancellation

If an order that has been placed is cancelled, then the costs incurred until the cancellation have to be reimbursed and the parts of the order already completed until the point in time of the cancellation – as the case may be up to the full amount of the agreed fees – has to be paid by the customer.

4. Use of Third Parties

- (1) HK Translations may commission third parties for the execution of all orders or parts of orders, if HK Translations in its own discretion considers this to be suitable and appropriate.
- (2) In these cases, HK Translations will ensure that the third-party provider is subject to confidentiality obligations which are equivalent to those of HK Translations vis-à-vis the customer.
- (3) The customer may contact the third parties commissioned by HK Translations only with permission by HK Translations.

5. Cooperation and Information Obligation of the Customer

- (1) Any information or documents which are necessary for the preparation of the translation have to be provided to HK Translations by the customer unrequested and in a timely fashion. HK Translations is not responsible for any defects resulting from non-compliance with these obligations.
- (2) If no specific instructions or documents are issued or provided, any technical terms will be translated to the generally used version. If the customer wishes that a specific terminology is used, in particular a proprietary company terminology, the customer has to expressly specify this when placing the order, otherwise this is not part of the performance obligation.
- (3) HK Translations is entitled, but not obliged, to make inquiries to the customer for the clarification of individual statements or descriptions in source texts. HK Translations also fully and duly fulfils its contractual obligations if in such cases HK Translations prepares the translation on the basis of the meaning understood, employing due care to its best knowledge and in accordance with common linguistic understanding.

6. Rights of Third Parties

- (1) The customer has to ensure that the documents provided by him give no cause for objections with regard to competition or trademark law or the law relating to the use of names. HK Translations is under no obligation to make exami-

nations in this respect. The customer is responsible for obtaining any permissions required under copyright law. In the event that claims of third parties against HK Translations arise as a result of copyright infringements, the customer is obliged to indemnify HK Translations vis-à-vis such third parties.

- (2) The customer further has to ensure that also in all other respects no rights of third parties in respect of the information, documents and other objects provided to HK Translations prevent a processing, exploitation, duplication and/or publication of such processing. The customer will indemnify HK Translations and the third-party providers employed by it from any liability for claims of third parties resulting from a utilisation, modification, exploitation or duplication of such information, documents or other objects or their processing.

7. Offers and Prices

- (1) Upon request, a non-binding quote is provided to the customer. Unless expressly agreed otherwise, the fee calculated in quotes serves only as a price indication. The services actually provided are the relevant basis for the calculation.
- (2) In the case of interpreting services or assistance in negotiations in foreign languages, the time required by the person providing the service for travelling to the place of service performance and back will be invoiced in addition to the time spent for interpreting and attendance with 50% of the hourly rate invoiced for the service. Any expenses incurred (costs for travel, accommodation and meals etc.) have to be borne by the customer. The registered office of HK Translations is the place where the travelling starts and ends, provided that no other place where the travelling starts and ends has been contractually agreed.
- (3) All prices specified in the offers of HK Translations are net prices not including tax.
- (4) No payment dates, discounts or other deductions are granted, unless they are expressly agreed.

8. Delivery Dates and Partial Delivery

- (1) Delivery dates are stated to HK Translation's best knowledge and are only expected delivery dates and shall not be deemed binding commitments unless expressly agreed otherwise in writing.
- (2) The customer is obliged to transmit the documents to be translated to HK Translations promptly after the conclusion of the contract. In the event of a delay of the transmission without previous consultation, HK Translations cannot ensure that the originally specified delivery date is met. The same applies in the case of a modification or supplementation of a translation during completion as a result of modifications or supplementations of the source document.
- (3) The customer is obliged to accept any partial deliveries in accordance with the agreed conditions.

9. Remuneration; Payment Conditions

- (1) The remuneration is due on the date specified in the invoice issued by HK Translations.
- (2) In addition to the agreed fees, HK Translations is entitled to reimbursement of the expenses actually incurred and agreed with the customer (e.g. for official certifications, postage, delivery by courier etc.).
- (3) In the case of extensive translation projects, HK Translations is entitled to demand an advance in the amount objectively necessary for conducting the translation.
- (4) If the amount of the fees is not agreed, a remuneration is owed which in view of the nature and level of difficulty is appropriate and in accordance with usual practice. In this respect, at least the rates stated in the *Justizvergütungs- und -entschädigungsgesetz* (JVEG – German Judicial Remuneration and Compensation Act) shall be deemed appropriate and in accordance with usual practice.

10. Complaints

- (1) The customer will check the translations prepared by HK Translations for obvious translation errors (in particular with regard to figures, data and names) before using them for business purposes. HK Translations will not be liable for consequential damages, such as errors in printing, if the customer has failed to fulfil his examination obligation comprehensively and in a timely fashion.
- (2) To the extent legally permissible, complaints are only accepted if they are made in writing to HK Translations promptly after transmission of the translation or the provision of the service in the case of obvious defects, promptly after the required review of the translation or the service by the customer in the case of identifiable defects and promptly after their discovery in the case of hidden defects, in each case including a detailed description of the defect.
- (3) Any and all complaints regarding defects are excluded after expiry of two weeks following transmission of the translation or, respectively, provision of the service in the case of obvious defects, after expiry of four weeks following transmission of the translation or, respectively, provision of the service in the case of identifiable defects, otherwise after expiry of four weeks following discovery of a hidden defect by the customer.

11. Remedy of Defects

- (1) In the case of justified complaints about defects that have been duly lodged, HK Translations reserves the right to remedy such defects.
- (2) The claim for remedying of defects has to be asserted by the customer together with a detailed description of the defect. HK Translations will conduct the remedying of defects within an appropriate period of time.

- (3) In the event that the remedying of a defect fails or that a substitute delivery is made, the statutory warranty claims shall be reinstated, provided that no deviating agreement has been reached.

12. Default of Performance; Impossibility; Rescission

In the cases of default of performance, a remedying of defects and an impossibility of performance for which HK Translations is responsible, as well as in all other cases, the customer is only entitled to rescind the agreement or, respectively, to conduct the performance himself if the relevant deadline is significantly exceeded and he has set an appropriate grace period.

13. Liability

- (1) HK Translations does not perform any examination of the content or legal analysis of the documents transmitted for translation. HK Translations does not accept any liability for inaccurate, ambiguous, incomplete, incorrect or false information or terms within the source texts, reference documents, information and glossaries provided by the customer or in the specifications of the order.
- (2) In the case of guaranteed delivery dates, HK Translations does not accept any liability for delayed deliveries if such delays are caused by force majeure (including delays during the transmission or mailing of the completed translation). In these cases, the agreed delivery date is extended accordingly.
- (3) HK Translations accepts no liability for the loss of or damage to documents and other objects provided by the customer or designated for him as a result of fire, water or forces of nature as well as of burglary or theft.
- (4) In the case of urgent orders necessitating the splitting-up of the performance of the service to more than one person, no assurance can be given for the use of a uniform terminology. Any claims for damages and reductions of amounts payable on invoices for this reason are excluded.
- (5) HK Translations accepts no liability for damages caused by viruses, Trojans, auto-dialers, spam mail or comparable data. The IT infrastructure of HK Translations is regularly checked for such viruses and data. In the case of transfers of files via e-mail or other ways of transmission, the customer is responsible for a final check of the transferred data and text files for viruses and the data contained. HK Translations accepts no liability for any damages that may arise in this respect. The electronic transmission is conducted at the risk of the customer. HK Translations accepts no liability for defective, incomplete or lost texts and data in the course of the electronic transfer.
- (6) HK Translations is generally liable for damages only in the case of gross negligence and intentional conduct. Liability in the case of slight negligence exists only in the case of violations of material contractual obligations or in the case of culpable violations of life, body or health.
- (7) In all cases, the obligation of HK Translations to pay damages is limited to typical direct damages that were foreseeable at the time of conclusion of this agreement. There is no liability for consequential damages, other indirect damages and lost profits. In all other respects, the liability of HK Translations in the case of slight negligence is limited to the invoice amount of the (partial) delivery or (partial) performance that caused the damage.

14. Confidentiality

- (1) HK Translations undertakes to keep secret the information and documents disclosed by the customer in the course of the collaboration which are recognisable or designated as confidential and to take appropriate measures to prevent unauthorised third parties from obtaining knowledge of such information or documents and/or being able to use such information and documents.
- (2) The confidentiality obligation does not apply or, respectively, terminates to the extent that/as soon as the confidential information is or becomes publicly known.
- (3) HK Trtoslations will not pass on confidential information of the customer to unauthorised third parties. However, HK Translations is permitted to commission third parties for the execution of all orders or parts of orders, to the extent that HK Translations in its own discretion considers this to be suitable and sensible. In these cases, HK Translations will ensure that the third-party provider is subject to confidentiality obligations which are equivalent to those of HK Translations vis-à-vis the customer. In particular, such third-party providers will be advised of the requirement of compliance with all statutory provisions, in particular those of the *Wertpapierhandelsgesetz* (German Securities Trading Act).
- (4) In the case of the electronic transfer of texts and data between the customer and HK Translations, no absolute protection of secrets is possible as a result of the possibilities of external interference; therefore, HK Translations assumes no responsibility for this. In the event that more stringent confidentiality obligations than the customary ones have to be observed for working on certain documents, the customer is obliged to describe these restrictions in detail in writing upon placing the order and to provide, to the extent necessary, the programmes, codes and passwords to be used. Any additional costs arising therefrom shall be borne by the customer.

15. Retention of title; copyright

- (1) Until complete payment of the provided service, the principal has a utilisation and/or realisation right to the service only with the written consent of HK Translations.
- (2) HK Translations reserves its copyrights in respect of the service (§ 3 Urheberrechtsgesetz – German Copyrights Act).

16. Assignment; Set-off

- (1) The assignment of the rights from an agreement with HK Translations by a customer requires the written consent of HK Translations.
- (2) A set-off with counter-claims by the customer is only permissible if these claims are uncontested or have been recognised in a final and binding manner.

17. Utilisation Right to the Brand for Advertising Purposes

- (1) The customer grants to HK Translations a simple, non-exclusive utilisation right to use the word mark, design mark and combination trademark of the customer (hereinafter the “Trademark”) globally for advertising purposes and to duplicate it as part of using the collaboration for reference purposes. HK Translations may request the customer to provide the brand in electronic form (i.e. in a version suitable for printing and screen display).
- (2) HK Translations undertakes to use and to duplicate the Trademark exclusively as part of presenting the customer base as reference. HK Translations acknowledges all rights of the customer to the Trademark and undertakes to infringe these rights in no manner. The Trademark may be used by HK Translations only in the forms and colours designated by the customer.

18. Non-Solicitation

Up to twenty-four months following completion of the customer's last order, the hired employees and freelancers of HK Translations may neither directly nor indirectly be hired, employed or commissioned by the customer without the approval of HK Translations. Furthermore, no offer for such activity may be submitted to them either verbally or in writing or in any other manner.

19. Data Protection

The customer hereby agrees that his data will be stored in compliance with applicable data protection laws. Such data may also be stored on Internet-based servers. In this respect, HK Translations will endeavour to protect the data against unauthorised access – to the extent possible – by security precautions common in business relationships.

20. Place of Delivery and Performance; Risk Allocation

- (1) The place of delivery and performance is the registered office of HK Translations in Ludwigshafen am Rhein.
- (2) The customer bears the risk of the transmission or, respectively, sending of the translation to the place desired by him.

21. Governing Law; Place of Venue

- (1) All legal relationships between the customer and HK Translations are governed by the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (2) The exclusive place of venue is, to the extent this can be agreed in a legally permissible manner, Ludwigshafen am Rhein, Germany.

22. Severability

- (1) Any initial or subsequently occurring voidness or invalidity of one or several provisions of these General Terms does not affect the validity of the remaining provisions. In this case, a valid provision is deemed agreed which comes closest to the legal and economic purpose of the relevant order.
- (2) The same applies in the event of unintended omissions.

23. Language

The relevant version of these General Terms is the German language version.

24. Amendments to these General Terms

- (1) Amendments or supplements to these General Terms in respect of orders already placed require a written agreement between the customer and HK Translations.
- (2) These General Terms are subject to short-term amendments without notice. Please contact us if you wish to receive a current version of these General Terms.