

Steve Sutcliffe Terms and Conditions for Services

In submitting a Translation Task any Client enters into a binding agreement with the Provider, said agreement being covered by the following terms and conditions.

Any of the Client's terms that are at variance with these terms and conditions are applicable only if the Provider has expressly agreed to them prior to acceptance of the commission.

1. Definitions

- 1.1. **Provider** means **Steve Sutcliffe**, the party delivering the result of a Translation Task in the normal course of business. The Provider will normally be the creator of the Target Material unless the Client has been explicitly informed that the Translation Task will be subcontracted
- 1.2. **Translation Task** means the preparation of a translation or any other language related task or service including but not limited to: voice-recording, subtitling, editing, proof-reading, etc., which calls upon the translation skills of a Provider and skills related to audio recording or video editing, subtitle creation etc.
- 1.3. **Client** means the party (individual, business, corporate entity, etc.) commissioning a Translation Task in the normal course of business.
- 1.4. **Order** means written agreement from the Client to carry out the Translation Task as agreed with the Provider, typically through acceptance of a quotation (see below).
- 1.5. **Source Material** means any text or medium containing a communication which is to be translated, or is to be the subject of a translation task, and may comprise text, sound or images.
- 1.6. **Target Material** means any text or medium provided by the Provider containing a translation of the Source Material or the output of the Translation Task

2. Fees: Quotations (binding) and Estimates (non-binding)

- 2.1. In the absence of any specific agreement to the contrary, the fee to be charged will be determined by the Provider on the basis of the Client's description of the Source Material, the purpose of the translation and any instructions given by the Client.
- 2.2. An oral or written estimate will not be considered contractually binding, but given for guidance or information only.
- 2.3. No fixed written quotation will be given by the Provider until all the Source Material has been examined and firm instructions have been received from the Client. Any fee quoted, estimated or agreed by the Provider on the basis solely of the Client's description of the task may be subject to amendment by agreement between the parties if, in the Provider's opinion on having received the source material, that description is inadequate or inaccurate.
- 2.4. Any fee agreed for a Translation Task which is found to present latent special difficulties of which neither party could be reasonably aware at the time of offer and acceptance may be renegotiated, always provided that the circumstances are made known to the other party as soon as reasonably practical after they become apparent.

- 2.5. Subject to clause 2.3 above, a binding quotation, clearly identified as such, once given after the Provider has seen (or heard) all the Source Material will remain valid for a period of thirty days from the date on which it was given, after which time it may be subject to revision.
- 2.6. No work will commence until the Client has accepted the quotation in writing.
- 2.7. A supplementary charge, for example arising from priority work or work outside normal office hours in order to meet the Client's deadline or other requirements, may be charged. The nature of any such charges will be agreed in advance, and included in the quotation if applicable.
- 2.8. If any changes are made to the Source Material or the Client's requirements at any time while the Translation Task is in progress, the Provider's fee, any applicable supplementary charges and the terms of delivery may be adjusted in respect of the additional work.
- 2.9. The Provider may, at his discretion and notwithstanding his guideline fee structure, apply a minimum fee to Translation Tasks

3. Delivery

- 3.1. Any delivery date or dates agreed between the Provider and the Client will become binding only after the Provider has received all of the Source Material to be translated and has received complete instructions from the Client.
- 3.2. Where a delivery date is a material part of a commission accepted by the Provider, this must be disclosed by the Client in advance. Otherwise the date of delivery will not be of the essence unless specifically agreed in writing.
- 3.3. Unless otherwise agreed, the Provider will dispatch the Target Material in such a way that the Client can reasonably expect to receive it not later than the normal close of business at the Client's premises on the date of delivery.
- 3.4. Costs of delivery of the Target Material will normally be borne by the Provider. However, where delivery requested by the Client involves expenditure greater than the cost normally incurred for delivery, the additional cost will be chargeable to the Client, unless the additional cost is incurred as a result of action or inaction by the Provider.

4. Payment

- 4.1. Settlement of any invoice, part-invoice or other payment is to be made by the due date agreed between the parties. In the absence of any specific agreement, payment in full to the Provider will be effected not later than 30 days from the date of invoice by the method of payment specified on the invoice. The Client will be responsible for all bank charges arising in effecting payment. The Provider reserves the right to recover from the Client any deductions from the invoice amount incurred during the payment transaction.
- 4.2. For long projects, the Provider may request an initial payment and periodic partial payments on terms to be agreed.

- 4.3. The Provider reserves the right to apply interest at the rate of 8% per annum over the Bank of England base rate (or such rate as is determined by UK statute, the latter prevailing) to all overdue sums from the date on which they first become due until they are paid in full.
- 4.4. Where delivery is in instalments and notice has been given that an interim payment is overdue, the Provider will have the right to stop work on the task in hand until the outstanding payment is made or other terms agreed. Under these circumstances, subsequent delivery dates may be renegotiated. This action will be without prejudice to any sums due and without any liability whatsoever to the Client or any third party.
- 4.5. Until payment has been received in full the Target Material remains the property of the Provider and the Client has no right of use. Likewise, any transfer of copyright in the Target Material agreed on the Order will only be effected upon receipt of full payment.

5. Copyright in Source Material and Translation Rights

- 5.1. The Provider accepts a commission from the Client on the understanding that performance of the Translation Task will not infringe any third party rights. The Client undertakes to keep the Provider harmless from any claim for infringement of copyright and/or other intellectual property rights in all cases. The Client likewise undertakes to keep the Provider harmless from any legal action including defamation which may arise as a result of the content of the original Source Material or Target Material.

6. Copyright in Translations

- 6.1. In the absence of a specific written agreement to the contrary, copyright in the Target Material remains the property of the Provider. The Provider may use and sell or resell any non-confidential Target Material or any part or record thereof not covered by copyright, the Official Secrets Act, legal professional privilege or public interest immunity.
- 6.2. Where copyright is assigned or licensed (formally in writing as required by § 90 of the Copyright, Designs and Patents Act 1988, to take valid effect in law, or informally without writing but taking valid effect in equity outside the 1988 Act) this will be effective only on payment of the agreed fee in full.
- 6.3. Copyright in any completed or residual part of Target Material will remain the property of the Provider, and the conditions applicable to assignment of copyright and the grant of a licence to publish will be as specified above in relation to a completed translation.
- 6.4. Where the Provider retains the copyright on the Target Material, unless otherwise agreed in writing, any published text of the Target Material will carry the following statement: "© (English or other) text (S. Sutcliffe) (Year date)" as appropriate to the particular case.
- 6.5. Where the Provider does not retain the copyright on the Target Material, unless otherwise agreed in writing, the Client is under no obligation to acknowledge or identify the Provider in any way.
- 6.6. Where Target Material is to be incorporated into a Client's or third party's translation memory system or any other corpus the Provider will license use of the Target Material for this purpose and may levy a fee. Such incorporation and use will only take place after the licence for the purpose has been granted by the Provider in writing and any agreed fee has been paid in full. It will be the duty of the Client to notify the Provider that such use will be made of the Target Material.

6.7. Whether or not the Provider retains copyright and notwithstanding the terms of confidentiality, the Source Material and related Target Material may be incorporated into the Provider's own translation memory system and/or terminology management system as part of the Translation task process and for his own use in the normal course of business. The Provider will have the right to retain hardcopy and electronic copies of the Source Material and Target Material regardless of the terms of copyright.

7. Right of Integrity

- 7.1. All Target Material is subject to the Provider's right of integrity.
- 7.2. If Target Material is in any way amended or altered without the written permission of the Provider, he will not be in any way liable for amendments made or their consequences.
- 7.3. If the Provider retains the copyright in Target Material, or if a Target Material is to be used for legal purposes, no amendment or alteration may be made to the Target Material without the Provider's written permission.
- 7.4. The right of integrity may be specifically waived by the Provider in writing.

8. Confidentiality and Safe-keeping of the Client's Documents

- 8.1. The Provider will keep confidential all information and documents delivered by the Client and will not disclose any such information or the contents of such documents to any third party without the express authorisation of the Client unless compelled to do so by law. Nevertheless, third parties may be consulted over specific translation terminology queries, provided that there is no disclosure of confidential material.
- 8.2. The Provider will be responsible for the safe-keeping of the Client's documents once received, and copies of the Target Material. However, the Provider accepts no responsibility for the confidentiality of, or loss or damage to any documents or data whilst such documents or data are in transit, electronically or otherwise.

9. Cancellation and Frustration

- 9.1. If a Translation Task 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 after work on the Translation Task has begun, the Client will, except in the circumstances described in clause 9.4, pay the Provider the full contract sum. In the event that the Translation Task is of significant size and the cancellation, reduction or frustration arises before 75% of the task is completed, the Provider may, at his discretion, accept pro rata payment for the work completed. The work completed will be made available to the Client.
- 9.2. If a Translation Task 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 before work on the Translation Task has begun, no payment will be due by the Client other than any out-of-pocket expenses the Provider may have incurred in preparing for the Translation Task.

- 9.3. If a Client goes into liquidation or has a Receiver appointed or becomes insolvent, bankrupt or enters into any arrangement with creditors the Provider will have the right to terminate a contract.
- 9.4. Neither the Provider nor the Client will be liable to the other or any third party for consequences which are the result of circumstances wholly beyond the control of either party. The Provider will notify the Client as soon as is reasonably practical of any circumstances likely to prejudice the 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.

10. Complaints and Disputes

- 10.1. If the Provider fails to meet agreed Order requirements or to provide Target Material which is fit for its stated purpose, the Client will be entitled to reduce, with the Provider's consent, the fee payable for work done by a sum equal to the reasonable cost necessary to remedy the deficiencies. The Client may also cancel any further instalments of work being undertaken by the Provider. Such entitlement will only apply after the Provider has been given one opportunity to bring the Target Material up to the required standard, at no extra charge to the Client. This entitlement will not apply unless the Provider has been notified in writing of all alleged defects in the Target Material.
- 10.2. Any complaint in connection with a Translation Task or Target Material will be notified to the Provider by the Client (or vice-versa) in writing within 14 days of the date of delivery of the Target Material.
- 10.3. If the parties are unable to agree on a resolution, the matter may be referred to mutually agreed arbitration. Such referral will be made no later than one month from the date on which the original complaint in writing was made.
- 10.4. If a dispute cannot be resolved amicably between the parties, or if either party refuses to accept arbitration, the parties will be subject to the jurisdiction of the Courts of England and Wales.
- 10.5. In any event these terms will be construed in accordance with English law.

11. Responsibility and Liability

- 11.1. The Translation Task will be carried out by the Provider using reasonable skill and care. Time and expense permitting, the Provider will use his best endeavours to do the work to the best of his ability, knowledge and belief, and consulting such authorities as are reasonably available to him at the time. These authorities may include the Client, which undertakes to provide appropriate responses to such questions as the Provider may have.
- 11.2. Target Material will be fit for its stated purpose and target readership, and the level of quality specified. Unless specified otherwise, Target Material will be deemed to be required to be of "for information" quality.
- 11.3. Target Material will match the source material in content, style and form. The Client is not entitled to expect any improvements to be made to these aspects in the course of the translation task, unless this is expressly specified at the time the Translation Task is commissioned. Target Material is based exclusively on the Source Material provided by the Client, taking into account any background information that is also provided.

- 11.4. The Provider expressly has no responsibility for the content of the Source Material submitted to it by the Client, nor does the Provider have any responsibility for the implications of any of its Target Material.
- 11.5. The liability of the Provider on any grounds whatsoever will be limited to the invoiced value of the Order. The sole exception admissible is where in connection with any consequences which are reasonably foreseeable the potential for such liability is expressly notified to the Provider in writing, any such liability being restricted to an agreed limit of cover under the professional indemnity insurance available to Providers.

12. Unfair Competition

- 12.1. Where in the course of business the Provider's Client is an intermediary and introduces the Provider to a third-party work-provider, the Provider will not knowingly, for a period of 6 months from delivery of the last Target Material arising from the introduction, approach the said third party for the purpose of soliciting work, nor work for the third party in any capacity involving translation, without the Client's written consent. However, this will not apply where the third-party work-provider has had previous dealings with the Provider, or the Provider acts on the basis of information in the public domain, or the approach from the third party is independent of the relationship with the intermediary, or the third party is seeking suppliers on the open market, or where the intermediary only makes isolated use of the Provider's services.

13. Applicability and Integrity

- 13.1. These Terms and Conditions will be subject to any detailed requirements or variants expressly specified in the Order relating to a particular Translation Task.
- 13.2. No waiver of any breach of any condition in this document will be considered as a waiver of any subsequent breach of the same or any other provision.
- 13.3. Acceptance of terms of business must be total; the rejection of any part will result in rejection of the whole.

T&C based on UK law and last updated 28th July 2012