



GENERAL TERMS AND CONDITIONS (TRANSLATION SERVICES)

1 - General Provisions

1. These General Terms and Conditions shall apply to all quotations and contracts between **Kelly McGuire** of **Kestrel Text & Translation** (hereinafter referred to as '**the Translator**') and the person or company representative commissioning a translation (hereinafter referred to as '**the Client**'). Any departures from these General Terms and Conditions shall only be valid if the Translator has explicitly agreed to them in writing.
2. If at any time one or more provisions of these General Terms and Conditions become void or nullified (whether in part or in full), the remainder of the General Terms and Conditions will remain in place. In this event, the Translator and the Client will agree on the replacement of the void or nullified provision(s) by setting new provisions, while retaining the purpose and scope of the original provisions as far as possible.
3. If there is anything unclear or contentious about the interpretation of any of the provisions in these General Terms and Conditions, the interpretation will be made in accordance with the spirit of these provisions.
4. The Translator reserves the right to modify or add to these General Terms and Conditions as she sees fit. Modifications will also apply to existing contracts, in which case the Client will be informed immediately of any changes that have been made. If the Client does not wish to accept the proposed modifications, he/she will have the right to cancel the contract up until the date on which the new General Terms and Conditions would come into effect.

2 - Quotations & Contract Formation

1. All quotations and cost estimates provided by the Translator will be made **without obligation** and will be subject to confirmation.
2. All quotations and fees are **exclusive of VAT** (21%). Clients based outside the Netherlands will not be charged VAT.
3. Where possible, the Client should provide relevant information about the source material (e.g. specialist terminology, file type) and inform the Translator of any non-negotiable deadlines when placing their order. Surcharges may be applied to assignments that require extensive work over the weekend or on public holidays, or are delivered in non-standard formats.
4. The Translator reserves the right to revoke or revise her quotations and/or deadlines if she did not have the opportunity to review the source material before sending out her initial quotation.
5. The contract will be formed when the Client accepts and returns a signed copy of the Translator's **formal quotation** or, alternatively, when the Translator accepts the **purchase order** sent to them by the Client. Agreements and assurances given by the Translator will not be binding unless explicitly confirmed by the Translator in writing.
6. The Translator will consider the person who places the order to be the Client, unless said person explicitly indicates that he or she is acting on behalf of, on the orders of, and on the account of a third party and provided that the name and address of said third party is made known to the Translator when the initial order is placed.
7. Once the contract has been accepted by both parties, the Translator will inform the Client how and when the source material should be delivered to her. The Client shall always bear the costs and risks for the dispatch of the source material.
8. The Translator reserves the right to refuse assignments without explanation.

3 - Performance of the Work & Confidentiality

1. The Translator shall perform her work to the best of her knowledge, abilities, and expertise for the purpose specified by the Client.
2. All information entrusted to the Translator will be treated with the **strictest confidence**.
3. Unless explicitly stated otherwise, the Translator retains the right to contract third parties (e.g. external proofreaders) to carry out part of the assignment, without prejudice to her responsibility for the confidential treatment and proper execution of the assignment. Third parties will be obliged to maintain confidentiality but the Translator cannot be held liable for any transgressions on their part.
4. If requested, the Client should be willing to provide any relevant documentation, reference material, or terminology that may facilitate the completion of the assignment. The dispatch of such documents will always be at the Client's risk and expense.
5. The Translator shall not be held responsible for the accuracy of information supplied to her by the Client and shall on no account accept liability for damages of any kind if she has operated from inaccurate, ambiguous, or incomplete information supplied to her by the Client, even if such information was supplied to her in good faith.
6. All translated texts will be **proofread and revised** by the Translator before they are sent back to the Client. The Client may request to see early drafts of the Translator's work but should keep in mind that these may contain typographical, formatting, or grammatical errors that would not normally be present in the final product.

4 - Intellectual Property

1. Unless explicitly agreed otherwise in writing, the Translator retains the copyright of any translations and other documentation she produces until payment has been submitted in full.
2. The Client is bound to indemnify the Translator against claims by third parties concerning the alleged infringement of ownership rights, patent rights, copyrights, or other intellectual property rights in connection with the performance of the contract.

5 - Changing/Cancelling Assignments

1. If the Client makes any notable changes to the assignment after the contract comes into effect, the Translator reserves the right to adjust the delivery date and/or fees accordingly or - if necessary - refuse the assignment. Any work that has already been completed will be assessed in mutual consultation and in accordance with the principles of reasonableness and fairness.
2. If the Client cancels an assignment that is being worked on, he/she will be liable to pay for any **work that has already been performed** (normal rates will apply, exclusive of VAT) as well as **compensation** for any research or preparatory work that has been undertaken with respect to the remainder of the assignment (hourly rates will apply, exclusive of VAT). The completed work will be made available to the Client at their request but the Translator shall accept no responsibility for any unchecked errors contained in said work.
3. If the Translator has reserved time for an assignment and this time can no longer be put it to other gainful use, the Client may be charged a **cancellation fee** (up to 10% of the original quoted fee) in addition to the fees referred to in **5.2**.

6 - Deadlines & Delivery

1. The agreed delivery date is **provisional**, unless an explicit written agreement stipulates otherwise. If the Translator feels she will be unable to meet the target deadline, she is bound to notify the Client without delay.
2. If the Translator fails to meet the deadline and the client cannot reasonably be expected to wait for the completion of the assignment, the client may cancel the contract unilaterally. In such cases, the Translator will not be liable to pay any compensation.
3. Delivery shall be deemed to have taken place at the moment the translated text is delivered by hand or is dispatched by post, courier, FTP, or email.
4. The Client shall do everything in his/her power to facilitate the delivery of the translated text. Any refusal to accept the Translator's product shall constitute default on the part of the Client.

7 - Fees & Payment

1. Prices shall normally be based on the Translator's current rate - **per source word for Dutch** or **per source character for Chinese** - unless agreed otherwise. In addition, the Translator may charge the Client for any expenses incurred while working on their assignment and reserves the right to charge a **minimum fee** for short source documents, i.e. those that do not exceed 250 characters (Simplified/Traditional Chinese) or 200 words (Dutch).
2. All prices quoted are **exclusive of Dutch VAT** (21%). Clients based outside the Netherlands will not be charged VAT.
3. The Translator reserves the right to adjust her rates annually to reflect inflation and market changes. Any rate changes will be expressly communicated to the Client at least one month in advance.
4. For larger projects, the Translator may request an **advance payment** - or deposit - from the Client as a form of security. In this instance, the Translator will only starting working on the assignment once the Client has paid the deposit. If this deposit is not paid or not paid in good time, the Translator will not be held accountable for any damages or delays resulting from the work not being carried out. Deposits that have been paid by the Client will be deducted from the amount invoiced for that order.
5. The Translator reserves the right to request payment in monthly instalments if she deems necessary, though this must be explicitly agreed to in writing by both parties. The Client will then be billed on a monthly basis and will be expected to pay each instalment in full **within thirty (30) days of the invoice date**. Delays in payment may result in the Translator suspending her work until payment for the previous month has been settled. In such an event, the Translator will not be held accountable for any damages or delays resulting from the work not being carried out.
6. Surcharges may be applied if the Translator is forced to perform any unforeseen additional work as a result of working with time-consuming or unclear texts or working with faulty files or software supplied by the Client.
7. Invoices will be sent to the Client **upon (or following) delivery** of the translated text, unless explicitly agreed otherwise.
8. Payment must be transferred in full in the currency stated on the invoice **no later than thirty (30) days after the invoice date**. If payment is not made by the due date, the Client shall be in default – immediately and without notice of default being required – and shall be made to pay the statutory rate

of interest on the invoice amount from the date of default up until the date payment is settled in full.

9. All judicial and extra-judicial collection charges, including legal fees, bailiffs' fees, and costs of debt recovery services, shall be charged to the Client. Extra-judicial collection costs will be charged in accordance with the statutory graduated scale.

8 - Complaints & Disputes

1. The Client must notify the Translator in writing of any complaints concerning the translated text **within five (5) working days** of its delivery. Reporting a complaint does not release the Client from his/her obligation to pay for the Translator's services.
2. If the complaint is substantiated, the Translator shall make the necessary amendments within a reasonable period of time **free of charge**. If the Translator is unable to make the required improvements, she may give the Client a discount for the work performed (or for a future order).
3. If the Client does not lodge a complaint within five (5) working days of delivery, the Client shall be deemed to have fully accepted the translated text supplied by the Translator and the Translator will assume that the work has been completed to the Client's satisfaction.
4. The Client's right to file a complaint will lapse if he/she has edited (or instructed others to edit) the text in question, and then delivered it to a third party.

9 - Liability & Indemnity

1. The Translator can only be held responsible for loss or damage suffered by the Client as a result of any intentional acts or omissions by the Translator or as a result of gross negligence on the Translator's part. The Translator is at no time liable for any other form of loss and/or damage, such as consequential loss, loss due to delay, or loss of profits. Where applicable, the Translator's liability will never exceed the invoice value (exclusive of VAT) of the assignment in question.
2. The Translator cannot be held liable for the incorrect interpretation of any ambiguous text contained in the source material.

3. The Translator cannot be held liable for any loss of or damage to the documents, information, or data carriers made available to her for the purpose of performing the assignment. She also cannot be held liable for any costs, losses, or damages caused by the use of information technology or telecommunications media, or the presence of computer viruses in any files or data carriers supplied by her.
4. The Client is bound to indemnify the Translator against any claims by third parties deriving from the use of the product supplied or services rendered.
5. The Translator's liability shall expire **three (3) months** after the delivery of the translated document.

10 - Termination

1. If the Client fails to meet his/her obligations, or if his/her business goes into bankruptcy or is liquidated, or if a court orders that payments to creditors be suspended,, the Translator will have the right to terminate the contract or suspend the performance of the contract without being required to pay compensation. The Translator will then be entitled to request the immediate payment of any outstanding fees.
2. If it becomes apparent after formation of the contract that the assignment cannot reasonably be completed due to the information provided by the Client, the Translator is authorized to terminate the contract or charge extra costs for the work not included in the quotation. The Translator will also have the right to terminate the contract if the information provided by the Client during the execution of the contract is fundamentally different to what was provided during the formation of the contract.
3. A termination of the contract as referred to in **10.2** above does not discharge the Client from his/her obligation to pay for the work already completed by the Translator.

11 - Force Majeure

1. '*Force majeure*' shall be understood to include what is meant by it in civil law as well as all exterior causes, foreseeable or otherwise, over which the Translator cannot exercise any control, but which may prevent her from fulfilling her contractual obligations. This may include (but is not limited to) fire,

accidents, illness, strikes, riots, war, terrorist attacks, government measures, prolonged power cuts, severe disruption to Internet provider services, negligence on the part of suppliers, transport restrictions and delays, or any other circumstances beyond the Translator's control.

2. In the event of *force majeure*, the Translator's contractual obligations shall be suspended. If this period exceeds one month and the Translator is wholly unable to fulfil her obligations, the contract may be terminated by either party. Neither party will be held liable for damages or compensation.
3. If, at the commencement of *force majeure*, the Translator has already met part of her contractual obligations, or can only partially meet them, the Translator is entitled to draw up a separate invoice for the work performed. The Client will be bound to pay said invoice as though it concerned a separate contract.

12 - Applicable Law

1. All legally binding transactions between the Client and the Translator shall be governed by Dutch law.
2. Disputes that cannot be resolved through mutual agreement will be subject to the exclusive jurisdiction of the competent Dutch court.

13 - Registration

1. **Kestrel Text & Translation** is registered with the Dutch Chamber of Commerce (*Kamer van Koophandel*) in **Almere** under the number **67954308**.

Last updated on 14 March 2017.