

General Terms and Conditions of Business of transcultura sprachenservice – Elke Trautwein

I. Definitions:

- (1) “transcultura” refers to the company transcultura sprachenservice - Elke Trautwein, O'Brienstr. 2, 91126 Schwabach, Germany, hereinafter also referred to as “the Contractor”.
- (2) “Services” and “assignments” are the services offered by transcultura sprachenservice as contractually agreed and also as described on the website of transcultura. They form an integral part of these Terms and Conditions. “Website” refers to the website of transcultura sprachenservice, the address of which is: <http://www.transcultura.de>
- (3) A “consumer” is any natural person who enters into a legal transaction for a purpose that cannot be attributed to his or her commercial or self-employed professional activity.
- (4) Customers of transcultura are also referred to hereinafter as “the Client”.
- (5) “BGB” refers to the German Civil Code as last amended (National Law Gazette p.195 as amended by Notice of 02.01.2002, Federal Law Gazette I p.42, 2003 I p.738).
- (6) “JVEG” is the German Act on the Remuneration of Experts, Interpreters, Translators and the Compensation of Honorary Judges, Witnesses and Third Parties, as last amended (Federal Law Gazette I 2004, 718, 776).

II. Scope

- (1) These General Terms and Conditions of Business apply to all services and offers provided by transcultura insofar as no deviating agreements are expressly entered into and no purchase of consumer goods takes place (Section 474 BGB).
- (2) General terms and conditions of the customer only apply to transcultura insofar as transcultura has expressly agreed to them in writing. Any secondary agreements entered into verbally are ineffective.
- (3)) The requirement that the written form be used may in turn only be waived in writing.

III. Conclusion of contract

The customer must place the order in writing by post, fax or e-mail. The contractual relationship is concluded as soon as transcultura has confirmed an offer from the customer or the customer has confirmed an offer from transcultura in writing. The log from the corresponding transmission device (fax, e-mail transmission protocol etc.) is sufficient as proof of confirmation in this respect. Electronic order confirmations by e-mail are deemed binding and legally effective even if they do not bear an electronic signature.

IV. Inclusion of third parties

- (1) Unless otherwise agreed and to the extent deemed necessary, transcultura may use third parties to perform its services. With regard to the protection of confidentiality, point VI (8) of these Terms and Conditions applies accordingly. The business relationship exists only between the customer and transcultura; any contact between the customer and a third party engaged by transcultura is only permitted with transcultura's consent.

V. Information for consumers on right to cancel

- (1) In the case of Section 312b BGB (distance selling contracts), the consumer has a right to cancel in accordance with Section 312d in conjunction with Section 355 BGB. The following applies here:
 - (a) The consumer may revoke the contractual declaration in text form (e.g. letter, fax, e-mail) within two weeks without the need to state a reason; if this information is only communicated after conclusion of the contract, the cancellation must be declared within one month. The period begins no earlier than on the first day following receipt of this information on how to cancel. Deviating provisions on the deadline according to Section 312e para. 3 BGB remain unaffected. The deadline is deemed to have been observed if the cancellation is sent in time. The notice of cancellation should be sent to:
transcultura sprachenservice – Elke Trautwein, O'Brienstr. 2, 91126 Schwabach, Germany.
 - (b) The right to cancel expires prematurely if the contractual partner has commenced the performance of the service with the express consent of the customer before the end of the cancellation period or if the customer itself has arranged this. The consumer is required to print out or electronically save these cancellation instructions.

End of information on how to cancel

VI. Obligation to cooperate, execution of the contract

- (1) The Client will inform transcultura in due time about special forms of execution of the translation (translation on data media, number of copies, readiness for printing, external form of the translation etc.). If the translation is intended to be printed, the Client will provide transcultura with a proof. If no such proof is provided and the Client prints the text without approval, transcultura will not be held liable.
- (2) If the purpose of the translation is not specified by the customer when placing the order, and particularly in cases where the translation is intended for publication or advertising purposes, transcultura will not be liable in the event that the text proves unsuitable for the purpose or in the event that the publication or advertising has to be repeated or leads to a damage of reputation or a loss of image for the company due to the quality of the translation.
- (3) The Client will provide transcultura with the information and documents needed for the preparation of the translation, doing so in a timely manner and without being requested to do so (Client's glossaries, illustrations, drawings, tables, lists of abbreviations etc.).
- (4) If, in the case of words with more than one meaning, the relevant meaning can only be derived from the context or a drawing, the relevant context or the corresponding drawing must be

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supplied; otherwise, an incorrect translation cannot be validly challenged.

(5) Errors resulting from non-compliance with these obligations will be borne by the Client.

(6) transcultura assumes that all rights to a text to be translated lie with the Client and that the Client has unrestricted authority to have the text translated. The Client assumes liability for the rights to a text and ensures that the translation may be carried out. In the event that transcultura is nevertheless held liable by third parties for copyright infringement, the Client will indemnify transcultura against all claims. The Client will also indemnify transcultura for all costs of legal defence including any legal fees incurred.

(7)) All services provided by transcultura will be performed with due care in accordance with the principles of proper professional practice.

(8) transcultura undertakes to maintain confidentiality about all facts that become known to it through its work for the Client. Cooperation with colleagues who are also bound to confidentiality does not constitute a breach of the obligation to maintain confidentiality.

VII. Delivery dates and partial deliveries

(1)) A delivery is deemed to have been made in good time as soon as the translation has been sent to the customer by verifiable means (transmission protocol). To this extent the customer must ensure that its systems for receiving translations are functioning properly.

(2) Partial deliveries and payment in instalments may be agreed for large-scale translation assignments. Partial deliveries are permissible in other cases insofar as the Client can reasonably be expected to agree to such an arrangement.

(3) If the delivery date cannot be met due to force majeure or other reasons beyond transcultura's control (e.g. sudden illness, server failure), point XIV (1) of these Terms and Conditions will apply. transcultura reserves the right to withdraw from the contract after a reasonable period of time.

(4) transcultura does not assume any procurement risk. The Contractor may withdraw from the contract insofar as it does not receive the object of the assignment despite the prior conclusion of a contract for the corresponding service; the Contractor's liability for wilful intent or negligence remains unaffected. transcultura will immediately inform the customer of the non-timely availability of the delivery item and, if it intends to withdraw, will immediately exercise its right of withdrawal. In the event of withdrawal, the Contractor will immediately reimburse the customer for the corresponding payment.

VIII. Remuneration – Due dates – Set-off

(1) The price for each translation will be calculated according to text type, volume, language and intended use on the basis of the price list applicable at the time of the assignment.

(2) For business customers outside Germany, no value-added tax will be charged. For business and private customers within Germany, value-added tax will be added to the net price on the basis of the applicable statutory rate.

(3) If an order is placed and then cancelled by the Client without any contractual or legal basis for the cancellation, the costs incurred up to the time of cancellation will be reimbursed and the remuneration for the parts of the translation already completed by the time of cancellation or the time spent on the services already provided will be due for payment.

(4) The agreed fee will be owed. If the amount of the fee has not been agreed, the appropriate and standard level of remuneration based on the type and difficulty of the work will be due. As a minimum, the rates listed in the JVEG will be deemed appropriate and standard.

(5) In addition to the agreed fee, transcultura will be entitled to reimbursement of any expenses actually incurred and agreed with the Client. In the case of large-scale translations, transcultura may require advance payments and payments on account in the amount that is objectively necessary for execution of the translation.

(6) Remuneration is due 14 days after acceptance of the service without any deductions.

IX. Default of payment

In the event of default in payment, transcultura may charge interest on arrears at a rate of 9 percentage points above the base rate in the case of entrepreneurs and 6 percentage points above the base rate in the case of consumers (Section 247 BGB). The customer is entitled to prove that the damage is not higher than five percentage points above the base interest rate (Section 247 BGB). transcultura is entitled to prove that a higher level of damage than mentioned in sentence 1 has occurred.

X. Obligation to give notice of errors

The Client is obliged to notify transcultura of obvious errors without delay and by no later than within 10 days of receipt of the service; it is sufficient for notification to be sent by the deadline. The errors should be described by the Client in as much detail as possible.

XI. Retention of title – Copyright

The object of the assignment remains the property of transcultura until such time as full payment has been made. Until then, the Client has no right of use. transcultura reserves its copyright.

With regard to the copyright of the texts for translation, reference is made to point IV (6).

XII. Remedy of errors

(1) transcultura reserves the right to remedy any errors. The Client is entitled to the removal of any errors contained in the translation. After becoming aware of the error, the Client will immediately assert this against transcultura. The errors should be described by the Client in as much detail as possible.

(2) If the rectification of errors or a replacement delivery fails, the statutory warranty rights will be revived unless otherwise agreed.

(3) If the customer wishes to claim damages in lieu of performance, the rectification effort will

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only be deemed to have failed after the second unsuccessful attempt.

(4) The statutory cases where the deadline set is dispensable will otherwise remain unaffected.

XIII. Liability

(1) transcultura is liable in cases of wilful intent or gross negligence on its part or on the part of one of its representatives or agents in accordance with the statutory provisions. transcultura will otherwise only be liable according to the German Product Liability Act, for loss of human life, human injury or damage to human health, for a culpable breach of essential contractual obligations or insofar as transcultura has fraudulently concealed the error or has assumed a guarantee for the quality of the delivery item. The claim for damages for breach of essential contractual obligations is, however, limited to the foreseeable damage typical for the contract, provided that no further case of compulsory liability according to sentence 1 or 2 is given at the same time.

(2) transcultura is only liable if it has signed off the proofs and approved them for publication.

(3) transcultura is not liable for damage caused by viruses, Trojans etc. transcultura will regularly check its IT systems (networks, programs, files etc.) for such programs. If files are delivered by e-mail or by any other means of remote transmission or on data media, the customer is responsible for a final check of the transmitted files and texts for these programs.

(4) The provisions of the above paragraph 1 extend to all claims for damages (in particular for damages in addition to performance and damages in lieu of performance), irrespective of the legal grounds, in particular due to errors, a breach of duties arising from the contractual obligation or from non-permitted acts. They also apply to claims for reimbursement of futile expenses. Liability for delays is determined in accordance with points XIV (1) and (2), with liability for impossibility being based on point XIV (3) of these Terms and Conditions.

(6) No liability is assumed for delays or deficiencies in execution resulting from an incorrect or incomplete transmission of the source text or from misleading or incorrect formulations in the source text.

(7) A change in the burden of proof to the detriment of the Client is not associated with the above provisions.

XIV. Liability for delay/industrial action, impossibility

(1) If the failure to meet deadlines is due to force majeure, e.g. military mobilisation, war, riot, or similar events, e.g. strike or lockout, the deadlines will be extended accordingly.

(2) transcultura is liable for delayed performance in cases of wilful intent or gross negligence on its part or on the part of one of its representatives or agents in accordance with the statutory provisions. If the customer is a merchant, the liability of transcultura in cases of gross negligence is, however, limited to the foreseeable damage typical for the contract. In other cases of delayed performance, transcultura's liability for damages in

addition to and in lieu of performance is limited to a total of 10% of the value of the part of the performance affected by the delay. Further claims of the customer are excluded - including after the expiry of any deadline set by transcultura for performance. The above restrictions will not apply to liability due to the loss of human life, human injury or damage to human health.

(3) To the extent that delivery is impossible, the customer is entitled to claim damages in accordance with the statutory provisions. However, the customer's claim for damages in addition to or in lieu of performance and for reimbursement of futile expenses is limited to 10% of the value of that part of the delivery that cannot be used due to the impossibility. Further claims of the customer due to impossibility of delivery are excluded. This restriction does not apply in the event of wilful intent or gross negligence or in the event of liability for loss of life, human injury or damage to human health. The customer's right to withdraw from the contract remains unaffected. A change in the burden of proof to the detriment of the customer is not associated with the above rules.

XV. Customer's right to withdraw

The customer may only withdraw from the contract within the framework of the statutory provisions if transcultura is responsible for a breach of obligations. In the event of an obligation being breached, the customer will declare within a reasonable period of time after being requested to do so by transcultura whether it is withdrawing from the contract due to the breach or insists on delivery. In the event of errors, however, the statutory provisions apply accordingly.

XVI. Statute of limitations

(1) The period of limitation for claims and rights arising from errors – on whatsoever legal basis – is one year. This limitation period also applies to other claims for damages against the Contractor, irrespective of their legal basis. It also applies insofar as the claims are not related to an error.

(2) The limitation period according to para. 1 applies with the following proviso:

(a) The limitation period generally does not apply in the case of wilful intent.

(b) The period of limitation according to para. 1 will also not apply if the Contractor has fraudulently concealed the error [or insofar as the Contractor has assumed a guarantee for the quality of the delivery item].

(c) The limitation period referred to in para. 1 will also not apply in the case of buildings or a work the success of which consists in the provision of related planning or inspection services.

(d) The periods of limitation will also not apply to claims for damages in cases where there has been a loss of life, human injury, damage to human health or loss of freedom, a claim under the Product Liability Act, a grossly negligent breach of obligations or a breach of material contractual obligations.

(3) The limitation period for all claims for damages begins upon acceptance.

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(4) Insofar as this provision refers to claims for damages, it also includes claims for reimbursement of futile expenses.

(5) In the absence of any express provision to the contrary, the statutory provisions on the commencement of the period of limitation, the postponement of expiry, the postponement and the recommencement of limitation periods will be unaffected.

(6) A change in the burden of proof to the detriment of the Client is not associated with the above provisions.

XVII. Applicable law, place of jurisdiction

(1) The legal relationship between the parties is governed by German law.

(2) If the Client is a merchant, the sole place of jurisdiction for all disputes arising from the contractual relationship is the place at which transcultura has its registered office, namely Nuremberg, Germany.

XVIII. Severability clause

Any initial or subsequent invalidity of one or more provisions of these General Terms and Conditions will not affect the validity of the remaining provisions. The parties will agree on a provision to replace the ineffective provision that comes as close as possible to the purpose of this agreement.