

Translation Terms and Conditions

Definitions

The Client means any individual or company to which Kwintessential provides Translations.

Charges mean the charges payable by the Client for a Translation in accordance with clause 4.

Contract means the contract between Kwintessential and The Client under which Kwintessential provides The Client with a Translation and comprises the Order, Kwintessential's written acceptance of the Order and these terms and conditions.

Kwintessential means Kwintessential Limited and any group company of Kwintessential Limited.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

Order means The Client's order for a Translation as set out in the Client's written acceptance of Kwintessential's quotation or in The Client's purchase order form as the case may be.

The Translator means the individual(s) providing the Translation in the normal course of business according to the instructions of Kwintessential.

Translation means the preparation by a Translator of a translation in written form from one language (source) into another language (target) or any other translation-related task such as revising, editing and proofreading but not copywriting or adaptation.

1 Basis of Contract

1.1 The Order constitutes an offer by The Client to purchase a Translation from Kwintessential in accordance with these terms and conditions, as amended from time to time.

1.2 The Order shall only be deemed to be accepted when Kwintessential issues written acceptance of the Order, at which point the Contract shall come into

existence. Quotations are given for guidance only and are not binding on Kwintessential.

1.3 The Contract constitutes the entire agreement between the parties and The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Kwintessential that is not set out in the Contract. All other terms and conditions appearing, referred to or implied in the Order by The Client shall have no effect.

2 Provision of Translation

2.1 Kwintessential shall provide the Translation to the Client using reasonable skill and care in accordance with industry standards and in accordance with the terms of the Order and shall use all reasonable endeavours to meet the proposed date of completion.

2.2 Notwithstanding paragraph 2.1, unless expressly agreed with the Client, the proposed date of completion shall be an estimate only and time shall not be of the essence for the provision of the Translation. Any delay shall not entitle The Client to reject the Translation, repudiate the Contract or withhold payment of the Charges.

2.3 Kwintessential reserves the right to sub-contract all or part of the Order to a contractor or contractors of its own choice.

2.4 Posting or delivery to a carrier (including post, facsimile, e-mail) by Kwintessential for the purpose of providing the Translation to The Client shall constitute delivery to The Client.

2.5 If requested in the Order, Kwintessential can provide insurance (at The Client's expense) for the translated materials whilst in transit.

3 The Client's Obligations

3.1 The Client shall ensure that the terms of the Order are complete and accurate.

3.2 The Client shall co-operate with Kwintessential in all matters relating to the provision of the Translation, including responding promptly to any queries relating to the Order and/or the Translation.



4 Charges and Payment

- 4.1 Unless otherwise stated the Charges shall be expressed in sterling (GBP) and are exclusive of value added tax and any other tax or duty. Kwintessential shall invoice The Client for all appropriate taxes and expenses which Kwintessential is liable to collect.
- 4.2 Charges shall be calculated based on Kwintessential's relevant Translation charge per 1000 words (and otherwise as set out in the Order).
- 4.3 Kwintessential shall invoice The Client for the Charges upon completion of the Translation. Where a Translation is being completed in stages and/or over a period of 60 days or more, Kwintessential reserves the right to invoice the Client upon completion of each stage of the work, or at monthly intervals.
- 4.4 The Client shall pay the Charges within 30 days of the date of the invoice (**Due Date**), in full and cleared funds to a bank account nominated in writing by Kwintessential.
- 4.5 The Client shall pay the Charges in full without any deduction or withholding except as required by law and The Client shall not be entitled to assert any credit, set-off or counterclaim against Kwintessential in order to justify withholding payment of the Charges in whole or in part.
- 4.6 Time for payment of the Charges shall be of the essence in the Contract. Without limiting any other right or remedy of Kwintessential, if The Client fails to make payment of the Charges by the Due Date, Kwintessential shall have the right to charge interest on the overdue amount at the rate of 8% per annum above the then current Bank of England's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 4.7 If The Client fails to pay the Charges by the Due Date, Kwintessential shall be entitled to suspend further work both on the same Order and on any other Orders without any prejudice to any other rights it may have.
- 4.8 If the Charges remain outstanding for over 120 days after the Due Date, Kwintessential reserves the right to immediately commence legal proceedings in order to recover the Charges, administrative fees and interest incurred, and it shall also seek to recover the costs of those proceedings from The Client.
- 4.9 Discounts agreed in the Contract are only applicable if the Charges are paid by Due Date and shall not apply thereafter.

5 Cancellation:

- 5.1 If for any reason The Client cancels or reduces the scope of an Order The Client shall pay the applicable Charges in full, unless otherwise agreed in advance.
- 5.2 If The Client suspends or postpones an Order, the Charges will be calculated and payable for the Translation completed up to the date of suspension or postponement and for all other costs and expenses which may occur as a result of such suspension.
- 5.3 In event of Kwintessential or the Translator being prevented from completing the Translation because of a Force Majeure event (including without limit strike, lockout, industrial dispute, civil commotion, natural disaster, acts of war and any other situation which can be shown to have materially affected Kwintessential's ability to meet the Order as agreed), Kwintessential shall notify The Client without delay, indicating the circumstances. Force Majeure shall entitle both Kwintessential and The Client to withdraw from the Contract.
- 5.4 Any termination of the Contract shall not prejudice any rights or remedies which may have accrued to either party.

6 Intellectual Property

- 6.1 The Client warrants, represents and undertakes that the source materials submitted for the Translation do not contain any obscene, blasphemous or libelous content and do not infringe the Intellectual Property Rights of any third party and that the Translation by Kwintessential will not infringe the Intellectual Property Rights of any third party.
- 6.2 The Client agrees to indemnify Kwintessential and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by Kwintessential, or for which it may become liable, with respect to any Intellectual Property Rights infringement claim or other claim (including defamation, libel and so on) relating to the Translation and the use by The Client of any material related to the Translation.

7 Confidentiality

- 7.1 Source materials provided to Kwintessential for Translation (and therefore the target materials also) shall not be deemed to be confidential unless expressly stated to be confidential in the Order.
- 7.2 Notwithstanding clause 7.1 Kwintessential and The Translator shall at all times exercise due discretion in respect of disclosure to any third party of any



information contained within The Client's source materials, and in the translated materials.

7.3 Where The Client informs Kwintessential that the source materials contain confidential information, Kwintessential shall only consult third parties over specific Translation terminology queries, and shall do so provided that there is no disclosure of confidential information.

7.4 A party (whether Kwintessential, The Translator or The Client) (the **Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by another party (the **Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 7 shall survive termination of the Contract.

8 Satisfaction with Services

8.1 Any discrepancies, mistakes or queries relating to the Translation must be notified in writing by the Client to Kwintessential within 3 working days of receipt of the translated material (a **Complaint**). If no Complaint is received within this period, all translated material shall be deemed to be accurate and entirely satisfactory to The Client.

8.2 A Complaint must be submitted in a manner that clearly explains the nature of the Complaint and therefore evidence of any perceived inaccuracies must be given. Upon receipt, Kwintessential shall assess the grounds of the Complaint and rectify as it sees fit and to its own satisfaction.

8.3 In no circumstances shall Payment of the Charges under the Contract be delayed by a Complaint.

8.4 The Client acknowledges that Translation can be a subjective process and that a Translator may express a meaning using different vocabulary or sentence structures from that used by The Client if it had translated the source material. The Client may have "personal preferences" of translation which may be stylistic or based on the Client's familiarity with industry specific terminology. The Translator will utilize reference materials and glossaries (as far as commercially reasonable) and will endeavour to use the most appropriate style

and terminology. However, The Client is not entitled to assume that Kwintessential possesses the specific knowledge of sector-specific terminology of The Client. It is the responsibility of The Client to inform Kwintessential of any stylistic or vocabulary preferences within the Order.

9 Kwintessential's Responsibility and Liability

9.1 Unless specified otherwise, a Translation shall be deemed to be 'for information' quality only. No terms, conditions or warranties, whether express or implied, about the quality or fitness for purpose of the Translation shall be incorporated into the Contract. Kwintessential does not warrant that the Translation will meet The Client's specific requirements and, unless otherwise agreed, does not warrant that the Translation will be uninterrupted or error free.

9.2 Kwintessential shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract.

9.3 Kwintessential's total liability to the Client in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of Charges due under the Contract.

9.4 All documents or any other property supplied to Kwintessential by The Client will be held or dealt with by Kwintessential at The Client's risk and Kwintessential shall not be responsible for the consequential loss or damage thereto.

10 The Client's Responsibility and Liability

10.1 Unless otherwise agreed by Kwintessential, The Client agrees (and for the purposes of this clause also any associated companies of The Client) that it shall not, for a period of one year after termination of the Contract, either directly or indirectly, on its own account or for any other person, firm or company, solicit, employ, endeavour to entice away from Kwintessential or use the services of The Translator(s) who completed the Translation. In the event of The Client breaching this clause, it shall pay Kwintessential (and shall indemnify Kwintessential on demand for the same) an amount equal to both the aggregate remuneration paid by Kwintessential to The Translator for the year immediately prior to the date on which The Client employed or used the services of The Translator and the equivalent of a full year's pro-rated pay for any money paid to The Translator by The Client.



10.2 In the event that The Client requires The Translator or Kwintessential to provide the Services on The Client's premises, or any other premises, The Client shall indemnify Kwintessential (which for the purposes of this clause includes Kwintessential's employees, agents, sub-contractors and Translators) on demand, and keep Kwintessential indemnified, from all losses, damages, injury, costs and expenses of whatever nature suffered by Kwintessential to the extent that the same are caused by or related to any failure on the Client's behalf to:

10.2.1 assign members of staff with suitable skills and experience to be responsible for Kwintessential activities;

10.2.2 provide such access to premises, interpretation systems and other facilities which may be reasonably required;

10.2.3 provide such information as may be required by Kwintessential to carry out its duties under the Contract and ensure all such information is correct and accurate; and

10.2.4 ensure that all necessary safety and security precautions are in place at the designated premises.

10.3 Kwintessential shall be entitled to charge The Client for any additional costs and expenses which may be incurred as a result of any hazardous conditions or material encountered at the designated premises.

11 Miscellaneous

11.1 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

11.2 A person who is not party to this Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

11.3 This Contract shall be governed and construed in accordance with the Laws of England and Wales and shall be subject to the exclusive jurisdiction of the Court of England.

