

Terms and Conditions for Teutoniq Limited (trading as Teutoniq)

The following sets out the Terms and Conditions on which Teutoniq Limited trading as Teutoniq, the Language Service Provider ('LSP'), will provide Translation Services to Clients who have agreed to purchase them.

1. Definitions and Interpretation

1.1. In these Terms and Conditions, except where a different interpretation is clear from or necessary in the context, the following terms shall have the following meanings:

'Acceptance Date' means the date as referred to in clause 10.6;

'Deposit' means the sum of 25% of the total price stated in the Quotation;

'Delivery Date' means the date by which the LSP agrees to deliver the Translation in accordance with clause 10.5;

'Price' means the sum referred to in the Quotation which may at the LSP's discretion include a Deposit;

'Source Material' means any data, designs, documentation, graphics, images, material, photographs, text(s) (whether whole or in part) or other relevant information provided by the Client to the LSP relating to the Translation Services;

'Translation' means the translation of the Work into the language to be made by the LSP and utilised by the Client subject to these Terms and Conditions;

'Translation Services' means the Translation and other related language services required by the Client as specified in the Quotation;

'Work' means the document(s), text or other content referred to in the Quotation to be translated or completed;

'Working Day' means 9:00am to 5:00pm GMT Monday to Friday inclusive but excluding public holidays.

1.2. In these Terms and Conditions, unless the context requires otherwise:

1.2.1. words and expressions that are defined in the Copyright, Designs and Patents Act 1988 shall bear the same meanings in these Terms and Conditions;

1.2.2. words importing the singular number shall include the plural and vice versa;

1.2.3. words importing any particular gender shall include all other genders;

1.2.4. references to persons shall include bodies of persons, whether corporate or incorporate;

1.2.5. words importing the whole shall be treated as including a reference to any part of the whole.

1.3. Any reference in these Terms and Conditions to any statute or statutory provision shall be construed as referring to that statute or statutory provision as it may from time to time be amended, modified, extended, re-enacted or replaced (whether before or after the date of these Terms and Conditions) and as including all subordinate legislation from time to time made under it.

1.4. The expression 'copyright' shall include the entire copyright, design rights, glossaries, translation memory, term bases, bilingual documents, rental right, right to authorise or prohibit lending, database right, right of communication to the public and distribution right subsisting now or created at any time during the provision of the Translation Services under the laws of the United Kingdom and all analogous rights subsisting now or created at any time during the provision of the Translation Services under the laws of each and every other relevant jurisdiction.

1.5. References in these Terms and Conditions to clauses, schedules and exhibits are to clauses of and schedules and exhibits to these Terms and Conditions except where otherwise expressly stated.

1.6. Headings are used in these Terms and Conditions for the convenience of the parties only and shall not be deemed to be any indication of the meaning of the clauses, schedules or exhibits to which they relate.

2. Basis of Contract

2.1. These Terms and Conditions together with any Quotation shall form the contract between the Client and the LSP in connection with the Translation Services to be supplied.

2.2. No contract shall come into being until:

2.2.1. the LSP has received an acceptance of the Quotation from the Client; or

2.2.2. the LSP has commenced performance of the applicable Quotation, and at the LSP's discretion;

2.2.3. a deposit of 25% of the total price as stated in the Quotation has been paid by the Client.

3. Charges and Expenses

- 3.1. In consideration of the LSP carrying out the Translation Services the Client shall pay to the LSP the Price plus VAT and any other relevant taxes, charges, fees and levies which in each case shall remain the responsibility of the Client and subject to the terms set out in this clause and clauses 2 and 4.
- 3.2. In addition to the 25% deposit referred to at clause 2.2.3 above, the Client shall pay 25% of the total Price as stated in the Quotation when the LSP in its sole discretion determines that the Translation Services have been 50% completed.
- 3.3. The Client shall pay the remaining 50% of the total Price as stated in the Quotation upon completion of the Translation Services as determined by the LSP in its sole discretion.
- 3.4. If no deposit is payable the LSP will issue an invoice when in its sole discretion determines that the Translation Services have been completed.
- 3.5. Charges shall be expressed and payments made in Pound Sterling unless otherwise agreed between the parties.

4. Terms of Payment

- 4.1. Payment of all sums due by the Client to the LSP shall be made within 30 days of the date of the invoice from the LSP. Invoices shall be paid in full without any deduction, set off or counterclaim.
- 4.2. Charges shall be expressed and payments made in Pound Sterling unless otherwise agreed between the parties.
- 4.3. Any invoice disputes shall be raised in writing by the Client within 7 working days of receipt of invoice.
- 4.4. No further Translation Services will be provided until any outstanding invoice is paid in full.
- 4.5. Interest will be charged on any outstanding balance at 5% above the daily base rate of Santander Bank.

5. Client Representative

- 5.1. The Client shall nominate in writing the person or persons who will act as its authorised representative(s) for the purposes of these Terms and Conditions and who will be responsible for providing any information which may be required by the LSP to perform its obligations under these Terms and Conditions.
- 5.2. All communications to and from the Client shall be received and given by the Client's representative appointed under clause 5.1.

6. Change Request

- 6.1. If either party identifies a requirement for a change, a Change Request will be sent to the other party detailing the change requirements and if sent by the Client contain the information and be in the form which shall be issued by the LSP upon request. If sent by the LSP the Change Request shall state the effect such a change shall have on the Translator Services and the Price. If sent by the Client the receipt of the Change Request by the LSP will constitute a request to the LSP to state at the Client's cost in writing the effect such a change shall or could have on the Translator Services and the Price. The LSP shall if reasonably practicable supply the necessary details within 5 working days from the receipt of the Change Request or such other period as it may notify to the Client.
- 6.2. The parties shall, unless they agree otherwise in writing, meet within 5 working days of the delivery to the Client of the information referred to in clause 6.1 for the purposes of discussing in good faith if, and to what extent, the Change Request should be implemented. If at the end of this meeting it is agreed that the Change Request should be implemented then the party who so requested the change shall confirm this in writing.
- 6.3. The LSP shall not implement any changes unless instructed to do so by the Client Representative.
- 6.4. If the parties are unable to reach agreement concerning the Change Request then:
 - 6.4.1. the LSP shall continue to work on the Translation Services as originally set out in the Quotation and in accordance with these Terms and Conditions; or
 - 6.4.1. either party may terminate these Terms and Conditions by serving notice of the same on the other in which case the Client shall be liable to the LSP for all costs incurred by the LSP up to the date of such termination plus 20% of the total Price

7. LSP Obligations

The LSP shall carry out the Translation Services using reasonable skill and care in accordance with accepted European translation industry standards.

8. Client Obligation

8.1. The Client shall:

- 8.1.1. ensure that its employees and other independent contractors cooperate reasonably with the LSP and its employees in carrying out the Translation Services;
- 8.1.2. promptly furnish the LSP with such information and documents as it may reasonably request for the proper performance of its obligation under these Terms and Conditions. In this context, the Client agrees that the LSP shall not be treated as being on notice of information given to it in the course of previous engagements. Accordingly, other than as set out in any Quotation, all information that is relevant to the Translation Services must be given directly to the LSP personnel even if the same information has been given to it previously in the course of a different contract;
- 8.1.3. ensure that the Client Representative is available as reasonably required by the LSP;
- 8.1.4. shall be solely responsible to provide the LSP with any brochures, literature, website addresses, glossaries, term bases, style guides or any other pertinent reference material relevant to the provision of the Translation Services. Without such provision from the Client, the LSP shall not be liable for errors, omissions or subjective Translation preferences of the Client;
- 8.1.5. advise the LSP at the earliest opportunity of any fact, matter or thing of which the Client may become aware and which may affect the LSP's obligations under these Terms and Conditions; and
- 8.1.6. not do anything which might at any time give rise to a breach of the warranties set out in clause 9.

9. Warranties

The Client warrants that:

- 9.1. it is entitled to enter into an agreement with the LSP and that by doing so it is not in breach of any third party rights or contractual obligations;
- 9.2. it will not do or omit to do any act or thing which might impede or otherwise adversely impact on the LSP's ability to perform its obligations under these Terms and Conditions;
- 9.3. it has, and will, comply with its obligations under the Data Protection Act 1998 in respect of any data which it may transmit or otherwise pass on to the LSP and that without prejudice to the foregoing, it has sought those consents necessary to enable the LSP to lawfully process any information relating to a third party whether an individual, business or corporate entity;
- 9.4. it is the owner or lawful licensee of the Intellectual Property as the same may reside in all images, pictures, trademarks, logos, catch-phrases, visual effects, sounds and other visual and audio sequences (together the 'Imagery') as may be used in the provision of the Translation Services and that the use of such Imagery will not breach any third party's Intellectual Property;
- 9.5. the use of the Imagery will not breach any laws or regulations as the same relate to obscenity, decency and or defamation;
- 9.6. all information and material which it provided to the LSP is accurate, up to date and sufficient for the purposes for which it intends to use the Translation Services;
- 9.7. it will not employ, offer to employ, or otherwise entice or attempt to entice away any employee, officer or other representative of the LSP save that this restriction shall not apply upon the expiry of 12 months following the letter of termination or completion of the Translation Services;
- 9.8. if the Client receives a written notice from the LSP identifying a breach of the warranties set out in clause 9 then the Client shall, at its own expense promptly remedy such breach or failure or otherwise hold the LSP harmless against such breach.

10. Delivery and Acceptance of the Translation Services

- 10.1. Delivery of Translation Services to the Client shall be by e-mail or download link by default, or if requested in writing by the Client and with the LSP's agreement, by other agreed means.
- 10.2. The LSP does not warrant that:
- the Translation Services will meet the specific Client requirements;
 - the operation or function of the Translation Services delivered to the Client will be uninterrupted or free from error;
- 10.3. The LSP shall not be liable for the loss or corruption of the Source Material or of the provision of the Translation Services during transmission.
- 10.4. Any date given by the LSP for the completion of the Translation Services is intended only as an estimate and time shall not be of the essence in relation to such completion. The LSP will use all reasonable endeavours to meet the estimated date but shall not be liable for any damage or loss, whether arising directly or indirectly out of its failure to meet the date.
- 10.5. Delivery of the Translation Services to the Client will be deemed to have taken place upon posting or delivery to a carrier, or transmission by e-mail or internet and the risk shall pass to the Client. However, the LSP will retain a copy of the Translation and upon request by the Client will forward a further copy free of charge.
- 10.6. The Client shall have 14 days from delivery of the Translation Services by the LSP to raise any issues concerning the content of the Translation Services after which the Client accepts that the Translation Services have been received and fulfilled in their entirety by the LSP.

11. Limitation of Liability

- 11.1. The LSP shall indemnify the Client for personal injury or death caused by the negligence of the LSP's employees in connection with the performance of their duties under these Terms and Conditions or by defects in any Translation Services supplied pursuant to these Terms and Conditions.
- 11.2. Save in respect of claims for death or personal injury arising from the LSP's negligence, in no event will the LSP be liable for any damages resulting from loss of data or use, lost profits, loss of anticipated savings, nor for any damages that are an indirect or secondary consequence of any act or omission of the LSP whether such damages are or were reasonably foreseeable or actually foreseen.
- 11.3. The LSP shall not be liable to the Client for any innocent or negligent misrepresentation by virtue of any statement made on behalf of the LSP prior to acceptance of the Quotation and delivery of the Translation Services whether orally or in writing.
- 11.4. The LSP will not be liable for any delay caused to the Client as a result of the failure or delay by the Client in complying with any of the provisions of clause 8.
- 11.5. Except as provided above in the case of personal injury or death, the LSP's maximum liability to the Client under these Terms and Conditions or otherwise for any cause whatsoever (whether in the form of a refund, the additional cost of remedial services or otherwise) will be for direct costs and damages only and will be limited to the lesser of:
- 11.5.1. the sum for which the LSP carries comprehensive insurance cover (subject to the LSP actually recovering such sum from the insurer); or
 - 11.5.2. a sum equivalent to the Price Charges paid to the LSP in respect of the Quotation which is the subject of the Client's claim plus damages limited to 15% of the same amount for any additional costs directly, reasonably and necessarily incurred by the Client in obtaining alternative services.
- 11.6. All liability that is not expressly assumed in these Terms and Conditions is hereby excluded to the fullest extent allowed by law. These limitations will apply regardless of the form of action, whether under statute, tort (including negligence), or any other form of action. For the purposes of this clause "the LSP" includes its employees, sub-contractors and suppliers. The Client acknowledges that the LSP's employees, sub-contractors and suppliers shall have the benefit of the limits and exclusions of liability set out in this clause in terms of the Contracts (Rights of Third Parties) Act 1999. Nothing in these Terms and Conditions shall exclude or limit liability for fraudulent misrepresentation.
- 11.7. The Client and the LSP acknowledge and agree that the limitations and exclusions of liability set out in this clause are reasonable and have been agreed taking into account the commercial value of the services to be provided and the commercial standing of each party.

11.8.No claim or action, regardless of form, arising out of these Terms and Conditions or a Quotation may be brought by either party more than 3 years after the cause of action has accrued.

12. Assignment

- 12.1.The LSP may assign, transfer or sub contract in whole or in part any of its rights or obligations under these Terms and Conditions.
- 12.2.The Client shall not assign, transfer or sub-contract in whole or in part of any of its rights or obligations under these Terms and Conditions without the prior written consent of the LSP.
- 12.3.Notwithstanding the foregoing, either party may assign its rights and licences and transfer its obligations under these Terms and Conditions or any Quotation to any acquirer of all or of substantially all of such party's equity securities, assets or business relating to the subject matter of these Terms and Conditions. Any attempted assignment or transfer in violation of this clause 12 will be void and without effect.

13. Termination

- 13.1.These Terms and Conditions are subject to the rights of termination arising in any other clause of these Terms and Conditions. Such termination will not however affect the applicability of the terms of these Terms and Conditions to any Quotation for which the Translation Services called for by that Quotation have not yet been delivered and which have not themselves been terminated pursuant to any such clauses.
- 13.2.The LSP may terminate these Terms and Conditions by giving the other party 14 days' prior notice of such termination.
- 13.3.Either party shall be entitled to terminate these Terms and Conditions without liability to the other party by giving notice to the other party at any time if:
 - 13.3.1.the other party commits a breach of any of the terms of these Terms and Conditions, and if the breach is capable of remedy, fails to remedy the breach within 30 days after receipt of notice in writing to do so; or
 - 13.3.2.the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation otherwise than for the purpose of amalgamation or reconstruction; or
 - 13.3.3.an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of that other party;
 - 13.3.4.the other party ceases or threatens to cease to carry on business; or
 - 13.3.5.the Client or the LSP reasonably apprehends that any of the events mentioned above is about to occur in relation to the other party and notifies the other party accordingly.
- 13.4.Termination of these Terms and Conditions shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuation in force of any provision of these Terms and Conditions which expressly or by implication is intended to come into or continue in force on or after such termination.
- 13.5.In the event of a breach of these Terms and Conditions by the Client, the Client will pay the LSP for the work already performed.

14. Confidentiality

- 14.1.All information of a technical or business nature (including but not limited to Quotations) disclosed by one party to the other either before or after the date of any Quotation in connection with any Translation Services or business dealings between the parties shall be regarded as confidential ("Confidential Information") and shall only be disclosed as is strictly necessary and each party shall procure that its personnel and third parties to which Confidential Information is disclosed treat such information as confidential:
 - 14.1.1.to its sub-contractors for the provision of the Translation Services provided that such disclosures are on a "need to know" basis only and the sub-contractor undertakes to keep such Confidential Information confidential; or
 - 14.1.2.as required to be disclosed to any governmental and/or regulatory authority; or
 - 14.1.3.to any Client Group Company or LSP Group Company provided that such disclosures are on a "need to know" basis only and the applicable Group Company undertakes to keep such Confidential Information confidential.
- 14.2.Information shall not be deemed to be Confidential Information where it:
 - 14.2.1.is authorised to be disclosed by the disclosing party to the extent of the authority given; or

- 14.2.2.is made public by the disclosing party or is or becomes part of the public domain other than by the default of the receiving party; or
- 14.2.3.is in the possession of or is known by the receiving party without any obligation to keep it confidential prior to its receipt from the disclosing party; or
- 14.2.4.is subsequently rightfully obtained by the receiving party from a third party; or
- 14.2.5.is independently developed by the receiving party.

14.3.The provisions of this clause shall survive termination of these Terms and Conditions.

14.4.Any Confidential Information referred to in clause 14.1 shall remain the property of the disclosing party and shall be returned by the receiving party to the disclosing party if so requested.

14.5.The obligations of confidentiality set out above shall be deemed to be discharged provided that there is no intentional disclosure of the Confidential Information, that the party in question has taken reasonable efforts to reduce the risk of accidental disclosure and that where accidental disclosure does occur despite the exercise of reasonable care, steps are taken to minimise the risk of further accidental disclosure of the same kind.

14.6.If the parties have signed a Non-Disclosure Agreement then the provisions of that Non-Disclosure Agreement shall take precedence over the terms of this clause 14.

15. Copyright

Without prior written agreement to the contrary, copyright in the Translation Services excluding glossaries, translation memory and term bases, shall vest in the LSP, and the Client, upon payment of all outstanding charges to the LSP for the Translation Services is granted a licence to exploit such Translation for its stated purpose only. Unless otherwise agreed in writing, any published text of the Translation shall carry the following statement:

Translated from (language) into (language) by Teutoniq (year)

16. Nature of the Relationship

These Terms and Conditions (including any Quotation) shall not constitute or imply any partnership, joint venture, agency, fiduciary or other relationship between the parties other than the contractual relationship expressly provided for in these Terms and Conditions.

17. Amendments

These Terms and Conditions may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except in accordance with the procedure referred to in clause 6.

18. Severance

If any provisions of these Terms and Conditions is or becomes prohibited by law or is judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from these Terms and Conditions and rendered ineffective as far as possible without modifying the remaining provisions of these Terms and Conditions, and shall not in any way affect any other circumstances of or the validity or enforcement of the remainder of these Terms and Conditions.

19. Waiver

Unless a party expressly waives its rights in writing, no delay, neglect or forbearance by either party in enforcing against the other party any Term or Condition shall either be or be deemed to be a waiver or in any way prejudice any right of that party under these Terms and Conditions. No right, power or remedy in these Terms and Conditions conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.

20. Notices

20.1. All notices under these Terms and Conditions shall be in writing and must be in English.

20.2. Notices shall be deemed to have been duly given:

20.2.1.when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

20.2.2.when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated; or

20.2.3.on the fifth business day of the sender following mailing, if mailed by national ordinary mail, postage prepaid; or

20.2.4.on the tenth business day of the sender following mailing, if mailed by airmail, postage prepaid, in each case addressed to the most recent address, email address, or facsimile number notified to the other party.

21. Successors and Assignees

21.1. These Terms and Conditions shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assignees and references to a party in these Terms and Conditions shall include its successors and permitted assignees.

21.2. In these Terms and Conditions references to a party include references to a person:

21.2.1. who for the time being is entitled (by assignment, novation or otherwise) to that party's rights under these Terms and Conditions (or any interest in those rights); or

21.2.2. who, as administrator, liquidator or otherwise, is entitled to exercise those rights; and in particular those references include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving that party.

22. Set Off

Where the LSP has incurred any liability to the other party, whether under these Terms and Conditions or otherwise, and whether such liability is liquidated or unliquidated, the LSP may set off the amount of such liability against any sum that would otherwise be due to the LSP under these Terms and Conditions.

23. Third Parties

The parties confirm their intent not to confer any rights on any third parties by virtue of these Terms and Conditions and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms and Conditions. The parties do not require the consent of any third party to terminate, rescind or to agree any variation, waiver or settlement in relation to it.

24. Force Majeure

24.1. Neither party shall have any liability under or be deemed to be in breach of these Terms and Conditions for any delays or failure in performance of these Terms and Conditions which result from circumstances beyond the reasonable control of that party.

24.2. If such circumstances continue for a continuous period of more than 30 days the non-affected party may terminate these Terms and Conditions by written notice to the other party and in such event neither party shall have any further obligations under these Terms and Conditions save that the Client shall immediately pay the LSP all amounts due to the LSP up until the date of such termination.

25. Proper Law and Jurisdiction

25.1. The parties agree that the place of performance of these Terms and Conditions is Northern Ireland. The validity, construction and performance of these Terms and Conditions shall be governed by Northern Irish law and shall be subject to the exclusive jurisdiction of the Northern Irish courts to which the parties submit notwithstanding the conflict of law provisions and other mandatory legal provisions save that the LSP shall have the right to sue to recover its fees in any jurisdiction in which the Client is operating or has assets.

25.2. Where there is a dispute the aggrieved party shall notify the other party in writing of the nature of the dispute with as much detail as possible about the deficient performance of the other party. A representative from senior management of each party ("representatives") shall meet in person or communicate by telephone within 5 Working Days of the date of the written notification in order to reach an agreement about the nature of the deficiency and the corrective action to be taken by each party. The representatives shall produce a report about the nature of the dispute in detail to their respective boards and if no agreement is reached on corrective action, then the chief executives of each party shall meet in person or communicate by telephone, to facilitate an agreement within 5 working days of a written notice by one to the other. If the dispute cannot be resolved at board level within a further 5 Working Days, or if the agreed upon completion dates in any written plan of corrective action are exceeded, either party may seek its legal remedies as provided below.

25.3. If the parties cannot resolve the dispute by the procedure set out above, the parties shall irrevocably submit to the exclusive jurisdiction of the Courts of Northern Ireland for the purposes of hearing and determining any dispute arising out of these Terms and Conditions.

25.4. While the dispute resolution procedure above is in progress and either party has an obligation to make a payment to the other party, the sum relating to the matter in dispute shall be paid into an interest bearing deposit account to be held in the name of the relevant party at a clearing bank and such payment shall be a good discharge of that party's payment obligations under these Terms and Conditions. Following resolution of the dispute, whether by the above procedure or legal proceedings, the sum held in such account shall be payable as determined in accordance with the above procedure or legal proceedings and the interest accrued shall be allocated between the parties pro rata according to the split of the principal sum as between the parties.

