

DEFINITIONS:

“**Buyer**” means the person or entity contracting with the Seller for the provision of Services;
 “**Contract**” means the contract between the Buyer and the Seller incorporating these Conditions, for the purchase and provision by the Seller of the Services;
 “**Conditions**” means the Standard Terms and Conditions of Business as laid out in this document;
 “**Fee**” means the fee payable by the Buyer to the Seller for the Services pursuant to the Contract;
 “**Quotation**” means the Seller’s quotation for the Services at the request of the Buyer;
 “**Seller**” means Acuity Translations Limited, a company incorporated in England and Wales under number 09314684 having its registered office at Riverside Court, Beaufort Park, Chepstow, Wales, NP16 5UH;
 “**Services**” shall mean any work commissioned by the Buyer, whether it be translation, verbatim coding, interpreting/simtrans (hereinafter “interpreting”), recorded interpreting/simtrans, verification (proof-reading), typesetting, printing or any other similar service that the Seller may carry out.

1. BASIS OF THE SALE

- 1.1. The Seller shall supply and the Buyer shall purchase the Services in accordance with the Quotation or relevant agreements in place.
- 1.2. These Conditions and any specific conditions included within the Seller’s Quotation or relevant agreements in place shall form the Contract between the Seller and the Buyer to the exclusion of any other conditions that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, unless otherwise agreed in writing.
- 1.3. No variation of the Contract shall be effective unless agreed in writing between a representative of both the Buyer and the Seller.

Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

2. FEES AND QUOTATIONS

- 2.1. Any Quotation given by the Seller shall not constitute an offer and will remain valid for 30 days from date of issue unless otherwise agreed in writing.
- 2.2. The Seller’s Fee for the Services shall be as per the Seller’s Quotation or Seller-Buyer Agreement and shall be in accordance with a fixed fee or by reference to a rate card, details of which will be included in the Quotation or Seller-Buyer Agreement.
- 2.3. Any order submitted by the Buyer constitutes an offer to purchase Services in accordance with these Conditions. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller’s representative and the Buyer’s acceptance of a Quotation shall not be binding upon the Seller until such acceptance is acknowledged by the Seller to the Buyer in writing.
- 2.4. In the absence of any specific agreement on the Fee to be charged, this shall be reasonably determined by the Seller in accordance with the Seller’s standard fees.
- 2.5. The Seller reserves the right to charge the Buyer for any expenses (including but not limited to travelling expenses, hotel costs, subsistence and any associated expenses) reasonably incurred by the individuals whom the Seller engages in connection with the Services, and for the cost of services provided by third parties and required by the Seller for the performance of the Services, and for the cost of any materials.
- 2.6. The Seller reserves the right to increase the price of the Services prior to performance due to any factor beyond the Seller’s control, including, but not limited to, amendment to the scope or delivery date of the Services, foreign exchange fluctuation or increase in the Seller’s supplier costs. The Seller shall inform the Buyer in writing of any such increase prior to performance.
- 2.7. Where VAT or other sales tax is chargeable, it shall be listed separately or otherwise considered additional to the Fee stated in the Quotation or relevant agreements in place.
- 2.8. If either party requests a change to the scope or execution of the Services, the Seller reserves the right to amend the Fee accordingly, in line with said revised scope or execution.
- 2.9. If the Buyer wishes the Seller to proceed with a change, the Seller has no obligation to do so until this has been agreed by the parties in writing.

3. ORDERS

- 3.1. When ordering Services, the Buyer shall clearly indicate the intended purpose. Where the purpose of the Services is not disclosed to the Seller, the Seller shall execute the Services to the best of its judgement. The Seller shall indicate the purpose for which the Services were supplied and will determine the charge accordingly.
- 3.2. If the Buyer does not indicate the style, type and/ or layout required for the deliverables, this will be left to the discretion of the Seller and subsequent amendments required by the Buyer with regard to these matters shall be treated as a request for a change and subject to an additional fee.
- 3.3. In the event that the Buyer notifies the Seller or the Seller discovers that the Services are to be used for a purpose other than that for which they were originally intended (and as described by the Buyer), the Seller reserves the right to amend and adapt such Services previously supplied (if necessary) for the new purpose and make a further charge for such Services.
- 3.4. In the event of the use of the Services by the Buyer for a purpose other than that for which they were supplied, the Buyer shall not be entitled to any compensation by the Seller and the Buyer shall indemnify the Seller against any loss, damage or expense arising to the Seller in goodwill or otherwise as a result. Furthermore, the Seller is entitled to adequate and reasonable compensation should the Services be used for commercial purposes that have not been explicitly agreed.

- 3.5. Any Services completed by the Seller must be checked by the Seller before use in situ, including but not limited to, link checking or final proofing before print. The Seller shall have no liability in respect of any errors in Services for which such a final check has not been completed by the Seller. The Seller reserves the right to charge an additional fee for any such checking.

- 3.6. The Buyer accepts that the Seller is not responsible for checking, correcting or identifying errors in, or verifying the accuracy or quality of, any source material.

4. PAYMENT

- 4.1. The Seller shall raise its invoice for the Fee and any expenses upon completion of the Services and payment in full to the Seller shall be effected within 30 days of the date of the Seller’s invoice unless otherwise agreed in writing. For projects longer in duration, the Seller may request periodic payments on terms stated in the Quotation or as otherwise agreed in writing with the Buyer.
- 4.2. The Buyer must pay the Fee for the Services on the due date for payment irrespective of whether the Buyer has received payment for such Services from a third party unless otherwise agreed in writing with the Seller before the Services are undertaken.
- 4.3. Time for payment shall be of the essence and payment will not be deemed complete until the Seller has received payment in cleared funds.
- 4.4. Without limiting any other rights or remedies that the Seller may have, the Seller reserves the right to charge statutory interest on late payments of invoices at a rate of 8% plus the Bank of England base rate for business to business transactions, accruing on a daily basis from the due date for payment of the invoice until the date of actual payment of the overdue amount, whether before or after judgment but without prejudice to any legal recourse the Seller may take in order to recover overdue debt.
- 4.5. Any amounts disputed in good faith by the Buyer must be notified to the Seller within 14 calendar days of the date of the Seller’s invoice which is the subject of the dispute.
- 4.6. The Seller shall be entitled to recover reasonable costs made in the collection or attempted collection of any overdue amount owing to the Seller pursuant to the Contract, whether made by the Seller or any third party on the Seller’s behalf and the Buyer shall indemnify the Seller in respect of all and any court fees and costs incurred by the Seller in respect of any court proceedings that it commences in respect of such overdue amount.

5. DELIVERY

- 5.1. Any delivery date or dates agreed between the Seller and the Buyer shall be indicative only and not binding on the Seller and may be subject to amendment in the light of any changes in the requirement made subsequently by the Buyer and subject to unforeseen circumstances. Time of delivery shall not be of the essence unless the Seller expressly agrees otherwise in writing and late delivery shall not entitle the Buyer to withhold payment for Services completed.
- 5.2. The Seller reserves the right to sub-contract all or part of the Services to a contractor of its choice to meet the Buyer’s requirements.
- 5.3. Should any Services in whole or in part be delivered too late for the Buyer’s use, and the Seller agrees that such Services are therefore unacceptable, the Seller may waive its Fee for the Services and require the immediate return of the Services together with a signed disclaimer for the Buyer’s right to use such piece of Services.

6. CANCELLATION

- 6.1. If the Services (excluding interpreting, for which see Clause 6.2 below) are cancelled subsequent to their commencement, the Buyer shall pay the Seller either the complete Fee (where the Services have been substantially completed) or a sum equal to the proportion of the complete Fee of the Services which has been completed (by reference to unit count or time spent) plus a further sum for administrative costs in respect of the processing of the Services and their cancellation and any research conducted in carrying out the Services, such sum to be calculated on an hourly basis by reference to the Seller’s standard rate card then in force. The Services completed shall be available to the Buyer.
- 6.2. If any interpreting assignment is cancelled or the dates are changed, the Buyer shall pay the Seller a cancellation fee in accordance with the below:
 - Up to 15 calendar days before the first day of the assignment: 10% of the total fee for the whole assignment;
 - 11-14 calendar days before the first day of the assignment: 25% of the total fee for the whole assignment;
 - 7-10 calendar days before the first day of the assignment: 50% of the total fee for the whole assignment;
 - 3-7 calendar days before the first day of the assignment: 75% of the total fee for the whole assignment;
 - Within 3 calendar days before the first day of the assignment: 100% of the total fee for the whole assignment.
- 6.3. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
 - 6.3.1.1. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within a reasonable time of being notified in writing to do so;
 - 6.3.1.2. the other party takes any action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

6.3.1.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

6.3.1.4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

6.4. The Seller may terminate the Contract with immediate effect at any point by giving written notice to the Buyer if the Buyer's credit account enters into arrears.

7. COMPLAINTS, DISPUTES AND LIABILITY

7.1. Any complaint in connection with the Services shall be made within 14 calendar days of the date of delivery. The Seller shall be given the opportunity to make good any defects in Services provided by the Seller.

7.2. If the parties are unable to agree, the matter may be referred to the arbitration service of the Association of Translation Companies for arbitration within a time limit of two months from the date on which the original complaint was made. The decision of the service shall be final and binding on both parties.

7.3. The Seller's liability in the event of an agreed error is limited to the value of the project for the service and language combination in question, unless in situations where liability cannot be legally limited.

7.4. The Seller shall not be liable for any event of default caused by:

7.4.1.1. any failure of any third party to provide materials, software, equipment or information required to perform the Services other than the Seller's sub-contractors;

7.4.1.2. down time of any systems caused by suppliers of third-party computer services provided that the same is not due to any act, negligent omission or default of the Seller, its employees, agents or sub-contractors;

7.4.1.3. any technical aspects associated with interpreting assignments including, but not limited to, unstable internet connection, partial or complete loss of audio, or microphone issues;

7.4.1.4. any act or omission of the Buyer relating to its obligations under the Contract.

8. COPYRIGHT AND INTELLECTUAL PROPERTY

Copyright in original texts, and translation rights

8.1. The Seller accepts a translation order from the Buyer on the understanding that the Buyer holds translation rights in the original text or will be using the translation only for purposes of study, in which case the question of infringement does not arise. In all cases, the Buyer undertakes to indemnify and keep the Seller harmless from any loss, damage, expense or otherwise arising out of or consequential to any claim for infringement of copyright, translation rights or any other similar right including any such claim which may arise between individuals as a result of the content of the original text or its translation.

8.2. The Seller shall, unless otherwise agreed in writing, retain all copyright in the Services until payment in full of the Fee, including any copyright waiver fee, is made in accordance with these Conditions at which point it shall be released to the Client. Where the Seller for any reason retains the copyright in any Services, unless otherwise agreed in writing, any published text of the Services shall carry the following statement: © (English, etc.) Text (Seller's name) 20... as appropriate to the particular case.

Copyright in translations in relation to recordings of interpreted output

8.3. No recording of an interpreter's work shall be made without the Interpreter's and the Seller's prior consent, except where such recording is inherent within legal proceedings. Recordings which are intended for broadcast or publication will incur an additional fee of between 20 and 100 per cent of the daily rate depending upon the purpose of the recording.

8.4. The Buyer is liable for unauthorised recordings by third parties. Each further use (for example direct transmission) requires a separate contractual agreement.

8.5. Under international law, translations are protected as original works and translators are protected as authors. When fixed in material form, of any nature, and including availability via the Internet, the performance of the interpreter becomes a translation within the meaning of the Berne Convention and the exclusive rights foreseen in the Convention apply to the author.

8.6. The Seller shall, unless otherwise agreed in writing, retain all copyright in the Services until payment in full of the Fee is made in accordance with these Conditions at which point it shall be released to the Buyer. Where the Seller for any reason retains the copyright in any Services, unless otherwise agreed in writing, any published text of the Services shall carry the following statement: © (English, etc.) Text (Seller's name) 20... as appropriate to the particular case.

8.7. The Seller shall, unless otherwise agreed in writing, retain ownership of any translation memories produced or amended in relation to the delivery of the Services.

9. NON-SOLICITATION

9.1. From the date of the Contract until 12 months after the completion or termination of the provision of the Services, the Buyer shall not solicit or entice away from the Seller or employ or otherwise engage or attempt to employ or otherwise engage any person who the Buyer is aware is, or has been, engaged as an employee, consultant or subcontractor of the Seller, unless otherwise agreed in writing.

10. CONFIDENTIALITY

10.1. Each party undertakes that it shall at no time disclose to any third party (other than the Seller's employees or subcontractors on a "need to know" basis or otherwise pursuant to any Court order or other legal or enforceable requirement in any jurisdiction) any information contained in either the Buyer or Seller's documentation

without the express authorisation of the other unless that material is already available in the public domain.

10.2. The parties undertake to use the other's confidential information solely for the purpose of performing its obligations under or in connection with the Contract and to safeguard and securely dispose of any such confidential information.

10.3. The parties agree that any confidentiality agreement concluded between the Buyer and Seller before the date of the Contract shall remain in full force and effect unless terminated in writing and in the event of any conflict between the terms of any such pre-existing confidentiality agreement and these Conditions, the pre-existing agreement shall take precedence.

11. DATA PROTECTION AND PRIVACY

11.1. The parties shall comply with all applicable requirements of current Data Protection and Data Privacy Legislation in accordance with the law of England and Wales.

11.2. Though the Seller will do all it can to prevent any data breach, the onus is on the Buyer to ensure that relevant permissions have been sought to process any data, including, but not limited to, written data, recorded audio and visual content and data accessed during interpreting assignments, in accordance with current Data Protection and Data Privacy Legislation. The Buyer shall anonymise personal data where reasonable prior to transferring such data to the Seller for processing.

11.3. For the purposes of the Contract, the Buyer is considered to be the Data Controller and the Seller the Data Processor unless otherwise agreed in writing.

11.4. The parties agree that any agreement on Data Protection and Privacy concluded between the Buyer and Seller before the date of the Contract shall remain in full force and effect unless terminated in writing and in the event of any conflict between the terms of any such pre-existing agreement and these Conditions, the pre-existing agreement shall take precedence.

12. GENERAL

12.1. The Contract is between the Seller and the Buyer. No other third party shall have any rights to enforce any of its terms.

12.2. Each party may transfer its rights and obligations under these Conditions to another organisation solely with the other's written consent, but this will not affect the Buyer's rights or the Seller's obligations under the Contract.

12.3. Each of the paragraphs of these Conditions operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

12.4. If the Seller does not enforce any of the Buyer's obligations under these Conditions or its rights against the Buyer or if the Seller delays in enforcing either, this shall not mean the Seller has waived its rights against the Buyer or that the Buyer is not bound by such obligations.

12.5. If the Seller waives any Buyer default on this Contract, the Seller will only do so in writing, and this shall not mean that the Seller will automatically waive any subsequent default by the Buyer.

12.6. Force Majeure: Neither party shall be considered in breach of the Contract for delay in performing or failure to perform any of its obligations under the Contract if such delay or failure results from force majeure.

12.7. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter, unless otherwise agreed in writing and with the exclusion of agreements relating to Clauses 10.3 and 11.4.

12.8. Notices. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.9. Seller or partnership. Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

12.10. Waiver. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.11. The Contract, and any dispute or claim arising out of or in connection with it shall be governed by, and construed in accordance with the law of England and Wales and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation.