

## CodexBilingua – Standard Terms and Conditions

### 1. Definitions and Interpretation

#### 1.1 In these Terms and Conditions:-

“AGREEMENT” means the agreement for the provision of the Specified Services by CodexBilingua to the Client as annexed in the Purchase Order Sheet and contained in these Terms and Conditions.

“CODEXBILINGUA” means CodexBilingua of 351 Atlantic House, Oxford Street, London. W1C 2JF.

“CHARGES” means the fees, charges and expenses for the Specified Services as set out in the Purchase Order Sheet together with VAT where applicable.

“CLIENT” means the person named on the annexed Purchase Order Sheet for whom CodexBilingua has agreed to provide the Specified Services in accordance with the Agreement.

“SOURCE MATERIAL” means any documents, materials, elements of text, images, graphics, photographs, designs, data or other information provided by the Client to CodexBilingua relating to the Specified Services.

“INTELLECTUAL PROPERTY RIGHTS” means all registered designs, trade marks and service marks (whether registered or not), copyright, database rights, design rights, and all other similar property rights throughout the world for their full term including all extensions and renewals.

“INTENDED PURPOSE” means the Client’s intended purpose for the Target Material as specified by the Client on the Purchase Order Sheet.

“TARGET MATERIAL” means any documents, transcripts, translations, materials, elements of text, images, graphics, photographs, designs, data or other information provided by CodexBilingua to the Client relating to the Specified Services.

“PURCHASE ORDER SHEET” means the sheet setting out the Specified Services and to which these Terms and Conditions are appended.

“SPECIFIED SERVICES” means the services to be provided by CodexBilingua for the Client and set out in the Purchase Order Sheet.

“START DATE” means the date specified on the Purchase Order Sheet for the commencement of the Specified Services.

1.2 The headings in these Terms and Conditions are for convenience only and shall not affect the construction of these Terms and Conditions.

1.3 Unless the context otherwise requires, words importing one gender include all

other genders and words incorporating the single include the plural and vice versa.

### 2. Supply of the Specified Services

2.1 CodexBilingua shall provide the Specified Services to the Client using reasonable skill and care and as far as reasonably possible in accordance with the Agreement and in accordance with CodexBilingua’s current brochure or other published literature provided to the Client relating to the Specified Services from time to time or any other correspondence between the parties confirmed [in writing] by CodexBilingua following the Start Date.

2.2 The Client shall sign, date and return the Purchase Order Sheet to CodexBilingua to acknowledge the Client’s acceptance of the Agreement including, without limitation, the details of the Specified Services and charges outlined in the Purchase Order Sheet, before CodexBilingua shall commence the provision of the Specified Services. In the event that the Client fails to sign, date and return the Purchase Order Sheet to CodexBilingua and CodexBilingua has assigned personnel for translating, proof-reading, and/or interpreting purposes the Client shall be deemed to have accepted and be bound by the terms of the Agreement.

2.3 Any changes or additions to the Specified Services or these conditions must be agreed in writing by CodexBilingua and the Client.

2.4 The Client shall specify the Intended Purpose on the Purchase Order Sheet.

2.5 Subject to clause 5.4 and 5.5 in the event that the Client desires to use the Target Material for a purpose other than the Intended Purpose the Client shall first obtain confirmation from CodexBilingua that the Target Material is suitable for the new purpose.

2.6 If the Target Material requires amendment and/or adaptation to suit the new purpose CodexBilingua reserves the right to charge an additional fee for so doing.

2.7 The Client at its own expense shall supply CodexBilingua with all necessary Source

Material within sufficient time to enable CodexBilingua to provide the Specified Services in accordance with the Agreement. The Client shall ensure and be responsible for the accuracy of all Source Material.

- 2.8 In order to ensure the Client's satisfaction in relation to the Specified Services and to ensure the Specified Services reach a reasonable standard of workmanship the Client undertakes to sufficiently and adequately supervise the translator, proof-reader and/or interpreter assigned to the Client by CodexBilingua including, but not limited to dealing with queries raised by the translator, proof-reader and/or interpreter in relation to any technical questions, unusual wordings and idioms.
- 2.9 The Client shall at its own expense retain duplicate copies of all Source Material and insure against its accidental loss or damage. CodexBilingua shall have no liability for any such loss or damage however caused. All Target Material shall be at the sole risk of the Client from the time of delivery to the Client.
- 2.10 CodexBilingua may correct any typographical or other errors or omissions in any CodexBilingua brochure or other published literature relating to the provision of the Specified Services without any liability to the Client.
- 2.11 CodexBilingua may at any time without notifying the Client make any changes to the Specified Services which are necessary to comply with legal or regulatory requirements or which do not materially affect the nature or quality of the Specified Services.
- 2.12 In order to provide the Specified Services it may be necessary for CodexBilingua to send Source Material abroad and the Client hereby gives its consent to this. Should the Client not wish the Source Material to be sent abroad or would like to place any other reasonable restrictions in relation to where the Source Material is sent the Client must specify the same on the Purchase Order Sheet.
- 2.13 Should the Specified Services be provided to the Client by CodexBilingua free of charge in the event that the Client wishes to publish the Target Material the Client shall first obtain the prior written approval of CodexBilingua.

### 3. Charges

- 3.1 The Client shall pay the Charges at the times and the stages specified in the Estimate / Purchase Order Sheet and the final payment for the completion of the Specified Services shall become due and payable to CodexBilingua within 30 days of the invoice being issued by CodexBilingua upon completion of the Specified Services. The Client shall remain liable to pay the Charges irrespective of whether the Specified Services are being provided by CodexBilingua directly for the benefit of the Client or any other subsidiaries or associates or employees of the Client.
  - 3.1.1 In such circumstances as when the client is acting for a third party and payment is to be made by said third party, our contract remains with the client therefore if for any reason payment from the third party is not forthcoming, the client remains wholly responsible for payment and will be invoiced for the full amount of the outstanding debt.
- 3.2 Unless otherwise specified in the Purchase Order Sheet in the event that the provision of the Specified Services takes longer than 3 months to complete CodexBilingua shall be entitled to invoice the Client at monthly intervals for such part of the Charges applicable to Specified Services which have been completed as CodexBilingua in its absolute discretion thinks fit.
- 3.3 The Client shall pay CodexBilingua and CodexBilingua shall invoice the Client for any additional Charges incurred by CodexBilingua which are:
  - 3.3.1 agreed in writing between CodexBilingua and the Client; and/or
  - 3.3.2 in CodexBilingua's sole opinion incurred by CodexBilingua as a result of the Client's instructions or lack of instructions, delay in providing or the inaccuracy of any Source Material or any other cause attributable to the Client.
- 3.4 Unless otherwise provided in the Purchase Order Sheet the client shall pay CodexBilingua and CodexBilingua shall invoice the Client for all reasonable additional charges for any or all of the following in connection with the Specified Services:-
  - 3.4.1 Sending of facsimile messages overseas;

- 3.4.2 Delivery of any Target Material by courier;
- 3.4.3 Adaptation or amendment of any Target Material previously supplied by CodexBilingua to suit a new purpose;
- 3.4.4 Proof reading of any Target Material prepared by CodexBilingua by a native speaker other than the original translator;
- 3.4.5 Preparing and sending additional copies of the Target Material in any form to the Client;
- 3.4.6 Making multiple photocopies of any Target Material or sending multiple facsimile messages within the United Kingdom. For the purpose of interpreting this clause the word "multiple" shall mean more than two.
- 3.5 Subject to the provisions of clause 3.6 where CodexBilingua has supplied or agreed to supply an employee, partner or sub-contractor to assist with or provide the Specified Services at a specific time and place agreed with the Client in writing and for any reason the services of the employee, partner or sub-contractor are not required by the Client CodexBilingua shall be entitled to invoice the Client for the Charges and any other sums due under the Agreement.
- 3.6 Where the Specified Services comprise interpreting and the client notifies CodexBilingua that the Specified Services are not required CodexBilingua shall invoice the Client for cancellation fees based on the following scale: -
- 3.6.1 cancellation 30 days or more prior to the Start Date – 50% of the full Charge;
- 3.6.2 cancellation between 30 & 15 days prior to the Start Date – 75% of the full Charge;
- 3.6.3 cancellation 15 days or less prior to the Start Date – 100% of the full Charge.
- 3.7 The Client shall pay all sums due under the Agreement on the dates and times specified in the Purchase Order Sheet and/or within 30 days of the date of any invoice sent by CodexBilingua to the Client in respect of the same.
- 3.8 In the event of late payment by the Client of any sums due under the Agreement CodexBilingua reserves the right to:
- 3.8.1 charge daily interest on all sums outstanding until the date of payment at the rate of 7% above the base lending rate from time to time of HSBC Bank Plc or the rate which CodexBilingua shall be entitled under the Late Payment of Commercial Debts (Interest) Act 1998 which ever is the greater whether before or after judgement; and
- 3.8.2 suspend provision of the Specified Services until payment of all sums outstanding is received in full by CodexBilingua. Such withholding does not relieve the Client of its obligation to pay any outstanding Charges and interest.
- 3.9 The Client shall be liable for and shall reimburse CodexBilingua for all costs and expenses incurred by CodexBilingua arising in respect of any steps, actions or proceedings made or brought against the Client by CodexBilingua to obtain payment of outstanding sums due.
- 3.10 All payments must be in U.K. pounds sterling unless otherwise agreed in writing. If any cheque from the Client is returned by the bank as unpaid for any reason the Client will be liable for an administration fee of £30.
- #### 4. Delivery
- 4.1 The Purchase Order Sheet shall specify agreed delivery requirements. CodexBilingua shall use all reasonable endeavours to meet such requirements but subject to the provisions of clause 4.2 hereof CodexBilingua shall not be liable for any delay in delivery howsoever caused.
- 4.2 Time shall only be of the essence of the Agreement as regards the date of delivery of the Target Material to the Client if specified by the Client on the Purchase Order Sheet.
- 4.3 In the event that time is of the essence to the Agreement as provided in clause 4.2:
- 4.3.1 the Client shall specify any special arrangements required for the delivery and/or collection of the Target Material on the Purchase Order Sheet and the Client shall reimburse CodexBilingua in full for any costs incurred by CodexBilingua in meeting such requirements; and
- 4.3.2 CodexBilingua may subcontract its obligations under the Agreement and the client shall reimburse CodexBilingua in full for any additional costs incurred by CodexBilingua in so doing.

4.4 Where time is of the essence as provided by clause 4.2 hereof and if CodexBilingua fails to provide the Specified Services on or before the agreed delivery date or if appropriate the agreed delivery time the Client shall be entitled to a refund in full or in part as may be agreed between CodexBilingua and the Client and CodexBilingua shall be entitled to require the immediate return of the Target Material in full or in part.

## 5. Intellectual Property Rights

5.1 For the avoidance of doubt the Intellectual Property Rights in any Source Material shall (subject to any such rights of any third party) belong to the Client.

5.2 The Client warrants to CodexBilingua that:

5.2.1 it is the owner of or is licensed to use all Intellectual Property Rights in and to the Source Material;

5.2.2 it has all the necessary consents to instruct CodexBilingua to carry out the Specified Services;

5.2.3 the Source Material supplied and the translation of the same into the Target Material shall not be offensive, abusive, defamatory, menacing, obscene, indecent or violate, breach or infringe the rights of any other person anywhere in the world (including, without limitation, any Intellectual Property Rights); and

5.2.4 the use by CodexBilingua of the Source Material for the purpose of providing the Specified Services will not infringe the copyright or other Intellectual Property Rights of any third party.

5.3 The Client shall indemnify CodexBilingua and shall keep CodexBilingua fully indemnified against any losses, damages, costs, expenses (including legal) or other claims arising from or in relation to any breach by the Client of clause 5.2.

5.4 In the event that the Intended Purpose of the Target Material is publication and sale on the open market:

5.4.1 on payment in full of the Charges and all other sums due under the Agreement by the Client to CodexBilingua, CodexBilingua hereby grants the Client a non-exclusive world-wide royalty-free licence to publish the Target Material.

5.4.2 on payment in full of an additional fee agreed between CodexBilingua and the Client the copyright may be assigned by CodexBilingua to the Client.

5.5 In the event that the sole Intended Purpose of the Target Material is advertising and/or promotional on completion of the Specified Services (except due to termination by CodexBilingua pursuant to clause 8.2) and payment in full of the Charges and all other sums due under the Agreement by the Client to CodexBilingua, CodexBilingua hereby assigns to the Client absolutely with full title guarantee all Intellectual Property Rights in such Target Material. .

5.6 Except as set out in clauses 5.4 and 5.5 or as otherwise agreed in writing by CodexBilingua or specified on the Purchase Order Sheet CodexBilingua shall retain the copyright in all Target Material (including, without limitation, any incomplete Target Material) as translator and all publications and copies of the Target Material shall carry the following copyright notice: -

© (English etc) text (CodexBilingua) 2009 as is appropriate in the circumstances.

5.7 Unless otherwise specified in the Purchase Order Sheet or agreed in writing by CodexBilingua all publications, imprints and copies of Target Material in any form shall include the following acknowledgement: -

5.7.1 (English etc) text CodexBilingua 351 Atlantic House, Oxford Street, London. W1C 2JF; and the acknowledgement to be used shall be that which includes the address of CodexBilingua at which the Client commissioned the Specified Services.

## 6. Confidentiality

6.1 Any information provided by either party to the other which is designated confidential or which is by its nature clearly confidential (including, without limitation, details in relation to translators, proof-readers and or interpreters introduced by CodexBilingua to the Client) shall be kept confidential by the receiving party. The foregoing shall not apply to anything which is; public knowledge at the time when it is so provided and shall cease to apply if at any future time it becomes public knowledge through no default of the disclosing party or is lawfully disclosed to the disclosing party without restriction by

a third party who did not obtain the same (whether directly or indirectly) from the other party.

## 7. Warranties and Liability

7.1 Except as expressly set out in the Agreement, all warranties, undertakings, conditions and terms, express or implied, whether by common law, statute, custom, trade usage, course of dealings or otherwise in respect of the Specified Services are hereby excluded to the fullest extent by law.

7.2 Nothing in the Agreement shall exclude or restrict the liability of CodexBilingua to the Client for death or personal injury resulting from the negligent act of CodexBilingua or for liability for fraudulent misrepresentation by CodexBilingua to the Agreement.

7.3 Subject to the provisions of clause 7.2 the liability of CodexBilingua to the Client in contract, tort or otherwise arising out of or in connection with the Agreement shall be limited for any one incident or series of incidents to the total amount of the Charges.

7.4 CodexBilingua shall not be liable to the Client under or in connection with the Agreement whether in contract, tort or otherwise (including negligence caused by CodexBilingua its servants agents or otherwise) for any indirect, economic or consequential loss whatsoever, for any loss of business, loss of contracts, loss of profits, loss of use, loss of goodwill or loss of reputation even if such loss was reasonably foreseeable.

7.5 While every effort is made by CodexBilingua to ensure the high standards, integrity and reliability of its staff and to provide staff to the Client in accordance with the Agreement CodexBilingua shall not be liable for any losses, damages, costs, expenses (including legal) or other claims suffered by the Client arising from or in relation to CodexBilingua's failure to provide staff to the Client for all or part of period specified in the Purchase Order Sheet or for any negligence, dishonesty, misconduct or lack of skill of any staff provided.

7.6 Should staff be provided by CodexBilingua to the Client in the provision of the Specified Services, the Client shall be

responsible in all respects for the safety and welfare of such staff.

7.7 Where under the Purchase Order Sheet the Specified Services are to be supplied by CodexBilingua in stages the Client agrees to approve and sign off any work which it finds satisfactory (such approval not to be unreasonably withheld). Such signed off work will be deemed to be accepted and approved by the Client and to meet the obligations of CodexBilingua to the Client with regard thereto. If the Client has not given written notice to CodexBilingua that Target Material is not satisfactory within 7 working days of the date of delivery to the Client of such Target Material the Client shall be deemed to have accepted and approved such Target Material and to have signed off the same and CodexBilingua shall have no liability for any defect in the quality of the Target Material or its failure to correspond with the Purchase Order Sheet and the Client shall be bound to pay the Charges and any other sums due under the Agreement as if the Specified Services had been supplied in accordance with the Agreement.

7.8 Where any claim in respect of any Specified Services which is based upon any defect in the quality of the Specified Services or in their failure to correspond with a Purchase Order Sheet is notified by the Client to CodexBilingua in accordance with the Agreement CodexBilingua shall be entitled at its sole discretion to either re-perform the Specified Services free of charge or refund the Charges for the Specified Services in whole or in part and CodexBilingua shall have no further liability to the Client.

7.9 Any advice or recommendation given by CodexBilingua or its employees or agents to the Client as to the application or use of any Target Material which is not confirmed in writing by CodexBilingua is followed or acted upon entirely at the Client's own risk and accordingly CodexBilingua shall not be liable for any losses, damages, costs, expenses (including legal) or other claims suffered by the Client arising from or in relation to such advice or recommendation which is not so confirmed.

7.10 CodexBilingua shall have no liability to the Client for any losses, damage, costs, expenses or other claims for compensation arising from or in relation to any Source Material or instructions supplied by the Client which are incomplete, incorrect, inaccurate, ambiguous, illegible, out of

sequence or in the wrong order or arising from their late arrival or non-arrival or any other fault of the Client.

- 7.11 In respect of translating and/or proof reading and/or typesetting and/or other associated services typewritten Target Material should be proof read by a native speaker other than the original translator prior to publication and after typesetting and/or printing. Unless the Purchase Order Sheet specifies that CodexBilingua is required to provide proof reading services, CodexBilingua accepts no liability whatsoever for losses, damages, costs, expenses (including legal) or other claims suffered by the Client arising from or in relation to Target Material which is not proof read as provided by this clause.
- 7.12 If the Client uses any Target Material for a purpose other than the Intended Purpose without recourse to CodexBilingua as provided in clause 2.5 hereof, such action is undertaken entirely at the Client's own risk and CodexBilingua shall not be liable to the Client for any loss or damage or expense suffered by the Client arising out of or in connection with such action. The Client shall indemnify and shall keep CodexBilingua indemnified against any losses, damages, costs, expenses (including legal) or other claims, including, without limitation, loss of goodwill arising from or in relation to any breach of clause 2.5 or howsoever arising from the provision of the Specified Services hereunder.
- 7.13 Notwithstanding the provisions of clause 4.2 CodexBilingua shall not be liable to the Client or be deemed to be in breach of the Agreement by reason of any delay in performing or failure to perform any of CodexBilingua' obligations in relation to the Specified Services if the delay or failure was due to any cause beyond CodexBilingua' reasonable control including without limitation any act of God, governmental restriction, fire, flood, power failure, condition or control breakdown, act of terrorism, malfunction in any telecommunications system, computer service, link failures, power difficulties, telephone outages, network overload, or default or failure of a third party.

## **8. Term and Termination**

- 8.1 The Agreement shall commence on the Start Date and shall terminate on completion of the Specified Services unless

terminated in accordance with the remainder of this clause 8.

- 8.2 Either Party may (without limiting any other remedy or right which either party may be entitled to thereunder or at law) at any time terminate the Agreement by giving prior written notice to the other if:
- 8.2.1 the other commits any material breach of the Agreement and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so; or
- 8.2.2 if the other goes into liquidation (or in the case of an individual or firm) becomes bankrupt makes a voluntary arrangement with its creditors or has a receiver or administrator appointed.
- 8.3 Subject to Clause 3.5 and 3.6 in the event that the Agreement is terminated the Client shall pay to CodexBilingua all outstanding sums owned under the Agreement for the Specified Services as carried out up to the date of termination on the basis of time incurred and materials used.

## **9. Non-solicitation**

- 9.1 The Client during the term of the Agreement and for a period of six months after expiry or termination of the Agreement shall not solicit CodexBilingua' employees, partners or sub-contractors who have been employed or engaged in the provision of the Specified Services. For the purposes of this clause "solicit" means the soliciting of such person with a view to engaging such person as an employee, director, partner, sub-contractor or independent contractor.
- 9.2 Without prejudice to any other right or remedy of CodexBilingua in the event that the Client is in breach of clause 9.1 above then the Client shall pay to CodexBilingua by way of liquidated damages an amount equal to fifty per cent of the gross annual salary (as at the time of the breach) of the person so employed or engaged and if that person is not employed or engaged by CodexBilingua on a full time basis the gross annual salary to be used for the purposes of this clause shall be that salary that would have been payable by CodexBilingua if CodexBilingua did so employ or engage that person on a full time basis.

9.3 The parties hereby acknowledge and agree that the formula specified in clause 9.2 above is a reasonable estimation of the loss which would be incurred by CodexBilingua from the loss of the person so employed or engaged by CodexBilingua.

## 10. General

10.1 In providing the Specified Services CodexBilingua is acting as an independent contractor and is not acting as an employee, agent or principal of the Client.

10.2 The Agreement, these Terms and Conditions and the Purchase Order Sheet constitutes the entire agreement between the parties in relation to the Specified Services and supersede all other agreements or understanding or representations made by either party to the other whether written or oral.

10.3 No amendment or variation of the Agreement shall be effective unless in writing and signed by a duly authorised representative of each party.

10.4 CodexBilingua may subcontract any or all of its obligations under the Agreement.

10.5 The Client may not assign, transfer or in any way make over any of its rights or obligations under the Agreement to any third party without the prior written consent of CodexBilingua..

10.6 Any notice to be given by either party to the other under the Agreement shall be

delivered by hand or sent by first class post or facsimile in writing addressed to the other party at its registered office or principal place of business (or such other address as may have been notified) any such notice shall be deemed to have been served: if delivered – at the time of delivery; if sent by post – upon the expiration of 48 hours after posting; and if sent by facsimile – upon the expiration of 12 hours after despatch..

10.7 No failure or delay by either party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right and no waiver by either party of any breach of this Agreement by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

10.8 If any provision of the Agreement is or becomes invalid or unenforceable or illegal in whole or in part such provision shall be deemed to be severed from the Agreement but the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

10.9 The Contract (Rights of Third Parties) Act 1999 shall not apply to the Agreement and nothing in the Agreement confers on any third party any benefit or any right to enforce any term of the Agreement.

10.10 English law shall apply to the Agreement and the parties agree to submit to the non-exclusive jurisdiction of the English Courts.