

THE FOLLOWING GUIDE DOES NOT RESTRICT ANYONE FROM CONTRACTING FOR SERVICES ON TERMS AND CONDITIONS DIFFERENT FROM THOSE BELOW. THE USE OF ANY CLAUSE IS STRICTLY VOLUNTARY. NEITHER THE AMERICAN TRANSLATORS ASSOCIATION NOR ITS MEMBERS ASSUME ANY RESPONSIBILITY OR LIABILITY OR MAKE ANY WARRANTY WITH RESPECT TO THIS GUIDE.

AGREEMENT	EXPLANATORY COMMENTS
<p align="center"><b>AMERICAN TRANSLATORS ASSOCIATION GUIDE TO A TRANSLATION SERVICES AGREEMENT</b></p> <p>This Translation Services Agreement ("Agreement") is made effective as of _____ ("Effective Date") by and between _____ ("Contractor"), located at _____ and _____ ("Company"), located at _____, individually referred to as "Party" and collectively referred to as "Parties."</p> <p>Parties acknowledge that the promises made by Contractor and Company set forth below constitute full and adequate mutual consideration. Based on such mutual consideration, Parties agree as follows:</p>	<p><b><i>This is intended to serve as a guide to good practices for a continued relationship between a translation company and a freelance translator.</i></b></p> <p><i>This introductory paragraph identifies the contracting parties.</i></p> <p><i>In order for a contract to be binding and enforceable, both parties must offer some consideration. Consideration is anything of value promised to another when making a contract.</i></p>
<p><b>Services and Code of Ethics.</b> Parties are engaged in the business of translation services ("Services") and agree to comply with the American Translators Association ("ATA") Code of Ethics and Professional Practice.</p> <p>The term "Translation" for the purposes of this Agreement means a translation or any other translation-related tasks such as transcreation, editing (revision and review), proofreading, etc., that require the skills of a translator.</p>	<p><i>Intent: To bind the parties to the Code of Ethics and Professional Practice.</i> <i>See <a href="http://atanet.org/membership/code_of_ethics.php">http://atanet.org/membership/code_of_ethics.php</a></i></p> <p><i>Intent: To define, generally, the services to be provided by the parties.</i></p>
<p><b>Relationship between Parties.</b> Contractor serves as an independent contractor of Company in the performance of Contractor's Services under this Agreement. Nothing contained or implied in this Agreement creates a relationship of employer–employee between Company and Contractor nor does it create a joint venture, partnership, or similar relationship between Company and Contractor. Contractor is free from direction and control over the means and manner of providing the Services, subject only to the right of Company to specify the desired results.</p>	<p><i>This entire section is aimed at preventing the Contractor from being considered an employee of the Company. If the Company specifies the means of providing the services (e.g., the CAT tool to be used), the relationship may be classified by the Labor Department, the IRS, and/or state tax authorities as an employment relationship (see this IRS article on the subject: <a href="http://www.irs.gov/businesses/small/article/0,,id=99921,00.html">http://www.irs.gov/businesses/small/article/0,,id=99921,00.html</a>), thus obligating the Company to pay taxes, insurance, and/or benefits.</i></p> <p><i>Some translation companies may object to this provision as they feel they need to direct and control the means and manner of providing the services; however, what is important here is for both parties to know what the risks are.</i></p>

Contractor understands and agrees that (a) Contractor must file all corporate and/or individual tax returns and pay Federal and State taxes, as appropriate; (b) Company is not responsible for withholding any income or any other taxes with respect to Contractor's fees; and (c) Contractor has no claim against Company for any employee benefits of any kind. Contractor bears the full expenses of its operations. Company is not liable to Contractor for any expenses paid by Contractor, unless such expenses have been agreed in advance in writing. Any reference made in this Agreement to "in writing" includes e-mail and/or facsimile communications.

**Compensation and Payment.** Company agrees to pay Contractor the fee(s) set forth in each project assignment for Services. Any fee(s) agreed in advance between Contractor and Company become(s) binding only after Contractor has received and reviewed the source material and Company's instructions, and both parties have agreed in writing on the project specifications.

Supplementary charges may also be agreed in advance, for example those arising from: (a) inconsistent text, poorly legible copy, or complicated layout or presentation; and/or (b) certification; and/or (c) priority work or work outside normal business hours.

If any changes/revisions are made to the source text or project specifications at any time while the task is in progress, Contractor's fee, charges, and terms of delivery may be adjusted by mutual agreement in writing. In the event a project assignment is cancelled while the task is in progress, Contractor's fee is payable for all work completed up to the notice of cancellation, provided such work is made available to Company.

Payment in full must be made by Company to Contractor no later than \_\_\_\_\_ (\_\_) days from receipt of invoice by the method of payment specified in writing between the Parties. Contractor is entitled to charge a late fee for any undisputed overdue payments.

In no event should payment to Contractor be contingent upon payment to Company by the party who commissioned the work.

For long assignments, Contractor may request an initial payment and periodic installments. If an installment becomes

*Intent: To stipulate that any quote provided by the translator is not binding until the source material has been received and reviewed and all issues have been negotiated and agreed upon.*

*Intent: To allow surcharges for "non-standard" source material or work conditions.*

*Intent: To allow for a change in the fee if there are changes to the project specifications.*

*To ensure that the translator is paid for work performed if a project is cancelled. If the work already performed is only in draft mode, the translator may agree to a lower rate than originally accepted.*

*Note: If the parties wish to agree to an additional fee to compensate the translator for loss of business, e.g., inability to accept other work due to reserving time to perform the project in question, any such compensation should be specified here.*

*If desired, the parties may include an additional, detailed description of the services expected to be performed by the translator. This description can be included in the body of the contract or can be in an exhibit that is attached to the contract.*

*Intent: To specify payment due date. While no more than 30 days is the desired standard, longer periods may be stipulated; however, payment terms in excess of 60 days are considered onerous.*

*Late fees may be subject to local restrictions under state law. Any such late fees should be specified here.*

*Intent: To allow for advance and periodic payment for long-term assignments. It is in both parties'*

<p>overdue, Contractor, upon giving Company a written notice, has the right to stop work until the outstanding payment is received and to extend the deadline(s) for delivery accordingly.</p>	<p><i>interests not to allow an outstanding balance to become so large that payment or nonpayment becomes burdensome.</i></p>
<p><b>Delivery.</b> Any delivery date(s) agreed to in advance between Contractor and Company become(s) binding only after Contractor has received and reviewed the source material and Company's instructions, and both parties have agreed in writing on the project specifications.</p> <p>Unless otherwise agreed, Company can reasonably expect to receive the assigned project no later than the normal close of business on the agreed-upon date of delivery.</p>	<p><i>Intent: To stipulate that the agreed delivery date of the work product is not fixed until translator has received the source material and that all issues have been negotiated and agreed upon.</i></p>
<p><b>Quality Assurance.</b> Contractor understands and agrees that Company may, at Company's discretion, edit and/or proofread Contractor's work as part of Company's quality-assurance efforts.</p> <p>However, if Contractor retains the copyright in a Translation, or if Contractor is asked to deliver a certificate of accuracy, no amendment or alteration may be made to a Translation without Contractor's written acceptance of such amendment or alteration.</p> <p>If in Company's substantiated opinion, Contractor has delivered substandard Services in relation to the project specifications, Company must inform Contractor in writing within ____ (___) business days and give Contractor reasonable time to bring the work up to the required standard; if this procedure is unsuccessful or if, for lack of time or otherwise, Company incurs extra expense in bringing the work up to the required standard, Company may be entitled to reduce the fee payable to Contractor by the amount of such extra expense.</p>	<p><i>Intent: To allow the translation company to edit the translation to improve quality, ensure compliance with its client's corporate wording, correct register for the text, etc.</i></p> <p><i>Intent: To protect the translator's legal rights to the work product and to ensure that any statements of accuracy remain true and binding.</i></p> <p><i>Intent: To allow translator to correct deficiencies and/or allow the translation company to reduce the translator's fee if deficiencies are not corrected.</i></p>
<p><b>Ownership of translation.</b> If a Translation is done as a "work made for hire" as that term is defined under U.S. copyright law, Company owns all copyrights in the work product upon full payment of the agreed fee.</p> <p>To the extent that a Translation does not qualify as a work made for hire, copyright remains the property of Contractor and such copyright can be assigned or licensed to Company upon full payment of the agreed fee.</p>	<p><i>Intent: To specify with whom the legal right to the translation resides and when/how that right passes to the company.</i></p> <p><i>Note: If the translation is to be signed by the translator, that is, if the translator's name is to appear on the translation, a recognition clause should be included here.</i></p>
<p><b>Indemnification.</b> Each Party hereby agrees to indemnify and hold harmless the other and such indemnified Party's subsidiaries, directors, officers, agents, and employees from and against all claims, liabilities, and expenses, including reasonable attorneys' fees, which may result from acts, omissions, or breach of this Agreement by the indemnifying Party, its subcontractors, employees, or agents. This provision shall survive the termination of this Agreement.</p>	<p><i>Intent: Indemnification is a promise by one party to take financial responsibility for damages that the other may suffer as a result of the first party's breach of the agreement.</i></p> <p><i>In this instance, each party is considered equally able to accept responsibility for damages caused by the breach of its obligations to the other party.</i></p>

<p>Notwithstanding anything to the contrary, except in case of willful misconduct or gross negligence, Contractor's entire liability to Company for damages or other amounts arising out of or in connection with the Services provided by Contractor hereunder shall not exceed the total amount of payments made by Company to Contractor under this Agreement.</p>	<p><i>This limits the translator's liability to the value of services performed. The "notwithstanding anything to the contrary" language ensures that the translator's indemnification obligations are also subject to this limit.</i></p>
<p><b>Confidentiality.</b> Information is deemed Confidential Information if, given the nature of Company's business, a reasonable person would consider such information confidential. Contractor agrees: (a) to exercise the same degree of care as he/she accords to his/her own confidential information, but in no case less than reasonable care, and (b) to use Confidential Information which Company provides to Contractor only for the performance of Services for Company and not for Contractor's own benefit.</p> <p>Notwithstanding any other provision in this Agreement, Company has the right to immediately terminate this Agreement in the event of any breach of this provision.</p>	<p><i>This is a general confidentiality clause. The translation company may in addition want to use a separate and more extensive confidentiality agreement for projects involving insider trading issues, court proceedings with gag orders, end-client proprietary information, etc.</i></p>
<p><b>Term.</b> This Agreement remains in effect for ____ (__) year(s) from the Effective Date and, unless terminated as set forth below, continues in effect for successive ____ (__) year periods. Contractor understands and agrees that Company will be utilizing Contractor's Services only on an as-needed basis and at Company's discretion. Contractor may, without penalty, decline to accept any offered assignment from Company.</p>	<p><i>Intent: To negate the need, thanks to automatic renewals, to enter into another contract when the term expires. Given that the Termination clause allows the parties to terminate at any time by providing a certain amount of notice, the auto-renewal doesn't "trap" either party into a longer agreement than desired.</i></p> <p><i>Agreements typically remain in effect for one or two years with successive automatic renewals.</i></p>
<p><b>Termination.</b> Either Party may terminate this Agreement at any time upon ____ (__) days' written notice sent to the other Party using the contact information provided in the Notification section below. In the event of such termination, the Parties agree to act in good faith toward one another during the notice period.</p> <p>In the event of termination of this Agreement, Contractor must provide Company, and Company must pay Contractor for, all Services performed through the date of termination; Company is not obligated to pay Contractor any other compensation, severance, or other benefit whatsoever.</p>	<p><i>Intent: To allow for notice of termination of the agreement, to ensure both parties act in good faith in the event of termination, and to ensure performance by both parties in such event.</i></p> <p><i>Prior notice is typically 10 to 30 days.</i></p>
<p><b>Non-Exclusivity.</b> Company acknowledges that Contractor may perform services for other customers, persons, or companies during the term of this Agreement as Contractor sees fit, subject to the terms of this Agreement.</p>	<p><i>Intent: To further strengthen independent contractor status and to clarify that the translator is free to accept other jobs.</i></p>
<p><b>Choice of Law.</b> The laws of the State of _____ will govern the validity of this Agreement and the interpretation of the rights and duties of the Parties.</p>	<p><i>Intent: To stipulate jurisdiction in the event of disputes.</i></p> <p><i>Note: The party whose own state law governs the contract can act more easily and cheaply in case of disputes.</i></p>

<p><b>Non-Inducement/Non-Solicitation.</b> For the duration of this Agreement and for a period of ____ (__) year(s) immediately following its termination, Contractor must not: (a) induce, solicit, or recruit, or attempt to induce, solicit, or recruit, any of Company's employees to leave their employment or otherwise terminate their relationship with Company, or (b) solicit work from parties known to Contractor to have commissioned work from Company.</p> <p>In the event of a breach of this provision while the Agreement is in force, Company has the right to immediately terminate this Agreement.</p>	<p><i>Intent: To protect the company and its existing relationship with employees and clients.</i></p> <p><i>The duration of this extra period is typically one or two years. Anything longer than that may not be enforceable in the courts.</i></p> <p><i>"Parties who have commissioned work" should be interpreted to mean the specific branch or division the translation company has a contract with for translation, not the whole corporation.</i></p>																														
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<p><b>Dispute Resolution.</b> In the event a dispute arises between the Parties which they are unable to resolve among themselves, the Parties agree to participate in a mediation in accordance with the mediation procedures of the American Arbitration Association's Mediation Services. The Parties agree to share the costs of such mediation.</p> <p>If mediation fails to resolve the dispute, the Parties agree that the dispute may be submitted to final arbitration upon written request of one Party served on the other. The arbitration will be governed by the American Arbitration Association. Judgment on the arbitrator's award may be entered by any court of competent jurisdiction.</p>	<p><i>Mediation is an inexpensive form of dispute resolution that works well for minor disputes and can often be done online. The mediator engages in shuttle diplomacy to formulate a solution that is acceptable to both sides. It doesn't work as well with intractable disputes or unreasonable parties.</i></p> <p><i>This clause describes a melding of mediation and arbitration. It starts out with non-binding mediation. If the parties are unable to reach a mutually satisfactory compromise, it converts to binding arbitration. The prospect of this escalation encourages reasonableness at the mediation stage.</i></p> <p><i>Both mediation and arbitration are part of the alternative dispute resolution (ADR) process. While the ADR process is by far the most common dispute resolution method, some contracting parties or their insurers may still prefer the traditional (substantially more costly and lengthy) litigation process.</i></p>																														

<p><b>Severability.</b> If any provision of this Agreement is held to be invalid or illegal, such invalidity or illegality does not invalidate the remainder of the Agreement. Instead, this Agreement is then construed as if it did not contain the illegal or invalid part, and the rights and obligations of the Parties are construed and enforced accordingly.</p>	
<p><b>Modification or Amendment.</b> No amendment, change, or modification of this Agreement is valid unless in writing and signed by both Parties.</p>	
<p><b>Entire Agreement.</b> This Agreement contains the complete agreement of the Parties and supersedes any and all other agreements between the Parties. By signing below, the Parties represent that neither is relying on any promise, guarantee, or other statement not contained in this Agreement.</p>	
<p><b>IN WITNESS WHEREOF, the</b> signatures of the authorized representatives of the Parties below demonstrate the Parties' acceptance of the terms and conditions of this Agreement. The Parties hereto agree that facsimile or electronic signatures are as effective as originals.</p> <p>By _____ X _____  Company Signature Contractor Signature</p> <p>_____  Print Name Print Name</p> <p>_____  Title Title</p>	