



## DOTTED EYES LIMITED

### TRANSLATION SERVICES TERMS AND CONDITIONS

These pages together with the Dotted Eyes SuperpOSe Service Selector order form (**Order Form**) tell you the terms and conditions on which we supply the Translation Services detailed on our website <http://www.dottedeyes.com> (**our site**) (**Translation Services**) to you. Please read these terms and conditions carefully before ordering any Translation Services from our site. You should understand that by ordering any Translation Services, you agree to be bound by these terms and conditions. You should print a copy of these terms and conditions for future reference.

#### 1. Information about us

<http://www.dottedeyes.com> is a site operated by Dotted Eyes Limited (**Dotted Eyes, we or us**). We are registered in England and Wales under company number 04471760 and our registered office is Hanbury Court, Harris Business Park, Stoke Prior, Bromsgrove Worcestershire B60 4JJ. Our VAT number is 551428257.

You are the entity named as the customer on the Order Form (**Customer, you or your**).

#### 2. How the contract is formed between you and us

After placing an order with us for your selected Translation Services using the Order Form (**Order**), you will receive an email from us acknowledging that we have received your Order. This does not mean that your Order has been accepted. Your Order constitutes an offer by you to us to buy the selected Translation Services. All Orders are subject to acceptance by us, and we will confirm such acceptance to you by sending you an invoice and/or an email relating to your Order (**Order Confirmation**). The contract between us (**Contract**) is governed by these terms and conditions and will only be formed when we send you the Order Confirmation.

#### 3. Term

Every Order shall be for an initial period of 12, 24 or 36 months from the date shown on the Order Confirmation (**Commencement Date**). The Contract shall renew automatically on each anniversary date of the Commencement Date (each period of 12 consecutive months being a **Contract Year**) with each party having the right, without prejudice to its other rights or remedies, to terminate the Contract with effect from the end of any Contract Year by giving not less than thirty (30) days prior written notice to the other party (**Term**), providing the agreed initial period is due to expire at the end of that Contract Year.

#### 4. Translation Services

- 4.1. A description of the types of Translation Services available is set on our site.
- 4.2. In consideration of your payment of the fees set out in the Order Form (**Service Fees**), we agree to provide you with your selected Translation Services for the Term in accordance with these terms and conditions.
- 4.3. You agree that in the event that it becomes necessary (in our reasonable opinion) to visit your premises (**Customer Site**) to provide the Translation Services (or any other services which we have agreed to provide to you under the Contract) (**Customer Site Visit**), then you shall be charged for the Customer Site Visit and any such additional services on a time and materials basis at our daily rate or other rates in force at that time.
- 4.4. If at any time during the Term you wish to alter all or any part of the Translation Services we shall discuss the proposed change with you and we may, in our sole



discretion, provide you with a quotation for the changes you have requested. Quotations shall only be valid for acceptance for a period of 30 days from the date of the quotation. If you accept the quotation the revised Translation Services and associated revised Service Fees shall be governed by these terms and conditions.

- 4.5. We reserve the right, at our sole discretion, to make a reasonable charge on a time and materials basis at our charge out rates in force at that time for considering your requested changes (including a charge for wasted costs incurred) and if your request for such alterations is subsequently withdrawn but results in any delay in the performance of the Translation Services then we shall not be liable for any such delay.
- 4.6. We shall ensure that our personnel or agents, whilst on a Customer Site, comply with the reasonable regulations governing security and health and safety as have been previously notified in writing by you to us.

## 5. Your Responsibilities

- 5.1. You are responsible for timeously providing us with the Ordnance Survey data which we require in order to provide you with the Translation Services as set out below:-
  - a) where you source data from Ordnance Survey under a collective purchase agreement, you will on or before the Commencement Date, provide to us the original CD or DVD (or such other media as Ordnance Survey may use from time to time) containing the ordnance data which Ordnance Survey has licensed to you (**Ordnance Survey Licence**); OR
  - b) where you source data from Ordnance Survey other than under a collective purchase agreement, you will on or before the Commencement Date provide to us:
    - (i) the original CD or DVD which is the subject of the Ordnance Survey Licence; and
    - (ii) each and every subsequent CD or DVD (or such other media as Ordnance Survey may use from time to time) issued by Ordnance Survey containing updates to the ordnance data (normally issued by Ordnance Survey on a quarterly basis).
- 5.2. You represent and warrant that you have obtained and will maintain for the duration of the Term all permissions, licences and consents necessary (including but without limitation the Ordnance Survey Licence) required for you to receive the Translation Services (**Licensed Material**). You undertake to defend us from and against any claim or action that the possession or use of the Licensed Material (or any part thereof) by us in delivering the Translation Services infringes the Intellectual Property Rights of a third party and shall fully indemnify us and hold us harmless from and against any losses, damages, costs (including all legal fees) and expenses incurred by or awarded against us as a result of or in connection with any such infringement claim.
- 5.3. It is your responsibility at all times to maintain an appropriate data backup procedure to enable the recovery of lost or corrupted data files.
- 5.4. You shall use all reasonable endeavours to ensure that any information that you supply to us which we require to provide the Translation Services is complete, accurate and in the format agreed by us. If you discover that such information is incorrect or inaccurate you will promptly notify us of such errors and provide a correction as soon as reasonably practicable.
- 5.5. You agree to comply with all our reasonable instructions, guidelines and directions in relation to the receipt and use of Translation Services.

- 5.6. You shall ensure that all equipment required for the performance of the Translation Services (**Equipment**) is maintained in accordance with the relevant manufacturer's recommendations; kept in appropriate environmental conditions where appropriate security measures are maintained for the Equipment; and in a state and condition ready and suitable to receive and use the Translation Services. We reserves the right to inspect the Equipment and, if not acceptable, to reject it.
- 5.7. You agree to provide us with access to and use of all of your information, personnel, facilities and relevant parts of a Customer Site as may be reasonably required by us for the purpose of providing the Translation Services to you.
- 5.8. You shall take all reasonable precautions to protect the health and safety of our personnel, agents and representatives whilst on a Customer Site.

## 6. Charges and Payment

- 6.1. As consideration for the provision of the Translation Services you shall pay us the Service Fees.
- 6.2. In circumstances where you have requested us (and we have agreed) to provide you with any services in addition to Translation Services (not being Technical Support or Training Services which are covered by separate terms and conditions on our site) (**Consultancy Services**) you agree that such Consultancy Services will be charged by us on a time and materials basis at our relevant charge out rates in force at that time.
- 6.3. The Service Fees and any additional fees payable under clauses 4.3,4.4,4.1, or 6.2 (**Additional Fees**) are stated to be exclusive of VAT which shall be paid in addition at the rate applicable from time to time in the manner prescribed by law.
- 6.4. Unless otherwise agreed by us in writing, the Service Fees shall be paid annually in advance on the date of the Order Confirmation. Any Additional fees shall be paid in full within 30 days from the date of our invoice.
- 6.5. If any sums invoiced to you are not paid on their due date we reserve the right, without prejudice to any other right or remedy that we may have under these terms and conditions or at law, to:-
  - a) charge you interest at the rate of four percent (4%) above the base rate of Lloyds TSB Bank plc from time to time in force and to recover any and all costs incurred by us in collecting any monies due. Interest shall accrue on a daily basis until payment is made and whether before or after any judgement; and/or
  - b) suspend the supply of the Translation Services until you have paid all outstanding sums (including any interest for late payment as may be applied from time to time).

## 7. Confidentiality

- 7.1. Each party undertakes to keep confidential all documentation or information which the other has provided to it (however recorded, preserved or disclosed) and which either by its nature is or is expressed to be confidential (including but without limitation information regarding its business, customers, suppliers, plans, operations, processes, product information, know-how, designs, trade secrets) (**Confidential Information**). You agree, if so requested by us, to enter into a separate confidentiality agreement with us.
- 7.2. This clause shall survive termination of the Contract for any reason.

## 8. Limitation of Liability

- 8.1. We warrant to you that the Translation Services will be performed with reasonable skill and care in accordance with the standards that would be expected of a similar business with similar experience in providing such services.

- 8.2. If, during the Term, we receive written notice from you of any breach by us of the warranty contained in clause 8.1 above, we shall, at own option and expense, remedy that breach within a reasonable period following receipt of such notice, or terminate the Contract immediately on written notice to you and repay to you all sums which you have paid to us under the Contract during the Contract Year in which the termination occurs, less a charge for the Translation Services performed up to the date of termination. You shall provide all information reasonably necessary to enable us to comply with our obligations under this clause. This clause sets out your sole remedy and our entire liability for breach of clause 8.1.
- 8.3. All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into the Contract or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality and/or fitness for purpose.
- 8.4. You agree that, in entering into the Contract, either you did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in these terms and conditions or (if you did rely on any representations, whether written or oral, not expressly set out in these terms and conditions) that you shall have no remedy in respect of such representations and (in either case) that we shall have no liability otherwise than pursuant to the express terms of these terms and conditions.
- 8.5. Our liability to you in respect of all claims arising out of or in connection with the Contract in any Contract Year (whether for breach of contract, negligence or any other tort, under statute or otherwise) is strictly limited to the Service Fees which you have paid to us for the Contract Year in which the claim arose.
- 8.6. Subject to clause 8.7 neither party will be liable to the other for:-
- any loss (whether direct or indirect) of profits, revenue, business, goodwill or business opportunity;
  - any loss (whether direct or indirect) of data;
  - any indirect, special or consequential loss or damage.
- 8.7. Nothing will limit a party's liability for (a) death or personal injury caused by its negligence (b) for fraud or fraudulent misrepresentation or (c) for any matter for which it would be illegal to exclude, or attempt to exclude, our liability.
- 8.8. We are not liable for late delivery should there be issues with the postal service (in the event of data supply via disc) or should the customer experience problems downloading data delivered electronically, for example in the event of a customer having inadequate bandwidth.

## 9. Force Majeure

- 9.1. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by events outside our reasonable control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion, epidemic, lock outs, strikes or other labour disputes, civil commotion or national emergency (**Force Majeure Event**).
- 9.2. Our performance under the Contract is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

## 10. Intellectual Property Rights



- 10.1. Any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites (**IPR**) in our documentation, information, data, software or inventions (**Our Material**) shall remain vested in us or our relevant licensors.
- 10.2. You acknowledge and agree that you shall not acquire or claim any title to any IPR in Our Material by virtue of the rights granted to you under the Contract; and to the extent that any rights in any of Our Material may vest in you by operation of law, you hereby assign such rights to us.

## **11. Termination**

- 11.1. Each party shall have the right, without prejudice to its other rights and remedies, to terminate the Contract immediately by written notice to the other if the other:
  - a) is in material breach of any term of these terms and conditions and such breach is either incapable of remedy or is capable of remedy but the party in breach has failed to remedy it within thirty (30) days of receipt of a notice from the party not in breach requiring it to do so; or
  - b) is unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986) or becomes insolvent or bankrupt or enters into any kind of voluntary arrangement (whether individual or corporate) with its creditors (other than for the purpose of a bona fide reconstruction or amalgamation of the solvent party) or has an administration order made against it or commences to be wound up (otherwise than for the purposes of a bona fide reconstruction or amalgamation) or has a receiver appointed over all or any part of its undertaking or assets or undergoes any analogous event in any applicable jurisdiction or terminates or suspends its business activities.
- 11.2. Should we terminate the Contract before the end of any Contract Year because we have ceased to offer the Translation Services then our sole liability to you shall be to repay to you all sums which you have paid to us under the Contract during the Contract Year in which the termination occurs, less a charge for the Translation Services performed up to the date of termination.
- 11.3. Termination of a Contract by whatever means shall not affect any rights, obligations or liabilities of either party which have accrued before termination and/or which are intended to continue to have effect beyond termination.
- 11.4. Upon termination of the Contract (except where it is necessary to retain the same to exercise any rights granted under that Contract or by law which is intended to survive termination of a Contract):-
  - a) each party shall promptly return to the other the Confidential Information owned by the other and destroy any electronic copies of the same;
  - b) you shall, at our request either return Our Material to us or destroy Our Material, held electronically or otherwise, and if destroyed, provide a certificate stating that it has been so destroyed.

## **12. Written Communications**

- 12.1. Applicable laws require that some of the information or communications we send to you should be in writing. When using our site, you accept that communication with us



will be mainly electronic. We will contact you by email or provide you with information by posting notices on our site. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing.

### **13. Miscellaneous**

- 13.1. No term of the Contract is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to it.
- 13.2. All notices given by you to us must be given to us in writing at the address shown in clause 1 or to [finance@dottedeyes.com](mailto:finance@dottedeyes.com). We may give notice to you at either the email or postal address you provide to us when placing an Order. Notice will be deemed received and properly 24 hours after an email is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case an email, that such email was sent to the specified email address of the addressee and that no error message indicating failure to deliver has been received by the sender and provided further that within 24 hours of transmission a hard copy of the email is sent by post to the intended recipient.
- 13.3. The Contract constitutes the entire agreement between the parties relating to the provision of the Support Services and supersedes any prior agreements, arrangements or undertakings made by the parties in relation to the same. No terms or conditions endorsed upon, delivered with or contained in any purchase order or other document of yours shall form any part of the Contract.
- 13.4. You shall not assign, transfer or sub-contract or deal in any other manner with the Contract without our prior written consent.
- 13.5. You shall not during the Term and for the period of six (6) months thereafter employ, solicit or initiate or engage in discussions with the intent of soliciting, employing or otherwise engaging with any person who is or was an officer, employee or consultant of ours during this period.
- 13.6. The failure of either party at any time to enforce any provision of the Contract shall in no way affect its rights thereafter to require complete performance by the other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any sub provision or be a waiver of the provision itself. Any waiver to be effective must be in writing.
- 13.7. If any part of the Contract is found to be invalid or unenforceable by a court having jurisdiction over the matter, the invalid or unenforceable part of the provision shall be removed and shall not affect the validity of the rest of it.
- 13.8. Any amendment to the Contract must be in writing and signed by a duly authorised representative from each party.
- 13.9. The Contract shall be governed by and shall be construed in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.