

## TERMS AND CONDITIONS OF TRANSLATION SERVICES AGREEMENT

This Translation Services Agreement ("Agreement") is made effective as of \_\_\_\_\_ ("Effective Date") by and between **MARCO DIAZ Translations ("Contractor")**, located at \_\_\_\_\_ and \_\_\_\_\_ ("Company"), located at \_\_\_\_\_, individually referred to as "Party" and collectively referred to as "Parties." 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:

**1) Services and Code of Ethics:** 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. 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.

**2) Relationship between Parties:** 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. 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.

**3) 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 thirty (30) 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 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.

4) **Delivery:** 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. 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.

5) **Quality Assurance:** 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. 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. If in Company's substantiated opinion, Contractor has delivered substandard Services in relation to the project specifications, Company must inform Contractor in writing within fourteen (14) 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.

6) **Ownership of translation:** 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. 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.

7) **Indemnification:** 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. 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.

8) **Confidentiality:** 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. 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.

9) **Term:** This Agreement remains in effect for one (1) year(s) from the Effective Date and, unless terminated as set forth below, continues in effect for successive one (1) 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.

10) **Termination:** Either Party may terminate this Agreement at any time upon three (3) 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. 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.

11) **Non-Exclusivity:** 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.

12) **Choice of Law:** The laws of the State of California will govern the validity of this Agreement and the interpretation of the rights and duties of the Parties.

13) **Non-Inducement/Non-Solicitation:** For the duration of this Agreement and for a period of two (2) 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. In the event of a breach of this provision while the Agreement is in force, Company has the right to immediately terminate this Agreement.

14) **Notification:** Either Party can provide notice to the other Party using the following contact information:

Name of Company Department or Person: \_\_\_\_\_

Company Postal Address: \_\_\_\_\_

Company E-mail Address: \_\_\_\_\_

Company Phone #: \_\_\_\_\_

Company Fax #: \_\_\_\_\_

Contractor Postal Address: \_\_\_\_\_

Contractor E-mail Address: m.diaz@marcotranslator.com

Contractor Phone #: +1 (312) 607-6139

15) **Dispute Resolution:** 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. 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.

16) **Severability:** 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.

17) **Modification or Amendment:** No amendment, change, or modification of this Agreement is valid unless in writing and signed by both Parties.

18) **Entire Agreement:** 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.

19) **IN WITNESS WHEREOF**, the 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.

By \_\_\_\_\_  
Company Signature

X Marco Diaz  
Contractor Signature

\_\_\_\_\_  
Print Name

Marco Diaz  
Print Name

\_\_\_\_\_  
Title

Owner  
Title