

## 1. INTERPRETATION

1.1 In these terms the following words and phrases have the following meanings:

**Agreement:** the contract between you and us comprising the Proposal and these terms;

**Confidential Information:** means confidential information in whatever form relating to your business, affairs or finances which is disclosed to us in connection with the subject matter of the Agreement or which is comprised in the Outputs;

**Consultant:** means any consultant named in the Proposal or otherwise agreed with you from time to time;

**Inputs:** means audiovisual files or other inputs which you provide to us for the purposes of the Services;

**Outputs:** means transcripts or other works provided by us to you in the course of the Services;

**Intellectual Property Rights:** means copyright and related rights, database rights, rights to use, and protect the confidentiality of, confidential information and all other intellectual property rights;

**Proposal:** means our engagement letter or another written proposal agreed between you and us setting out the scope of the Services and Outputs;

**Services:** means the services agreed in any Proposal;

**Us or we:** means Academic Audio Transcription Ltd, a company registered in the United Kingdom with registration number 10923862 whose registered office address is at Suite 43, 1 Rockley Road, London, United Kingdom, W14 0DJ; and

**You:** means the person to whom the Proposal is addressed.

1.2 A reference to any **person** is to any individual, company, partnership or other body corporate.

1.3 A reference to any law is a reference to it and any subordinate legislation made under it, in each case as amended or re-enacted from time to time.

1.4 Phrases beginning with the words **including, in particular, for example** and similar words shall be construed as illustrative and not exhaustive.

## 2. NATURE OF ENGAGEMENT

2.1 In the event of any conflict between the provisions of these terms and the provisions of the Proposal, the provisions of the Proposal shall prevail.

2.2 The Agreement shall come into force on your acceptance of the Proposal and shall continue in force until terminated under clause 9.

2.3 We shall provide the Services with reasonable skill and care and:

(a) use reasonable endeavours to meet agreed timeframes or turnaround times, and notify you as soon as possible if for any reason it is unlikely that we will achieve these; and

(b) co-operate with you in connection with the performance of the Services.

2.4 We may perform the Services using sub-contractors (and in particular using our network of remote-working freelancers). We will remain responsible for the performance of any sub-contracted Services, and for the compliance of sub-contractors with the provisions of the Agreement (and in particular the Data Processing Schedule annexed to these Terms).

## 3. YOUR OBLIGATIONS

3.1 You shall perform such obligations as may be agreed in each Proposal from time to time. For example, you may be required to submit Inputs in a particular format or of a particular quality, or using a particular file transfer system to ensure their security, or you may be asked to provide approvals or instructions to us in order to ensure we can meet agreed timelines.

3.2 Without limiting clause 3.1, you shall:

- (a) co-operate with us in connection with the performance of the Services; and
- (b) provide such information or instructions as we may reasonably request in connection with the Services; and
- (c) confirm promptly after receipt of Outputs that they have been approved (and any Outputs shall be deemed approved unless you notify us otherwise within fourteen (14) days after delivery).

3.3 If our performance is delayed by any act or omission on your part we will not be liable to you for that delay.

#### 4. FEES AND EXPENSES

- 4.1 Our fees may be charged on the basis of rates (i.e. per audio minute, or based on time worked) or a fixed fee, in each case as set out in the Proposal.
- 4.2 Unless otherwise agreed any fixed fee is based on specified assumptions and dependencies. If these are not realised for any reason other than our breach or negligence or an event of force majeure affecting us, then any additional work performed by us will be charged at the applicable rate.
- 4.3 We may recover travel and subsistence expenses if the performance of our agreed Services requires us to visit your premises or other agreed sites. Otherwise, expenses shall be recoverable by us if expressly agreed with you in writing.
- 4.4 We will invoice you at the intervals set out in the Proposal (and otherwise monthly in arrears). Each invoice will set out details of the fees payable by you in relation to Services performed and the basis of their calculation. You shall pay all invoices under the Agreement within thirty (30) days of receipt, by electronic transfer to our nominated bank account. In some cases we may require payment in advance, as stated in the Proposal, and in those cases we will

not be required to start work until the relevant advance payment has been made.

4.5 All sums stated in the Agreement are exclusive of VAT, which will be chargeable in addition where applicable.

4.6 If you do not pay any of our invoices by the due date, we may suspend performance of the Services and may charge you interest at 8% above base rate of the Bank of England, accruing daily, together with an administration fee of £50.00 per invoice.

#### 5. CONFIDENTIAL INFORMATION, SECURITY AND DATA PROTECTION

5.1 Subject to clauses 5.2 and 5.3, we shall not

- (a) use your Confidential Information or Inputs for any purpose other than providing the Services or otherwise complying with our obligations under the Agreement; nor
- (b) disclose your Confidential Information or Inputs to any person other than our employees, consultants and advisors, in each case to the extent necessary to provide the Services or take legal or professional advice in relation to the subject matter of the Agreement, and provided that any such person is made aware of the confidential nature of the Confidential Information and is subject to binding, written obligations of confidence.

5.2 Our obligations under clause 5.1 shall not apply to:

- (a) any use or disclosure authorised by you or required by law (provided that if any disclosure is required by law then we shall, to the extent permitted to do so by law, notify you before making any such disclosure); or
- (b) any information which is or has been made public other than through our unauthorised disclosure.

5.3 You acknowledge and accept that:

- (a) Inputs for transcription will be sent to us by file transfer (using 256-bit SSL encryption) via our password-protected client login module, or sent to us on encrypted media via Royal Mail Special Delivery to our London address (in which case an additional £30 processing fee will apply);
- (b) Inputs for transcription will be stored on a dedicated virtual server in a secure third-party data centre provided by Faelix Limited (and accredited to ISO 270001);
- (c) we use a cloud-based IT infrastructure and information in correspondence sent to us may be hosted by Microsoft Ireland Operations Ltd (in connection with the provision of cloud-based Office 365 services, including email) on servers within the EEA;
- (d) while we take steps to secure our IT systems, we cannot guarantee their security, nor that of any external server or system on which your Confidential Information or personal data may be stored or processed. We will not be liable to you in connection with any disclosure of your Confidential Information or personal data as a result of any interception of communications, attack on our IT systems or those of our service providers, or other malicious act by a third party unless we have been negligent in our security measures.

#### 5.4 We are:

- (a) a data processor in relation to any personal data contained in Inputs for transcription. You are the data controller in relation to that personal data and shall ensure that your provision of those Inputs to us, and our use of those Inputs to provide the Services as described in this Agreement, is in all ways lawful. We will comply with the additional Data Processing Schedule annexed to this Agreement when we act as your data processor; and
- (b) a data controller in our own right in relation to any other personal data we receive in connection with providing the Services (such as contact details used

by us for corresponding with you, billing or account management). We will comply with our legal obligations in relation to such data and will in particular use such data in accordance with the privacy notice set out at [URL].

## 6. PUBLICITY

You acknowledge and agree that we may refer to you as a client of Academic Audio Transcription in our publicity and marketing materials, including usage of your logo(s). We shall comply with any reasonable instructions and brand guidelines that you share with us in relation to such use. Any publicity and marketing by us shall be subject to our obligations under clause 5 to protect your confidential information at all times. You may notify us in writing at any time if you wish us to cease use of your name and logo(s) in our publicity and marketing, and we shall promptly stop such use. Separately from our publicity and marketing activities, we may refer to the fact that we act for you in conversation or correspondence (for instance, if we are pitching for work from a prospective client in a similar field of study), and such references shall be at our sole discretion.

## 7. INTELLECTUAL PROPERTY

- 7.1 Nothing in the Agreement will affect either party's ownership of its Intellectual Property Rights nor operate to grant to either party any licence under the other party's Intellectual Property Rights except to the extent expressly set out in the Agreement.
- 7.2 You hereby grant to us a non-exclusive licence to use and copy the Inputs to the extent necessary for us (including our personnel) to provide the Services and produce and deliver the Outputs.
- 7.3 As between you and us, all Intellectual Property Rights created by us in the Outputs will belong to

you. We hereby assign all such Intellectual Property Rights to you.

## 8. INSURANCE AND LIABILITY

8.1 We will at all times during the performance of the Services have and maintain in place both professional indemnity and public liability insurance, in each case to a level of no less than £5,000,000 per claim.

8.2 We alone will be responsible to you for the provision of the Services. To the fullest extent permissible by law, you agree that you will not bring any claim against any individual employee or officer in connection with the Agreement or its subject matter.

8.3 We shall not be liable to you in any circumstances for:

- (a) any indirect or consequential loss; or
- (b) any loss of profit, loss of business, loss of goodwill, loss of contract or loss of data (in each case whether direct or indirect).

8.4 Subject to clauses 8.3 and 8.5, our total aggregate liability to you in contract, tort (including negligence), breach of statutory duty or otherwise under or in connection with any Proposal or its subject matter shall not exceed a sum equal to twice the fees paid or payable to us under that Proposal.

8.5 Nothing in the Agreement shall limit or exclude our liability for death or personal injury caused by our negligence, for fraud, or for any matter in relation to which our liability cannot lawfully be limited or excluded.

## 9. TERMINATION

9.1 Either you or we may terminate the Agreement, and/or any Proposal:

- (a) at any time by thirty (30) days' written notice for convenience; or
- (b) by written notice with immediate effect if the other party is in material breach of this Agreement and, if the breach is capable of remedy, has failed to remedy it within fourteen (14) days after receiving notice requiring its remedy; or
- (c) by written notice with immediate effect if the other party becomes bankrupt or insolvent, enters into administration or an arrangement with its creditors, is wound up or ceases its operations, or undergoes any similar event or is subject to any action or order likely to lead to any similar event.

9.2 If the Agreement is terminated:

- (a) you will pay our charges and expense for Services performed prior to termination (or a reasonable proportion of the agreed charge if we agreed a fixed fee with you for the Services); and
- (b) we will liaise with you to confirm your instructions as to disposal of any Inputs still in our systems. In the absence of instructions otherwise, we will delete these after the retention period agreed with you.

9.3 Clauses 1, 5, 6, 8, 9.3, 10, 11, and 12 shall survive termination of the Agreement however caused.

## 10. NATURE OF RELATIONSHIP

10.1 We are an independent contractor. Nothing in the Agreement shall render any of our personnel your employee or worker nor entitle them to any employee's or worker's benefits (including paid holiday or sick pay).

10.2 We shall to the extent permitted by law indemnify you against:

- (a) any income tax, National Insurance and social security contributions resulting from any determination that any of our personnel is your employee; and

- (b) any liability arising from any employment-related claim or any claim based on worker status brought against you arising out of or in connection with the provision of the Services.

#### **11. NOTICES**

**11.1** Notices under the Agreement shall be in writing and:

- (a) delivered by hand or post at the recipient's registered office or such other address for service as may be agreed from time to time; or
- (b) sent by email to such address for service as may be agreed from time to time or set out in the Proposal (and notices to us may be sent to [hello@academicaudiotranscription.com](mailto:hello@academicaudiotranscription.com)).

**11.2** Any notice shall be deemed received:

- (a) if delivered by hand or post, on delivery; or
- (b) if sent by email, on sending (provided that the sender has not received any server error, bounce-back, inbox-full or other error message indicating non-delivery).

**11.3** This clause 11 does not apply to the service of any proceedings or other documents in any legal action or method of dispute resolution.

#### **12. GENERAL**

**12.1** The Agreement constitutes the entire agreement between the parties in relation to its subject matter. Each party acknowledges that in entering into the Agreement it does not rely on any representation or warranty not set out in the Agreement.

**12.2** If any provision or part-provision of the Contract is found by a court to be unlawful, unenforceable or void, that provision or part-provision shall be severed and the remainder of the Contract shall remain in force.

**12.3** The Agreement may only be varied by the written agreement of the parties.

**12.4** A person who is not a party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

**12.5** The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and subject to the exclusive jurisdiction of the courts of England and Wales.

### The Data Processing Schedule

In this Schedule **Data Protection Legislation**: means (i) the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any national implementing laws, regulations and secondary legislation in the UK; (ii) the Data Protection Act 2018; and (iii) any successor legislation to the GDPR or the Data Protection Act 2018. In this Schedule **personal data**, **data controller**, **data processor**, and **data subject** all have the meanings given in the GDPR.

#### 1. DATA PROTECTION

- 1.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.
- 1.2 The parties acknowledge that for the purposes of the Data Protection Legislation, we are a processor and you are a controller in relation to certain personal data processed by us. Section 2 below sets out the scope, nature and purpose of our processing, the duration of the processing and the types of personal data and categories of data subject.
- 1.3 We shall, in relation to any personal data processed in connection with the performance of our obligations under the Agreement as AAT's data processor:
  - (a) process that personal data only on your written instructions (which shall be deemed to include the content of the Agreement);
  - (b) ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
  - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;
  - (d) not transfer any personal data outside of the European Economic Area unless with your prior written consent. You hereby consent to our transfer of personal data contained in Inputs to freelance transcribers, editors and other service providers outside the European Economic Area, provided in each case that such transfer is compliant with the Data Protection Legislation and on the basis of either an adequacy decision (as described in Article 45 GDPR), or the use of appropriate safeguards (as described in Article 46 GDPR);
  - (e) assist you in responding to any request from a data subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators, in each case subject to your meeting our reasonable fees for providing such assistance (which we will base on standard hourly rates);
  - (f) notify you without undue delay on becoming aware of a personal data breach;
  - (g) at your written direction delete or return such personal data on termination of the Agreement. In the absence of express directions, we will retain Inputs and Outputs for a period of not more than twelve months before deleting them; and

- (h) maintain records and information to demonstrate our compliance with this section 1, and allow for audit of our compliance on your reasonable request and subject to your meeting our reasonable fees (which again we will base on standard hourly rates).

1.4 You hereby give a general consent to our appointment of third party sub-processors of personal data under this Agreement, where such sub-processors are: i) freelancers or suppliers used for transcription, editing or similar services; ii) data hosts; or iii) providers of secure file transmission services. In each case, your consent is conditional upon our entering into a written agreement incorporating terms which are substantially similar to those set out in this Schedule and which in any event meet the requirements of Article 28 GDPR. We will notify you if we intend to add to or replace the categories of sub-processors used by us, in order to afford you the opportunity to object to such changes.

## **2. DETAILS OF PROCESSING BY AAT**

### **2.1 Scope**

When we conducting transcription or editing services using your Inputs, and receive, create, transmit and store personal data in those Inputs and in the Outputs, we will do so as your data processor.

### **2.2 Nature**

Processing in the course of providing agreed services to you, and in particular transcription or editing services, which may involve the collection, creation, recording, transmission and/or storage of personal data.

### **2.3 Purpose of processing**

The provision of services to you as agreed from time to time.

### **2.4 Duration of the processing**

For the duration of the performance of services by us which may involve our access to the relevant personal data. Typically for editing or transcription work processing will be time-limited to the performance of the specific job and a retention period thereafter during which we retain the Inputs and Outputs on our clients' behalf (so that if, for example, a client loses their own copies of any Inputs or Outputs we are able to provide them). The retention period will be agreed with you but will not exceed twelve months.

### **2.5 Types of personal data**

Any personal data contained in Inputs or Outputs (such as interviews with data subjects or our transcriptions of those interviews).

### **2.6 Categories of data subject**

Any data subject featuring in audiovisual materials for transcription, content for editing or other Inputs provided to us for the purposes of the Services.