

Non-Disclosure and Data Protection Undertaking – Austria

Effective as of 6 August 2026

1. Parties

Between

the customer of fonio GmbH who is subject to the statutory professional duty of confidentiality in Austria

(hereinafter the "Client")

and

fonio GmbH, Neustiftgasse 73-75/3/7, 1070 Vienna, Austria

(hereinafter the "Service Provider"),

the following is agreed:

2. Occasion and Subject Matter of the Undertaking

- a) The Service Provider provides the following service to the Client: provision of the "fonio.ai" software environment for configuring and operating an AI-based telephone assistant (SaaS).
- b) In the course of this activity, the Service Provider may gain access to facts, information, documents, data, call content, or other knowledge that is subject to the professional duty of confidentiality of the Client, its professionals, and its employees.
- c) This may include, in particular: personal data of clients, mandators, patients, prospective clients, employees, business partners, and other third parties; tax-related, economic, financial, health-related, and personal circumstances; trade and business secrets; communication content, in particular telephone calls, transcripts, call notes, and messages; access credentials, system information, and technical logs; and information concerning existing or prospective client/mandate or treatment relationships.
- d) The parties agree that the Service Provider acts as an auxiliary person ("Hilfsperson") of the Client within the meaning of the applicable professional-law confidentiality provisions (e.g., Section 54(1) of the Physicians Act [ÄrzteG], Section 9 of the Attorneys' Code [RAO], and Section 80 of the 2017 Professional Code for Tax Advisors and Auditors [WTBG 2017]) and, in that capacity, is included within the Client's duty of confidentiality. Access to protected facts is granted only to the extent required for the provision of the service.

3. Duty of Confidentiality

- a) The Service Provider undertakes to maintain silence regarding all third-party secrets and other confidential information that come to its knowledge in connection with the provision of the service.
- b) The duty of confidentiality covers all facts that come to the Service Provider's knowledge in connection with its activity for the Client, irrespective of whether they are expressly designated as confidential.
- c) The Service Provider may only access, process, or use confidential information to the extent required for the proper performance of the contractually agreed service.

- d) Disclosure, transmission, use, or exploitation of confidential information for any purpose other than as described above is prohibited unless the Client has given its prior express instruction or consent in text form, or unless a statutory obligation exists.
- e) The duty of confidentiality continues to apply for an unlimited period, including after termination of the contractual relationship or of the actual cooperation.
- f) Personal data of the Client will not be used by the Service Provider, nor by its subcontractors, for the training, improvement, or evaluation of AI models.

4. Notice of Criminal and Professional-Law Consequences

- a) The Service Provider is expressly informed that unauthorized disclosure or exploitation of third-party secrets may have criminal, professional, and administrative-law consequences.
- b) Depending on the Client's profession and the nature of the information concerned, the following may in particular apply:
 - violation of professional secrecy under Section 121 of the Austrian Criminal Code (StGB);
 - violation of a trade or business secret under Section 122 StGB;
 - professional and disciplinary consequences for the Client and its professionals under Section 54 of the Physicians Act (ÄrzteG), Section 9 RAO, or Section 80 WTBG 2017;
 - administrative penal consequences under the Data Protection Act (DSG) as well as sanctions under Article 83 GDPR;
 - civil claims for damages.
- c) Irrespective of the criminal classification in the individual case, the Service Provider undertakes on a contractual basis to maintain confidentiality to the extent set out in this declaration.
- d) The Service Provider confirms having been informed of these consequences and, in turn, informs the persons it engages accordingly.
- e) If the Service Provider becomes aware of any access by an authority or court to protected information, it shall notify the Client without undue delay, insofar as this is legally permissible, so that the Client may exercise its professional rights and obligations (in particular any right to refuse to testify under Section 157 of the Code of Criminal Procedure [StPO] and any prohibition of seizure or circumvention under Section 144 StPO). The Service Provider shall inform the requesting authority of the Client's professional duty of confidentiality, shall exhaust reasonable legal remedies or enable the Client to exercise them, and shall limit any disclosure to what is legally mandatory.

5. Data Protection Obligations

- a) To the extent the Service Provider processes personal data on behalf of the Client, such processing shall be carried out exclusively on the Client's documented instructions and within the framework of the Data Processing Agreement ("DPA") concluded for this purpose pursuant to Article 28 GDPR.

- b) The Service Provider additionally obliges the persons working for it to maintain data secrecy pursuant to Section 6 DSG. Disclosures made in the course of providing the agreed service to the sub-processors named in Annex 3 of the DPA are made on the basis of the DPA and are deemed to have been instructed by the Client.
- c) The Service Provider maintains the technical and organizational measures described in Annex 1 of the DPA pursuant to Article 32 GDPR. These apply without restriction to information protected by professional secrecy.
- d) Processing of the Client's data takes place in data centers within the European Union or the European Economic Area. To the extent that subcontractors are domiciled in a third country, or access from a third country cannot be excluded, the subcontractors used, their locations of processing, the respective transfer instruments and safeguards, and whether access to content data is possible, are set out conclusively in Annex 3 of the DPA. Changes will be announced in accordance with Clause 5.6 of the DPA. On this basis, the Client may assess the comparability of the protection of secrecy with the professional-law requirements applicable to it (Section 54 ÄrzteG, Section 9 RAO, Section 80 WTBG 2017).

6. Engagement of Further Persons and Subcontractors

- a) The Service Provider is entitled to engage further persons and subcontractors (sub-processors) for the performance of the contract. The sub-processors engaged at the time of conclusion of the contract are conclusively named in Annex 3 of the DPA and approved by the Client. Changes are subject to the procedure agreed in Clause 5.6 of the DPA.
- b) The Service Provider obliges all of its own employees, as well as any other persons directly engaged by it (in particular freelance staff) who may gain access to confidential information or personal data of the Client, to maintain confidentiality in text form prior to commencing their activity, and informs them of the consequences of a breach of duty set out in Clause 4. The undertaking and the notification are documented; the documentation is provided to the Client upon request in a suitable manner.
- c) With respect to the sub-processors named in Annex 3 of the DPA, the Service Provider ensures that agreements pursuant to Article 28(4) GDPR have been concluded with them, obliging the sub-processor to confidentiality and requiring it, pursuant to Article 28(3)(b) GDPR, to bind the persons authorized to process data to confidentiality. The Service Provider carefully selects the sub-processors and reviews their compliance with data protection obligations on a regular basis (Clause 5.5 of the DPA).
- d) In this respect, the Service Provider is responsible for the careful selection, contractual engagement, and monitoring of sub-processors. However, it cannot guarantee that sub-processors use a particular form or wording of undertaking vis-à-vis their own employees, as their internal organization is not subject to its control. No further-reaching assurance is given.
- e) The Service Provider demonstrates compliance with these obligations to the Client upon request in a suitable manner, in particular by providing the list of sub-processors, certifications or audit reports, and through the audit rights agreed in Clause 6 of the DPA.

7. Limitation of Access to Information

- a) The Service Provider undertakes to obtain knowledge of third-party secrets, personal data, and other confidential information only to the extent required for the performance of the agreed service.
- b) Access rights are granted according to the principles of necessity ("need-to-know" and "least privilege") and are reviewed regularly; access to personal data is logged.
- c) Private use, copying, storage, or other use of confidential information is prohibited.

8. Consequences of Breaches of Duty

- a) Breaches of this undertaking may have professional-law, criminal-law, data-protection-law, and civil-law consequences.
- b) The Service Provider informs the Client without undue delay, and at the latest within the period agreed in Clause 4.10 of the DPA, if there are indications of a breach of the confidentiality, data protection, or security requirements.
- c) The statutory provisions apply to claims of the Client arising from a breach of the confidentiality obligations under this declaration for which the Service Provider is responsible. An intentional or grossly negligent breach is not covered by the limitations of liability under the Terms and Conditions (cf. Clause 19.9 of the Terms and Conditions); in all other respects, the liability provisions of the Terms and Conditions remain unaffected.

9. Final Provisions

- a) This undertaking supplements the contractual agreements existing between the parties, in particular the Terms and Conditions (SaaS Agreement) and the Service Provider's Data Processing Agreement. It conclusively governs professional-law confidentiality and takes precedence over the Terms and Conditions and the DPA to that extent. In particular, the provisions of this declaration on the limitation of access to information (Clause 7), on the engagement of sub-processors with access to information protected by professional secrecy (Clause 6), and on liability for breaches of confidentiality obligations (Clause 8(c)) take precedence. In all other respects, the Terms and Conditions and the DPA remain unchanged in force.
- b) Amendments and supplements to this undertaking require text form, unless a stricter form is prescribed by law.
- c) Should any provision of this undertaking be or become invalid, the validity of the remaining provisions shall remain unaffected.

Signature Block (Optional)

Place, date: _____

For the Client:

Name: _____

Position: _____

Signature: _____

For the Service Provider (fonio GmbH):

Name: _____

Position: _____

Signature: _____