

Terms and Conditions ("SaaS Agreement")

Effective as of: August 6, 2026

1. General

1.1. SaaS Agreement

This Agreement is concluded with fonio GmbH, Neustiftgasse 73-75/3/7, 1070 Vienna, Austria, hereinafter referred to as "fonio", and governs the provision of an AI speech agent for interaction with humans (the Service) in SaaS form, as well as the provision of services by fonio.

1.2. fonio.ai

fonio provides the Client with the fonio.ai Service. fonio.ai is a service for interacting with humans via an AI speech agent. It enables businesses, among other things, to create personalized assistants within a few minutes, to receive inbound calls, to schedule appointments, to qualify leads, and to generate transcripts.

1.3. SaaS – Software-as-a-Service

The fonio.ai Service is operated in the form of a "Software-as-a-Service" model. In doing so, fonio provides the Client with the server-side infrastructure. The Client is itself responsible for the client-side infrastructure.

2. Applicability

2.1. Entrepreneur Status and Scope of Application

The Service and all services of fonio are directed exclusively at entrepreneurs. The Client warrants that it concludes the Agreement in the exercise of its commercial or independent professional activity (as an entrepreneur within the meaning of § 1 of the Austrian Consumer Protection Act (KSchG) or the respectively applicable national law) and not as a consumer. The conclusion of a contract with consumers is excluded. Consumer-protection provisions do not apply to the contractual relationship.

2.2. Contractual Bases

(a) fonio concludes contracts and provides services exclusively on the basis of the written offers prepared by fonio, as well as the respectively valid version of any descriptions of services incorporated into the offer (e.g., individual documents or general brochures), price lists, and this SaaS Agreement.

The descriptions of services, price lists, and the SaaS Agreement apply – insofar as they are not merely project-specific (e.g., individual documents) – to all legal relationships between fonio and the Client and therefore automatically form the basis, as of the first conclusion of a contract, of all further contract conclusions between fonio and the respective Client in their respectively most current version, even if such price lists, product descriptions, and the SaaS Agreement are no longer expressly referenced.

(b) In addition to the contractual bases referred to in Point 2.2(a), the following Annexes shall apply, in their respectively designated version. They are made available to the Client in text form and can be retrieved, version-accurate, at the respective reference source indicated below:

Annex	Document	Version	Reference	Applies to
1	Data Processing Agreement (DPA) pursuant	06.08.2026	fonio.ai/dpa	all Clients, insofar as data

Annex	Document	Version	Reference	Applies to
	to Art. 28 GDPR			processing on behalf of a controller exists
2	Undertaking of Confidentiality and Data Protection — Germany	06.08.2026	[URL]	Clients domiciled in Germany that are subject to a statutory professional duty of confidentiality
3	Undertaking of Confidentiality and Data Protection — Austria	06.08.2026	[URL]	Clients domiciled in Austria that are subject to a statutory professional duty of confidentiality
4	Addendum for Clients Domiciled in Switzerland	06.08.2026	[URL]	Clients domiciled in Switzerland

Annexes 2 to 4 apply only to their respective designated scope of application, and only insofar as the relevant requirements are met by the Client. They become effective upon conclusion of the contract, without the need for a separate agreement or signature (see Point 17.7 and Point 20.4, respectively).

By way of derogation from the order of precedence under Point 2.6, Annexes 2 to 4 shall take precedence over this SaaS Agreement and over Annex 1, insofar as they contain provisions on professional confidentiality obligations, restrictions on the persons permitted to take cognizance of information, the engagement of sub-processors with access to secrecy-protected information, liability for breaches of confidentiality obligations, or — in the case of Annex 4 — the application of Swiss law. In all other respects, the order of precedence under Point 2.6 remains unaffected.

Each Annex is designated with a version date. By way of derogation from Point 2.3, amendments to Annexes 1 to 4 shall only become effective with the express consent of the Client; for Annex 1, Point 8.1 of the Data Processing Agreement shall additionally apply. Earlier versions remain retrievable, stating their version date.

2.3. Future Changes

Changes to the descriptions of services, price lists, and the SaaS Agreement of fonio shall be notified to the Client in writing and shall be deemed agreed if the Client does not object within six weeks. As of the validity of the new agreement, the changes to the SaaS Agreement shall also apply to all other contracts still in force. In the event of material changes, the Client shall be granted a special right of termination at the time the change takes effect. The Client shall be specifically and prominently informed of the right of objection and the consequences of silence in the change notification. Changes that materially shift the ratio of performance and consideration to the detriment of the Client – in particular fee increases beyond the price adjustment clause as well as material restrictions of the core functions – shall only become effective with the express consent of the Client; in all other respects, the special right of termination remains unaffected.

2.4. Supplementary Agreements

All forms of supplementary agreements, both prior to the conclusion of the contract and during the contract term, require for their validity written form or text form, which may also be effected in electronic form. This also applies to any deviation from the written-form requirement.

2.5. Contractual Components Originating from the Client

Specifications originating from the Client concerning the content of the services shall, even if known to fonio, only become part of the contract if they are integrated by fonio into the offer or otherwise expressly accepted by fonio, for example by references to such specifications.

Legally constitutive elements originating from the Client, such as general terms and conditions or contractual clauses, shall, even if known to fonio, only become effective if they are accepted by fonio with an additional note expressly encompassing these legal texts (such as e.g. "GTC accepted"). Otherwise, fonio expressly objects to the incorporation of legally constitutive elements of the Client, such as general terms and conditions or contractual clauses.

The mere acceptance by fonio of specifications concerning the content of the services of the Client therefore does not effect any acceptance of the Client's legal texts, even if such specifications contain legally constitutive elements (such as e.g. "Our GTC apply.").

2.6. Procedure in the Event of Contradictions

In the event of contradictions between the offer, any descriptions of services (project-specific documents, general documents), any price lists, and the SaaS Agreement of fonio, these shall apply in the order named. The more individual components therefore automatically modify the more general components of the contract.

In the event of contradictions between contractual elements of fonio and contractual elements of the Client, all contractual elements of fonio shall prevail.

2.7. Procedure in the Event of Invalidity

Should individual provisions of this Agreement be or become invalid, void, or unenforceable in whole or in part, the validity of the remaining provisions shall remain unaffected thereby.

The invalid or unenforceable provision shall, without any further action by the parties and without the need for a separate agreement, be deemed replaced by that valid provision which most closely approximates the economic meaning and purpose of the invalid provision, having regard to the mandatory statutory regulations.

The same applies accordingly in the event that the contract contains a gap requiring regulation.

3. Conclusion of Contract

3.1. Offer by fonio

Offers by fonio to the Client, e.g.: in the form of an individual offer to the Client or a non-individualized offer such as an order form, catalog, app store, or web shop, are without exception non-binding and subject to change.

3.2. Offer by the Client

If the Client places an order on the basis of an offer or also unsolicited, i.e., without a prior offer from fonio, such as e.g. in the case of additional orders within ongoing business relationships, the Client shall be bound by such order for two weeks from its receipt by fonio.

3.3. Acceptance by fonio

The contract is therefore always concluded only upon acceptance of the order by fonio.

Acceptance shall in principle be effected in written or text form – for example by written order confirmation or by email – unless fonio indicates that it accepts the order, e.g., through conduct

based on the order that is apparent to the Client. A mere confirmation of receipt of the order does not yet constitute acceptance of the order.

3.4. Receipt

Where electronic means of communication or an electronic order management system to which both parties have access are used for the submission and acceptance of offers, declarations submitted on working days, i.e., Monday to Friday, excluding Austrian public holidays, between 8:00 and 16:00 (CET), shall be deemed received on the same day; declarations submitted outside these times shall be deemed received on the next working day at 8:00 (CET).

3.5. Personal Data

The following personal data must be provided prior to the provision of the fonio.ai Service, or is collected by us in the course thereof: company name, legal form, address, VAT identification number, name and contact details of the persons authorized to represent the Client and of the persons operationally responsible, billing and payment data, as well as the login credentials required to set up user access.

All information must be provided truthfully. In order to verify the information provided, fonio may request corresponding supporting evidence.

3.6. Information for the Conclusion of Contracts

The information obligations of fonio set out in § 9 para. 1 nos. 1-4 of the Austrian E-Commerce Act (ECG) are waived.

4. Scope of Services, Order Processing, and the Client's Duties to Cooperate

4.1. Place of Performance

The place of performance is the registered office of fonio in Vienna.

4.2. Scope of Services

The scope of the services to be rendered results from the written description of services of fonio, which arises from all components of the contract.

Information from other sources not incorporated into the offer (e.g., presentation materials, websites, or catalogs) is not part of the description of services.

The Client is obliged to review the description of services for conformity with its requirements and for completeness.

After the order has been placed, changes to the description of services are only possible by mutual agreement and may in particular lead to changes in prices, deadlines, and dates.

4.3. Professional Performance

Unless the written description of services provides otherwise, fonio owes a professional execution in accordance with the time of submission of the offer.

Within the scope of the written description of services, fonio has freedom of design in the execution of the services, provided that several professional execution options exist.

4.4. Substitutable Services

fonio is entitled to deviate from the description of services and to replace services with other equivalent services, provided that this is consistent with the objectives of the order, serves the technical further development of the Service, is required for legal/regulatory reasons, and the essential core functions of the Service are not impaired.

4.5. Third-Party Services / Third Party Products

fonio is entitled to render the services itself or, in rendering the services of fonio, to deploy components, interfaces, data, rights, and other services or products of third parties (Third-Party Services / Third Party Products).

4.6. Integration of Services, Products, Data, and Rights by the Client

Insofar as the Client, within the scope of the hosting by fonio, processes or integrates components, interfaces, data, rights, or other services or products of the Client or of third parties, fonio is, with respect to these services, products, data, and rights, merely a host provider.

4.7. Divisible Services

In the case of divisible services, fonio is entitled to make partial deliveries.

4.8. Dates and Deadlines

Dates or deadlines stated by fonio are non-binding, insofar as they are not expressly designated as binding.

4.9. Contract Term

Unless otherwise agreed in the offer, contracts are concluded for an indefinite period and may be terminated by both contracting parties, subject to compliance with any minimum term, with a notice period of one month to the end of the month in text form. If a fixed term with automatic renewal is agreed, the contract is renewed in each case by the period named in the offer, unless it is terminated with the notice period named in the offer – in the absence of a provision, with a one-month notice period – to the end of the respective term.

4.10. Termination of the Contractual Relationship

Upon termination or expiry of the contractual relationship, the Client's right to the operational use of the fonio.ai Service ceases. From that point in time, the Client is no longer entitled to use the Service for operational purposes.

For a period of 30 days from the end of the contract, fonio provides the Client with export-restricted access exclusively for the backup and export of its data stored in the Service (in particular transcripts and configurations) in a common, further-processable format. Any use of the Service going beyond this is prohibited to the Client during this period.

After the expiry of this period, fonio definitively terminates the Client's access to the fonio.ai Service as well as to the associated services.

The provisions of the Data Processing Agreement regarding the deletion or return of personal data remain unaffected.

4.11. Termination of the Contractual Relationship for Good Cause

fonio is entitled to terminate the contractual relationship with the Client as well as the Client's access to the fonio.ai Service and the associated services at any time for good cause. Good cause is constituted in particular by the following breaches of contract and of duty:

- Breach of contracts, policies, and instructions of fonio.
- The provision of the fonio.ai Service or of access to this Service to unauthorized third parties.
- Use of the fonio.ai Service or of the underlying infrastructure for unlawful, illegal, or prohibited purposes, or in a manner not in conformity with its intended use.
- Causing disruptions to the fonio.ai Service or to the underlying infrastructure.
- Misconduct towards employees of fonio.

4.12. Unforeseeable or Unavoidable Events

Unforeseeable or unavoidable events – in particular default by the Client in fulfilling its obligations as well as delays at fonio or fonio's contractors that are unforeseeable and unavoidable for fonio – extend deadlines or postpone dates by the duration of the unforeseeable and unavoidable event plus the duration of the organizational measures necessary in such a case. fonio shall inform the Client of this in writing.

4.13. The Client's Duties to Cooperate

The Client shall, without delay, without prompting, and in a further-processable form, communicate to fonio in writing all information and provide all services required for the rendering of the services by fonio.

This includes in particular the provision of a contact person for contract processing, the provision of documents, materials, and facilities, coordination on order details, and the acceptance (approval) of partial services and services.

If the necessity of providing information or services by the Client only becomes known during the rendering of the services by fonio, the Client shall supply these without delay.

The Client shall itself check the information and services provided by it for their suitability, accuracy, and lawfulness.

In addition, the Client shall comply with the system requirements for the use of the fonio.ai Service provided by fonio.

The Client is liable for all damages arising from defective, delayed, or omitted cooperation of the Client, and in particular also for the additional expense thereby incurred by fonio. Insofar as fonio is unable to perform the services as agreed due to defective, delayed, or omitted cooperation of the Client, fonio is, without prejudice to other rights, also entitled to interrupt the execution of the service, to insert other services for other clients, and only after completion of those services to resume the execution of the services for the Client – insofar as the Client has by then fulfilled its duties to cooperate – whereby all dates and deadlines shift accordingly.

If fonio is held liable by third parties for an infringement of rights in connection with information or services provided by the Client, the Client shall in addition indemnify, defend, and hold fonio harmless and shall support fonio in defending against any claims of third parties.

Should fonio receive a notice that the data provided by the Client infringes intellectual property rights of third parties, fonio reserves the right to immediately suspend the fonio.ai Service provided by fonio to the Client and to take appropriate measures.

4.14. Scope of fonio's Duties to Examine

fonio shall render the services in such a way that the services rendered by fonio are not unlawful in themselves (e.g., use of a copyright-protected work without the consent of the author).

fonio is, however, under no obligation to legally examine the services prepared by fonio for any infringement of rights of third parties or for any legal infringements arising from the manner of use planned by the Client (e.g., the use of a graphic as a logo).

4.15. Scope of the Client's Duties to Examine

The Client shall itself carry out, or have carried out by a correspondingly trained legal expert, the legal examinations to the effect that the services of fonio legally fulfill all requirements of the Client, in particular in administrative-law, criminal-law, competition-law, trademark-law, distinctive-sign-law, design-protection-law, copyright-law, personality-rights-law, and data-protection-law respects.

4.16. Rights to the Services

In principle, all rights to the agreed services belong to fonio or to fonio's licensors. The Client receives the right to use the services, after full payment of the agreed remuneration, to the extent agreed with fonio or predefined by fonio's licensors.

In the event that the scope of the license has not been agreed, it comprises the non-exclusive use, not including any right to sublicense or to pass on to third parties (or affiliated companies), for the Client's own use within the Client's business, whereby the right to modify is restricted to the legally indispensable minimum.

In the case of additional functions and additional modules created individually for the Client which bear a connection to the fonio.ai Service provided by fonio, the Client receives a non-exclusive right to use the service for its own use within the Client's business during the contract term.

4.17. Rights of Third Parties

The Client is aware that the services of fonio often build on works or services of third parties with a wide variety of license terms. The Client shall comply with these license terms of services or works of third parties which form part of the services or works of fonio.

4.18. Open Source

Insofar as fonio uses components whose open-source license terms mandatorily require that components directly building upon them likewise be disclosed under the same license, fonio is entitled to publish exclusively these license-obligated components. A publication does not extend to data, content, configurations, prompts, trade secrets, or personal data of the Client. fonio shall inform the Client in good time in text form prior to any such publication.

4.19. Right to the End Product

The Client only has a right to the use of the service in the agreed form as an end product, but not to receipt of the bases, working aids, intermediate results, etc., necessary for the creation of the services.

Insofar as this has not been agreed, fonio is also under no obligation to retain these bases, working aids, intermediate results, etc., after completion of the work.

4.20. Right of Control

fonio is entitled to monitor compliance with the terms of use by technical means.

In doing so, fonio is entitled to transmit exclusively the metadata required for monitoring compliance with the license – device and usage data, user identifiers, as well as login and access logs – to a monitoring system of fonio. Passwords and other authentication secrets, as well as content data, in particular the content of conversations, audio data, transcripts, prompts, and configuration content of the Client, are not transmitted. In this respect, the processing is carried out by fonio as controller in its own right, on the basis of the legitimate interest in license and abuse control (Art. 6 para. 1 lit. f GDPR); it is separate from the processing on behalf of a controller under the Data Processing Agreement. fonio is not entitled to use the data for other purposes and deletes it immediately after completion of the respective control, at the latest after one week. This is without prejudice to security-relevant logs, which fonio retains for a period of 12 months in accordance with the technical and organizational measures (Annex 1 of the Data Processing Agreement).

4.21. Reference

fonio is entitled to refer to fonio and possibly to another author on all services created by fonio for the Client and, subject to the written revocation possible at any time, to use within the scope of fonio's own advertising materials data such as the name and logo of the Client, project description, project images, and the like as a reference or as an indication of the business relationship with the Client, without the Client being entitled to any remuneration for this.

If the Client is subject to a statutory professional duty of confidentiality, any reference to it requires its prior express consent in text form.

4.22. User Directory

The Client has the right to determine whether, and if so which, of the following personal data relating to it are included, free of charge, in fonio's user directory: surname, first name(s), academic title, address, telephone number, and, if the Client so wishes, its professional title.

4.23. Calling Line Identification

The Client may have the telephone number displayed for outgoing calls, or may independently and free of charge suppress it. This does not apply to calls to emergency numbers.

4.24. Emergency Calls

The Client may use the fonio.ai Service to place voice calls to emergency numbers free of charge. In the case of emergency calls, in addition to a voice call, a text message may also be transmitted in real time, provided that the emergency call answering point has the technical equipment required to receive text in real time.

If an emergency number is dialed, fonio is legally obliged to transmit the caller's basic data and location to the operator of the emergency number upon its request. If the current location cannot be determined, fonio may process and transmit the most recently known location.

5. Service Level

5.1. Standard Service Level

This Service Level Agreement defines the standard service level of fonio. Insofar as no service and maintenance services going beyond this or the like have been agreed, these are also not owed.

5.2. Training / Consulting

Not covered by this Service Level Agreement is the holding of training sessions, i.e., more extensive or recurring explanations due to knowledge deficits on the part of the Client, or individual consulting. These may, however, be commissioned separately from fonio for a fee.

5.3. Third-Party Applications / Third Party Products

fonio does not offer any support and/or consulting services for third-party applications, e.g., integrated Third Party Products.

6. Communication and Support, Access to Products and Services

6.1. Help Pages / Documentation

fonio offers, at <https://fonio.info/>, solutions for frequently asked questions about the fonio.ai Service provided by fonio. The Client is obliged, in particular for questions regarding functions (e.g., call forwarding to the AI number, the perfect prompt) of other support options, to use this form of support.

6.2. Communication

Communication with fonio is effected exclusively in writing via email info@fonio.ai.

6.3. Service Hours

The service hours of fonio are Monday to Thursday from 8:00 to 17:00 (CET) and on Fridays from 08:00 to 12:00 (CET) (excluding statutory public holidays in Austria).

6.4. Languages

Communication with fonio may be effected in both the German and the English language.

6.5. Access to Products and Services

Details of products and services specifically intended for users with disabilities, as well as how to obtain updated information, can be found at <https://www.fonio.ai/>.

7. Maintenance

7.1. Maintenance Intervals

Maintenance intervals are required for regular, scheduled, and unscheduled maintenance work on the systems of fonio and its suppliers, which is necessary to ensure ongoing operation and to carry out updates or improvements. Updates by fonio are not carried out in any regularly recurring or time-fixed maintenance intervals. As a rule, system maintenance requiring a temporary service interruption is, where possible, carried out by fonio at the time that has the least impact on the Client.

7.2. Information and Deployment

fonio will inform the Client as soon as possible of the planned system maintenance, stating the expected duration of the service interruption and the time at which it will take place. In addition,

fonio will state the estimated time of the service outage and the approximate time at which this outage will occur.

System maintenance and update tasks that do not require a service interruption may be carried out at any time, as they do not impair the availability and use of the system by the Client.

7.3. Extraordinary Maintenance

In urgent cases (error correction, prevention of acutely imminent attacks, etc.), a porting by fonio is also possible without prior information of the Client.

8. Further Development and Updates

8.1. Further Development

The fonio.ai Service provided by fonio as well as the underlying infrastructure are continuously developed further technically and in terms of content.

In doing so, fonio is entitled both to introduce new functions, formats, and content and to modify or discontinue existing functions, formats, and content. fonio will inform the Client of any material change or discontinuation of the service offering at the earliest possible time.

Individual adaptations for individual clients are possible after consultation with and consent of fonio, upon assumption of the development costs as well as the additional infrastructure costs by the Client.

Insofar as suggestions from the Client are taken up and implemented within the scope of the further development of the fonio.ai Service provided by fonio, the Client transfers any associated rights of the Client comprehensively, but not exclusively, to fonio, so that fonio can make the result available to all customers.

8.2. Updates / Upgrades

Insofar as fonio equips existing modules with new or modified functions or develops new modules, fonio is entitled, at its own discretion, to offer these modules as a free or fee-based additional option.

8.3. System Requirements

Within the scope of the further development as well as the introduction of new functions and modules, it is possible, due to technical prerequisites, that the system requirements for using the services of fonio change. The Client can inquire about these changes at info@fonio.ai.

9. Error Correction and Reporting

9.1. Error Classes

The parties agree on the error classes set out below for the classification of errors and of programming:

Class 1. The use of the fonio.ai Service is impossible or unreasonably restricted. The error has a serious influence on essential functions and/or the security of the Service; the service cannot continue to be used.

Class 2. The expedient use of the fonio.ai Service is seriously restricted. The error has a material influence on functions and/or the security of the fonio.ai Service, but permits continued use of the service rendered.

Class 3. The expedient use of the fonio.ai Service is slightly restricted. The error has an immaterial influence on the functionality and/or the security of the fonio.ai Service and permits further use of the Service with only minor restrictions.

Class 4. The expedient use of the fonio.ai Service is possible without restriction. The error has no or only an insignificant influence on the functionality and/or the security of the fonio.ai Service. The use of the fonio.ai Service remains possible without restriction.

9.2. Reporting

If the Client discovers faulty behavior, this is to be reported to fonio without delay via info@fonio.ai. The Client's report shall contain a problem description including the operating system together with version as well as the model designation of the device, the time of occurrence of the error, the affected components, the framework conditions, the economic effects, and, where possible, a screenshot and/or a video of the faulty behavior.

9.3. Response and Correction Time

A reasonable response time until the commencement of the error correction or the damage processing shall be a period of 24 hours for Class 1 errors, 72 hours for Class 2 errors, 4 weeks for Class 3 errors, and 8 weeks for Class 4 errors.

The times refer to the service hours of fonio at the time of conclusion of the contract or to service hours subsequently modified by mutual agreement.

The error correction or the damage processing shall be carried out using resources appropriate to the error class that enable rapid processing, and, after the commencement of the error correction or the damage processing, shall be continued without undue delay until completion.

10. Reliability

10.1. Guaranteed Uptime

Insofar as the services of fonio include the hosting of applications, fonio owes an availability of 99%, related to the calendar year.

10.2. Permissible Unavailability

Permissible unavailability shall count as planned maintenance work that was announced to the Client at least 5 working days in advance by email. The total duration of planned maintenance work may not exceed 4 hours per calendar month.

Outside the reasonable control of fonio are in particular events of force majeure, official measures, natural disasters, civil unrest, acts of terrorism, and industrial action. Outages of sub-service providers that fonio uses to render the core functions of the Service (in particular telephony, hosting, and AI services) do not count as permissible unavailability, insofar as fonio is responsible for their selection or control. Outages of the infrastructure provided or integrated by the Client as well as general disruptions of the public internet outside the services used by fonio remain permissible unavailability.

Outages of sub-service providers used by fonio to render the core functions of the Service (in particular telephony, hosting, and AI services) do not count as permissible unavailability, insofar as fonio is responsible for their selection or control. Outages of the infrastructure provided or integrated by the Client, as well as general disruptions of the public internet outside the services used by fonio, remain permissible unavailability.

10.3. Actual Uptime

The basis for the calculation of the actual uptime is therefore the total time minus the permissible unavailability.

10.4. Shortfalls

In the event that the percentage actual uptime falls below the percentage guaranteed uptime, the Client is entitled to demand a credit in the amount of twice the percentage figure of the actual shortfall. This percentage figure is deducted from the monthly basic fee.

11. Monitoring of the Infrastructure, Security

11.1. Monitoring

fonio has set up its own monitoring system for the monitoring of the service performances. The monitoring sends 24/7 notifications to administrators of fonio in the case of important infrastructure messages. fonio has a strong endeavor to remedy any outages immediately.

11.2. Other Security Precautions

In order to best protect the systems of fonio as well as the stored data records against unauthorized access by third parties, fonio takes appropriate technical and organizational security measures, which fonio can transmit to the Client upon request.

12. GDPR

12.1. Data Processing

Where, under data protection law, data processing on behalf of a controller (processing) exists, the Data Processing Agreement available at <https://fonio.ai/dpa> applies.

12.2. Information Obligations Towards Data Subjects

The Client, as controller, is responsible for informing the persons affected by the processing – in particular calling and called persons – in accordance with Art. 13 and Art. 14 GDPR, including notices regarding recording/transcription, the use of artificial intelligence, the processors deployed, any third-country transfers, and the storage period.

13. Duties of Loyalty & Non-Solicitation

13.1. Duties of Loyalty

The contracting parties shall refrain from making or disseminating untrue assertions of fact about the respective other contracting party to third parties; this applies without time limit, also beyond the termination of the contractual relationship. In addition, the contracting parties shall refrain from making true but business-damaging assertions of fact about the respective other contracting party to third parties for the duration of the contractual relationship and for 24 months after its termination; the obligation to safeguard trade secrets under Clause 13.2 remains unaffected thereby. Factual criticism, the safeguarding of legitimate interests, statutory reporting and disclosure obligations – including reports under the Whistleblower Directive (Directive (EU) 2019/1937) – as well as recourse to authorities and courts remain unaffected.

13.2. Trade Secrets

A trade secret is information that

- is secret because it is, in its entirety or in the precise arrangement and composition of its components, neither generally known nor readily accessible to persons in the circles that usually deal with this type of information,
- is of commercial value because it is secret, and
- is the subject of confidentiality measures appropriate to the circumstances by the person who lawfully exercises control over this information.

Within the scope of this contractual relationship, each contracting party may disclose or make accessible to the respective other party trade secrets (in this respect the "disclosing party"); the respective receiving party is referred to as the "receiving party".

Trade secrets of the respective disclosing party shall in particular be its business ideas and business strategies, their implementation, as well as the details of the contracts concluded between the contracting parties and their subject matter. The trade secrets of fonio further include in particular, with regard to the services of fonio, their architecture, source code, developer and administration documentation, as well as all other data from which the function of the software or of relevant parts of the software results, and security-relevant data.

The receiving party is obliged to ensure the confidentiality of the trade secrets of the disclosing party by technical and organizational measures and to prevent these trade secrets from being unlawfully acquired, used, or disclosed. Use by the receiving party is only permissible to the extent that this is agreed.

These obligations apply for the duration of the contractual relationship and beyond, for as long as and to the extent that the respective information constitutes a trade secret.

No impermissible disclosure exists insofar as information must be disclosed on the basis of mandatory statutory provisions, official or judicial order, for the exercise of the right to freedom of expression and information, or for the uncovering of unlawful conduct. The same applies to information that becomes generally known without breach of this agreement, that was lawfully made accessible to the receiving party without an obligation of confidentiality towards third parties, or that was independently developed by it.

13.3. Non-Solicitation

The Client undertakes, during the contract term and for 24 months thereafter, not to specifically and actively solicit employees of fonio with whom it was in contact within the scope of the performance of the contract. This prohibition serves exclusively to protect fonio from a disloyal exploitation of insights into the workforce that the Client gained in the course of the performance of the contract.

General job advertisements not directed at individual employees as well as hirings on the employee's own initiative do not count as solicitation. In the event of a culpable breach, the Client shall pay a contractual penalty in the amount of six gross monthly salaries of the affected employee. Any judicial right of mitigation under applicable law (for Austrian law: § 1336 para. 2 of the Austrian Civil Code (ABGB)) remains unaffected.

The assertion of damages exceeding the contractual penalty remains reserved. Insofar as the agreed duration is impermissible under mandatory law at the place of performance or place of jurisdiction, the non-solicitation obligation shall be deemed agreed for the longest period permissible under the respectively applicable law.

14. Remuneration

14.1. Prices

All prices are understood ex registered office or business location of fonio in the case of contracts with entrepreneurs in euros plus value-added tax.

14.2. Billing Mode

The rendering of services is in principle effected only after full payment.

14.3. Billing by Lump Sum

In the case of billing in the form of a lump sum, this covers all services necessary for the execution of the agreed services. Excepted are the costs of unforeseeable events, additional costs due to non-contractual cooperation of the Client, as well as additional costs due to hidden defects in provided services.

14.4. Billing by Effort

In the case of billing by effort, billing is effected according to actual effort. Billing by effort exists where the anticipated effort is stated as approximate, anticipated, or estimated.

14.5. Billing Within the Scope of an Hours Pool

Insofar as an hours pool is agreed for a particular period, this serves to secure a minimum availability of fonio for the Client in the respective period.

In the case of unconsumed hours, these hours are therefore not transferable to subsequent periods but lapse, without this triggering any claim to a price reduction.

In the event that the hours quota is insufficient, fonio shall notify the Client of this at the earliest possible time. An exceeding of the hours quota is only permissible with the consent of the Client, except where the exceeding is necessary for taking unpostponable measures to avert damages of the Client and the timely obtaining of the Client's consent is not possible.

14.6. Additional Services

All services of fonio that are not expressly compensated by the agreed fee, such as in particular subsequently agreed additional services, are remunerated separately.

14.7. Partial Services

In addition, fonio is entitled to invoice partial services. The individual items of the description of services shall in any case be deemed partial services.

14.8. Advance Payment of Costs

In addition, fonio is entitled, in the case of new customers, in the case of the pass-through billing of agreed third-party services, and in the case of the appearance of economic problems, in the case of a payment default in the past, and in the case of the appearance of unwillingness to pay on the part of the Client, to demand in advance cost advances to cover its own expenses in the full amount of the partial services to be rendered next.

14.9. Credits in the Event of a Shortfall Below the Guaranteed Availability

If the Client wishes a credit in the event of a shortfall below the guaranteed availability, then it must, under penalty of forfeiture of the claim, request this within 60 days from becoming aware

of the non-compliance with the guaranteed operating time by fonio via the support email address and declare the set-off against the basic fee of the next invoice. Any other use of the credit is excluded.

14.10. Price Adjustment

In the case of contracts for an indefinite period as well as in the case of contracts with automatic renewal of the contract term, fonio is entitled to make a reasonable price adjustment annually, taking into account the consumer price index.

In addition, fonio is also entitled to make a reasonable price adjustment after conclusion of the contract if the costs of the services increase by more than 3% without this being capable of being influenced by fonio. The cost increase shall be demonstrated by fonio, and the lack of possibility of influence shall be made credible.

14.11. Unjustified Withdrawal

In the event that the Client withdraws from its order in whole or in part without grossly negligent or intentional fault of fonio, fonio is nevertheless entitled to the agreed fee. In this case, fonio must merely have credited against it savings from not-yet-effected purchases. The same applies if fonio withdraws from the contract for good cause lying within the Client's sphere.

15. Payment

15.1. Due Date

The invoices of fonio are due without any deduction from the invoice date. The rendering of services is in principle effected only after full payment.

15.2. Payability

The invoices of fonio are to be paid within 7 days from receipt of the invoice.

15.3. Payability in the Case of Online Transactions

In the case of online transactions, the invoices of fonio are to be paid upon placement of the order.

15.4. Bank Transfer

In principle, payment shall be effected by bank transfer to the bank account. Cash payment is excluded.

15.5. Other Payment Methods

The Client is further entitled to use all other payment means offered by fonio. The charge is thereby effected at the moment of payment by the Client.

15.6. Agreed Third-Party Services

fonio is entitled, at its own choice, to commission the third-party service both in its own name or in the name of the Client and on its own account or on the account of the Client.

Insofar as fonio concludes the contract in its own name and/or on its own account, this is effected exclusively in the interest of the Client for the purpose of simplified contract and payment processing.

15.7. Retention of Title

Until full payment by the Client, a retention of title in favor of fonio to the goods delivered by fonio shall be deemed agreed until full payment of the purchase price and of all associated interest and costs. In the event of default, fonio is entitled to assert rights arising from the retention of title. The Client consents, for this case, to the collection of the goods by fonio. The assertion of the retention of title by fonio does not effect a withdrawal from the contract, unless fonio expressly declares the withdrawal from the contract.

In the event of the onward sale of the goods by the Client, the Client assigns its claim against the buyer to fonio for the purpose of security. fonio is entitled to notify the buyer of this assignment.

15.8. Prohibition of Set-Off and of Retention

The Client is not entitled, even in the case of connected claims, to set off its own claims against claims of fonio, unless the Client's claim has been acknowledged by fonio in writing or has been established by a court. A right of retention in favor of the Client is excluded.

15.9. Payment Default

In the event of late payment, the statutory interest valid between entrepreneurs, but at least 9% per annum, shall be paid. The Client shall bear all costs and expenses associated with the collection of the claim, such as in particular debt-collection charges or other costs necessary for an expedient legal pursuit.

15.10. Continued Payment Default

After an unsuccessful reminder to the Client setting an additional period of at least 7 days, fonio is entitled to immediately bill and call due all services and partial services already rendered, including those within the scope of other contracts concluded with the Client, as well as to temporarily suspend the rendering of services not yet paid until full payment of all outstanding fee claims.

After a further unsuccessful reminder directly to the management of the Client and setting an again at least 7-day additional period, fonio is entitled to withdraw from all contracts and to demand compensation for lost profit. fonio is thereby also entitled not to execute or to suspend already paid services.

Independently of these possibilities, fonio can of course also file a claim with a court immediately after the due date has elapsed.

15.11. Installment Payment

Insofar as fonio and the Client conclude an installment payment agreement, loss of time-benefit (acceleration) shall be deemed agreed in the event of non-timely payment of even a single installment.

15.12. Expiry of Credits

The user is entitled to consume the services acquired from fonio, in particular credit balances (Credits), within 24 months from the purchase date. After the expiry of this period, unused services lapse without compensation.

16. Usage Restrictions and Responsibility of the Client

16.1. Prohibition of Cold Calling

The Client is prohibited from using the fonio.ai Service provided by fonio or the infrastructure provided by fonio (including telephone numbers) to carry out cold calling (unsolicited advertising calls).

16.2. Restriction on the Use of Telephone Numbers

Where a telephone number is provided to the Client by fonio, this may be used exclusively for inbound calls.

Outbound calls via numbers provided by fonio are only permissible if the data necessary for this (in particular complete company or personal data) has previously been transmitted to fonio and the telephone number has been registered to such data.

17. Permissible Use of the AI

17.1. Permissible Use

The use of the fonio.ai Service, including all AI instances configured or deployed by the Client, is permissible exclusively for purposes that occur within the scope of an ordinary business activity and in accordance with applicable statutory provisions.

17.2. No Solely Automated Decision-Making

The Service is not intended to make decisions solely automatically that produce legal effects concerning the data subjects or similarly significantly affect them (Art. 22 GDPR). If the Client nevertheless uses the Service in a manner that leads to such decisions, it is, as controller, responsible for complying with the requirements of Art. 22 GDPR, in particular for ensuring a permissible legal basis and for providing an appropriate degree of human intervention.

17.3. Liability for AI Content

The Client is responsible for the configurations, prompts, inputs, and purposes of use specified by it as well as for the content generated, disseminated, or processed on this basis. For claims of third parties resulting from such content for which the Client is responsible, or from its use, the Client shall indemnify, defend, and hold fonio harmless. The liability of fonio for the professional provision of the Service (Point 4.3) remains unaffected; in particular, fonio is liable for damages based on a defective function of the Service for which fonio is responsible, in accordance with Point 19.

17.4. AI Transparency and Labeling

fonio provides the Service in such a way that natural persons who interact with the AI speech agent can be informed that they are communicating with an artificial intelligence system, insofar as this is not already obvious from the circumstances (Art. 50 para. 1 of Regulation (EU) 2024/1689 – the "EU AI Act"). Insofar as the Service generates synthetic audio content, this is, in accordance with the state of the art and the requirements applicable for this purpose, labeled in machine-readable form as artificially generated (Art. 50 para. 2 of the EU AI Act). fonio is the Provider; the Client is the Deployer of the AI system within the meaning of the EU AI Act. The Client is responsible for actually providing the notices required under Art. 50 of the EU AI Act to the persons reached by it, in particular by activating the notification functions provided by fonio (e.g., entry announcement). The respective supervisory and product-related obligations of Provider and Deployer remain unaffected.

17.5. Recording, Transcription, and Consent

The Service can record and/or transcribe telephone conversations. The Client, as data-protection controller, is responsible, prior to any recording or transcription, for ensuring the legal basis required for this, in particular for obtaining and documenting the consent of all conversation participants required under the respectively applicable provisions (Art. 6 and Art. 9 GDPR; Art. 5 para. 1 of Directive 2002/58/EC; relevant national provisions, e.g., § 120 of the Austrian Criminal Code (öStGB), § 201 of the German Criminal Code (dtStGB)). fonio provides the Client with suitable technical means for this (in particular a configurable entry announcement). The Client shall indemnify, defend, and hold fonio harmless with respect to all claims of third parties resulting from a breach of these obligations.

17.6. Responsibility for Sensitive Data

The Client is aware that, when using the fonio.ai Service, it must carefully observe which information it transmits to the AI.

In the case of sensitive processes (e.g., the querying of order data, access data, or other security-relevant information), the Client is obliged to build suitable security measures such as security queries or multi-factor authentications into the dialog flow.

17.7. Regulated Industries and Professional Secrecy

(a) If the Client uses the Service in an area subject to special confidentiality obligations (e.g., as a lawyer, physician, tax advisor, or other person obliged to confidentiality), it is itself responsible for examining and ensuring the permissibility of the use under the professional-law and criminal-law provisions applicable to it (in particular § 203 of the German Criminal Code (dtStGB), § 9 of the Austrian Lawyers' Act (RAO), § 54 of the Austrian Physicians' Act (ÄrzteG), or the respectively relevant national norms). fonio obliges the persons dealing with the data to confidentiality (cf. Data Processing Agreement). The Client shall indemnify, defend, and hold fonio harmless with respect to claims of third parties arising from a breach of such confidentiality obligations.

(b) If the Client is subject to a statutory professional duty of confidentiality, the "Undertaking of Confidentiality and Data Protection" attached as an Annex, in the version provided for the Client's state of domicile (Germany or Austria), shall be deemed agreed upon conclusion of the contract, without the need for a separate agreement or signature; the Annex is made available to the Client in text form. For Clients domiciled in Switzerland, Point 4 of the Addendum for Clients Domiciled in Switzerland (Point 20.4) shall apply in this respect. The scope of fonio's confidentiality obligation is governed exclusively by the respective Annex; statutory duties of confidentiality, as well as Point 4.5 of the Data Processing Agreement, remain unaffected. At the Client's request, fonio will additionally countersign the Annex in its then-current, unaltered wording; such countersignature is not required for its validity. Each version of the Annex is designated with a version date and is retrievable in the respective version; amendments to the Annex shall only become effective with the express consent of the Client, and Point 2.3 does not apply to the Annex. Deviating confidentiality declarations of the Client shall only become effective in accordance with Point 2.5.

17.8. No Voice Identification (Biometric Data)

The Service is not designed to identify or verify persons on the basis of their voice; fonio does not create or compare voice profiles. According to fonio's own understanding, no biometric data is therefore processed for the purpose of uniquely identifying a natural person (Art. 9 GDPR). In this respect, Point 3.6 of the Data Processing Agreement is authoritative and conclusive; the

data-protection classification in the individual case is the responsibility of the Client as controller (Point 12.2). If the Client deploys its own or integrated third-party services for voice or speaker recognition, Points 4.6 and 19.12 shall apply.

18. Additional Conditions for Partners

18.1. Partner Conditions

For Clients who use the fonio.ai Service within the scope of a partnership, the respectively agreed partner conditions apply in addition.

19. Liability

19.1. Classic Contract for Work

In the case of classic work performances, fonio is liable for the achievement of the objective.

19.2. Purchase of Resources

In the case of the mere purchase of resources such as working time, the Client is itself responsible for the achievement of the objective. fonio is liable only for the execution, in accordance with the order, of the specifically commissioned individual services.

19.3. Interventions by the Client

If the Client autonomously intervenes in the services of fonio in a manner not agreed, or makes undocumented changes or changes no longer easily traceable for fonio, it is liable for the additional expense thereby incurred by fonio, e.g., for completion, re-examination, documentation, defect determination, defect attribution, defect correction.

19.4. Duty to Give Notice of Defects

The Client shall, after request for an interim acceptance by fonio, after handover, and after commencement of live operation, accept ("approve") the handed-over or to-be-accepted services in writing in any case within 8 days at the latest, or give written notice of any defects or damages.

In the case of an interim acceptance, the further work by fonio may only be effected after the interim acceptance / "approval" has taken place. In the case of non-timely acceptance or notice, the services shall automatically be deemed accepted by the Client.

Hidden defects or damages that arise only after the expiry of 8 days, but within running guarantee, statutory warranty, or compensation periods, are likewise to be given notice of by the Client within 8 days from recognizability.

Subject to the duty to give notice of defects are all defects or damages which the Client would have to recognize with the diligence of a prudent entrepreneur upon appropriate inspection. The inspection shall, in the case of interim acceptances, due to the special significance of interim acceptances for the avoidance of defects that then run through all further performance steps, correspond to a final, detailed, and particularly careful inspection. Upon handover, the inspection shall correspond to a first but nonetheless precise inspection. Upon commencement of live operation, the inspection shall, due to the special significance of the commencement of live operation for the avoidance of damages during operation, again correspond to a final, detailed, and particularly careful inspection.

The Client's notice of defects shall describe the defect or the damages in detail and comprehensibly. In the case of defects or damages that do not occur constantly, the exact times and framework conditions of the occurrence of the defects or damages are to be stated. The Client shall enable fonio to take all measures necessary to investigate and remedy the defects or damages. In the case of non-timely notice of the defects by the Client, the assertion of guarantee, statutory warranty, and compensation claims, as well as of claims based on other liability regulations, in particular of recourse claims, of the Client is excluded.

19.5. Commercial Guarantee

Insofar as performance parts of fonio benefit from a guarantee granted by a third party, this guarantee is to be asserted directly with the third party (e.g., manufacturer's guarantee).

In the case of a guarantee commitment by fonio, the period for asserting the guarantee claim begins to run upon handover. The guarantee claim becomes time-barred six months from the Client's knowledge of the occurrence of the guarantee event, but at the latest upon expiry of the guarantee period. If the content of the guarantee does not emerge from the guarantee commitment, then fonio is liable for the customarily presupposed characteristics.

19.6. Statutory Warranty

In the case of services concluded on the basis of this SaaS Agreement, the Client has a right to defect correction in accordance with the service level implemented in this Agreement. In the case of services not concluded on the basis of this SaaS Agreement, or in the case of services that fonio renders for the Client after termination of this SaaS Agreement, the right to statutory warranty and the right to statutory-warranty recourse are limited to six months from handover.

The Client is entitled to the right to improvement or replacement, or, in the case of non-material defects, also to price reduction, or, in the case of material defects, also to rescission, at fonio's choice. By the correction of the defect, the statutory warranty period is neither extended, nor does it begin to run anew for the performance part affected by the defect correction.

19.7. Obligation to Update

The obligation to update under § 7 of the Austrian Consumer Goods Warranty Act (VGG) is excluded.

19.8. Error, Rescission for Lesion Beyond Moiety (Laesio Enormis)

The right to challenge on grounds of error and on grounds of rescission for lesion beyond moiety (laesio enormis) is excluded.

19.9. Compensation and Other Claims

Compensation claims and claims based on other liability regulations, in particular recourse claims, of the Client are excluded, insofar as these are not based on gross negligence or intent of fonio.

By way of derogation from this, fonio is liable, in the case of slightly negligent breach of a material contractual obligation (an obligation whose fulfillment makes the proper performance of the contract possible in the first place and on whose compliance the Client may regularly rely), for the contract-typical, foreseeable damage. The liability of fonio for slight negligence is, in total and in amount, limited to the net annual remuneration paid by the Client in the twelve months prior to the damage-causing event.

The liability limitations and exclusions of this Agreement do not apply to damages arising from injury to life, body, or health, to intent as well as gross negligence, to claims under the Product Liability Act (in its respectively applicable version), as well as to liability towards data subjects under Art. 82 GDPR; the internal apportionment among the parties under Art. 82 para. 5 GDPR remains unaffected.

Such claims lapse within three years from knowledge of the damage and of the injuring party.

19.10. Liability in the Event of Non-Compliance with the Guaranteed Operating Time

Liability in the event of non-compliance with the guaranteed operating time is, insofar as this is not based on intent or gross negligence, limited to the issuance of the credit in the agreed form and amount.

19.11. Liability in the Case of Agreed Third-Party Services

Those third parties who render the agreed third-party services are not vicarious agents of fonio, are not acting in pursuit of the interests of fonio, and are thus also not included in the risk sphere of fonio.

For the agreed third-party services themselves, but not for the professional commissioning, coordination, and processing thereof, any fault-based liability of fonio is therefore additionally reduced to fault in selection, and any strict (no-fault) liability of fonio is excluded.

If the third-party services are drawn upon on the instruction of the Client, i.e., selected by it, then any liability of fonio is excluded.

19.12. Liability in the Case of Integration of Third-Party Services by the Client

fonio bears no liability for components, interfaces, data, rights, as well as other services, products, or content of the Client or of third parties that are integrated, processed, or provided by the Client (together "Third-Party Services"). If fonio is informed of the unlawfulness of a Third-Party Service, fonio is entitled and, insofar as legally provided, obliged to deactivate or delete the affected Third-Party Service and/or to dissolve the contract for good cause. The Client shall indemnify, defend, and hold fonio harmless with respect to such Third-Party Services.

19.13. Liability in the Use of Services and Components of Third Parties

Insofar as fonio builds, in accordance with the agreement, on services and components of third parties, any strict (no-fault) liability of fonio for the services and components of these third parties is excluded, and any fault-based liability is additionally reduced to fault in selection.

19.14. Liability in the Case of Free Services

Insofar as fonio renders services or performance parts free of charge, any liability for these performance parts is excluded.

19.15. Protective Effect in Favor of Third Parties

It is expressly agreed that this Agreement does not unfold any protective effect in favor of third parties.

19.16. Burden of Proof

A reversal of the burden of proof to the detriment of fonio is excluded. In particular, the existence of the defect at the time of handover, the time of determination of the defect, the

timeliness of the notice of defects, as well as the existence and degree of fault are to be proven by the Client.

For damages arising from intent or gross negligence of fonio, the statutory distribution of the burden of proof remains in place.

19.17. Additional Period

In the case of non-contractual performance of the contract, the Client is only entitled to assert claims once it has granted fonio in writing a reasonable additional period of at least fourteen days. This also applies to the dissolution of the contract for good cause.

19.18. Withdrawal from the Contract

A withdrawal from the contract by the Client is to be declared in writing to info@fonio.ai.

20. Final Provisions

20.1. Applicable Law

Exclusively Austrian law, to the exclusion of the international conflict-of-law referral norms, applies to all legal relationships and circumstances between the Client and fonio. Mandatory provisions and overriding mandatory provisions of the state in which the Client has its registered office or uses the Service, as well as directly applicable Union law (in particular GDPR and EU AI Act), remain unaffected by this choice of law.

For Clients domiciled in Switzerland, the reserved mandatory provisions include, in particular, Swiss data protection law (revFADP/FADP) as well as the Swiss professional-law and criminal-law confidentiality provisions (in particular Art. 321 of the Swiss Criminal Code (chStGB)).

20.2. Place of Jurisdiction

For all disputes arising from or in connection with this Agreement, the exclusive jurisdiction of the courts having subject-matter jurisdiction in Vienna (Austria) is agreed. fonio is additionally entitled to sue the Client also at its general place of jurisdiction. The choice option of fonio is limited to these two objectively determinable forums.

20.3. Dispute Resolution Procedure

Without prejudice to the jurisdiction of the courts under Point 20.2, the Client may submit disputes or complaints that have not been resolved satisfactorily between the Client and fonio to Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH) as a dispute-resolution body. Trade associations, as well as fonio as provider, are also entitled to do so.

A dispute or complaint must be submitted to RTR-GmbH within one year from the time at which the Client first informed fonio in writing of the dispute or complaint. Proceedings before RTR-GmbH are conducted in accordance with the applicable procedural guidelines for RTR-GmbH's dispute-resolution procedure. The forms required for this purpose, published by RTR-GmbH, are available at www.rtr.at. The Client must bear its own costs (e.g., for a lawyer) itself.

20.4. Addendum for Clients Domiciled in Switzerland

If the Client is domiciled in Switzerland, the "Addendum for Clients Domiciled in Switzerland" shall additionally apply as part of this Agreement and of the Data Processing Agreement. Insofar as the Addendum deviates from these Terms and Conditions or from the Data Processing

Agreement, the provisions of the Addendum shall prevail for such Clients. All other provisions of these Terms and Conditions remain unaffected.