Access Captions
when accuracy matters

CLIENT TERMS

These Client Terms, together with any Booking Confirmation (defined in clause 1), set out the agreement (this '**Agreement'**) under the terms of which Bernadette McGoldrick trading as Access Captions ABN 79 391 810 879 (the **Service Provider**) provides Services (defined in clause 2) to you or the company which you represent (the **Client**).

1 BOOKING CONFIRMATION, THIS AGREEMENT

(a) These Client Terms will apply to all the Client's dealings with the Service Provider, including being incorporated in all agreements, quotations or orders under which the Service Provider is to provide services to the Client (each a **Booking Confirmation**) together with any additional terms included in such Booking Confirmation (provided such additional terms are recorded in writing).

(b) The Client will be taken to have accepted this Agreement if the Client accepts a Booking Confirmation, or if the Client orders, accepts or pays for any services provided by the Service Provider after receiving or becoming aware of this Agreement or these Client Terms.

(c) In the event of any inconsistency between these Client Terms and any Booking Confirmation, the clauses of these Client Terms will prevail to the extent of such inconsistency, except that any "Special Conditions" (being terms described as such in a Booking Confirmation) will prevail over these Client Terms to the extent of any inconsistency.

2 SERVICES

(a) In consideration for the payment of the fees set out in the Booking Confirmation (**Fees**), the Service Provider will provide the Client with services set out in a Booking Confirmation (**Services**).

(b) Without limiting this clause 2, the Services may include (as specified in the Booking Confirmation):

(i) pre-Event preparation, including reviewing Preparation Materials and liaising with the Client;

(ii) live captioning / stenocaptioning services for the Event (remotely or on-site, as specified in the Booking Confirmation);

(iii) providing the Client with the Deliverables specified in the Booking Confirmation, which may include the Live Transcript and/or an Unedited Transcript; and

(iv) if agreed in the Booking Confirmation, post-Event file captioning services (including caption files such as SRT/VTT) and/or an Unedited Transcript.

(c) For the purposes of this Agreement:

(i) "Event" means the meeting, event, conference, webinar or other engagement described in the Booking Confirmation.

(ii) "Live Captions" means the real-time captioning text displayed during an Event.

(iii) "Live Transcript" means the unedited export of the Live Captions captured during an Event (and is not a fully edited transcript).

(iv) "Unedited Transcript" means a copy of the Live Transcript provided after the Event without full editorial review or verification.

(v) "Edited Transcript" means a transcript that has been edited and/or verified after the Event, but only where this is expressly included in the Booking Confirmation.

(vi) "Preparation Materials" means any run sheets, speaker lists, scripts, slides, glossaries, names, terminology and other materials provided by the Client (or on the Client's behalf) to assist the Service Provider to perform the Services.

(d) The Client acknowledges that Live Captions and the Live Transcript are produced in real time and may contain errors, omissions or delays. Unless the Booking Confirmation expressly includes an Edited Transcript, the Live Transcript / Unedited Transcript should not be treated as a final, fully edited transcript or a complete record of the Event. The Client is responsible for reviewing and verifying any transcript before relying on it.

(e) Unless otherwise agreed, the Service Provider may, in its discretion:

(i) not commence work on any Services until the Client has paid any Fees or deposit payable in respect of such Services; and

(ii) withhold delivery of Services until the Client has paid an invoice in respect of such Services.

3 CLIENT OBLIGATIONS

3.1 PROVIDE INFORMATION AND LIAISON

(a) The Client must provide the Service Provider with all documentation, information and assistance reasonably required for the Service Provider to perform the Services.

(b) The Client agrees to liaise with the Service Provider as it reasonably requests for the purpose of enabling the Service Provider to provide the Services.

3.2 PREPARATION MATERIALS

(a) The Client must provide the Service Provider with Preparation Materials by the due date/time set out in the Booking Confirmation (or, if no due date/time is set, within a reasonable time prior to the Event). If Preparation Materials are not provided on time, the Service Provider may still provide the Services on a best endeavours basis, and any reduction in caption accuracy or delays caused by late or incomplete Preparation Materials will not constitute a breach of this Agreement.

3.3 AUDIO AND TECHNICAL REQUIREMENTS

The Client is responsible for ensuring that the Service Provider has access to clear, stable and intelligible audio for the duration of the Event. For remote Events, the Client must provide the correct meeting links, logins, dial-in details and any required access instructions in advance. For on-site Events, the Client must ensure the Service Provider has reasonable access to the venue, power, seating and any audio feed required to perform the Services.

3.4 TECHNICAL ISSUES AND THIRD PARTY PROVIDERS

(a) The Client acknowledges that the Services may depend on third party platforms, internet connectivity and/or audio-visual providers (for example, venue AV, Zoom, Microsoft Teams or similar). To the maximum extent permitted by law, the Service Provider is not responsible for any delay, inaccuracy or failure to provide the Services to the extent caused by:

(i) poor audio quality,

(ii) platform outages or limitations,

(iii) internet interruptions, or

(iv) acts or omissions of third party providers

where those matters are outside the Service Provider's reasonable control.

(b) If, due to the matters described in clause 3.4(a), the Service Provider is required to spend time troubleshooting, attempting to resolve technical issues, liaising with third party providers, or waiting for audio or platform access to be restored, that time will be treated as time spent providing the Services and may be charged at the applicable rates set out in the Booking Confirmation.

3.5 CONSENTS

The Client warrants that it has obtained (and will maintain) all consents, permissions and authorities required for the Service Provider to access the Event and to create, display and provide the Live Captions, Live Transcript and any other Deliverables, including (where applicable) any consents required from speakers, presenters and attendees.

4 PAYMENT

4.1 FEES

(a) The Client must pay to the Service Provider fees in the amounts and at the times set out in the Form or as otherwise agreed in writing.

(b) Fees are calculated on the basis of the time required to perform the Services (including preparation time, time spent providing live captioning during the Event, and any post-Event work). Any estimate or quote provided by the Service Provider is indicative only and may change if the scope or duration of the Event changes.

(c) If a deposit is specified in the Booking Confirmation, the Client must pay the deposit by the due date specified. The Service Provider is not required to commence the Services until the deposit has been received

4.2 INVOICES

Unless otherwise agreed in the Booking Confirmation:

(a) if the Service Provider issues an invoice to the Client, payment must be made by the time(s) specified in such invoice; and

(b) in all other circumstances, the Client must pay for all goods and services within 2 weeks of receiving an invoice for amounts payable.

4.3 OVERDUE AMOUNTS

If any amount payable under this Agreement is not paid by the due date, the Service Provider may (to the maximum extent permitted by law):

(a) charge interest on the overdue amount at 10% per annum, calculated daily from the due date until payment is received;

(b) recover from the Client any reasonable costs incurred in recovering the overdue amount (including debt recovery costs); and

(c) suspend performance of Services and/or withhold delivery of Deliverables until all overdue amounts are paid.

4.4 PAYMENT METHOD

The Client must pay Fees using the fee payment method specified in the Invoice.

4.5 EXPENSES

Unless otherwise agreed in writing:

(a) the Client will bear all travel, accommodation, media and related expenses reasonably incurred by the Service Provider in connection with the provision of the Services; and

(b) any third party costs incurred by the Service Provider in the course of performing the Services may be billed to the Client, unless specifically otherwise provided for in the Booking Confirmation.

4.6 GST

Unless otherwise indicated, amounts stated in a Booking Confirmation do not include GST. In relation to any GST payable for a taxable supply by the Service Provider, the Client must pay the GST subject to the Service Provider providing a tax invoice.

4.7 CARD SURCHARGES

The Service Provider reserves the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard or American Express).



5 CHANGES

(a) The Client must pay additional service fees for changes to Services requested by the Client which are outside the scope set out in the relevant Booking Confirmation (**Changes**).

(b) Unless otherwise agreed in writing, the Service Provider may at its discretion extend or modify any delivery schedule or deadlines for the Services as may be reasonably required by such Changes.

(c) Without limiting this clause 5, Changes may include the Event running longer than scheduled, changes to the Event programme, additional sessions being added, changes in delivery method (remote / on-site), or requests for additional Deliverables or file formats. Any additional time spent due to Changes may be charged at the applicable standard or overtime rates set out in the Booking Confirmation.

6 MARKETING AND PROMOTIONAL USE

Unless otherwise agreed in writing:

(a) The Service Provider may describe the nature of the Services provided to the Client for marketing, promotional or professional purposes (including on its website, social media or capability statements), provided that the Service Provider does not disclose any Confidential Information or personal information; and

(b) Subject to the Client's selection in the Booking Confirmation, the Service Provider may take and use photographs and/or screenshots of the Events for marketing and promotional purposes, provided that:

(i) for on-site Events, any photograph would primarily capture the captioning set-up and/or caption display screens at the Event;

(ii) for online Events, any screenshot would primarily capture the caption display screens at the Event;

(iii) the Service Provider does not intentionally capture identifiable attendees or participant details; and

(iv) no Confidential Information is disclosed.

7 CONFIDENTIALITY AND RETENTION OF RECORDS

7.1 CONFIDENTIALITY

(a) Except as contemplated by this Agreement, each party must not, and must not permit any of its officers, employees, agents, contractors or related companies to, use or disclose to any person any Confidential Information disclosed to it by the other party without its prior written consent.

(b) This clause 7.1 does not apply to:

(i) information which is generally available to the public (other than as a result of a breach of this Agreement or another obligation of confidence);

(ii) information required to be disclosed by any law; or

(iii) information disclosed by the Service Provider to its subcontractors, employees or agents for the purposes of performing the Services or its obligations under this Agreement.

(c) For the purposes of this Agreement, "**Confidential Information**" means information of or provided by a party to the other party under or in connection with this Agreement that is by its nature confidential information, is designated by the party as confidential, or the other party knows or ought to know is confidential, but does not include information which is or becomes, without a breach of confidentiality, public knowledge.

7.2 RECORDS, RETENTION AND DELETION

(a) The Service Provider may retain copies of Preparation Materials, the Live Transcript / Unedited Transcript and other records created in connection with the Services to support repeat engagements, quality assurance and business record keeping, unless the Client requests earlier

deletion in writing. For the avoidance of doubt, the Service Provider is not obliged to retain or re-issue any transcript or other Deliverable for the Client's use beyond 14 days after the Event, and the Client is responsible for downloading, saving and maintaining its own records of all Deliverables upon receipt.

(b) If the Client requests deletion in writing, the Service Provider will take reasonable steps to delete the relevant records within a reasonable time, except to the extent the Service Provider is required to retain them by law, for insurance purposes, or in routine backup systems (where deletion may occur in accordance with backup cycles).

8 INTELLECTUAL PROPERTY

8.1 CLIENT CONTENT

(a) The Client grants to the Service Provider (and its subcontractors, employees and agents) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use the Client Content to the extent reasonably required to perform any part of the Services.

(b) The Client:

(i) warrants that the Service Provider's use of Client Content as contemplated by this Agreement will not infringe any third-party Intellectual Property Rights; and

(ii) will indemnify the Service Provider from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement or a claim of such an infringement.

8.2 DEVELOPED IP

(a) Subject to clause 8.2(b), all Intellectual Property Rights in the Deliverables specified in the relevant Booking Confirmation vest in the Client upon full payment of the Fees.

(b) The Client grants to the Service Provider a non-exclusive, revocable, royalty-free, worldwide licence to:

(i) use the Deliverables for marketing and promotional purposes strictly in accordance with clause 6 (Marketing and Promotional Use); or

(ii) retain copies of the Deliverables in accordance with clause 7.2 (Records, Retention and Deletion)

provided that such use does not disclose Confidential Information except as permitted under this Agreement

(c) For the avoidance of doubt, nothing in this clause transfers ownership of any Service Provider IP, tools, templates, methodologies, software or systems used in providing the Services.

8.3 THE SERVICE PROVIDER IP

(a) The Service Provider grants to the Client a non-exclusive, royalty free, non-transferable and revocable licence to use Service Provider IP and any Developed IP to the extent required for the Client to use, enjoy the benefit of or exploit the Services and/or the Deliverables.

(b) Unless otherwise agreed in writing by the Service Provider or in this clause 8.3, the Client will not acquire Intellectual Property Rights in any Service Provider IP under this Agreement or as part of receiving the Services.

8.4 DEFINITIONS

For the purposes of this clause 8:

(a) "**Client Content**" means any Material supplied by the Client to the Service Provider under or in connection with this Agreement, including any Intellectual Property Rights attaching to that Material.

(b) "**Developed IP**" means the Deliverables and any other Material produced by the Service Provider in the course of providing the Services, either alone or in conjunction with the Client or others, and any Intellectual Property Rights attaching to that Material or the Deliverables.



(c) "**Intellectual Property Rights**" means any and all present and future intellectual and industrial property rights throughout the world (whether registered or unregistered), including copyright, trade marks, designs, patents, moral rights, semiconductor and circuit layout rights, trade, business, company and domain names, and other proprietary rights, trade secrets, know-how, technical data, confidential information and the right to have information kept confidential, or any rights to registration of such rights (including renewal), whether created before or after the date of this Agreement.

(d) "**Service Provider IP**" means all Material owned or licensed by the Service Provider that is not Developed IP and any Intellectual Property Rights attaching to that Material.

(e) "**Material**" means tangible and intangible information, documents, reports, drawings, designs, software (including source and object code), inventions, concepts, data and other materials in any media whatsoever.

9 WARRANTIES

(a) To the maximum extent permitted by applicable law, all express or implied representations and warranties not expressly stated in this agreement are excluded.

(b) Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, the Client may be entitled to certain remedies (like a refund or re-supply) if there is a major failure with the goods or services provided.

10 LIABILITY

10.1 LIABILITY

To the maximum extent permitted by law, the total liability of each party in respect of loss or damage sustained by the other party in connection with this Agreement is limited to an amount equal to the Fees paid by the Client to the Service Provider under the relevant Booking Confirmation giving rise to the liability.

10.2 CONSEQUENTIAL LOSS

To the maximum extent permitted by law, neither party will be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue in connection with this agreement or any goods or services provided by the Service Provider, except:

(a) in relation to a party's liability for fraud, personal injury, death or loss or damage to tangible property; or

(b) to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth).

11 SUBCONTRACTING

The Service Provider may subcontract any aspect of providing the Services and the Client consents to such subcontracting. The Service Provider remains responsible for the performance of the Services and will use reasonable steps to ensure any subcontractor complies with confidentiality obligations consistent with clause 7.

12 CANCELLATION AND RESCHEDULING

12.1 CANCELLATION BY THE CLIENT

(a) If the Client cancels an Event (in whole or in part), the cancellation fees as listed in the Booking Confirmation will apply. If cancellation fees are not listed in the Booking Confirmation, the following cancellation fees will apply as a genuine pre-estimate of the Service Provider's loss:

(i) 3 or more Business Days before the Event – no cancellation fee;

(ii) 2 Business Days before the Event – 50% of the estimated Fees for the Event; and

(iii) 1 Business Day or less before the Event (including same-day cancellation) – 100% of the estimated Fees for the Event.

(b) In addition to the above, the Client must pay:

(i) any Fees for Services already performed (including preparation work completed prior to cancellation); and

(ii) any non-refundable third party costs incurred by the Service Provider in connection with the Event.

12.2 RESCHEDULING

(a) If the Client requests to reschedule an Event, it will be treated as a cancellation unless otherwise agreed in writing.

(b) If the Service Provider is available on the proposed rescheduled date, the Service Provider may, at its discretion, credit all or part of any cancellation fee paid towards the Fees for the rescheduled Event.

(c) If the Service Provider is not available on the proposed rescheduled date, the cancellation fees in clause 12.1 will apply.

12.3 CANCELLATION BY THE SERVICE PROVIDER

If the Service Provider is unable to perform the services due to illness, emergency or other circumstances beyond its reasonable control, the Service Provider will:

(a) notify the Client as soon as reasonably practicable;

(b) use reasonable efforts to arrange a suitably qualified replacement (where practicable); and

(c) if a replacement cannot be arranged, the Service Provider's liability will be limited to a refund of any Fees paid for the affected Services

13 NOTICES

(a) Any notices required to be sent under this agreement must be sent via email using the party's email addresses set out in the Booking Confirmation and the email's subject heading must refer to the name and date of this agreement.

(b) If no email address is stated in this agreement, the notice may be sent to the email address most commonly used by the parties to correspond in relation to this agreement at the time the notice is sent.

(c) The notice will be considered to be delivered 24 hours after it was sent, unless the sender has reason to believe the email failed to send or was otherwise not delivered or received.

14 FORCE MAJEURE

(a) A '**Force Majeure Event**' means any occurrence beyond the control of the Affected Party which prevents the Affected Party from performing an obligation under this agreement (other than an obligation to pay money), including any:

(i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;

(ii) strike or other industrial action;

(iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or

(iv) decision of a government authority in relation to COVID-19, or other epidemic or pandemic,

to the extent the occurrence affects the Affected Party's ability to perform the obligation.



(b) If a party (**Affected Party**) becomes unable, wholly or in part, to carry out an obligation under this agreement (other than an obligation to pay money) due to a Force Majeure Event, the Affected Party must give to the other party prompt written notice of:

(i) reasonable details of the Force Majeure Event; and

(ii) so far as is known, the probable extent to which the Affected Party will be unable to perform or be delayed in performing its obligation.

(c) Subject to compliance with clause 14(b), the relevant obligation will be suspended during the Force Majeure Event to the extent that the obligation is affected by the Force Majeure Event.

(d) The Affected Party must use its best endeavours to overcome or remove the Force Majeure Event as quickly as possible and resume performing the relevant obligation.

15 GENERAL

15.1 GOVERNING LAW AND JURISDICTION

This Agreement is governed by the law of Queensland, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement.

15.2 AMENDMENTS

This Agreement may only be amended in accordance with a written agreement between the parties.

15.3 WAIVER

No party to this Agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

15.4 SEVERANCE

Any term of this Agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this Agreement is not limited or otherwise affected.

15.5 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

15.6 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party.

15.7 COUNTERPARTS

This Agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this Agreement and all together constitute one Agreement.

15.8 COSTS

Except as otherwise provided in this Agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this Agreement.

15.9 ENTIRE AGREEMENT

This Agreement embodies the entire Agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or Agreement, express or implied, in relation to the subject matter of this Agreement.

15.10 INTERPRETATION

(a) (**singular and plural**) words in the singular includes the plural (and vice versa);

(b) (**currency**) a reference to $; or "dollar" is to Australian currency;

(c) (**gender**) words indicating a gender includes the corresponding words of any other gender;

(d) (**defined terms**) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

(e) (**person**) a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;

(f) (**party**) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;

(g) (**this agreement**) a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexures to it;

(h) (**document**) a reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;

(i) (**headings**) headings and words in bold type are for convenience only and do not affect interpretation;

(j) (**includes**) the word "includes" and similar words in any form is not a word of limitation; and

(k) (**adverse interpretation**) no provision of this Agreement will be interpreted adversely to a party because that party was responsible for the preparation of this Agreement or that provision.