

ACX Account Holder Agreement

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Version 2.2

PLEASE READ CAREFULLY—THIS IS A BINDING CONTRACT

This ACX Account Holder Agreement ("Agreement") is a binding agreement between Audible, Inc. ("Audible", "we" or "us"), a United States Corporation, which, together with its affiliates, operates the audiobook production service and rights marketplace available at www.acx.com ("ACX"), and you and, if applicable, the individual, company or other legal entity you represent (collectively, "you"). By "affiliates" we mean any entity that directly or indirectly controls, is controlled by, or is under common control with Audible. This Agreement incorporates by reference (1) the [Privacy Notice](#) posted on ACX ("Privacy Notice"), (2) the [Conditions of Use](#) posted on ACX ("Conditions of Use"), and the policies, conditions, rules and procedures for use of ACX posted on ACX, as these policies, conditions, and rules and procedures may be modified by Audible or its affiliates from time to time.

By clicking the "Accept" button for this Agreement or accepting any modification to this Agreement in accordance with Section 3 below, you agree to be bound by the terms and conditions of this Agreement. If you are entering into this Agreement on behalf of an individual, company or other legal entity, you represent that you have the legal authority to bind that individual, company or legal entity to this Agreement. If you do not have the legal authority, or if you do not agree with the terms and conditions of this Agreement, you must select the "Decline" button and you may not use ACX.

Welcome. This Agreement includes the following Sections:

- 1. Your Right to Termination**
- 2. Our Right to Termination**
- 3. Amendments to this Agreement**
- 4. Account Establishment**
- 5. Control of Services**
- 6. Confidentiality**
- 7. Eligible Works**
- 8. Compliance with Applicable Rules**
- 9. No Violation of Law or Third Party Rights**
- 10. Indemnification**
- 11. Taxes**
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- 13. Disclaimer of Warranties and Limitation of Liability**
- 14. Governing Law and ACX Dispute Resolution Procedures**
- 15. Feedback**
- 16. Communications**
- 17. Waiver**
- 18. Complete Agreement; Enforceability**

1. Your Right to Termination

You may terminate this Agreement at any time by giving us notice of termination via email at info@acx.com and discontinuing your use of ACX, provided that you do not have any current and continuing production agreements in place through ACX. In the event you have a current production agreement in place through ACX, you may not terminate this Agreement or your account on ACX until such time as all audiobooks that are subject to such agreements are produced and delivered to Audible. Termination of this Agreement will not affect any agreement you have entered into through ACX with Audible or another ACX participant prior to termination or any distribution rights you have granted through ACX prior to termination. Provisions not specifically stated to apply only during the term of this Agreement survive termination of this Agreement.

2. Our Right to Termination

We reserve the right, but not the obligation, to immediately suspend, modify your access to and/or terminate, your account, or remove any content you have posted to ACX, in our sole discretion for any reason, including, without limitation, (a) if we determine that your account has been, or may have been, compromised or misused in any way (as evidenced, for example, through activity suggesting unauthorized use) or is subject to risk of compromise or misuse, or (b) if advisable to comply with any law, governmental or regulatory activity.

3. Amendments to this Agreement

As a new and dynamic service, ACX will grow and evolve over time. As it does, we'll need to adapt the terms of this Agreement. Unless otherwise noted at the time of posting, changes to this Agreement will be effective immediately upon our posting of them. You accept changes by using ACX after we have posted changes or, if we provide you a means of indicating your acceptance online, by clicking "Accept" or its equivalent. If you do not agree to the changes, you must not use ACX after we've posted changes, other than to terminate your ACX account in accordance with the procedures we provide at the time for account termination. We will give you notice of significant changes by posting them on ACX or by including a notice during or after the log-in process. It's your responsibility to check for changes. Changes to this Agreement will not affect any other agreement you have entered into through ACX with Audible or another ACX participant prior to the effective date of such changes or any distribution rights you have granted through ACX prior to the effective date of such changes.

4. Account Establishment

To open an account on ACX, you must be a resident of the United States, the United Kingdom, Canada or the Republic of Ireland and be at least 18 years old or the legal age of majority in the jurisdiction in which you reside. If you are a publisher who already has or have had an agreement in place with Audible, you must contact Audible through one of the ways mentioned [here](#). You represent that you don't have an agreement in place with Audible or this Agreement shall become null and void.

You agree that if we terminate any ACX account you have for any reason, you will end your use of all ACX accounts and will not establish a new ACX account. You will not use a false name or a name you are not authorized to use to open an account and will not use a username or password you are not authorized to use.

5. Control of Services

We have full discretion and responsibility for the design and operation of ACX and all services we offer on ACX. We may modify or discontinue ACX in part or in its entirety or any service we provide on ACX at any time in our sole discretion. The modification or discontinuance of ACX will not affect any agreement you have entered into through ACX with Audible or another ACX participant prior to the modification or discontinuance of ACX, including any of your payment rights, or any distribution rights you have granted through ACX.

6. Confidentiality

You agree that any non-public business information, including sales data or financial data, that you receive through ACX that we have not already publicly disclosed is confidential and that you will restrict the communication of the data to your employees and business associates who (a) have a legitimate business need to know the data, and (b) have entered into a written nondisclosure agreement obligating them to refrain

from disclosure of the data. You may, however, disclose data as required to comply with applicable law provided that you: (x) give us prior written notice sufficient to allow us to seek a protective order or other appropriate remedy (unless prohibited by applicable law), (y) disclose only the data required to be disclosed, and (z) use reasonable efforts to obtain confidential treatment for any data you disclose.

7. Eligible Works

We may limit works eligible for production on ACX from time to time and you agree to abide by any limitations we post on ACX or otherwise inform you of. All works posted on ACX are subject to Amazon's [Offensive Content Policy](#) and we reserve the right to reject works. We do not accept public domain works and certain other categories of works except in limited circumstances ([see our FAQ on Eligible Works](#)). If you attempt to post your work on ACX and it is shown as ineligible, you can email us at info@acx.com.

8. Compliance with Applicable Rules

You must comply with all rules provided on ACX that apply to activities you engage in on ACX, including all ACX related activities you engage in with other ACX participants.

9. No Violation of Law or Third Party Rights

Your activities on ACX and the exercise of the rights you grant through ACX may not violate applicable law or the rights of any third party.

10. Indemnification

You will indemnify and protect Audible, its affiliates, its subdistributors and any other ACX participant from any losses or liabilities incurred (a) because you did not have, or it is claimed you did not have, all rights required to grant the rights you granted through ACX, (b) as a result of your failure to meet any of your other obligations with respect to ACX, or (c) as a result of your breach of any agreement you enter into through ACX, including agreements with other ACX participants. When this indemnity obligation applies, you will be required to pay all applicable costs and damages, including all costs of counsel to defend Audible, its affiliates and subdistributors and other ACX participants, and all damages awarded in a court of law against Audible, its affiliates and subdistributors and other ACX participants or in any settlement entered into by Audible, its affiliates and subdistributors and other ACX participants, including any costs associated with the resolution of any claim or proceeding.

11. Taxes

You agree that Audible and any ACX participant that owes you any royalty or other payment in connection with ACX may, but is not obligated to, withhold taxes owing

from amounts payable to you and that you are ultimately responsible for compliance with all applicable tax laws, including but not limited to the Canadian Excise Tax Act, and for paying taxes owed, including but not limited to any applicable VAT or equivalent applicable sales tax. Payments to you that are reduced by such deductions or withholdings will constitute full payment and settlement to you of amounts payable to you. You will provide Audible with any forms, documents, or certifications as may be required for Audible to satisfy any information reporting or withholding tax obligations with respect to any payments to you, including any such obligations in respect of payments made by Audible to you on behalf of an ACX participant.

12. Third Party Payments

You agree to ensure that there are neither third party rights payments nor other payments required in connection with the exercise of the rights you grant through ACX (e.g., no obligation that third parties be paid a royalty in connection with the distribution of an audiobook made based on rights you make available through ACX or the services performed by a third party in connection with the production of an audiobook, including any narrator, owner of artwork, or editor or engineer service provider), or that you will discharge all such rights payments entirely yourself.

13. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

THE ACX SITE AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS, INCLUDING SOFTWARE, AND SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE ACX SITE ARE PROVIDED BY AUDIBLE ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. AUDIBLE MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE ACX SITE OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS, INCLUDING SOFTWARE, OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE ACX SITE, UNLESS OTHERWISE SPECIFIED IN WRITING. YOU EXPRESSLY AGREE THAT YOUR USE OF THE ACX SITE IS AT YOUR SOLE RISK. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, AUDIBLE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. AUDIBLE DOES NOT WARRANT THAT THE ACX SITE AND ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS, INCLUDING SOFTWARE, OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE ACX SITE OR ITS SERVERS, OR E-MAIL SENT FROM ACX ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. AUDIBLE WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THE ACX SITE OR FROM ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS, INCLUDING SOFTWARE, OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE ACX SITE, INCLUDING DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT ANY PARTY'S LIABILITY FOR ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.

14. Governing Law and ACX Dispute Resolution Procedures

This Agreement is governed by the laws of the State of New York.

Disputes between ACX Participants. Notwithstanding any other provisions regarding governing law and disputes that may be applicable, any dispute between you and another ACX participant relating to ACX will be resolved exclusively through the procedures set forth below.

Discussions. The parties will first attempt to resolve concerns through informal discussions. If either party has a concern and requests discussions, the parties agree to discuss the concern in good faith and work toward finding a mutually agreeable solution.

Arbitration. In the event the discussions between you and any other ACX participant fail, the dispute will be submitted to binding arbitration in accordance with the then applicable Commercial Arbitration Rules of the American Arbitration Association, unless otherwise agreed to by the parties. Judgment on the arbitration award may be entered in any court of competent jurisdiction. Exclusive venue for any arbitration will be New York, New York.

Disputes between ACX Participants and Audible. Notwithstanding any other provisions regarding governing law and disputes that may be applicable, in the event of a dispute between you and Audible related to ACX, the dispute will be subject to the exclusive jurisdiction of courts sitting in the County of New York, New York in accordance with the rules and procedures of such courts.

15. Feedback

If you elect to provide suggestions, ideas, or other feedback to us (whether written, verbal or in any other format or manner) in connection with ACX ("Feedback"), we will be free to use your Feedback in any manner without restriction of any kind and without any need to compensate you. All Feedback will be the sole and exclusive property of Audible. You hereby irrevocably transfer and assign to Audible all of your right, title, and interest in and to all Feedback, including all intellectual property rights therein. At Audible's request and expense, you will execute documents and take such further acts as Audible may reasonably request to assist Audible in acquiring, perfecting, and maintaining its intellectual property rights and other legal protections for all Feedback.

16. Communications

We may give you notice and otherwise communicate with you electronically and in other media in connection with your use of ACX, and you consent to receive communications electronically.

17. Waiver

We may give you notice and otherwise communicate with you electronically and in other media in connection with your use of ACX, and you consent to receive communications electronically.

18. Complete Agreement; Enforceability

This Agreement constitutes the entire agreement between you and us regarding the matters covered in it and supersedes any and all prior or contemporaneous understanding, agreement, or communication between you and us, whether written or oral, regarding the matters covered in it. You acknowledge that in executing this Agreement you are not relying on any express or implied representation, warranty, draft agreement, undertaking, promise collateral contract or other assurance or arrangement of any kind not contained herein. If any provision of this Agreement is found to be invalid, void, or for any reason unenforceable, that provision will be deemed severable and will not affect the validity and enforceability of any other provision.