

**ACX INDEPENDENT CONTRACTOR AGREEMENT:
EDITING SERVICES**

Version 1.0 (03.09.11)

This **ACX Audiobook Editing Services Agreement** ("Agreement") is entered into effective as of the date of the later of the signature dates below by and between _____ (**Producer Name**) ("Producer") and _____ (**Editor Name**) ("Editor") and applies to the performance of editing services by Editor for Producer in connection with an audiobook Producer is creating through the audiobook production service and rights marketplace available at www.acx.com ("ACX").

1. **Engagement to Perform Services.** Producer engages Editor to perform editing and mixing services in connection with the audio recording of the work, _____ (**Name of Title**) by _____ (**Name of Author**) (the "Work"), in the _____ (**Language**) language (such services, the "Services") for purposes of the production of a finished audiobook of the Work ("Audiobook") for commercial sale and distribution.
2. **Production Schedule and Guidelines.** Editor will appear and perform the Services on the date(s) and time(s), and at the location(s), designated by Producer, including 4 follow-up sessions, and such number of additional follow up sessions as Producer may request to the extent Producer or Rights Holder determines that further revisions are necessary. Editor will perform the Services in accordance with the ACX Rules for Editors set forth in the ACX Rules for Audiobook Production, the current version of which is attached to this Agreement as Exhibit A. Producer may hire third parties to assist in the production and recording of the Audiobook, including other editors, studio engineers, and narrators or vocal performers. Editor agrees to work cooperatively and professionally with any such third parties.
3. **Producer Approval.** Producer will have the right to approve or reject the Services at any stage of production and upon completion. Producer agrees to work with Editor in good faith in connection with Producer's right of approval, including making timely and constructive suggestions to help Editor deliver the Services to Producer's specifications.
4. **Payment Terms.** As full consideration for the Services performed by Editor under this Agreement, and provided Editor is not in breach of this Agreement, Producer will pay Editor the amount of \$_____ per hour of scheduled Services time for which Editor appears, not to exceed a total payment to Editor for all Services of \$_____, within 30 days of Editor's completion of the Services and Producer's final approval thereof. If Editor appears to perform the Services on a date and time designated by Producer and Producer is not ready for Editor to commence performing Services for any reason, Editor will still be paid the per hourly rate set forth in this Section 4 for the total number of hours on that date for which Editor is present and scheduled to perform Services. If Editor appears late for any reason to perform the Services on a date and time designated by Producer or leaves early for any reason, Editor will only be paid the per hourly rate set forth in this Section 4 for such time as Editor is present and performs Services. If Editor fails to appear to perform Services on a date and time designated by Producer for any reason, Editor will not receive any payment. If Editor quits at any time before the Audiobook is completed or fails to meet the specifications set forth in the ACX Rules for Editors, Editor will not receive any payment. Unless specified otherwise in writing by the Producer, Editor is responsible for all of Editor's own costs and expenses

in performing the Services.

5. **Termination.**

a. **By Editor.** Editor may terminate this Agreement by giving Producer 48 hours written notice prior to the date on which Editor is scheduled to commence services. In such case, Producer will owe no payment to Editor.

b. **By Producer.**

i. **Termination with no Termination Fee.** Producer may terminate this Agreement by provision of written notice of termination to Editor and will owe no payment to Editor in the event that: (A) Editor fails to confirm in writing (including in an email sent to Producer at an email address designated by Producer), by _____ **(Date)**, Editor's commitment to appear to perform the Services on the dates and in the locations specified by Producer, or (B) Producer is not satisfied with the initial 15 minutes of the edited recording of the Audiobook, provided that, if Producer uses any of the initial 15 minutes of audio edited by Editor in the Audiobook, Producer must pay Editor for Editor's Services in connection with editing such audio, based on the per hourly fee set forth in Section 4.

ii. **Termination with Termination Fee.** In addition to the rights of Producer to terminate this Agreement without payment of fees pursuant to Section 5(b)(i), Producer may terminate this Agreement by provision of written notice of termination to Editor if Producer is not satisfied with the final edited recording of the Audiobook, subject to payment of a termination fee equal to 50% of the cost of Editor's Services based on the per hourly fee set forth in Section 4, provided that if Producer uses more than 50% of the finished audio edited by Editor in the Audiobook, Producer must pay Editor the full amount for Editor's Services performed under this Agreement, based on the per hourly fee set forth in Section 4.

6. **Ownership.** Editor understands and agrees that all right, title, and interest in the Work is owned and controlled by _____ **(Rights Holder Name)** ("**Rights Holder**"). Editor further understands and agrees that the Services have been specially ordered and commissioned by Producer on behalf of Rights Holder. Editor agrees that all work product produced by Editor while performing the Services, including any unfinished audio recording and the Audiobook (collectively, the "**Work Product**") is a "work made for hire" to the full extent permitted by law, with all copyrights in the Work Product owned by Rights Holder. Editor agrees that all right, title, and interest in and to such Work Product will be owned, immediately upon creation, exclusively by Rights Holder. To the extent that any Work Product of Editor would not qualify as a work made for hire under applicable law, Editor hereby assigns to Rights Holder all right, title and interest Editor may have in and to such Work Product, including all copyright, rights of authorship or rights of publicity in the Work Product. Editor will execute any additional documents required by Producer or Rights Holder to establish such ownership or assignment to Rights Holder. In the event of any termination of this Agreement prior to Editor's completion of the Services, the provisions of this Agreement regarding ownership will apply with respect to any portion of the Services that might have been completed prior to such termination.

7. **Right of Publicity Grant.** Editor agrees that Producer, Rights Holder and Audible will have the right to use Editor's name, likeness, and biographical information in marketing for the Audiobook in any media without time or use restrictions. Editor will, promptly on request, provide Producer an image and brief written biography suitable for use by Producer, Rights Holder and Audible in the marketing of the Audiobook.
8. **Representations and Warranties.** Editor represents and warrants that: (a) Editor is free to enter into the Agreement and to perform Editor's obligations as required by this Agreement, (b) Editor has made no agreements or commitments that prevent or interfere with the performance of Editor's obligations under the Agreement, and (c) neither the Services nor the materials used to provide the Services will infringe upon or violate the intellectual property rights or any other statutory or common law rights of any third party. Editor warrants, for the benefit of Producer, Rights Holder and Audible, that Editor has all rights required to perform the Services pursuant to the Agreement and for Rights Holder and Audible to make the Audiobook available for production and distribution.
9. **No Obligation to Use Editor's Services.** Nothing in this Agreement will require Producer to use Editor's Services or to produce or exploit the Audiobook or to make any use whatsoever of the Work Product. Producer will have the absolute right to elect not to use Editor's Services pursuant to this Section 9. Without limiting any rights or remedies, at law or in equity, that may otherwise be available to Producer and without prejudice to such rights and remedies, in the event Producer does not wish to use Editor's Services for any reason, Producer's only continuing obligation to Editor will be payment of fees owed to Editor under Section 4 for Services completed and approved by Producer which, when paid, will be deemed payment in full of all compensation payable to Editor under this Agreement. Thereafter, Producer will be released and discharged from any and all further obligations which Producer may have to Editor.
10. **Editor's Remedies.** The rights and remedies of Editor in the event of any breach by Producer of this Agreement will be cumulative and the exercise of one will not preclude the exercise of any other remedy for the same or any other default; provided, however, that in any event, Editor's remedies will be limited to Editor's right to recover damages, if any, in an action at law, and Editor unconditionally waives any right or remedy in equity, including any right to terminate this Agreement, or to rescind Rights Holder's right, title and interest in and to any Work Product created by Editor hereunder or the results and proceeds of Editor's Services or any other rights granted to Producer or Rights Holder hereunder, or to enjoin or restrain the distribution of the Audiobook or the use, publication or dissemination of any advertising or publicity in connection therewith.
11. **Independent Contractor.** Editor will provide the Services to Producer on an independent contractor basis. Editor is solely responsible for the payment of all taxes applicable to all sums paid to Editor hereunder. Editor will have no authority to bind Producer, Rights Holder or Audible in any way or to make any commitments to anyone on behalf of Producer, Rights Holder or Audible without their prior written consent.
12. **Assignment.** Producer may assign its rights in the Agreement in whole or in part to any person, firm or corporation, and such rights may be assigned by any assignee thereof, but no such assignment will relieve Producer of any of Producer's obligations under the Agreement. Editor's services are of a unique, extraordinary, and personal character which gives them a peculiar value, and therefore may not be assigned by Editor. Any purported assignment by Editor will be null and void.

13. **General.** This Agreement, together with the attached Exhibit, constitutes the entire understanding between Producer and Editor with respect to the subject matter hereof, supersedes all other agreements and understandings between the parties, and may not be modified or amended, except by a writing signed by both parties. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision of this Agreement. A waiver by either party of any term or condition of this Agreement in any instance will not be deemed a later waiver of such term or condition, or of any later breach thereof, or as a waiver of any other term or condition in this Agreement. This Agreement, and all rights and duties of the parties, will be governed by and enforced in accordance with the laws of the State of New York, excluding any conflict of laws provisions. Except to the extent that both Producer and Editor are ACX participants and the ACX Dispute Resolution Procedures set forth in the current version of the ACX Account Holder Agreement may otherwise specifically provide, all disputes with respect to matters under this Agreement or with respect to the Agreement will be subject to the exclusive venue and jurisdiction of the courts of the State of New York, located in New York City. All notices that either party is required or desires to serve on the other will be in writing and given either by personal delivery or by registered mail (postage prepaid) to the other party at the address on this signature page below, or such other address as either party may designate from time to time in writing. The date of personal delivery, or the date that is 24 hours following the date of registered mailing, as applicable, will be deemed the date of service or delivery. This Agreement may be executed by facsimile and in counterparts, each of which (including signature pages) will be deemed an original, but all of which together will constitute the same instrument.

Accepted and Agreed:

(Producer Name)

By: _____

Printed Name: _____

Its: _____

Date Signed: _____

Address:

(Editor Name)

By: _____

Printed Name: _____

Its: _____

Date Signed: _____

Address:

Exhibit A

ACX Rules for Editors

Excerpted from the **ACX RULES FOR AUDIOBOOK PRODUCTION**

EDITING GUIDELINES

Once the audiobook has been recorded, it should be fully edited and QC'd, as follows:

1. **Organizing Files:** All audiobooks should be separated into chapters so that the editing process is facilitated by each file starting at zero. Prologues and Epilogues should also be kept as separate bodies/files. The final edited master should contain the entire audiobook broken up into divisions called "bodies."

It is highly recommended that each chapter have a maximum length of 120 minutes, to ensure the best customer experience. If a chapter exceeds that maximum length, it can be divided into two "bodies," at a suitable point in the narration. If the majority of the chapters are each less than five minutes long and the audiobook contains over 50 chapters, we also recommend that you combine five chapters into each "body." This ensures the best customer experience; single-file lengths over two hours can be difficult for some listeners to manage, and concentrated amounts of chapters in a short audio file can lead to a confusion of markers (index points that show where chapter breaks are) in the listener's MP3 player or computer.

2. **Pacing:** Pacing is the editor's art. The editor's main objective is to keep the read natural-sounding and flowing, as well as to preserve and promote the phrasing and dramatic intent of the reader and author. Nothing is more disturbing to the listening experience than an unnatural presentation of words or phrases as well as the spaces between them. As a suggestion, sit back at the start (and then, again, at the end) of the editing process, and simply listen to a few minutes of the audiobook, while closing your eyes and asking, 'Is this moving too fast? Too slowly? What pace feels right?' You may also have a trusted friend (who listens to audiobooks regularly) listen for the same.
3. **Room Tone:** Always use Room Tone. Never leave silence or spaces of any kind. Please listen carefully to the Room Tone and make sure it's free of all click, pops, and background noise. All spaces between words, phrases and sentences should be void of clicks, pops, smacks or any other sounds (stomach noises, car horns, etc) and should be replaced when necessary with Room Tone only.
4. **Breaths:** Breaths at the beginning of paragraphs should often be removed. Preserve breaths unless it will disturb the flow of the phrase. More breaths should be removed in an instructional read than a dramatic read. Breaths that seem "out of the element" of the narration should be cut. Breaths that feel natural should be left in.
5. **Spacing:** There should be exactly 500ms (0.5 seconds) at the head of each body, and exactly 3.5 seconds at the tail. There should be exactly 2.5 seconds after the narrator announces the chapter ("chapter x").
6. **Clicks and Undesirable Mouth Sounds within Words:** Remove as many clicks and undesirable mouth sounds from within words and phrases as time will allow. A baseline production value should be established at the beginning of the edit that is adhered to throughout the program. Care should be taken when fixing or removing any undesirable sounds around or within words so that the end result actually sounds better.

A good editor, working from a good Punch Record, normally spends two to four hours to edit a finished hour of audio (i.e. 16 to 32 hours to edit an 8-hour audiobook). The more meticulously an editor adheres to the above rules, the longer the editing process will take.

QC GUIDELINES

Every audiobook should go throughout a Quality Control (QC) process. The audiobook's producer (i.e. the Narrator or other Studio Professional) should listen to the audiobook at least once upon completion. However, the Rights Holder (i.e. the Author, Agent, or Publisher) has final sign-off on the audiobook project.

The process of Quality Control begins after the edit. During QC, the editor reviews the edited material to detect and repair all errors. When problems arise in the read that cannot be readily repaired, such as omitted words or phrases, misreads etc., the editor should note the chapter, line, time and nature of the issue. Once mistakes are noted, they should be re-read and fixed in the original audio files. Re-records usually include misreads, omissions, mispronunciations, and noises that could not be patched with Room Tone. All of this must be corrected and fixed by the narrator, then inserted by the editor, before the edit is considered complete. The corrections should sound seamless; the listener should not be able to hear any difference in audio quality or be able to tell that the correction was inserted into the narration.

In the end, the retail-ready audiobook should contain no misreads (whether minor or major), no mispronunciations, no cut-off breaths or other editing noises, and no unwanted external noises (which could be anything such as a stomach growl, a knock on the table, or a car horn from the street). There should not be any parts of the audiobook where the listener can hear the narrator moving papers or making mouth noises in between sentences or paragraphs (that should all be covered up with Room Tone). Finally, the QC process should serve as a catch-all to correct these errors and any other defects in the audiobook (such as a duplicated sentence, or a strip of silence).