

Our Terms and Conditions for Access to the BTO Acoustic Pipeline Project

BY SELECTING THE 'I AGREE TO THESE TERMS AND CONDITIONS' BUTTON BELOW YOU AGREE TO THESE TERMS WHICH WILL BIND YOU.

IF YOU DO NOT AGREE TO THESE TERMS, SELECT THE "CANCEL" LINK BELOW.

1 Definitions

1.1 - You should note that the following defined terms are used throughout these terms and conditions:

Confidential Recording - has the meaning given to it in Clause 12.4.

Credits - the credits which you can use in order to upload Recordings to the Project in order to receive Results, as further detailed in Clause 13 of these terms.

Free Credit Allocation - has the meaning given to it in Clause 13.1.

Desktop Client - the BTO Acoustic Pipeline Desktop Upload Client which you can use to upload your Recordings to us.

Project - the BTO Acoustic Pipeline.

Project Database - the shared database maintained by us and where all Results and Recordings will be stored unless they are, or relate to, Confidential Recordings.

Recordings - the acoustic recordings submitted by you to us as part of the Project.

Results - the results of our analysis of Recordings that you upload to the Project.

Services - the identification of species in Recordings you upload to us, including the delivery to you of Results.

2 These terms

2.1 - **What these terms cover.** These are the terms and conditions on which we allow you to access the Project and will perform the Services for you.

2.2 - **Why you should read them.** Please read these terms carefully before you agree to them. These terms tell you who we are, how you will be able to access the Project, how we will provide the Services to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms please contact us to discuss.

2.3 - **Some of the clauses in these terms may not apply to you.** In some areas you will have different rights under these terms depending on whether you are a business or consumer.

2.3.1 - Clauses in black apply to all customers who are using the Services under these terms and conditions;

2.3.2 - Clauses in blue only apply to those customers who are not classed as a consumer (see Clause 2.3.3 below) (referred to in these terms as a **Commercial User**); and

2.3.3 - Clauses in red only apply to those customers who are consumers. You are a consumer if you are an individual and you are using the Services wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession) (referred to in these terms as a **Consumer**).

3 - Other relevant terms and conditions

3.1 - You should note that you will need a MyBTO Account to engage in the Project and use the Services. If you do not have a MyBTO Account you will need to register for one before you can participate in the Project and use the Services. The terms and conditions available at <https://www.bto.org/user/register> govern MyBTO Account registration.

4 - Information about us and how to contact us

4.1 - **Who we are.** We are the British Trust for Ornithology a charity registered in England and Wales with charity number 216652 and its wholly owned trading company BTO Services Limited registered in England and Wales with company number 2907282. Our registered office is at The Nunnery, Thetford, Norfolk IP24 2PU.

4.2 - **How to contact us.** You can contact us by telephoning our customer service team at 01842 750050 or by writing to us at acoustic.pipeline@bto.org or BTO Acoustic Pipeline, BTO, The Nunnery, Thetford, Norfolk, IP24 2PU.

4.3 - **How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us as part of registering for a MyBTO Account.

4.4 - **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

5 Our rights to make changes to the Services and Project

From time to time we may change the Project or the Services or both to:

5.1 - reflect changes in relevant laws and regulatory requirements; and/or

5.2 - to implement minor technical adjustments and improvements, for example to address a security threat.

We will endeavour to ensure that these changes do not have a significant impact on your ability to use the Project or Services or both.

6 Changes to these terms

6.1 - We may need to change these terms to reflect changes in law or best practice or to deal with additional features which we introduce in relation to the **Project** or the **Services**.

6.2 - We will give you at least 30 days' notice of any change by sending you written notice with details of the change or notifying you of a change when you next enter in to your My BTO Account.

6.3 - If you do not accept the notified changes you will not be permitted to continue to engage in the Project and use the Services. See Clause 21.2 which explains the consequences of the agreement ending under this clause.

7 Your Privacy and Personal Data

Under data protection legislation, we are required to provide you with certain information about who we are, how we process your personal data and for what purposes and your rights in relation to your personal data and how to exercise them. This information is provided in <https://www.bto.org/about-bto/privacy-statement>.

8 Providing the Results

8.1 - **When we will provide the Services.** Once you have uploaded Recordings we will analyse these and will aim to send you the Results within 2 days of you uploading the Recordings. You should note that during periods where demand for Services is high then it may take us longer to deliver the Results.

8.2 - **Reasons we may suspend the supply of Services to you.** We may have to suspend the supply of the Services to you to:

8.2.1 - deal with technical problems or make minor technical changes; or

8.2.2 - update the Project and/or the Services to reflect changes in relevant laws and regulatory requirements.

8.3 Our warranties in relation to the Results

8.3.1 - You accept that any Results we deliver to you shall be treated as first unverified analyses and do not provide conclusive evidence of species identification. Any final decisions with regards to species identification shall require confirmation from a qualified

biologist with knowledge and experience of the call characteristics of the target species in the Recording; and

8.3.2 - We recommend that species results with a probability of less than 0.5 (50%) in any set of Results are discarded, but all results are provided in case you wish to check these.

9 Responsibilities in relation to Recordings and use of the Results

9.1 - You will make sure that any Recordings that you upload to us through the Desktop Client are:

9.1.1 - free from any viruses, code or software which will adversely interfere or corrupt any of our computer systems;

9.1.2 - do not contain any intellectual property rights of third parties (except in cases where you have a licence to use that third party's intellectual property and uploading it to us would not breach the terms of that licence);

9.1.3 - are genuine wildlife acoustic recordings; and

9.1.4 - are in the Waveform Audio file format (.wav files).

10 How you can use results if you are a Consumer

10.1 - You acknowledge that any Results provided by us to you are personal to you and can only be used by you for non-commercial purposes.

11 How you can use Results if you are a Commercial Customer

11.1 - You acknowledge that any Results provided by us to you are personal to you and can only be used in the course of your business and for no other commercial purposes.

12 How we will treat Recordings you upload to the Project

12.1 - If you upload Recordings to the "Shared" pipeline of the Project you give us perpetual, royalty-free, non-exclusive, sub-licensable permission to use, modify and redistribute any shared Recordings and shared Results to further the objectives of the acoustic pipeline project. The main uses of the data will be to improve species identification and the pipeline, and in the large-scale analysis of bat patterns and processes. This could mean providing the shared Recordings and shared Results to third parties for the purposes of verification, processing and further analysis, which may include, but not limited to national and local

recording schemes. However, third parties would be made aware of species identification uncertainties, and only shared Results that pass robust verification thresholds would be passed on to third parties, subject to a strict data sharing agreement.

12.2 - If you upload Recordings to the “Shared” pipeline of the Project we may store these Recordings on our Project Database and the Results we send to you will be stored on the Project Database.

12.3 - You should note that the licence you are granting to us in Clause 12.1 does not impact your ownership of Recordings and you may still use, distribute or modify your Recordings in any way you like.

12.4 - If you upload Recordings to the “Confidential” pipeline of the Project we will only store the Recording for as long as necessary to perform the Services after which time they will be deleted, and we will only provide the Results to you. Results will be retained for access in your MyBTO Account but neither the Recordings or Results will be stored on the Project Database.

13 Purchasing and use of Credits

13.1 - You will receive 100 free credits after agreeing these terms and conditions when you set up a My BTO Account and register to use the Project (the “**Free Credit Allocation**”). We will also renew your Free Credit Allocation on each anniversary of the date you agreed to these terms and conditions but you should note the Free Credit Allocation does not carry over each year. For example:

If the Free Credit Allocation in a year is 100 and you use 50 credits in that year, and the Free Credit Allocation in the following year is also 100, we will only give you 50 additional credits when your Free Credit Allocation renews.

13.2 - We will charge you Credits for performing the Services based on the size of the Recordings you upload to us through the Desktop Client. Charges will also vary depending on what pipeline you upload your Recordings to. The current charges are outlined below:

Recording Type	Cost of upload in Credits
Recordings uploaded to the “Confidential” pipeline of the Project	7 credits per GB uploaded
Recordings uploaded to the “Shared” pipeline of the Project	1 credit per GB uploaded

Please note upload size is measured in Bytes using International Electrotechnical Commission (IEC) base 2 binary units. Eg: 1 Gigabyte (GB) = 1024 Megabytes (MB), where 1 Megabyte (MB) = 1,048,576 Bytes.

13.3 - You will be told the amount of Credits an upload of a Recording will cost prior to upload. When you upload Recordings to us, we will automatically deduct the applicable number of Credits calculated in accordance with Clause 13.2 from your My BTO Account. If you do not have enough Credits, you will be prompted to purchase more before the upload is allowed. If you purchase more Credits, this purchase will be governed by Clauses 13.4 - 13.8 inclusive.

13.4 - If you wish to purchase more Credits for use in the Project, you can do this by logging on to your My BTO Account or by visiting <https://app.bto.org/acoustic-pipeline>.

13.5 - You may purchase additional Credits to purchase more Services. The quantities of Credits which are available to be purchased and the prices are available at <https://app.bto.org/acoustic-pipeline> and are updated by us from time to time.

13.6 - All purchases of Credits shall be made using our payment partner Stripe and their terms and conditions will also apply to any purchases of Credits. These terms and conditions can be found here <https://stripe.com/en-gb/ssa>.

13.7 - Credits are non-transferable and have no equivalent cash or monetary value. Refunds for failed or cancelled uploads of Recordings will be in the form of Credits up to the amount of Credits originally paid for the applicable upload.

13.8 - You should note that we may at our discretion from time to time change the cost of uploading Recordings outlined in Clause 13.2 or the Free Credit Allocation in Clause 13.1 in accordance with Clause 6.

14 Obligations regarding the Desktop Client

14.1 - We are providing you with a non-exclusive licence for as long as these terms and conditions remain in force between us to use the Desktop Client.

14.2 - You may only use the Desktop Client solely for the purposes of uploading Recordings to us and for no other purpose. You may not use the Desktop Client for any other purposes without first getting our prior written consent.

14.3 - You acknowledge that you have no right to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Desktop Client in whole or in part.

14.4 - We are giving you personally the right to use the Desktop Client as set out above. You may not transfer the Desktop Client to someone else, whether for money, for anything else or for free. If you sell any device on which the Desktop Client is installed, you must remove the Desktop Client from it.

14.5 - It is your responsibility to ensure that the computer or other electronic device you are using the Desktop Client on meets the minimum requirements needed to run the Desktop Client which are outlined on the BTO web site at <https://www.bto.org/our-science/projects/acoustic-pipeline>.

15 Intellectual Property Rights

15.1 - All intellectual property rights in the Desktop Client, the Results and the Services throughout the world belong to us (or our licensors) and the rights in the Desktop Client, Results and the Services are licensed (not sold) to you. You have no intellectual property rights in, or to, the Results, the Desktop Client or the Services other than the right to use them in accordance with these terms.

16 Acceptable Use Restrictions

You must:

16.1 - not use the Services or engage in the Project in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into the Desktop Client or any of our other computer systems or programmes used in the Project;

16.2 - not infringe our intellectual property rights or those of any third party in relation to your use of the Services, including by the submission of any Recordings);

16.3 - not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the Services;

16.4 - not use the Services or engage in the Project in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and

16.5 - not collect or harvest any information or data from our systems or attempt to decipher any transmissions to or from the servers running the Project and/or Services.

17 Our responsibility for loss or damage suffered by you if you are a Consumer

17.1 - **We are responsible to you for foreseeable loss and damage caused by us.** If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking these terms or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time you accepted these terms, both we and you knew it might happen.

17.2 - **We do not exclude or limit in any way our liability to you where it would be unlawful to do so.** This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

17.3 - **When we are liable for damage to your property.** If defective digital content that we have supplied damages a device or digital content belonging to you, we will either repair the

damage or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us.

17.4 - We are not liable for business losses. By agreeing these terms and conditions you are agreeing to use the Services, use the Desktop Client and engage in the Project for domestic and private use only. If you use the Desktop Client or the Services for any commercial, business or resale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

18 Your right to a refund if you are a Consumer

18.1 - Exercising your right to change your mind (Consumer Contracts Regulations 2013). For most products bought online you have a legal right to change your mind within 14 days and receive a refund. If you purchase Credits under Clause 13, you have 14 days from the date of purchase to change your mind. You will need to contact us using the contact details in Clause 4.2 if you want a refund. Please note that you will not be able to get a refund for Credits that you have used for the Services.

18.2 - We will make any refund due to you under Clause 18.1 within 14 days of you telling us that you have changed your mind. We will refund you the price you paid for the Credits by the method you used for payment.

19 Our responsibility for loss or damage suffered by you if you are a Commercial User

19.1 - Nothing in these terms shall limit or exclude our liability for:

19.1.1 - death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);

19.1.2 - fraud or fraudulent misrepresentation;

19.1.3 - breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

19.1.4 - defective products under the Consumer Protection Act 1987; or

19.1.5 - any matter in respect of which it would be unlawful for us to exclude or restrict liability.

19.2 - Except to the extent expressly stated in these terms, all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.

19.3 - Subject to clause 19.1:

19.3.1 - we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with any contract between us; and

19.3.2 - our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to:

(a) the amount you have spent on purchasing additional Credits under these terms; or

(b) the value of 100 credits to be calculated based on the rates paid by customers for additional Credits under these terms, available at <https://app.bto.org/acoustic-pipeline>,

whichever is highest.

20 We may end your rights to use the Services if you break these terms

20.1 - We may end your rights to use the Services at any time by contacting you if you have broken these terms in a serious way. If what you have done can be put right we will give you a reasonable opportunity to do so. If we end your right to use the Services under this clause, then we will not refund you for any additional credits that you have purchased and not used.

20.2 - We may also end your right to use the Services at any time by giving you at least 1 month's written notice. If we end your right to use the Services under this clause, then we will refund you for any additional credits you have purchased but not used.

20.3 - If we end your rights to use the Services:

20.3.1 - You must stop all activities authorised by these terms, including your use of the Services and the Desktop Client.

20.3.2 - You must delete or remove the Desktop Client from all devices in your possession and immediately destroy all copies of the Desktop Client which you have and confirm to us that you have done this.

21 Your rights to end this contract

21.1 - **You can always end your contract with us.** Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing and when you decide to end the contract:

21.1.1 - If you want to end the contract because of something we have done or have told you we are going to do, see clause 21.2; and

21.1.2 - In all other cases (if we are not at fault and there is no right to change your mind), see clause 21.3.

21.2 - Ending the contract because of something we have done or are going to do. If you are ending a contract for a reason set out below in this clause, the contract will end immediately, we will refund you for any additional Credits you have purchased under clause 13 but have not used, and you may also be entitled to compensation. The reasons are:

21.2.1 - we have told you about an upcoming change to the Services or these terms which you do not agree to (see clause 6 and clause 13.8);

21.2.2 - there is a risk that supply of the Services may be significantly delayed because of events outside our control;

21.2.3 - we have suspended supply of the Services for technical reasons, or notify you we are going to suspend them for technical reasons, in each case for a period of more than 2 weeks; or

21.2.4 - you have a legal right to end the contract because of something we have done wrong.

21.3 - Ending the contract where we are not at fault. Even if we are not at fault you can still end the contract before it is completed, but you may have to pay us compensation. If you want to end the contract where we are not at fault just contact us to let us know. The contract will end immediately but we will not refund you for any additional Credits that you have purchased but not used.

21.4 - If you exercise your rights to terminate this contract under this clause 21, you must, from the date of termination:

21.4.1 - stop all activities authorised by these terms, including your use of the Services and the Desktop Client; and

21.4.2 - delete or remove the Desktop Client from all devices in your possession and immediately destroy all copies of the Desktop Client which you have.

22 We may transfer this agreement to someone else

We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.

23 You need our consent to transfer your rights to someone else

You may only transfer your rights or your obligations under these terms to another person if we agree in writing.

24 No rights for third parties

This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

25 If a court finds part of this contract illegal, the rest will continue in force

Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

26 Even if we delay in enforcing this contract, we can still enforce it later

Even if we delay in enforcing this contract, we can still enforce it later. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

27 Which laws apply to this contract and where you may bring legal proceedings

These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the Services in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the Services in either the Northern Irish or the English courts.

28 Alternative dispute resolution

Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you may want to contact the alternative dispute resolution provider we use. You can submit a complaint to the Centre for Effective Dispute Resolution via their website at <https://www.cedr.com>. In addition, please note that disputes may be submitted for online resolution to the European Commission Online Dispute Resolution platform.