



Terms and Conditions

Working with DigiViva Digital Audio Transcription Services

Any work undertaken by DigiViva is subject to the following Terms and Conditions:

These Terms and Conditions apply in full to the supply to the Client of transcription Services (the "**Services**") by DigiViva of 25 Woodcote Avenue, Bramhall, Stockport, Cheshire SK7 3ND.

In these Terms and Conditions ("**the Conditions**"):

"Assignment" means each assignment to be completed by DigiViva for the Client under these Conditions;

"Client/you" means the person, firm or organisation named on the Transcription Booking Form for whom DigiViva has agreed to provide the Services in accordance with these Conditions;

"Client Material" means but shall not be limited to any digital audio files, mini discs, CDs DVDs and video files provided by the Client for the purposes of the Contract;

"Commencement Date" means the date on which the supply of the Services will commence as specified in the Booking Confirmation;

"Contract" means the contract for the provision of the Services made between DigiViva and the Client;

"Confidential Information" means without limitation all information and data of whatever nature or form contained in the Client Material;

"Intellectual Property Rights" means any patents, design rights, trade marks, service marks (in each case whether registered or not), applications or rights to apply for any of the foregoing, database rights, know-how, trade or business names, rights in confidential information, goodwill and other similar rights existing in any part of the world.

1. Delivery

DigiViva undertakes to use its reasonable endeavours to complete the Assignment by the dates agreed with you but time shall not be of the essence in this regard. If there is any reason why completion of the Assignment is going to be unduly delayed, DigiViva shall inform you as soon as possible.

2. Payment and Invoicing

- a) **For Client companies** - an invoice will be submitted with the completed work. Payment is strictly due 14 days from the date of the invoice via Paypal or bank to bank transfer (BACS)
- b) **For Client individuals and sole traders** – Total payment is due in advance of work being completed, by debit or credit card through Paypal.
- c) **Please note** that we do not accept credit card payments but we do accept payment via [PayPal](#) if preferred. All invoices will be submitted in £ sterling and payment by BACS is preferred. Any currency conversion charges will be invoiced to the client. [PayPal](#) is also accepted from overseas clients but clients will be liable for Paypal charges, which will be added to the invoice.
- d) We reserve the right to **charge interest on any overdue invoice amounts** at the rate of 2% per day from the date of the invoice on the outstanding balance until full payment has been received. A compensation payment will be charged arising from late payment, under the late payment Commercial Debt Regulations 2002. If a cheque is returned by the bank, the client will be responsible for all bank charges resulting from the returned cheque.

3. Rating Structure

- a) Except where otherwise agreed, our rating structure is based on a per audio minute basis, with costs for each audio file being calculated to the next whole minute. If we are instructed to undertake tasks which do not relate solely to the transcription of audio and therefore cannot be charged on a recorded minute basis, we shall calculate this part of our services on an hourly rating structure, to be notified by DigiViva to the Client at the time of instruction to undertake such work. Hourly charges shall be calculated in blocks of 15 minutes.
- b) The price for the Assignment shall be as set out in the Transcription Quotation. The Transcription Quotation is based on the information provided by you at the time of booking. Additional fees may be applied for complex or highly technical material, or where, in the sole opinion of DigiViva, the audio quality or content of an Assignment is not as indicated at the time of the Quotation Request. This will be discussed and agreed with you at the earliest opportunity.
- c) Rates will be reviewed from time to time, with notification of such changes being given to Clients one month before the implementation of such changes.

4. Cancellation and Termination

- a) Following receipt of the Transcription Booking Form, no cancellation or suspension of the Services by you shall be valid or binding unless notified in writing to DigiViva and agreed in writing by DigiViva. You are responsible for ensuring that the Client Material and instructions provided to DigiViva are correct and subject to these Terms, you are responsible for paying for all work completed by DigiViva.
- b) Once the Transcription Booking Form has been received by DigiViva, DigiViva shall not be bound to accept the cancellation or suspension of the Services for whatever cause and the agreement by DigiViva to any such cancellation or suspension shall be subject to DigiViva being indemnified in full by you in respect of all and any expenses and loss incurred or sustained by it up to and including the date of cancellation.
- c) If you are a consumer, under the Consumer Protection (Distance Selling) Regulations 2000 you have the right to cancel the Contract within seven days of the date of your Transcription Booking Form. However if you state the Commencement Date to be a date within the seven-day period described above you agree to waive your right to cancel.

5. Illegal Matter

DigiViva shall not be required to produce any material which in its opinion is or may be of an illegal or libellous nature. You shall indemnify DigiViva in respect of any loss, damages, costs (including reasonable legal fees), expenses or any other claims suffered by DigiViva and arising out of any libellous or illegal matter contained in any material printed or produced for you.

6. Confidentiality

- a) DigiViva undertake to keep all information supplied by you strictly confidential and will not disclose any information to third parties (other than sub-contracted transcriptionists) without your written permission unless required to do so by a court of competent jurisdiction or by a government or regulatory authority.
- b) All transcriptionists are required to sign a DigiViva Confidentiality Agreement. If you wish us to sign your own Confidentiality Agreement we are happy to consider this upon receipt of a copy.
- c) DigiViva and its transcriptionists are required to comply with a Data Processing and Data Security Protocol, a copy of which can be provided to

you on request.

7. Amendments

- a) Clients will be deemed to be responsible for proofreading all completed Assignments and no responsibility will be accepted by DigiViva for any errors arising in final copies of a completed Assignment or any loss, damages, costs, expenses or liability suffered by you and arising from your subsequent use of any documentation produced. Any errors in Assignments identified within 72 hours of completion will be amended free of charge. All other amendments will be charged according to current rates.
- b) For the purposes of this clause, "completion" is deemed to be the date on which DigiViva notifies you that the completed Assignment is available to you for downloading. If the Assignment is made available in parts, "completion" shall be the date and time at which the final part is made available.

8. Sub Contractors

DigiViva reserves the right to subcontract the Services to approved transcriptionists.

9. Intellectual Property Rights

- a) On request by you in writing, DigiViva will return any Client Materials and erase any computer files relating to the Services, once the Services are completed.
- b) You will indemnify DigiViva in full against all losses, costs and expenses, including, without prejudice to the generality of the foregoing, legal fees, incurred as a result of any claim by any third party that DigiViva has breached any Intellectual Property Rights or any third party's rights in Confidential Information in carrying out any of the Client's instructions in relation to the Services.

10. Warranties and Liability

- a) DigiViva warrants to you that the Services will be provided using reasonable care and skill. Where DigiViva supplies in connection with the provision of the Services any goods supplied by a third party, DigiViva does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to you the benefit of any warranty, guarantee or indemnity given by the party supplying the goods to

DigiViva.

- b) DigiViva does not warrant that the use of the Services by you will increase the profitability of your business or generate new business for you.
- c) You agree to keep a back-up copy of all Client Material you send to DigiViva and to rewind all tapes to the start of the recording. We recommend that any Client Material sent to DigiViva through the postal services is sent via Special Delivery. DigiViva shall not be liable for any loss, damage, costs, expenses or other claims arising from any Client Material which is lost or damaged through the postal system or of which you have not retained a copy or for damage to any tapes or mechanical failure of a cassette/disk.
- d) DigiViva shall have no liability to you for any loss, damage, costs, expenses or other claims for compensation arising from:

any breach by you of these Conditions;

any Client Material or instructions supplied by the Client which are incomplete, incorrect, repetitive, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non arrival, or any other fault attributable to you;

any use by you of the transcribed or typed material for illegal or libellous purposes.

- e) except in respect of death or personal injury caused by DigiViva's negligence, or as expressly provided in these Conditions, DigiViva shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of DigiViva, its employees or agents or otherwise) which arise out of or in connection with the provision of the Services or their use by you, and the entire liability of DigiViva under or in connection with the Contract shall not exceed the amount of the fees payable by you under the Contract.
- f) DigiViva reserves the right to defer or to cancel the Contract without liability to you if it is prevented from or delayed in the carrying on of its business due to circumstances outside its reasonable control including but, without limitation, strike, lock-out or other industrial action (whether or not relating to either party's workforce), terrorist activity, civil commotion, government action, acts of God, war or national emergency or other circumstances beyond Voicescript's reasonable control provided that, if the event in

question continues for a continuous period in excess of three months then either party shall be entitled to give notice in writing to terminate the Contract.

11. General

- a) The headings to these Conditions are for convenience only and shall not affect their construction.
- b) Where the context so admits reference in these Conditions to one gender shall include the other gender and words denoting the singular shall include the plural and vice-versa.
- c) References to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.
- d) Failure or delay by DigiViva in enforcing or partially enforcing any provision of these Conditions shall not be construed as a waiver of any of its rights under these Conditions or the Contract. No waiver of any of these Conditions by either party shall be deemed to be a further or continuing waiver of any subsequent breach of that term or condition or any other term or condition.
- e) You shall not be entitled to assign or sub-licence or part with possession of any of its rights or liabilities hereunder. DigiViva shall be free to sub-contract the performance of all or part of its obligations hereunder.
- f) A person who is not party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract or these Conditions.
- g) These Conditions and any disputes or claims arising out of or in connection with their subject matter are governed by and construed in accordance with the law of England.
- h) The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Conditions.

Please note - in the current climate of prolific computer viruses, all incoming emails, files or disks will be scanned. However, even after scanning we will still **not open unsolicited attachments** to emails or emails which contain no message alongside the attachment.