

1. Introduction

- 1.1 The Supplier is a supplier of various products and/or equipment which it sources from Principal Suppliers;
- 1.2 The Customer is a purchaser of the Goods supplied by the Supplier;
- 1.3 These terms and conditions will apply to every order for Goods placed by the Customer with the Supplier;
- 1.4 The Supplier may, at its sole discretion, change or amend any of these terms and conditions without notification and it is the Customer's / user's responsibility to ensure that he / she or it is satisfied with the terms and any amendments that may have been affected;

2. Interpretation

- 2.1 The headings to the clauses are for reference purposes only and shall not be used in the interpretation thereof;
- 2.2 Words which signify or denote:
 - 2.2.1 any gender shall import and include the other genders;
 - 2.2.2 the singular shall import and include the plural and vice versa;
- 2.3 Unless otherwise indicated, words to which a meaning is ascribed in the body of this Agreement shall bear that meaning wherever such words appear thereafter;
- 2.4 For its interpretation the laws of the Republic of South Africa shall apply;
- 2.5 The rule of construction that an Agreement shall be interpreted against the Party responsible for its drafting or preparation shall not apply.

3. Definitions

Wherever the following words or phrases appear in these terms and conditions they shall have the meanings ascribed to them below:

- 3.1 "**Agreement**" shall mean, as between the Supplier and the Customer, this terms and conditions (as amended from time to time) read together with each relevant Online Order Form and any annexures / schedules attached hereto;
- 3.2 "**Customer**" shall mean the person or entity as described in the Online Order Form;
- 3.3 "**Goods**" shall mean any equipment/stock/goods/hardware purchased by the Customer from the Supplier from time to time;
- 3.4 "**Main Areas**" shall mean the areas set out Schedule 1 hereto;
- 3.5 "**Online Order Form**" shall mean the order form populated by the Customer on the Supplier's website for the request to provide Goods;
- 3.6 "**Principal Suppliers**" shall mean the supplier(s) or manufacturer(s) from whom the Supplier purchases Goods from time to time in terms of the Supplier's agreement with the Principal Supplier;
- 3.7 "**Supplier**" shall mean SA Digital Villages (Pty) Ltd with registration number 2007/008930/07;
- 3.8 "**the parties**" shall mean the Supplier and the Customer and "**party**" shall mean either one of them as the context may require.

4 Pricing and Payment

In respect of all orders, unless the contrary is stated, the following price and payment terms will apply:

- 4.1 Prices contained on the website are inclusive of value added tax (VAT);
- 4.2 Prices advertised on the website shall include delivery charges to Main Areas (please refer to Schedule 1 attached hereto) unless otherwise specified. Additional delivery charges may apply to order deliveries outside the geographical boundaries of the Main Areas;
- 4.3 In addition to any amount payable to the Supplier, the Customer shall further be obliged to pay any other additional costs in respect of an order of any nature whatsoever incurred as a result of any delay caused by the Customer or due to factors beyond the control of the Supplier or any expenses due to instructions given, or a failure to give instructions by the Customer.
- 4.4 Payment by the Customer to the Supplier shall be made:
 - 4.4.1 into the nominated bank account of the Supplier or into such other bank account as the Supplier may direct from time to time;
 - 4.4.2 via credit card or instant electronic fund transfer, unless otherwise agreed to by the Supplier;

5 Delivery and Inspection of Goods:

- 5.1 No orders shall be dispatched until payment has cleared in our account;
- 5.2 The Supplier shall use its best endeavours to make delivery as near as possible as to the time frames indicated on the website;
- 5.3 Delivery of the goods shall be deemed to have been effected upon handing over of the goods to the Customer or the Customer's agent;
- 5.4 It shall be the Customer's responsibility to properly inspect the delivered Goods. If packaging shows visible damages, it is advised to make a clear note of such damages on the delivery note when signing for the Goods;
- 5.5 The Supplier shall keep the Customer informed of any delays in delivery. Late delivery does not entitle the Customer to resile from the Agreement, to withhold or defer any payment, to a reduction in price, nor to any other remedy against the Supplier on account of delays in effecting delivery;
- 5.6 Unless otherwise specified, delivery of orders shall be handled by contracted third-party delivery service providers on any terms the Supplier sees fit. Delivery shall be made strictly on a 'door-to-door' basis. Delivery shall not include installation of products, removing products from packaging, clearing areas, re-arranging furniture or any other special service required by the Customer. Should the delivery service provider or any of its employees agree to any of these or other services other than delivering the Goods, it shall be strictly at the risk of the Customer and the Supplier does not take any responsibility for any damages, losses or other claim resulting from these additional services;
- 5.7 The Customer shall be obliged to inspect all Goods upon delivery thereof and shall endorse the delivery note as to any missing or damaged Goods. Any signature on the delivery note by the Customer or the person taking delivery on behalf of the Customer shall be deemed to confirm complete delivery;

- 5.8 Any discrepancies, damages or shortages on any delivery must be reported to the Supplier within 7 days from time of delivery by submitting claim to support@sdav.co.za furnishing full details in regard thereto. If the report was successfully submitted and received by the Supplier, a ticket shall be logged and a reference shall be sent to the Customer which shall serve as proof of submission;
- 5.9 No claims for missing or damaged Goods shall be valid unless the delivery note has been endorsed by the Customer as stated in 5.7 above and/or the Customer has reported same within the timeframe in terms of 5.8 above.
- 5.10 The Customer shall be obliged to furnish the correct information necessary to enable delivery of the relevant Goods to be effected and if the Customer fails or refuses to do so, or if it fails or refuses to take delivery, the Goods shall be deemed to have been delivered to the Customer upon notification;
- 5.11 If the Supplier is unable or is requested not to deliver the Goods to the Customer due to any act or omission on the part of the Customer, it shall be entitled to charge the Customer for the storage of the Goods. The Supplier reserves the right to charge the Customer for any additional delivery costs or charges where applicable.

6 Ownership and Risk of Goods

- 6.1 Ownership of the Goods purchased shall only pass from the Supplier to the Customer upon payment of the full price;
- 6.2 The risk of damage to, or destruction of, any relevant Goods passes to the Customer on delivery thereof to the Customer or the Customer's agent, at the delivery destination.

7 Handling fee

- 7.1 If the Customer requests the Supplier to return Goods in terms of any manufacturer's warranty, or if the Customer returns Goods to the Supplier for any other reason whatsoever, the Supplier reserves the right to levy a handling fee of 15% (fifteen percent) of the purchase price of such goods returned to the manufacturer or returned to the Supplier by the Customer. The Supplier is not obliged to accept the return of any Goods and shall render assistance in this regard as an additional separate and discretionary service for the Customer.

8 Warranties and Guarantees

- 8.1 The Customer agrees that it was not induced into entering this Agreement on the strength of any warranties, guarantees or representations by the Supplier, whether expressly or tacitly;
- 8.2 The Supplier does not provide any warranty and/or guarantee to the Customer in respect to the Goods and/or Services on any kind whatsoever;
- 8.3 Insofar as the Principal Supplier may give any warranty and/or guarantee in respect of the Goods, it is the responsibility of the Customer to acquaint itself with such warranty/guarantee and the manner to perfect such warranty and/or guarantee.
- 8.4 In the event of the Goods becoming defective during the warranty period (12 months from invoice), the Supplier shall use its best endeavours to obtain replacement stock from the Principal Supplier.

9 Repairs and Returns

- 9.1 To the extent that the Goods supplied by the Supplier are in any way defective, the Customer shall be entitled, within the warranty period applicable to such Goods and at the sole discretion of the Supplier, to either a repair or replacement of such defective Goods;
- 9.2 Clause 9.1 shall at all times be subject to the following:
- 9.2.1 The Customer notifying the Supplier within 7 days of such defect arising, which notice must be in writing, and must clearly specify the alleged defect, and be supported by the original tax invoice;
- 9.2.2 The Goods must be returned by the Customer to the Supplier, at the Customer's expense, packaged in its original packing material;
- 9.2.3 The Goods being returned must still be covered by a valid manufacturer warranty and/or guarantee at the time of return, as confirmed by the Supplier.
- 9.3 The Supplier shall be relieved of all obligations in terms of clause 9.1 should:
- 9.3.1 Repairs be made to the Goods by any unauthorised third party;
- 9.3.2 Any alterations / modifications be made to the Goods;
- 9.3.3 The Goods have been used or operated with any accessory, equipment, or part not specifically supplied and/or approved by the Principal Supplier and/or the Supplier in writing;
- 9.3.4 The Goods have not been operated or maintained in accordance with the Principal Supplier's and/or the Supplier's instructions or under normal use or have been incorrectly installed; or
- 9.3.5 The Goods have been used contrary to the terms of the applicable manufacturer warranty and/or guarantee.
- 9.4 No refunds shall be processed by the Supplier for any Goods once the 7 day timeframe has expired after delivery.

10 Limitation of Liability

- 10.1 To the extent permitted by applicable law, regardless of the form (whether in contract, delict or any other legal theory) in which any legal action may be brought, the Supplier's maximum liability for direct damages for anything giving rise to any legal action shall be an amount equal to the total paid or payable by the Customer to the Supplier in respect of the applicable Goods and/or Services to which the claim relates.
- 10.2 To the extent permitted by applicable law, in no event shall either party be liable for any indirect, incidental, special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including loss of profits, loss of goodwill, damages relating to lost or damaged data or software, loss of use, damages relating to downtime or costs of substitute products) arising from this Agreement.

11 Indemnity

The Customer hereby:

- 11.1 Indemnifies and holds the Supplier harmless in respect of any claim or action that may be instituted by any third party against the Supplier.

- 11.2 Waives any claim which it may have against the Supplier arising out of any loss or damage which the Customer may suffer or any expense that the Customer may incur as a result of any act or omission committed by the Supplier, other than that caused by gross negligence on the part of the Supplier.

12 Law and Jurisdiction

- 12.1 The laws Republic of South Africa shall apply to the interpretation of this Agreement and the parties accordingly agree that any dispute between the parties shall be resolved in Republic of South Africa. The parties hereby consent to the jurisdiction of the Magistrates Court otherwise having jurisdiction in respect of any proceedings (not subject to arbitration in terms of this Agreement) in respect of or arising out of this Agreement or it's cancellation notwithstanding that the amount of the claim may exceed the normal jurisdiction of the Magistrate's Court; this document constituting the required consent by the parties to the jurisdiction of the Magistrates Court in accordance with section 45 of the Magistrates Court Act.

13 Force Majeure

- 13.1 In the event that either party is unable to perform its obligations by reason of force majeure, neither party shall have any claim against the other as a consequence of such failure;
- 13.2 For the purpose of this Agreement "force majeure" shall be deemed to be any cause affecting the performance of this Agreement arising from or attributable to acts, omissions or accidents beyond the reasonable control of the party to perform and without limiting the generality thereof, shall include the following:
- 13.2.1 an Act of God;
 - 13.2.2 where beyond the reasonable control of the relevant party) strikes, lock-outs or other industrial action;
 - 13.2.3 civil commotion, riot, invasion, war threat or preparation for war;
 - 13.2.4 fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural physical disaster;
 - 13.2.5 political or governmental (central or local) interference with the normal operations of either party;

14 General

- 14.1 No Agreement to alter, vary or cancel this Agreement and no addition or amendment to or deletion from this Agreement shall be of any force and effect unless reduced to writing and signed by all the parties;
- 14.2 No indulgence, extension of time, relaxation or latitude which any party ("the grantor") may show grant or allow to the other ("the grantee") shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or estopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future;
- 14.3 In the event that any of the terms of this Agreement are found to be invalid, unlawful or unenforceable, such terms shall be severable from the remaining terms, which shall continue to be valid and enforceable;

- 14.4 The parties shall try, in good faith, to solve amicably, and by mutual agreement, any dispute which may arise between them with respect to the Agreement in any way they deem appropriate;

Schedule 1 – Main Area:

1. Bloemfontein;
2. Cape Town;
3. Durban;
4. East London;
5. George;
6. Johannesburg;
7. Kimberley;
8. Nelspruit;
9. Polokwane;
10. Pretoria;
11. Pietermaritzburg;
12. Port Elizabeth.