

## TERMS AND CONDITIONS OF SALE

- 1 The Customer agrees that (a) this Agreement represents the entire Agreement between the Customer and Digital Science S.A. (Pty) Ltd (hereinafter called DS) and that no alterations or additions to this Agreement may be effected unless agreed to by both parties, reduced to writing and signed by the Customer and a duly authorised representative of DS; (b) this Agreement will govern all future contractual relationships between the parties; (c) this Agreement is applicable to all existing debts between the parties; (d) this Agreement is final and binding and is not subject to any suspensive or dissolutive conditions; (e) any conflicting conditions stipulated by the Customer are expressly excluded; (f) these terms apply to all servants and subcontractors of DS.
- 2.1 The Customer acknowledges that it does not rely on any representations made by DS in regard to the goods and services or any of its qualities leading up to this Agreement other than those contained in this Agreement.
- 2.2 The Customer warrants that neither DS nor any of its employees will be liable under any circumstances whatsoever for any loss or damage arising out of the use by the Customer of any misrepresentation, material or information referred to in clause 2.1 whether furnished negligently or innocently.
- 2.3 It is the sole responsibility of the Customer to determine that the goods or services ordered are suitable for the purposes of intended use.
- 2.4 The Customer agrees to pay all costs resulting from any acts or omissions by the Customer including suspension of work, modification of requirements, failure or delay in giving particular requisite to enable work to proceed on schedule or requirements that work be completed earlier than agreed.
- 2.5 DS reserves the right at its sole discretion to provide alternative goods at the prevailing prices to those ordered by the Customer should such goods be unavailable, superseded, replaced or their manufacture terminated.
- 3.1 All quotations will remain valid for a period of 7 days from the date of the quotation
- 3.2 All quotations are subject to the availability of the goods or services and subject to correction of good faith errors by DS and the prices quoted are subject to any increases in the cost price, including currency fluctuations, of DS before acceptance of the order.
- 3.3 If the Customer disputes the amount of increase, the amount of the increase may be certified by any independent auditor and such certificate shall be final and binding on the Customer.
- 3.4 The Customer hereby confirms that the goods or services on the Tax Invoice issued duly represent the goods or services ordered by the Customer at the prices agreed to by the Customer and, where delivery / performance has already taken place, that the goods or services were inspected and that the Customer is satisfied that these conform in all respects to the quality and quantity ordered and are free from any defects.
- 3.5 Notwithstanding the provisions of section 1 above, all orders or agreed variations to orders, whether oral or in writing, shall be binding and subject to these standard conditions of agreement and may not be cancelled. Telephonic orders for either goods and/or services placed by the Customer with DS will be processed but delivery of such order shall be refused until such time as DS is placed in possession of a written order form.
- 3.6 DS shall be entitled in its sole discretion to split the delivery / performance of the goods or services ordered in the quantities and on the dates it decides.
- 3.7 DS shall be entitled to invoice each delivery / performance actually made separately.
- 3.8 Any delivery note or waybill or job card (copy or original) signed by the Customer or a third party engaged to transport the goods and held by DS shall be prima facie proof that delivery of the goods was made to the Customer and are in accordance with the quality and quantity reflected thereon.
- 3.9 The risk of damage to, destruction or theft of goods shall pass to the Customer on acceptance of any order placed in terms of this Agreement and the Customer undertakes to comprehensively insure the goods until paid for in full. DS may recover insurance premiums from the Customer for such ordered and uninsured goods.
- 3.10 Delivery, installation, commencement and performance times quoted are merely estimates and are not binding on DS. DS shall not be liable for any loss or damage of whatsoever nature which the Customer may suffer as a result of any incorrect or delayed delivery.
- 3.11 If DS agrees to engage a third party to transport the goods, DS is hereby authorised, in its sole discretion, to engage a third party on the Customer's behalf and on the terms deemed fit by DS.
- 3.12 The Customer indemnifies DS against any claims that may arise from such agreement in clause 3.11 against DS.
- 3.13 Repair times and repair costs given are merely estimates and are not binding on DS; DS shall not be liable for any loss or damage of whatsoever nature which the Customer may suffer as a result of any unforeseen costs and/or delayed repairs.
- 3.14 Any item handed in for repair may be sold by DS to defray the cost of such repairs if the item remains uncollected within 30 days of the repairs being completed.
- 3.15 All goods taken on a demonstration basis by the Customer are deemed sold if not returned within 7 days of issue in the original condition, in the original packaging and with all accessories and manuals intact.
- 3.16 The Customer acknowledges all copyrights and shall not duplicate copyrighted material and that each infringement attempt shall immediately render the full prevailing price payable to DS.
- 3.17 The Customer shall indemnify DS against any claims, costs and expenses arising out of the infringement of copyright, patent, trade mark or design supplied by the Customer.
- 4.1 New goods are guaranteed according to the Manufacturer's product specific warranties only and all other guarantees including common law guarantees are hereby specifically excluded. Services are guaranteed for a

period of 3 months against faulty workmanship and parts are guaranteed according to the Manufacturer's product specific warranties.

- 4.2 Liability under Clause 4.1 is restricted to the cost of repair or replacement of faulty goods or services or granting of a credit at the sole discretion of DS.
- 4.3 No claim under this Agreement shall arise unless the Customer has, within 3 days of the alleged breach or defect occurring, given DS 30 days written notice by prepaid registered post to rectify any defect or breach of Agreement.
- 4.4 To be valid, claims must be supported by the original Tax Invoice.
- 4.5 The Customer shall return any defective moveable goods to the premises of DS at the Customer's own cost and packed in the original or suitable packaging and all risks for the duration of repair remain with the Customer. Goods returned for repair shall be subject to a handling charge not exceeding 15% of the total purchase price of such goods as reflected in DS's Invoice.
- 4.6 All guarantees are immediately null and void should any goods be tampered with or should the seals on goods be broken by anyone other than DS or should the goods be operated or stored outside the Manufacturer's specifications.
- 4.7 Any item delivered to DS shall serve as a pledge in favour of DS for present and past debts and DS shall be entitled to retain or realise such pledges as it deems expedient at the value as determined in 12.1b The sworn or realised value of pledged goods will be offset against the Customer's debts and any excess balance will be paid to the Customer.
- 5.1 Under no circumstances shall DS be liable for any consequential damages including loss of profits or for any delictual liability of any nature whatsoever.
- 5.2 Under no circumstances shall DS be liable for any damage arising from any misuse, abuse or neglect of the goods or services. Delivery of the goods or services to the Customer shall take place at the place of business of DS.
- 6.1 Payment will be made strictly in accordance with the accepted provisions of the credit agreement as it exists between DS and the Customer. Should no credit agreement exist or should such agreement have been cancelled by DS and notice to that effect given to the Customer then all purchases are made cash on order.
- 6.2 The risk of payment by cheque through the post rests with the Customer.
- 7.1 The Customer has no right to withhold payment for any reason whatsoever and agrees that no extension of payment of any nature shall be extended to the Customer and any such extension will not be applicable or enforceable unless agreed to by DS, reduced to writing and signed by the Customer and a duly authorised representative of DS.
- 7.2 The Customer is not entitled to set off or deduct any amount due to the Customer by DS against this debt.
- 7.3 Any discount or rebate offered by DS shall be forfeited if payment in full is not made on or before the due date.
8. The Customer agrees that a certificate signed by any Director of DS shall be prima facie evidence of the amount due and payable to DS by the Customer including any interest and costs for the purposes of judgement, including provisional sentence or summary judgement, and of claims against insolvent or deceased estates. Proof of the appointment or authority of the signatory shall not be required in such certificate.
9. The Customer agrees that interest shall be payable at the maximum legal interest rate prescribed in terms of the Usury Act on any moneys past due date to DS and that interest shall be calculated daily and compounded monthly from the date of acceptance of the order.
- 10.1 The Customer agrees that if an account is not settled in full (a) against order; or (b) within the period agreed in clause 7.1 above in the case of a Credit Approved Customer; or if the Customer commits a breach of any of these conditions, or being an individual, is provisionally or finally sequestrated or surrenders his estate, or being a partnership, is being dissolved, or being a company or close corporation is placed under a provisional or final order of judicial management or liquidation, or compromises or attempts to compromise generally with its creditors or if an order in terms of section 65 of the Magistrates Court Act 32 of 1944, as amended is issued against the Customer, or if he commits or permits any act that may prejudice the rights of DS; then in any of these events DS may in its sole discretion either; (i) entitled to immediately institute action against the Customer at the sole expense of the Customer; or (ii) cancel the agreement and take possession of any goods delivered to the Customer by giving the Customer written notice to that effect; or (iii) claim damages. Furthermore, DS shall be entitled to immediately suspend any delivery or service while the Customer is in breach of any of the terms of any contract between it and DS. In the event of a breach and without restricting or revoking any other rights DS may have in law; subject to the maximum costs recoverable in terms of the Magistrates Court Act 32 of 1944 as amended, Attorneys Act 33 of 1979 and Debt Collections Act 114 of 1998. These remedies are without prejudice to any other right DS may be entitled to in terms of this agreement or in law.
- 10.2 A Credit Approved Customer will forthwith lose this approval when payment is not made according to the conditions of 7.1 and all amounts then outstanding shall immediately become due and payable.
- 11.1 In the event of cancellation, the Customer shall be liable to pay (a) the difference between the selling price and the value of the goods at the time of repossession and (b) all other costs incurred in the repossession of the goods. The value of repossessed or retained pledged goods shall be deemed to be the value placed on them by any sworn valuator after such repossession, and such valuation shall be conclusive proof of the value. If the goods are not recovered for any reason whatsoever, the value shall be deemed to be nil.
- 11.2 The Customer hereby consents and irrevocably authorises DS to enter its premises to repossess any goods delivered and indemnifies DS completely against any damage whatsoever relating to the removal of repossessed goods.

- 11.3 In the event of cancellation DS is entitled not to produce any unmade balance of a contract and to recover any loss sustained thereby from the Customer.
- 12.1 Ownership and dominium in all goods supplied by DS to the Customer, whether such goods are attached to other property or not, shall remain vested in DS until such goods have been fully paid for by the Customer.
- 12.2 The Customer is not entitled to remove any goods beyond the borders of the Republic of South Africa or to sell or dispose of any goods unless paid for in full without the prior written consent of DS. The Customer shall not allow the goods to become encumbered in any manner prior to the full payment thereof and shall advise third parties of the rights of DS in the goods.
- 13.1 The Customer shall be liable to DS for all legal expenses on the attorney-and-own client scale of an attorney and counsel incurred by DS in the event of (a) any default by the Customer or (b) any litigation in regard to the validity and enforceability of this agreement. The Customer shall also be liable for any tracing, collection or valuation fees incurred as well as for any costs, including stamp duties, for any form of security that DS may demand.
- 13.2 The Customer shall pay three thousand Rand into court or furnish sufficient security in lieu of costs in any action instituted by or against the Customer.
- 13.3 The Customer agrees that DS will not be required to furnish security in terms of Rule 62 of the Rules of Court of the Magistrate's Courts or in terms of Rule 47 of the Law of the Supreme Court 59 of 1959.
- 14 The Customer agrees that no indulgence, relaxation, latitude or extension of time whatsoever by DS will affect the terms of this agreement or any of the rights of DS and such indulgence shall not constitute a waiver by DS in respect of any of its rights herein. Under no circumstances will DS be stopped from exercising any of its rights in terms of this Agreement.
15. The Customer hereby consents, in terms of Section 45 of the Magistrates Court Act of 1944 as amended to DS instituting any proceedings arising out of this contract in the Magistrates Court for the district of RANDBURG otherwise having jurisdiction in terms of Section 28 of the Magistrates Court Act notwithstanding the fact that such proceedings are otherwise not within the jurisdiction of that court. DS however reserves the right, in its sole discretion, to institute any action arising from this agreement in the High Court of South Africa.
- 16.1 Any document shall be deemed duly presented to and accepted by the Customer (i) within 3 days of prepaid registered mail to any of the Customer's business or postal addresses or to the personal address of any director, member or owner of the Customer; or (ii) within 24 hours of being faxed to any of the Customer's fax numbers; or (iii) on being delivered by hand to the Customer or any director, member or owner of the Customer; (iv) within 7 days of being sent by surface mail
- 16.2 The Customer chooses its address for legal execution the address as the business address or the physical addresses of any Director (in the case of a company), Member (in the case of a close corporation) or of the Owner(s) or Partner(s).
- 16.3 The Customer undertakes to inform DS in writing within 7 days of any change of Director, Member, Shareholder, Owner or Partner or address or 14 days prior to selling or alienating the Customer's business and failure to do so will constitute a material breach of this agreement. Upon receipt of such written notification, DS reserves the right, at its sole discretion, to withdraw any credit facility advanced to the Customer.
- 17 The Customer agrees to the Standard Rates of DS for any goods or services rendered, which rates may be obtained on request.
18. The invalidity of any part of this Agreement shall not affect the validity of any other part.
19. Any order is subject to cancellation by DS due to Acts of God from any cause beyond the control of DS, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.
20. The Customer hereby waives the benefits of the legal exceptions of *non numeratae pecuniae*, *non causa debiti*, *de errore calculi*, *de duobus vel pluribus reis debendi*, review of accounts and no value received and hereby declares himself to be fully acquainted with the meaning of this waiver.
21. The Customer agrees that DS will be immediately and irrevocably released from any contractual damages and penalty obligations should any event in clause 19 occur.
22. Although the provisions of this agreement are self explanatory, the Customer warrants that he has read and understands the provisions contained herein.
23. The signatory warrants that he is the duly authorized representative of the Customer and that he has full capacity, whether legal or otherwise, to enter into any contractual agreement with DS. This Agreement and its interpretation is subject to South African law and the Customer consents to the requisite jurisdiction of the South African Courts referred to in 16.