

Silver Star Promotions

Terms & Conditions

The terms and conditions set out in this document cover all services provided by the Company, including hosting services, and are in conjunction with the specific details provided by the Customer, and accepted in good faith by Silver Star Promotions and Web 500 (the Company) and shall govern all and any agreement between the Company and the Customer.

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A. Quotations & Order Acceptance

Quotations are valid for fourteen (14) days from the document date and are subject to the standard conditions and recognized customs of the Web Development and Hosting Industry in South Africa.

Order acceptance is conditional upon an authorised Hosting Agreement concluded between the Company and the Customer for a minimum period of 12 months, prior to the commencement of any work by the Company. Should the Customer require early termination of the Hosting Agreement three (3) calendar months written notice is required by the Company.

Estimates and quotations not accepted within fourteen (14) days thereof shall be considered invalid and subject to review.

Quotations are based on the specifications submitted by the Customer and shall include all content, text, images or any other relevant information required by the Company. Final specifications are to be agreed to and signed off by the Customer and the Company. Thereafter any alterations to the agreed specification may require an amended quotation. The agreement and the provision of service will only come into being between the Company and a Customer when the Customer has agreed to the terms and conditions contained herein and a deposit of 50% of the order value has been received by the Company. Order acceptance is subject to credit approval. The Customer agrees to an online, paperless subscription and acknowledges that all the information that is submitted online is true and correct to the best of their knowledge. The Customer agrees that the act of submitting the subscription form online is in lieu of their signature. Subject to availability and receipt of payment, requests will be processed within 3 working days and confirmation will be by way of a confirmation e-mail.

B. Provision of the Service

After receipt of a non refundable deposit of 50% of the quoted price against the agreed specification, the Company shall make all reasonable efforts to make available a continuous, uninterrupted, expedient and error-free service to the Customer, subject to the terms and conditions set out herein.

Notwithstanding the provisions of this agreement, the Customer acknowledges that in the normal course of provision of service(s), temporary interruptions may occur for whatever reason. In such circumstances, the Company shall not be held liable for any damages whatsoever (economical or otherwise) which the Customer may suffer as a result of such interruption of service(s).

The Customer shall be solely responsible, unless otherwise stated in this agreement, for the provisioning, configuration and maintenance of all equipment on its premises, including (without limitation) computer hardware equipment, compatible software, telecommunication equipment and modems necessary and required by the customer to exercise its rights and enjoy the services provided herein.

C. Payment

1. The Customer shall pay to the Company all applicable charges, tariffs, fees and other amounts ("charges") as quoted for against the signed off specification or as published on the Company's Web site, in respect of the provision of the services to the customer.
2. The Company will be entitled to adjust any of its service/hosting charges including, but not limited to, annual tariff increases. A notice period of 30 days will be given to the Customer electronically of any such adjustments.
3. All access charges that entitle the customer to obtain access to the services subscribed for, shall be payable in the manner as set out in this agreement and where such charge is indicated as-
 - i. Rental charges are levied as per the payment option detailed and mutually accepted by the Customer and the Company in the Maintenance/Hosting Agreement. Hosting Agreements are subject to a minimum rental period of 12 calendar months as specified in paragraph A above. Maintenance Agreements are flexible and for each Service or Service promotion. Rental charges are payable in advance for the first and any subsequent payment period, as from the date on which the Service is established. If the Customer requests that the Agreement be terminated prior to the expiry of the minimum rental period, the non-expired part of the rental period will stay in force. In such cases the Customer shall remain liable for the rental for the non-expired part of the rental period.
 - ii. Any payment due to the Company not made on the due date thereof shall be liable to bear interest at a rate of 1% (one per centum) above the ruling prime bank overdraft rate, calculated from the date of due payment until date of actual payment in full, capitalised monthly in arrears.
4. The Customer agrees that submission of bank account information or credit card details to the Company constitutes authorisation by the Customer for the Company to debit the specified bank account for all fees owed by the Customer to the Company.
5. The Customer agrees to notify the Company of any change to their banking details prior to the 20th of the month, to allow the Company to invoice timeously for the following payment run.
6. The Customer shall, on demand, pay all costs and expenses incurred by the Company in enforcing the terms of this agreement, including, without limitation, legal costs on an attorney and own client basis. Should the bank dishonour any payment offered by the Customer, the Company shall be entitled, over and above the dishonoured payment, to charge an administration fee which shall include any bank charges incurred by the Company.
7. Any upgrades or changes for another service/product may be subject to additional charges or separate agreement.
8. Payments can be made via Debit Order or by bank transfer into the Company's bank account, the details which will be provided on request.
9. As the Company is registered in South Africa all payments due are to be made in South African Rand (ZAR).

D. Installation and Connection

1. The Customer acknowledges that any installation date or connection date furnished by the Company is provisional only and submitted in good faith. Should an installation or connection date not be achieved for any reason. The Company shall not be responsible for any consequences of such delay or be liable for any damages, costs or expenses whatsoever incurred or suffered by the Customer or any third party, and the customer shall not be entitled, as a result of such delay, to terminate this agreement or withhold any payment.

E. Liability

1. This clause specifies the entire liability of the Company, including, without limitation, liability for negligence. In particular (but without limitation) all statutory, expressed, implied or collateral terms, conditions or warranties are excluded.

2. The Company shall under no circumstances be liable (including liability for negligence) for any loss, damage or injury that the Customer or any third party may suffer, no matter when or how arising, specifically including (but without limitation) refunds of fees, loss of profits, financial loss, loss of contracts, loss of income, loss of anticipated business, cost of replacement services, savings use, goodwill or any other form of consequential loss.
3. Any service(s) provided herein is provided on an "as-is" basis and the Company makes no express or implied warranties or representations of whatsoever nature with respect to any such service.
4. The Customer shall and hereby does indemnify the Company-
 - i. against any damage, loss or liability (excluding liability for the Company's wilful misconduct) arising from the provision of services to the customer, its employees, directors, agents and / or representatives.
 - ii. against any damage, loss or liability of whatsoever nature arising from a breach of the Company's security measures, any misuse of the Company's facilities or services and / or any act or omission of any other customer of the Company.
 - iii. from any claim by any third party arising directly or indirectly out of or related to the Customer's access to or use of services rendered by the Company or any information or data obtained through such access or use and
 - iv. its holding company, affiliates and subsidiaries, for all loss, damage, cost or liability that may be incurred by any one or more of them in the event that the Customer's use of the service and/or the products supplied hereunder –
 - a. constitutes a violation of any law, regulation or tariff;
 - b. is defamatory, fraudulent or deceptive;
 - c. is intended to threaten, harass or intimidate; or
 - d. interferes with the use or enjoyment of other customers of the services and products provided by the Company
 - e. Under no circumstances whatsoever will the Company's liability, if any and whether in contract or otherwise, exceed the aggregate of the amounts actually paid by the Customer to the Company.

F. Use Limitations

The Customer hereby agrees -

1. that it is aware and will stay aware of and shall at all times comply with all statutory or other regulatory provisions and rules applicable to the provision and use of the services from time to time;
2. that it shall make use of the services in a responsible, prudent, lawful and honest manner;
3. that it shall comply with any directions, instructions and limitations issued or notified by the Company from time to time in connection with the services;
4. that it shall not use any service in a manner which –
 - i. constitutes a violation of any law, regulation or tariff that may be in force in South Africa or elsewhere. In particular the Customer undertakes to familiarise itself and ensure that it is kept continuously apprised of all such laws, regulations and tariffs in force from time to time which may have any bearing on the services rendered and products provided by the Company and/or the Customer's access to or use thereof;
 - ii. constitutes an act or omission that is generally unacceptable or offensive to internet users in general, to the public at large or as same may be determined by the Company from time to time in its sole and absolute discretion, specifically including (but not limited to) the hosting or distribution of pornographic material, spamming, hacking, unsolicited mailing etc.;
 - iii. contravenes any of the Company's promotions, as such a document may be published, updated and amended by the Company from time to time;
 - iv. is defamatory, fraudulent or deceptive;
 - v. is intended to threaten, harass, nuke or intimidate;
 - vi. tends to damage the name or reputation of the Company, its holding company, affiliates and or subsidiaries or;
 - vii. interferes with the use and enjoyment of Internet related services of customers of the Company;
5. that the services to be rendered to the Customer shall be as defined and subject to such limitations as may be notified from time to time by the Company.

6. that the customer is aware of the limitations of all relevant services and that service quality and coverage available shall be limited to that supported by the infrastructure of the Company and its network providers. The Customer notes that service may from time to time be adversely affected by a number of different causes:
7. that it shall not commit any act or omission which may have an adverse technical effect on the integrity or functionality of the network infrastructure of the Customer or that provided or made available to the customer by or through the Company. If any act or omission of the Customer has such an adverse technical effect the customer shall, on receiving notification to that effect from the Company, immediately take such steps as may be necessary to rectify the situation at his own cost and expense, failing which the Company shall be entitled, without prejudice to its other rights in terms hereof or at law, to forthwith suspend the service and/or terminate this agreement;
8. that unless otherwise agreed by the Company in writing, it shall not resell or make available to third parties, in any manner whatsoever and whether directly or indirectly, the services provided to it by the Company;
9. that it shall take whatever steps may be necessary to ensure the safekeeping and confidentiality of all identification codes and passwords furnished by the Company for use by the customer and shall specifically not disclose same to any third party without the Company's prior written consent.
10. to comply with the rules and regulations applicable to any network that is accessed through the Company;
11. that where it is outside the Republic of South Africa and wishes to connect to the internet, such connection may be subject to the terms and conditions of a Global Service Provider ("GSP"). The Customer has been informed of and acknowledges that the GSP is not affiliated to the Company.

G. Suspension of Service

1. The Company may from time to time and without notice suspend their services in any of the following circumstances:
 - i. During any technical failure, modification or maintenance either of the service or the equipment by means of which the service is provided;
 - ii. if the Customer fails to comply with any of the terms and conditions of this agreement (including failure to pay any charges due) until the breach (if capable of remedy) is remedied; or
 - iii. does or allows to be done anything which, in the Company's reasonable opinion, may have the effect of negatively affecting the operation of the Company's network or the provision of services to the Customer or to any other customer(s) of the Company.
 - iv. uses the service in contravention of any act of law or regulation.
2. Notwithstanding any suspension of service under this clause G, the Customer shall remain liable for all charges due hereunder throughout the period of suspension unless the Company, in its sole discretion, determines otherwise.

H. Termination

1. Notwithstanding anything to the contrary contained in this agreement, the Company shall at any time be entitled to terminate this agreement by giving not less than 30 (days) notice of such effect to the customer, and arranging any due refunds. In the case of a month to month agreement the Customer shall give the Company one calendar month notice of termination.
2. Without prejudice to any other rights or remedies which the Company may have in terms hereof or at law, the Company shall be entitled to forthwith cancel this agreement and discontinue the service if the customer fails to comply with any of the terms or conditions of this agreement or any other agreement made between the Company and the Customer.
3. Upon termination of this agreement the Company shall disconnect the Customer from its networks and all its associated network providers.
4. After upon termination of this agreement and disconnection of the Company's services the Customer shall, on demand, pay all charges outstanding at the time of disconnection, including any disconnection or termination fee, which may be charged by the Company.
5. Upon termination due to any breach of this agreement by the customer, the Company will be entitled to claim damages.

6. The provision of goods and services by the Company is subject to availability. In cases of unavailability, the Company will refund the client in full within 30 days. Cancellation of orders by the client will attract a 20% administration fee

I. Excusable Events

1. The Company shall not be liable to the Customer for any breach of this agreement or failure on its part to perform any obligation as a result any circumstances/events outside the Company's reasonable control, including without limitation, technical problems relating to the any network, acts of God, government control, restrictions or prohibitions or any government act or omission, whether local, national or international, act or default of any supplier, agent or sub-contractor, industrial disputes of any kind or any other cause.

J. Alterations

The Company reserves the right and shall be entitled to alter any name code or number allocated by the Company to alter any name, code or number allocated by the Company for use in connection with the services and the Customer hereby indemnifies the Company against any cost to the Customer, loss or liability arising from such alteration

K. Maintenance & Support Services

1. The Company shall, as and when specifically requested to do so by the Customer in writing via e-mail, render such consultation and support services to the customer pertaining to the identification and, if possible, solution of problems encountered by the customer in the Company services rendered to it or with his Internet related services in general as the customer may request, subject to the payment by the Customer of all hourly tariffs, distance charges and other related fees payable in respect thereof.
2. The Company shall, as part of such service, identify the Customer's problem, but does not give any warranty, guarantee or any other similar undertaking that it will be able to rectify all or any of the problems so identified.
3. The Customer shall
 - i. supply all software, hardware and all related documentation required by the Company to identify and solve any problem encountered by the customer. Failure to do so will result in the Company not being able to assist the Customer any further, whilst the Customer shall remain liable for the payment of any and all amounts referred to in K1;
 - ii. render to the Company, its agents, representatives and employees all necessary assistance to identify, locate and solve any problem encountered by the Customer; and
 - iii. ensure the safety of all agents, representatives and employees of the Company present at the customer's premises and shall and hereby does assume responsibility and liability for any cost, expense, loss or damage incurred or suffered by the Company or any of its representatives, agents or employees as a result of any injury to or the death of any such person whilst present at the Customer's premises, from whatsoever cause arising.
 - iv. The Company does and shall not accept any responsibility or liability for any existing data on the Customer's equipment and shall specifically not be required to back-up any data before commencing any work. The Customer hereby indemnifies and holds the Company harmless against any cost, liability, loss or damage incurred or suffered by the Customer or by the Company as a result of the loss of any such data, whether occasioned by any act or omission of the Company, its representatives, agents or employees or otherwise.
 - v. Consultation time charged for will commence when the relevant Company agent, representative or employee leaves the Company's office and will end when he returns to the Company's office. The Customer will be charged should the consultant for any reason whatsoever be unable to obtain access to the customer's premises or equipment.
4. The Company offers comprehensive Maintenance & Support packages covering upgrades & changes as well as hosting services. Pricing for the various options are detailed in our Maintenance Agreements.

L. General

1. The Customer shall not cede, assign, transfer, encumber or delegate any of his rights or obligations in terms of this agreement to any third party. Notwithstanding anything to the contrary contained herein, the Company shall be entitled to cede its rights and delegate its obligations in terms of this agreement to any of its affiliate companies, provided that reasonable guarantees will be given to the Customer.
2. The terms and conditions as set out herein, constitute the entire agreement between the Company and the Customer and supersede all representations made to the Customer, all amendments effected by the Customer to any application form or other similar document submitted by him and all communications between the Company and the Customer relating to the subject matter hereof.
3. The Customer chooses, as his domicilium citandi et executandi, the physical address set out in "Customer Details" in this agreement.
4. The Company reserves the right to amend these terms and conditions from time to time and the Customer shall take all necessary steps to be aware of any such amendments.
5. This agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.
6. The clause headings in this agreement are for the purpose of convenience only and shall not be taken into account in the interpretation of nor modify the terms of this agreement. Unless inconsistent with or a contrary intention clearly appears from the context words importing any reference to a gender includes the other genders, any reference to the singular includes the plural and vice versa, and any reference to natural persons includes legal persons and vice versa.
7. If any clause or clauses of the terms and conditions of this agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of the terms and conditions of this agreement shall remain valid and enforceable.
8. The Customer shall protect all username & passwords for the Company. The Company accepts no liability whatsoever for any misuse or abuse of the Customer's service as a result of disclosure of a Customer's username & password. The Customer will immediately notify the Company, when it becomes apparent that his/her username & password has been compromised, until such notification is received & accepted by the Company, the Customer remain liable for any usage charges incurred or outstanding on the Customer's account. The Company accepts no responsibility or liability for the breach of security in the distribution of a username & password in accordance with the Customer's instructions.
9. The Customer hereby gives the Company permission to perform a credit check on the Customer's credit profile with one or more of the registered Credit Bureaus when assessing the Customer's application for services and record and transmit details of how the Customer has performed, and how the account is (or was) conducted by the Customer in meeting their obligations on the account.
10. This website is governed by the laws of South Africa and the Company chooses as its domicilium citandi et executandi for all purposes under this agreement, whether in respect of court process, notice, or other documents or communication of whatsoever nature.
11. This website is run by a close corporation based in South Africa trading as Silver Star Promotions and with registration number 2006/046649/23. Silver Star Promotions also trades as Web 500.

M. Intellectual Property

1. The intellectual property rights including (without limitation) copyrights and the trade and service marks utilised by the Company during the term of this Agreement, shall remain the property of the Company, save as provided herein, nothing contained in this Agreement shall be construed to confer on the Customer any rights or licenses in such intellectual property rights.
2. Should the Company be required to develop any computer code, data, documents, presentations, solutions design, web site or any application ("the work"), then all intellectual property rights in and to such work shall vest exclusively in the Company. To the extent that intellectual property rights in the work vests, for whatever reason, in the Customer, the Customer hereby agrees to assign all such intellectual property rights to the Company, which hereby accepts such assignment.
3. Save as provided for in this agreement, any license granted to the Customer in terms of this agreement shall be for singular user only. The Customer shall be obliged to pay a license fee for multiple uses.

4. The Customer shall not modify or use any software, computer code, data, documents, presentations, solutions design, web site or any application licensed to it in terms of this agreement, to create a derivative work.

N. Product Specific

1. Shared Web Hosting

As detailed in paragraph A above, the Customer shall enter into a twelve (12) month Hosting Agreement with the Company. A 24 month option is also available at a discounted rate.

The Company shall:

- i. Provide a service in accordance with choices set out in the order form.
- ii. Host the client's website on a Company promotion, where the type of server's operating system is either UNIX or a derivative thereof (e.g. Linux).
- iii. Allocate the Customer the server space as indicated on the order form.
- iv. Allow Internet users to access the website, there is a set amount of monthly traffic usage (measured in megabytes), the amount of megabytes depends on the product chosen from the order form.
- v. Adhere to the [Electronic Communications and Transactions Act 25 of 2002](#).

2. Web Design: Search Engine Optimisation (SEO)

Whilst every effort will be made to provide a high quality professionally optimised web site, the Company cannot guarantee that the search engine optimisation (SEO) performance for any website will reach top position on any search engine due to search engines changing their algorithms as well as search engines not making their algorithms known.

3. Domain Registration

- i. All Domain Names registered on behalf of the Customer within the .ZA domain name space, or registered by the Customer directly or through third parties, are subject to the terms of the relevant domain name Registrar that may be amended from time to time. The Company cannot guarantee the registration of any Domain Name selected by the Customer. Registrars used by the Company may change or be replaced from time to time.
- ii. No Domain Name will become the property of the Company however the Company will register the domain on behalf of the Customer.
- iii. The Customer warrants that it is the lawful registrant of the Domain Name/s or it has the consent of the registrant to use the Domain Name/s or it is not prohibited by law or otherwise from registering the Domain Name/s.
- iv. The Customer also warrants that in using the Domain Name, it has not violated any Intellectual Property Rights of whatever nature of any person who may lawfully claim title of whatever nature to the Domain Name or to any word or name forming a constituent part of the Domain Name/s.
- v. The Company does not guarantee that the Domain Name/s requested by the Customer is/are available for registration or that the use of the Domain Name/s will not infringe any third party rights. Domains are available on a first come, first served basis and are available either through the Company or directly with a Registrar.
- vi. The Company is not a Domain Name provider, but merely a third party agent acting on the Customer's instructions, to the extent that those instructions are possible and lawful.
- vii. The registration of the Domain Name/s and its/their future availability and use are subject to the terms of use of the relevant Domain Name Registrar.
- viii. 8 Any Internet Protocol (IP) address allocated by the Company to the Customer, will at all times remain the sole property of the Company who grants the Customer a non-exclusive, non-transferable licence to use the Internet Protocol address for the duration of the mutual Agreement.

4. **Changes to the Domain Name**
 - i. The Company may not cancel, transfer, or change the Domain Name/s, including transferring registration of the Domain Name/s from the registered holder to another person or entity, without being in receipt of written instructions from the Customer or its authorised agent to take action
5. **Domain name renewal**
 - i. The Customer is obliged to give the Company written notice that renewal of the domain is no longer required. A notice period of 30 business days is necessary for cancellation of a .co.za domain and 35 business days for all other domains. Should the Customer not give notice as aforesaid, the domain name will automatically be renewed and a renewal fee will be added to the Customer's invoice.
6. **Default in respect of the Domain Service**

If a Customer fails to pay the Company any cost or charge relating to the registration, renewal, update, change, or administration of any Domain Name the Company may, in its sole and absolute discretion:

- i. exercise a lien over the Domain Name until the relevant cost or charge has been paid,
- ii. procure or allow the suspension, termination, or deletion of the Domain Name; or
- iii. transfer the Domain Name.

7. **Domain Name Disputes**
 - i. Various alternate dispute resolution mechanisms apply in respect of domain names registered globally, including the Uniform Dispute Resolution Policy adopted by ICANN for certain TLDs, the Alternate Dispute Resolution Regulations applicable in South Africa and similar proceedings in other closed corporation (cc) TLDs. These mechanisms allow for the resolution of disputes concerning the registration or use of a domain name.
 - ii. The Company will not participate in any way in any dispute between the Customer and any third party
8. **Other Services**

The Company may, in certain instances and at its discretion, utilise third party services from time to time. While the Company makes every effort to select reliable vendors, maintain relationships and hold them accountable to ensure a reliable service on behalf of Customers, the Company does not control and is not responsible for those services and the Customer accordingly uses those third party services at its own risk. The Company accordingly disclaims all liability arising from the Customer's use of such third party services.
