



## Terms and Conditions of Business

### 1. Interpretation

- 1.1 In these terms and conditions:-
- 1.2 **"Agreement"** means the agreement between SASANI STUDIOS and the Customer which consists of these terms and conditions, including any schedules or annexures hereto;
- 1.3 **"Customer"** means the party with whom SASANI STUDIOS is contracting;
- 1.4 **"Equipment and Facilities"** means any equipment, facility (including fixed or movable assets) contracted or hired by the Customer from SASANI STUDIOS, hereafter referred to as "Equipment";
- 1.5 **"Materials and Property"** means the video/film and all other material including but not limited to discs/drives/all physical or electronic storage devices delivered into SASANI STUDIOS custody by or on behalf of the Customer as well as any material, equipment or services not listed in this Agreement but required to complete the work, and any materials resulting from the processing, production or post-production of the Customer's materials or any material that may come into the possession of SASANI STUDIOS pursuant to or as a result of this Agreement or any other agreement between SASANI STUDIOS and the Customer, hereafter referred to as "Materials";
- 1.6 **"Products"** means the products which SASANI STUDIOS contracts to supply to the Customer;
- 1.7 **"Services"** means the services (including crew and/or outside contractors) which SASANI STUDIOS contracts to supply to the Customer; and
- 1.8 **"SASANI STUDIOS"** means Sasani Africa (Proprietary) Limited (registration number 1996/012855/07) trading through its SASANI STUDIOS division and includes any associate or subsidiary company and any other trading division of Sasani Africa (Proprietary) Limited.

### 2. Application

- 2.1 Except as otherwise agreed in writing by a duly authorised officer of SASANI STUDIOS, all quotations, orders, offers to contract and contracts (whether oral or written) for the supply of the Equipment, Products and Services by SASANI STUDIOS shall be subject to these terms and conditions. These terms and conditions shall apply in place of and prevail over anything contained in SASANI STUDIOS handbook, brochures, price lists or other documents and anything contained or referred to in the Customer's order or elsewhere or implied by trade custom practice or course of dealing.

### 3. Quotations and Orders

- 3.1 All quotations made by SASANI STUDIOS in writing shall be valid for a period of 30 (thirty) days, unless otherwise stated by SASANI STUDIOS. Any order placed by the Customer shall be placed using SASANI STUDIOS order form or an order form acceptable to SASANI STUDIOS.
- 3.2 No contract shall come into existence until the earliest of: (i) SASANI STUDIOS written quotation being accepted in writing by the Customer; (ii) the Customer's order being accepted in writing by SASANI STUDIOS, (iii) SASANI STUDIOS accepting the Customer's camera sheet or written instructions by way of opening and completing a job sheet; or (iv) SASANI STUDIOS commencing any Service or supplying any Equipment or Products as requested by the Customer.
- 3.3 No accepted quotation, order, camera sheet or written instruction may be varied or cancelled by the Customer without

SASANI STUDIOS prior written consent and SASANI STUDIOS shall be entitled to recover full compensation from the Customer for any loss or expense arising from such variation or cancellation.

### 4. Prices

- 4.1 The price payable for all Equipment, Products and Services shall be as set out in SASANI STUDIOS quotation or as confirmed in SASANI STUDIOS written acceptance of an order made by the Customer or, where no price has been quoted, where the quoted price is no longer valid or where SASANI STUDIOS does not provide written acceptance of an order, the price set out in SASANI STUDIOS price list current as at the date of the delivery of the Products pursuant to clause 6.
- 4.2 SASANI STUDIOS shall be entitled at its discretion and from time to time to amend without notice its price list applying to any or all of the Equipment, Products and Services supplied and, accordingly, the Customer shall be liable to pay the price prevailing on the day that the Equipment, Product or Service is provided. SASANI STUDIOS shall, however, inform the Customer of any such variations in rates.
- 4.3 SASANI STUDIOS reserves the right to adjust the prices stipulated in its quotation or its acceptance of an order to reflect any increase in SASANI STUDIOS costs which is due to any factor beyond the control of SASANI STUDIOS including, without limitation, any foreign exchange fluctuations, currency regulations, increase in custom or other duties or the imposition of additional rates, taxes or duties or which is due to any change in delivery dates, quantities or requirements of the Equipment, Products and Services requested by the Customer, or any delay caused by any instruction or information received from the Customer or by the failure of the Customer to provide any information.
- 4.4 SASANI STUDIOS quoted prices and the prices included in its price list do not include value added tax or any other tax or duty, the cost of packaging or delivery pursuant to clause 6, or any additional costs arising from the quality of the Materials rendering the same unsuitable for normal post-production including, without limitation, damaged stock or any errors due to special requirements specifically requested by the Customer, all of which shall be an additional charge to be paid by the Customer.
- 4.5 The Customer will be charged for and will be liable for the charges in respect of the Equipment on the basis referred to in the rate card or price list—i.e. per quarter hour, per hour, per day, per minute or per unit. Each part of such quarter hour, hour, day or unit used will be charged for as a full quarter hour, hour, full day, unit as the case may be.
- 4.6 In the event of the Customer booking time for the use of any Equipment or Service and the Customer subsequently cancelling, a cancellation fee will be payable in respect of any booking cancelled or postponed within 2 (two) working days of the booked time or commencement of the hire as follows:
  - 4.6.1 for 1 (one) to 2 (two) working days' notice, 50% (fifty percent) of booked time;
  - 4.6.2 for less than 1 (one) working days' notice, 100% (one hundred percent) of booked time; at Sasani Studios discretion and
  - 4.6.3 in the case of block bookings, at least 7 (seven) working days' written notice of cancellation or postponement is required, unless otherwise specified in writing.
  - 4.6.4 In the case of single day bookings, at least 36 (thirty six) hours written notice of cancellation or postponement is required .
  - 4.6.5 In the case of long term projects, at least two months or as per signed agreement.
- 4.7 Should any Equipment (which is normally operated by any employee of SASANI STUDIOS) be operated, by agreement,

by the Customer or by any third party on the Customer's behalf, then the price charged for the use of such Equipment shall (unless a different rate is agreed by SASANI STUDIOS in writing) be SASANI STUDIOS full and normal charge as though the Equipment were being operated by an employee of SASANI STUDIOS.

- 4.8 Should the customer not be satisfied with a Sasani Studios crew member's performance; its concerns will be raised with Sasani Studios. If a replacement is required by the customer, Sasani Studios will endeavour to find a suitable crew member; provided that the cost of the replacement crew member does not exceed the original member, and provided that applicable Labour Laws are adhered to.
- 4.9 Any price estimated in any quotation or cost estimate issued by SASANI STUDIOS shall only be in respect of the duration stipulated therein, which duration is a rough estimate only. Should any Equipment or Service be used for any period of time in excess of the duration stipulated, then the Customer will be liable for such additional time at the ruling rates and prices. Should any Equipment or Service be used for any period of time shorter than that furnished in any cost estimate then the Customer will still be liable for payment of the full duration stipulated in such cost estimate at SASANI STUDIOS discretion or as agreed by both parties in writing.
- 4.10 If a deposit is stipulated by SASANI STUDIOS in a quotation or cost estimate or when accepting the Customer's order, the Customer shall pay the specified deposit amount prior to the commencement of any work or the provision of any Equipment, Products or Services. SASANI STUDIOS may apply this deposit to make good any shortfall of payment by Customer, or to pay for any damages or losses incurred by SASANI STUDIOS. Should SASANI STUDIOS apply the deposit (or part thereof) for such purpose, then the Customer shall reinstate such amount used so that the deposit at all times remains at the amount stated. The amount of the deposit (or the balance remaining at that time), shall be deducted from the final payment due to SASANI STUDIOS or, if no instalments are paid, then repaid to the Customer without interest at the conclusion or termination of the work or of this Agreement.

## 5. Payment

- 5.1 The price payable in respect of all Equipment, Products and Services shall be paid in cash on delivery unless a Customer has a credit account with SASANI STUDIOS in which case the following provisions shall apply:
- 5.1.1 unless otherwise agreed in writing each invoice issued by SASANI STUDIOS to the Customer shall be paid in full within 30 (thirty) days from the date of the relevant invoice;
- 5.1.2 SASANI STUDIOS shall be entitled to charge the Customer interest on overdue accounts at the rate of 2% (two percent) above the prime overdraft rate charged by SASANI STUDIOS bankers from time to time to its clients as certified by any manager of that bank, whose authority it shall not be necessary to prove;
- 5.1.3 All Materials, including original video tapes and master tapes or any other media or material relating to the Show may be held by Sasani Studios and/or it may suspend the provision of any Services until such time as full payment has been received from the Customer for all Services provided.
- 5.1.4 the Customer shall fully indemnify SASANI STUDIOS against all costs and expenses including, without limitation, attorneys' and court fees (on an attorney and own client basis) incurred in connection with the collection of any monies owed by the Customer to SASANI STUDIOS;
- 5.1.5 should, in the sole discretion of SASANI STUDIOS, the Customer's financial position at any time become unsatisfactory, SASANI STUDIOS shall be entitled to require either payment in advance and/or payment of any outstanding amounts owing to SASANI STUDIOS and/or the provision of adequate security for payment and

pending the provision thereof shall be entitled to suspend its obligations in terms of this Agreement.

- 5.2 All payments made in terms of this Agreement shall be made in South African Rands, free of deduction and set-off.

## 6. Delivery

- 6.1 Whilst SASANI STUDIOS shall use all reasonable endeavours to comply with the Customer's request for delivery on specific dates and/or times, time for delivery shall not be of the essence and SASANI STUDIOS shall not be liable for any loss or damage of any kind including, without limitation, pre-booked arrangements, arising directly or indirectly out of any failure to deliver on any particular date or at any particular time or for failure to give notice of any delay in delivery.
- 6.2 Delivery shall be made at SASANI STUDIOS's premises. At the Customer's request, expense and risk SASANI STUDIOS shall arrange to deliver the Materials and/or the Products to an address specified by the Customer. In such circumstances it shall be the Customer's sole obligation to insure the Materials and/or the Products, in transit.
- 6.3 At the Customer's request and expense SASANI STUDIOS shall supply packaging for the Materials and/or the Products where delivery is other than at SASANI STUDIOS's premises.
- 6.4 At its sole discretion SASANI STUDIOS may effect and invoice deliveries in one or more instalments.

## 7. Equipment

- 7.1 The Customer acknowledges that the Equipment belongs to SASANI STUDIOS and shall:-
- 7.1.1 store, handle and use the Equipment in a careful and proper manner and not use it for any unusual or dangerous purposes, and shall ensure that it is used only by competent persons and that no repairs or adjustments are made without SASANI STUDIOS prior written permission;
- 7.1.2 inform SASANI STUDIOS of the location of the Equipment and not, without SASANI STUDIOS' permission allow the Equipment outside the Sasani property, nor permit it to be carried across borders or in any aircraft except on scheduled flights by recognised airlines;
- 7.1.3 return the Equipment to SASANI STUDIOS premises or to such other place agreed upon, in good working condition and without damage or defect or notify SASANI STUDIOS, at the time of return of the Equipment, in writing, of any damage, defect, loss or malfunction of the Equipment.
- 7.1.4 not sell, transfer, sub-let, charge, pledge or part with possession of or control of the said Equipment;
- 7.1.5 allow SASANI STUDIOS access to the premises where the Equipment is for the time being located, for the purpose of inspection, repair or possession thereof;
- 7.1.6 immediately advise SASANI STUDIOS should any attempt be made to attach the Equipment by any person whatsoever;
- 7.1.7 obtain all licences and/or permits necessary for the use of the said Equipment;
- 7.1.8 not allow any vehicles supplied by SASANI STUDIOS to be driven by any person other than the person authorised to do so by SASANI STUDIOS, and specifically not by any person who is not in possession of a valid drivers' licence;
- 7.1.9 inform the landlord of any premises where the Equipment is located of SASANI STUDIOS ownership in and to the Equipment.
- 7.1.10 The Customer undertakes to abide by The Occupational Health and Safety Act, Sections 1 –50 and all unrepeatd Regulations promulgated in terms of the former

Machinery and Occupational Safety Act No. 6 of 1983, and accepts the terms of the Sasani Occupational Health and Safety Mandatory Agreement.

- 7.2 The Customer shall be responsible at all times for any loss of or damage to the Equipment from the time the said Equipment is taken possession of by the Customer or any agent acting on its behalf until such time as the Equipment is returned to the premises and custody of SASANI STUDIOS and SASANI STUDIOS has taken possession of the Equipment.
- 7.3 The Customer hereby fully indemnifies SASANI STUDIOS against all claims, expenses and losses of whatsoever nature and howsoever arising whilst the Equipment is in the possession of or being used by the Customer and the Customer undertakes to compensate SASANI STUDIOS in respect of any damages, losses or injuries sustained by SASANI STUDIOS or its staff or sub-contractors from whatsoever cause, but resulting from Customer's possession and use or operation of the Equipment and/or Services.
- 7.4 Provided that, at the time of the occurrence of any loss or damage, the Customer is not in breach of any of these conditions, the Customer's liability shall be limited as follows:-
- 7.4.1 if the Customer has declined the loss damage waiver as indicated in the SASANI STUDIOS cost estimate, invoice or delivery note, the Customer's liability will be limited to the full amount of the applicable insurance excess, in line with SASANI STUDIOS insurance policy at the time; or
- 7.4.2 if the Customer has accepted the loss damage waiver as indicated on the SASANI STUDIOS cost estimate, invoice or delivery note, the Customer's liability will be limited to an insurance excess in line with SASANI STUDIOS insurance policy at the time.
- 7.5 Notwithstanding anything contained in this Agreement, the Customer will be held fully liable for any loss occasioned by theft from an unattended vehicle or from a vehicle that is not locked in a secure garage or premises overnight.
- 7.6 The Customer also indemnifies SASANI STUDIOS in respect of any loss occasioned by its delay in returning or failure to return the Equipment.
- 8. Warranties**
- 8.1 SASANI STUDIOS warrants that it has the legal right and full power and authority to execute and deliver, and to exercise its rights and perform its obligations under this Agreement.
- 8.2 SASANI STUDIOS hereby excludes and disclaims all warranties, whether expressed or implied, statutory or otherwise, except those warranties expressly made in this Agreement.
- 8.3 Without derogating from the generality of the provisions of clause 8.2, SASANI STUDIOS expressly disclaims:-
- 8.3.1 any implied warranties of satisfactory quality, no latent defects, merchantability and fitness for a particular purpose; and
- 8.3.2 any warranty, undertaking or representation as to the abilities of any technicians or other personnel provided by or through SASANI STUDIOS, and the Customer shall at all times be responsible for all acts and omissions of such technicians and personnel whilst working under the control of or for the Customer.
- 9. Risk and Liability**
- 9.1 The Customer acknowledges and agrees that the Media, Materials, Products and/or Equipment shall be received, used and/or stored by SASANI STUDIOS solely at the Customer's risk and that, except as provided in clause 9.2, in no event and under no circumstances will SASANI STUDIOS be liable for any damages, lost profits or other direct, indirect, special or consequential loss whatsoever resulting from any act or omission (including any delays) of SASANI STUDIOS, its employees, sub-contractors or agents, whether such loss or damage results from any negligence or breach of duty

(contractual or otherwise) by SASANI STUDIOS, its employees or sub-contractors or agents.

- 9.2 If SASANI STUDIOS shall by reason of its negligent act or default or breach of contract, cause loss, damage or destruction to the Materials and/or Products or any part thereof, then SASANI STUDIOS shall:-
- 9.2.1 in the event of reparable damage to the Materials and/or Products, use its reasonable endeavours to repair any such damage at its own expense, without any obligation to engage third parties;
- 9.2.2 in the event of loss, destruction or irreparable damage to the Customer's materials/stock/product/software and/or hardware, provide a replacement of a similar quantity of raw stock for the quantity of such lost, destroyed or irreparably damaged;
- 9.2.3 in the event of loss, destruction or irreparable damage to the Customer's materials/stock/product/software and/or hardware, supply at its own cost such part of the stock as shall have been so lost, destroyed or irreparably damaged; and
- 9.3 The Customer undertakes to ensure that all of the Materials content, tapes, files, software and hardware are delivered into SASANI STUDIOS custody in a good and sound condition free from defect including, without limitation, corrupt files, dirt, scratches, physical damage, and storage defects, and are of first class quality suitable for transferring or processing by SASANI STUDIOS in accordance with the Customer's requirements. SASANI STUDIOS shall not be liable for any loss, damage or destruction caused to the Customer's Materials, content, files, tapes, software or hardware during transferring or processing by SASANI STUDIOS arising from any such defect.
- 9.4 In no event and under no circumstances shall SASANI STUDIOS be liable for the cost of rectifying/replacing the defective files/content/materials/ software/hardware/product.
- 9.5 Any liability of SASANI STUDIOS whether in contract, delict or otherwise not excluded in terms of this Agreement shall be limited to the amount of the remuneration or the appropriate part of the remuneration payable to SASANI STUDIOS in connection with which such liability has arisen.
- 10. Insurance**
- 10.1 Each Party shall be responsible for taking out and maintaining with a recognised insurer the usual insurances in respect of its obligations, facilities and equipment owned by such Party or provided by such Party. Each Party hereby indemnifies the other Party and holds the other Party harmless from all damages and losses which it may incur to its content, facilities and/or equipment.
- 11. Reservation of Ownership and Cession**
- 11.1 Notwithstanding the delivery of the Materials, tapes, files, software, hardware and/or the Products until all amounts payable by the Customer hereunder have been paid:
- 11.1.1 ownership of the Materials and/or the Products, including any copyright therein, shall not pass to the Customer; and
- 11.1.2 any claim which the Customer may have at any time arising wholly or partially out of or in connection with the disposal by it of the Materials and/or the Products, shall be deemed to have been ceded to SASANI STUDIOS as security for the Customer's obligations hereunder.
- 12. Storage and Disposal**
- 12.1 Unless otherwise agreed by both parties, SASANI STUDIOS has no facilities for the storage of the Customer's Materials, which should be removed from SASANI STUDIOS premises as soon as possible after the completion of work. Whilst every effort will be made to look after and protect the Customer's Materials while they are being used on SASANI STUDIOS premises, no responsibility whatsoever can be taken for loss or damage to such Media, Materials, software or hardware whilst on SASANI STUDIOS premises.

- 12.2 At the Customer's request, cost and risk, SASANI STUDIOS shall supply storage space for master copies of the Materials.
- 12.3 Notwithstanding clause 12.2, SASANI STUDIOS shall be entitled at any time to retain any master copies of the Materials and to recover any indebtedness in respect of such storage and the costs incurred in returning such masters from the Customer.
- 12.4 The Customer acknowledges and agrees that, if SASANI STUDIOS is unable to trace the Customer or the owner of any stored master copies of the Materials, SASANI STUDIOS shall be entitled to dispose of the stored master copies of the Materials at its discretion, and the Customer hereby indemnifies SASANI STUDIOS against and waives any claim against SASANI STUDIOS arising from or as a consequence of the said disposal.
- 12.5 The Customer undertakes to remove all unused material or material from SASANI STUDIOS's premises within 2 (two) weeks of delivery of the Materials and/or Products, or as otherwise agreed by the parties in writing. If the Customer fails so to do within the period or any period extended in SASANI STUDIOS's discretion, SASANI STUDIOS shall be entitled, at the cost of the Customer, to dispose of and/or destroy such aforementioned Materials and the Customer hereby indemnifies SASANI STUDIOS against and waives any claim against SASANI STUDIOS arising from or as a consequence of the said disposal and/or destruction.
- 13. Customer Warranties**
- 13.1 The Customer warrants that:
- 13.1.1 it has the right to enter into this Agreement and to place orders with SASANI STUDIOS;
- 13.1.2 it has the right to authorise SASANI STUDIOS to make copies and duplicates of the Materials;
- 13.1.3 any person who places any order, accepts any quotation or in any way purports to represent the Customer, or who is allowed voluntarily by the Customer or by omission to purport to represent the Customer, is so authorised;
- 13.1.4 SASANI STUDIOS' provision of the Equipment, Products and Services will not constitute an infringement of any patent, copyright, design, trade mark or otherwise;
- 13.1.5 the Customer's Materials do not contain any defamatory material;
- 13.1.6 the Customer's Materials do not contain anything which is obscene or which in any way infringes any applicable law,
- 13.1.7 and the Customer hereby indemnifies SASANI STUDIOS against any loss, liability, cost, damage or claim that may be brought against SASANI STUDIOS by any person whomsoever, arising from a breach of any of these warranties.
- 13.2 Furthermore, the Customer undertakes:
- 13.2.1 to adhere to all relevant licensing requirements and
- 13.2.2 to supply on a timeous basis any material, equipment, services and the like necessary or required to complete the work or to enable SASANI STUDIOS to use or apply the Equipment. Any delay caused by Customer to timeously supply the Materials, resulting in SASANI STUDIOS not being able to supply the Services or use or apply the Equipment shall be for Customer's account and charged at SASANI STUDIOS rates then applying. Should such delay be for an unreasonable period of time, then SASANI STUDIOS may withdraw the Equipment or Services and re-apply the same when it is able to do so.
- 14. Breach**
- 14.1 If the Customer is in breach of any of these terms or conditions or if the Customer is placed in liquidation or judicial management SASANI STUDIOS shall be entitled, without prejudice to any other remedies to which it may be entitled, including any rights to security hereunder:
- 14.1.1 to claim immediate payment of all amounts payable by the Customer to SASANI STUDIOS, whether then due and payable or not;
- 14.1.2 to suspend the performance of any obligation owed by it; and/or
- 14.1.3 to terminate this Agreement immediately upon notice.
- 14.2 On termination of this Agreement for whatever reason, all Equipment utilised by the Customer shall be returned forthwith. In addition, all amounts owing, although due dates for payment may not have arrived, shall become immediately due and payable.
- 15. Domicilia**
- 15.1 The parties respectively choose *domicilium citandi et executandi* for all purposes of and in connection with this Agreement as the address printed on the face hereof for SASANI STUDIOS and the address written on the face hereof for the Customer.
- 15.2 All notices, demands and communications intended for the parties shall be made out and delivered to such party's *domicilium* for the time being. Such notice, demand or communication (and any evidence in which it is contained) shall be marked for the personal attention of the Chief Executive where it is addressed to SASANI STUDIOS.
- 15.3 In the absence of proof to the contrary any notice, demand or communication given to any party shall be deemed to have been received by the addressee 10 (ten) days after the posting by pre-paid registered post by airmail where airmail postal services are available or upon date of delivery in the event of delivery being by hand or telefax and not through the post.
- 16. General**
- 16.1 In the absence of an express agreement to the contrary, these terms and conditions shall apply to all future contracts between SASANI STUDIOS and the Customer relating to the Equipment, Products and Services.
- 16.2 These terms and conditions constitute the entire agreement between the parties with regard to the matters dealt with herein and no representations, term, conditions or warranties not contained in these terms and conditions shall be binding on the parties.
- 16.3 No agreement varying, adding to, deleting from or cancelling these terms and conditions shall be effective unless reduced to writing and signed by or on behalf of the parties.
- 16.4 No indulgence granted by a party shall constitute a waiver that that party's rights under these terms and conditions and accordingly that party shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.
- 16.5 Should any paragraph, clause or part hereof be found to be invalid or unenforceable for whatsoever reasons then, to the extent possible, such paragraph, clause or part hereof shall be deemed to be severable and shall not affect the validity of the balance of this Agreement.
- 16.6 These terms and conditions shall be governed in all respects by, and shall be construed according to, the laws of the Republic of South Africa and shall be subject to the exclusive jurisdiction of the South African courts.
- 16.7 If the Customer is an unincorporated business or partnership then, notwithstanding the sale of its business, the sole proprietor or partners (jointly and severally) at the date that the Products, Services and/or Equipment were provided by SASANI STUDIOS to the Customer shall be liable for payment to SASANI STUDIOS for all amounts owing to SASANI STUDIOS in respect thereof