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**Imagine** IPS

the perfect service provider

subscription form | diginet leased line

SECTION A : PRODUCT DETAILS – DIGINET LEASED LINE			
Description	Setup / Once Off Fee	Monthly Fee	Select
<b>64k Diginet Leased Line</b> 5 e-mail boxes @imagine.co.za (10MB limit / box)	R 3,000.00 (Excl. VAT)	R 2,250.00 (Excl. VAT)	
<b>128k Diginet Leased Line</b> 5 e-mail boxes @imagine.co.za (10MB limit / box)	R 3,000.00 (Excl. VAT)	R 4,500.00 (Excl. VAT)	
<b>192k Diginet Leased Line</b> 5 e-mail boxes @imagine.co.za (10MB limit / box)	R 3,000.00 (Excl. VAT)	R 6,650.00 (Excl. VAT)	
<b>256k Diginet Leased Line</b> 5 e-mail boxes @imagine.co.za (10MB limit / box)	R 3,000.00 (Excl. VAT)	R 8,800.00 (Excl. VAT)	
<b>Router Purchase (2<sup>nd</sup> Hand)</b>	R 4,000.00 (Excl. VAT)	-	
<b>Router Purchase (New)</b>	R 12,000.00 (Excl. VAT)	-	
<b>Router Rental</b>	-	R 400.00 (Excl. VAT)	

Note : All subscription fees are billed in advance and are payable by monthly debit order only.

Note : Setup fees indicated above are for configuration of Cisco routers. Use of any other routers may incur an additional setup fee

SECTION B : COMPANY AND CONTACT DETAILS

Legal Company Name		Registration Number	
		VAT Number	
Contact Person		Contact e-Mail Address	
Telephone #		Fax #	
Billing / Postal Address		Physical Address	

SECTION C : MONTHLY DEBIT ORDER INSTRUCTION

Bank		Account Name	
Branch/Town		Account Number	
Branch Number		Account Type	

I/we hereby request and authorise you to draw against my/our account with the abovementioned bank (or any other bank or branch to which I/we may transfer my/our account) the contractual amount indicated above and any other variable amount pertaining to this agreement, on the first working day of each and every month. This being the amount necessary for the monthly payment due to you in respect of our contract (ie : this Subscription Form and attached Terms & Conditions document.)

All such withdrawals from my/our bank account by you shall be treated as though they had been signed by me/us personally. I/we the undersigned, "instruct" and authorize your agent Netcash (Pty) Ltd or any other agent appointed by Imagine IPS in the future, to draw against my/our account with the abovementioned bank. I/we understand that the withdrawals authorized here will be processed by BankServ and I/we also understand that details of each withdrawal will be printed on my/our bank statement. I/we agree to pay any bank charges relating to this debit order instruction.

This authority may be cancelled by means of giving you thirty days notice in writing, sent by prepaid registered post, but I/we understand that I/we shall not be entitled to any refund of amounts, which you have withdrawn whilst this authority was in force if such amounts were legally owing to you.

Assignment:

I/We acknowledge that the party hereby authorized to effect the drawing(s) against my/our account may not cede or assign any of its rights and that I/we may not delegate any of my/our obligations in terms of this contract/authority to any third party without prior written consent of the authorized party.

Date		Signature (As used for Signing Cheques)	
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## SECTION D : TERMS AND CONDITIONS

### 1. DESCRIPTION OF SERVICE AND SUPPLY

1.1 Imagine is not responsible for the installation of the leased line, but will liaise with the relevant companies on behalf of the client. Imagine is not responsible for the maintenance of the leased line, but will assist in the quick resolution of any faults.

1.2 The client may choose to either rent or purchase the equipment required, as specified in the Subscription Form completed by the client, to create the client side of an operational TCP/IP (Transmission Control / Internet Protocol) networking link. Should the client rent the equipment from Imagine, the equipment remains at all time the property of Imagine and Imagine undertakes to maintain this equipment. Should the client purchase the equipment either from Imagine or from another source Imagine will not be responsible for the maintenance of the equipment unless otherwise specified and confirmed in writing by an Imagine representative. Imagine will provide all other equipment (on the Imagine side of the link), required to create an operational TCP/IP (Transmission Control / Internet Protocol) networking link. This equipment remains at all time the property of Imagine. Imagine undertakes to maintain this equipment.

### 2. INTERPRETATION OF THIS AGREEMENT

2.1.1 "the/this agreement" - means these terms and conditions of use, Imagine's privacy policy, Imagine's mailbox rules and all other terms and conditions which Imagine may, from time to time, impose in respect of the service, as amended and updated from time to time;

2.1.2 "service(s)" - means the service described in 1 above and any other service that you may subscribe to or which may form part of Imagine's offering from time to time;

### 3. INSTALLATION AND MAINTENANCE

#### 3.1 Installation

Installation will be effected by an Imagine approved technician or team of technicians. The technician/s will liaise with a client appointed representative. The client will provide the access necessary to install and maintain all equipment required to provide an operational network link.

#### 3.2 Maintenance

3.2.1 Imagine will maintain all Imagine equipment. The client undertakes to provide free and full access, to all equipment, to an Imagine approved technician should the need arise. The client will also provide free and full remote access to all Imagine equipment when requested to do so by Imagine.

3.2.2 The client undertakes to use the Imagine equipment and related software only in strict accordance with instructions from Imagine and that Imagine is not liable for any repairs or damage caused other than by the normal and instructed use of the Imagine equipment.

#### 3.3 Insurance

The client will be responsible for insuring all Imagine equipment on the client's site against any form of loss or damage from all risks. This insurance should be of a value equal to the full replacement value of the Imagine equipment.

### 4. EFFECTIVE DATE, ANNIVERSARY DATE AND DURATION

4.1 The effective date shall be :

4.1.1 the first date on which the Imagine DNS (Domain Name Server) can contact the client side router **or**

4.1.2 four weeks after the completion of the installation of the Telkom Data line **or**

4.1.3 eight weeks from the signing of this agreement

which ever is the sooner.

4.2 This agreement will commence on the effective date and will endure for a period of one (1) year. This agreement will expire on the anniversary date, being twelve (12) months from the effective date, but the contract will continue in force automatically thereafter on a twelve (12) monthly basis unless six (6) months' prior written notice of termination is given by either the client or by Imagine. Upon termination of this agreement, any outstanding amounts remain payable and have to be settled within thirty (30) days of termination.

### 5. AVAILABILITY OF SERVICE

5.1 Imagine will use reasonable endeavours to keep the service available at all times. However, the client agrees that Imagine shall not be liable to the client or any other person whatsoever in respect of any loss or damages caused by or arising from the unavailability of, or any interruption in the service for any reason whatsoever.

5.2 Imagine will use its best endeavours to notify the client of any maintenance and repairs which may result in the service being unavailable, but does not warrant that such notice will be given in advance.

5.3 Neither the client nor any other person shall have any claim against Imagine for any direct, consequential, incidental, indirect or special loss or damages including (without being limited to) business interruption, loss of business information, loss of data or other pecuniary loss, arising from the unavailability of, or interruption in the service as contemplated in 5.1, regardless of whether such claim is based on breach of contract, delict, breach of implied warranties or otherwise and even if the possibility of such loss or damages could have been foreseen.

### 6. PAYMENT

6.1 You agree to pay the subscription fee, which may include (without being limited to) the monthly access fee, usage fees, fees for closed user groups and fees for other services you may subscribe to from time to time. Unless we specifically agree otherwise, the subscription fee will be payable monthly in advance.

6.2 Imagine will invoice you for the membership fee on a monthly basis, unless we specifically agree otherwise.

6.3 The subscription fee and all other amounts payable in terms hereof shall be paid free of exchange and without deduction or set-off by way of a direct debit order (drawn against a current banking account nominated by you) in favour of Imagine, or in such other manner as Imagine may from time to time determine.

You agree that by furnishing your bank details, you authorise Imagine to deduct all amounts payable in terms of this agreement from the account specified.

Should we require you to, you agree to sign all such forms and do all such things as may be necessary to give effect hereto.

6.4 Should you fail to pay any amount on the due date for payment, then, without prejudice to any other rights Imagine may have:

6.4.1 such amount shall bear interest at the rate of 2% above the prime overdraft rate of Imagine's bankers from time to time, calculated from the due date until the date of payment (both dates inclusive) and will be capitalised monthly;

6.4.2 Imagine shall be entitled to take all such further steps as may be necessary to recover the outstanding amount from you, in which event you agree to pay all costs associated with such recovery on an attorney and own client basis;

6.4.3 Imagine shall be entitled to, without notice, suspend your access to the service until such time as the outstanding amount has been paid in full; and/or

6.4.4 Imagine shall be entitled to terminate this agreement with immediate effect.

6.5 Imagine shall be entitled to increase the monthly fees detailed in the subscription form completed by the client on 30 (thirty) days prior written notice thereof to the Client provided that :

6.5.1 Imagine shall not be entitled to increase the monthly fees during the first 6 month period of this agreement.

6.5.2 Imagine shall not increase the fees more than once in any 12 month period of this agreement.

6.5.3 Imagine shall not increase the fees by more than 15% in any 12 month period of this agreement.

6.6 The client may not withhold payment of any amount due to Imagine in terms of this agreement by reason of any alleged breach of this agreement by Imagine, nor will the client be entitled to any discount, refund or other credit under any circumstances.

### 7. TERMINATION PENALTY

7.1 If the client terminates this contract at any time before the end of the service term, Imagine will charge a termination fee of the balance of the contract, payable on the day of termination.

7.2 Clause 7.1 of these Terms and conditions does not apply if the client wishes to upgrade their service before the end of the service term.

## 8. COMMUNICATION

The client hereby agrees that Imagine may from time to time send you communications regarding (without being limited to) special offers/discounts which Imagine may negotiate for its members, operational changes that may affect the service and/or new services launched by Imagine from time to time.

## 9. SECURITY

**9.1** In order to ensure the security and reliable operation of the service to all Imagine clients, Imagine hereby reserves the right to take whatever action Imagine finds necessary to preserve the security and reliability of its network.

**9.2** The client may not utilise the service in any manner which may compromise the security of Imagine's network or tamper with the service or the network in any manner whatsoever.

## 10. USER ETIQUETTE AND ABUSIVE BEHAVIOUR

**10.1** You hereby agree to adhere to generally acceptable Internet and e-mail etiquette. In this regard, without being limited to the examples listed below, you agree not to:

**10.1.1** engage in any abuse of e-mail or spamming, including (without being limited to) the posting or cross-posting of unsolicited articles with the same or substantially the same message to recipients that did not request to receive such messages;

**10.1.2** take any action aimed at deceiving or misleading any person, attempt to impersonate or misrepresent your affiliation to any person or forge headers or otherwise manipulate identifiers in order to disguise the origin of anything posted or transmitted through the service;

**10.1.3** use the service to post or transmit anything which is defamatory, discriminatory, obscene, offensive, threatening, abusive, harassing, harmful, hateful or which carries child pornography, religious or racial slurs or threatens or encourages bodily harm or the like or which may violate any person's personality rights;

**10.1.4** use the service to make fraudulent offers to sell or buy products, items or services or to offer or solicit for any type of financial scam such as "pyramid schemes" and "chain letters";

**10.1.5** use the service in a manner that may infringe the intellectual property rights (for example copyright or trade marks) or other proprietary rights of others, including (without being limited to) the transmission of pirated software;

**10.1.6** use the service in any manner which could damage, impair, overburden or disable the service or interfere with any other party's use or enjoyment of the service;

**10.1.7** use the service to post or transmit anything which contains viruses or any other destructive features, regardless of whether or not damage is intended;

**10.1.8** cancel any post other than your own;

**10.1.9** repeatedly post gratuitous off the topic postings;

**10.1.10** gather e-mail addresses and/or names for commercial, political, charity or like purposes or use the service to collect or attempt to collect personal information about third parties without their knowledge or consent; and

**10.1.11** violate the privacy of any person or attempt to gain unauthorised access to the service or any other network, including (without being limited to) through hacking, password mining or any other means; and/or

**10.1.12** use the service to engage in any illegal or unlawful activity.

**10.2** The client acknowledges that Imagine is unable to exercise control over the content of the information passing through the Imagine connection and/or the Imagine network, and Imagine hereby excludes all liability of any kind for the transmission or reception of infringing information of whatever nature.

**10.3** The Imagine network may be used by the client to link into other networks (national or International) and the client agrees to conform to the acceptable protocols and policies of these networks.

**10.4** Should you engage in any one or more of the above practices, which shall be determined in Imagine's sole discretion and which decision shall be final, then Imagine shall be entitled, without prejudice to any other rights it may have, to:

**10.4.1** without notice, suspend your access to the service;

**10.4.2** terminate this agreement with immediate effect;

**10.4.3** bill you for any costs incurred by Imagine, including (without being limited to) bandwidth, administration costs, downtime, usage of Imagine's name or registered domain names and CPU cycles; and/or

**10.4.4** notwithstanding Imagine's privacy policy, disclose any information relating to you, whether public or personal, to all persons affected by your actions.

## 11. RESTRICTIONS ON RE-SELLING

The client in entering into this contract undertakes it will not re-sell or in any other way transfer the Imagine connection. Any attempt to do so, whether successful or not, will result in the service being terminated by Imagine, in which event the client will be liable for a termination fee.

## 12. INDEMNITY

**12.1** The client hereby unconditionally and irrevocably indemnifies Imagine and agrees to hold Imagine free from all loss, damages, claims and/or costs, of whatsoever nature suffered or incurred by Imagine or instituted against Imagine as a direct or indirect result of:

**12.1.1** the client's use of the service;

**12.1.2** the client's failure to comply with any provision of this agreement or any other requirements which Imagine may impose from time to time; and

**12.1.3** any unavailability of, or interruption in the service, as contemplated in 5.1 above.

## 13. BREACH

Should the client be in breach of any provision of this agreement, then Imagine shall be entitled, without prejudice to any other rights it may have and without notice to the client, to forthwith:

**13.1** claim immediate payment of all outstanding amounts payable in terms of this agreement;

**13.2** suspend your access to the services; and/or

**13.3** terminate this agreement, retain all amounts already paid by you and recover all costs incurred by Imagine, including (without being limited to) legal costs on an attorney and own client basis.

## 14. CERTIFICATE OF INDEBTEDNESS

**14.1** The amount due and payable by you to Imagine in terms of this agreement at any time shall be determined and proved by a certificate signed by one of Imagine's directors, whose appointment, qualification and authority need not be proved.

**14.2** Such certificate shall be deemed to be a liquid document for the purpose of obtaining summary judgment, provisional sentence and/or any other judgment against you.

## 15. CESSION AND DELEGATION

**15.1** You may not cede any of your rights or delegate any of your obligations under this agreement without Imagine's express written consent.

**15.2** Imagine shall be entitled, in its sole discretion and without notice to you, to cede and transfer or delegate to any third party all or any of its rights or obligations under this agreement.

## 16. JURISDICTION

You hereby consent to the jurisdiction of the Magistrate's Court in the Republic of South Africa in respect of any proceedings that may be initiated by Imagine arising out of this agreement, provided that Imagine shall be entitled, in its sole discretion, to institute such proceedings in the High Court of South Africa and, in such event, you consent to the jurisdiction of such court and agree that costs shall be calculated in accordance with the tariff of such court.

## 17. AMENDMENT OF THIS AGREEMENT

Imagine reserves the right to amend this agreement from time to time without notice to you. Any new version of the agreement will be displayed on our web site together with the date on which it will become effective, which will never be less than 30 days after the date on which it is first displayed. It is your obligation to visit our web site on a regular basis in order to ascertain whether any amendments have been made.

**18. GENERAL**

**18.1** The parties acknowledge and agree that this agreement sets out the whole of the agreement between them and that there are no other agreements, guarantees or representations, either verbal or in writing, in regard thereto upon which any party is relying in concluding this agreement.

**18.2** The parties choose their respective domicilia citandi et executandi for the purposes of giving any notice, the serving of any process and for any other purposes arising from this agreement as follows:

**18.2.1** Imagine: 2<sup>nd</sup> Floor West Wing 158 Jan Smuts, 9 Walters Ave. Rosebank; and

**18.2.2** you: the address you provided to us when subscribing for the service.

**18.3** You agree that any notices we send to you in terms of this agreement may be sent via e-mail.

**18.4** No indulgence, leniency or extension of time which Imagine may grant or show to you shall in any way prejudice Imagine or preclude Imagine from exercising any of its rights in the future.

**18.5** You warrant that as at the effective date, all the details furnished by you to Imagine are true and correct and that you will notify Imagine forthwith in the event of any change to such details.

**19. DATA PROTECTION**

Imagine reserves the right to put the names and other information from this form relating to its Clients into a computerised directory for internal use only.

**20. THIRD PARTY NETWORK CONNECTIONS**

**20.1** If the client intends to connect their network to other wide area networks (i.e. networks that are not Imagine networks) they must first obtain permission from Imagine before committing to the other network connections.

**These terms and conditions are governed by and shall be constructed in accordance with the laws of South Africa.**

**SECTION E : CONFIRMATION OF INFORMATION PROVIDED AND ACCEPTANCE OF TERMS & CONDITIONS**

I, the undersigned, have read and understood the terms and conditions of the contract above. I confirm that the information that I have supplied in this subscription form is, to my knowledge, true and correct in every respect.

Date		Full Name	
		Signature (As used for Signing Cheques)	
<b>FOR OFFICE USE ONLY</b>		Imagine IPS Representative Full Name	
Scanned to file?		Imagine IPS Representative Signature	