e: talk@imagine.co.za   t: +27 11 214 7600   f: 086 686 9771

a: 158 Jan Smuts, 9 Walters Ave, Rosebank

p: Po Box 306, Parklands, 2121

www.imagine.co.za

imagine IPS
the perfect service provider

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REQUIRED ACTIVATION DATE :

SECTION A : COLOCATE SERVER HOSTING – APPLICATION FORM

TRAFFIC LIMITED COLOCATION SERVER HOSTING			
Description	**Setup / Once Off Fee**	**Monthly Fee**	**Indicate Selection**
Traffic Limited Colocation Server Hosting - Upto **4U 19" Rack Space and 5GB Bi**-directional Data Transfer	FREE	R 850.00	
Over Usage Bandwidth per MB	-	R 0.03	
PLEASE NOTE :	- All fees above are inclusive of VAT. - All subscription fees are billed in advance and are payable by monthly debit order only. - Server Hosting includes the following features as standard : Full generator and UPS backup power systems with automatic failover; TCP/IP and SNMP monitoring with real-time SMS/eMail notification service; Monitoring software for application layer software if compatible and requested.		

SECTION B : COMPANY AND CONTACT DETAILS

Legal Company Name		Company Registration #	
		Company VAT #	
Telephone #		Fax #	
Billing / Postal Address		Physical Address	
Admin Contact		Technical Contact	
Admin eMail		Technical eMail	
Admin Phone #		Technical Phone #	

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		Authorised Signature	

Service Specification & Description

1. GENERAL NOTES
1.1 Set-up fees exclude hardware and software costs.
1.2 Hosting prices do not include dial-up access or e-mail addresses, unless stated above.
1.3 Imagine IPS Hosting will not in any way manage, alter, inspect, test or support application layer software.
1.4 The power consumption per 1u of space may not exceed 0.12KW and heating may not exceed 203 BTU/HR

2. ADDITIONAL CHARGES
2.1 The Customer shall be responsible for additional fees and charges, where applicable:
2.1.1 Should the volume of data traffic in a calendar month, indicated in the table above as "GB Bi-directional Data Transfer", exceed the specified threshold, an additional charge, indicated in the table above as "Over Usage Bandwidth per MB", will be applied for that month;
2.1.2 Should the first or last month of this agreement not be a full calendar month, the additional charge in respect of these two months will be applied on a pro-rata bais.

3. LEAD TIMES
From receipt of a firm order and signed service contract, the time taken to implement the Hosting Service is 1 week.

4. SERVICE COMPONENTS AND NETWORKING
4.1 Facility: The server(s)/cabinet will reside in Imagine IPS' Rosebank server hosting facilities. These facilities are secure, access-controlled server rooms with cooling, UPSs, and diesel generators.
4.2 Cabinets: The cabinets utilised have lockable front and rear metal doors.
4.3 Dedicated Solutions: The standard solution includes sufficient space to accommodate Customer's hardware (up to 4U). Larger servers will attract an additional charge, calculated incrementally per U (1U = 1.75' or 4.45 cm.).
4.4 Secure Space: Dedicated hosting services are all installed in lockable racks which may host more than 1 Customer. Where Customers elect to use the secure space option, these servers are hosted on shelves/racks that are independently lockable.
4.5 Networking: Dedicated Solutions: Imagine IPS will provide a single 100Mbps Ethernet connection to the 1Gbps Imagine IPS Hosting Ethernet backbone (CAT 5 rating).
4.6 IP Addresses: An IP address will be allocated per server. Further addresses will only be provided with suitable technical justification.
4.7 Software: Imagine IPS does not maintain any OS, databases, applications or other software unless otherwise specified.

5. TRAFFIC UTILISATION
Traffic threshold hosting solutions offered by Imagine IPS Hosting includes a monthly traffic threshold, the charge for which is included with the solution's total cost. Once the threshold is exceeded, each Megabyte served is charged at the stipulated rate. Imagine IPS uses a traffic measurement system that reports bandwidth utilisation. Charging thresholds and excess traffic charges are available on request.

6. MECHANISMS OF REPORTING FAULTS
6.1 Technical contacts: Fault reporting is performed by authorised Technical Contacts only.
6.2 Via e-mail: helpdesk@imagine.co.za, the auto-reply will include the relevant Ticket number.
6.3 Via telephone: Imagine IPS Control Centre (011) 214-7600, the call will be logged and a Ticket number will be given.

7. FAULT TYPES, SERVICE CHARGES AND RESPONSIBILITY
7.1 Fault Types: Faults fall into a number of categories as indicated in the table below. Should an Imagine IPS engineer rectify a fault which is related to categories 2, 3, 4 or 5, a call-out charge will be levied (see "Charges" below):

Fault type	Responsibility
1. Hardware failure (Imagine IPS owned equipment)	Imagine IPS – no charge applicable
2. Hardware failure (Customer owned equipment)	Customer – charge applicable if Imagine IPS perform the repair
3. Operating System (OS) failure	Customer – charge applicable if Imagine IPS perform the repair
4. Application software failure	Customer – charge applicable if Imagine IPS perform the repair
5. Remote operator errors/Customer error	Customer – charge applicable if Imagine IPS perform the repair
6. Imagine IPS Infrastructure failure (network/backbone)	Imagine IPS – no charge applicable

7.2 Hardware ownership: In cases where hardware is owned by Imagine IPS, repairs for fault type 1 will attract no charge. Standard hardware will be rectified within 12 hours (during office hours or after hours). Turnaround times for other hardware will depend on the service levels offered by the vendor of that hardware.
7.3 Charges: Imagine IPS will apply charges for call-out repair or maintenance work that results from faults that the Customer is responsible for rectifying. Charges vary according to the time-of-day (refer to "Definition of hours" below) and the nature of the work carried out by Imagine IPS. Imagine IPS will quote on such work beforehand.

7.4 Definition of hours: "Office hours" are defined as weekdays, 08h00 to 18h00. "After hours" are defined as weekdays 18h00 to 08h00, weekends or public holidays

8. MAINTENANCE
8.1 Remote management: Customers are required to install remote management software on all servers. Imagine IPS Hosting will not in any way manage, alter, inspect or test application layer software.
8.2 On site maintenance: A customer maintenance area is available by prior appointment for customer's authorised Technical Contacts only. To gain access into the Data Centre the following is required by all Customers:
8.2.1 A valid Ticket number obtained by e-mailing helpdesk@imagine.co.za, and a valid South African ID or passport, Driver's licence, or company ID card as printed by the company matching the same details as logged in our Technical Contacts database.
8.3 Support processes on existing dedicated solutions: Any servers brought in or removed after the initial dedicated hosting space has been installed and signed over to the customer are required to be logged against our normal support ticket system. If at anytime the customer needs to add or remove servers to/from the cabinet a ticket must be sent to helpdesk@imagine.co.za to allow Imagine IPS to make adequate provisions in the Data Centre. A minimum of 48 hours is required in order to prepare the Data Centre for additional servers.
8.4 Scheduled Maintenance by Imagine IPS: Imagine IPS reserves the right to perform scheduled maintenance on the network or other service components. 24 hours notice will be provided.
8.5 Hardware support for standard hardware rented from Imagine IPS : Imagine IPS engineers will maintain and support all rented hardware and rectify faults as and when they occur. If spares are needed, these are then drawn from our spares stock. If necessary, we will escalate the fault to the hardware vendor. All hardware provided includes next-business-day telephonic support. Imagine IPS always retains ownership of the hardware, both during, and after the rental period, unless the Customer elects to purchase the hardware outright when the rental-term has elapsed. If Customer purchases hardware, Imagine IPS will not continue to support that hardware.

9. SERVICE LEVEL PERFORMANCE TARGETS
The following table contains Hosting SLA parameter target values, against which the performance of the service will be measured on an on going basis.

Parameter	Target Value
Power	99.9%
Core Infrastructure	Rosebank
Availability	99.9%
Round Trip Time	35 ms
Packet Loss	2%
Hosting Infrastructure	Rosebank
Availability	99.9%
Round Trip Time	5 ms
Packet Loss	2%

10. SERVER MONITORING (PING PORT PROTOCOL MONITORING)
The table below indicates the range of monitoring protocols (and monitoring intervals) available with any dedicated hosting solution. Only ICMP is mandatory with each hosted server; the other protocols are optional and are selected according to the applications which are run on each server.

Protocol	Description	Interval
ICMP	Mandatory with each dedicated hosting solution.	3 minutes
HTTP	Checks the availability and response time of Web servers.	3 minutes
HTTPS	Communicates with the server using version 2 or version 3 of the SSL.	3 minutes
FTP	Uses FTP to either upload (put) or download (get) files between servers.	30 minutes
SMTP and POP	Monitors an e-mail service by sending a message to a customer-supplied mailbox.	10 minutes
TCP Port	You are able to select any port to be monitored.	3 minutes

The responses are integrated into the Imagine IPS Control Centre and operators are alerted if 1 failed response is logged. The following rules apply to the monitoring service:
10.1 A maximum of 10 services (ports) can be monitored per server hosted by Imagine IPS.
10.2 One FTP port and one SMTP service can be monitored per server.
10.3 Both the monitoring server and the customer's server need to be able to resolve forward and reverse DNS entries for the system to work.

11. HARDWARE MONITORING
11.1 System variables monitored: The following system parameters can be monitored: Hard-disk and RAM utilisation, CPU usage and swap file size.
11.2 Fault Management: The control centre will be alerted when the warning and/or critical thresholds are reached.
11.3 Imagine IPS provides notification that server components are reaching their thresholds. It is the customer's responsibility to ensure that this hardware is upgraded.

Initialled ....

Director : W.G. Bennett   Reg No.: 1999/022516/07

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Standard Terms & Conditions

DEFINITIONS
In this Agreement, the words hereunder will have the meanings assigned to them below:-

AGREEMENT	means these Standard Terms and Conditions and any Application Form, Schedules, Annexures, Imagine's Privacy Policy, Imagine's Accetable Use policy, Imagine's mailbox rules and all other terms and conditions and attachments which may, from time to time, impose in respect of the Service/s, as amended and updated from time to time.
CUSTOMER	means the party specified as Customer on this application form.
DURATION	means the length of time and responsibility for the Service from the Effective Date.
EFFECTIVE DATE	means, notwithstanding the date of signature of this Agreement, the date when the Service/s is commissioned by Imagine for use by the Customer irrespective of whether or not the Customer uses the Service/s;
HOSTING SERVICE/S	means the service as described in Section A, in Clause 1 below and the attached Service Specification & Description above.
IMAGINE	Benwest Internet Services (Pty) Ltd trading as Imagine IPS.
INITIAL PERIOD	means the initial contract term of the Service/s, as set out in this Agreement;
PSTS	means the public switched telecommunications services provider licensed to provide such services in terms of section 36 of the Telecommunications Act 103 of 1996 as amended.
SERVICE/S	means the service as described in Section A, in Clause 1 below and the attached Service Specification & Description above. and any other service that you may subscribe to or which may form part of Imagine's offering from time to time.
SOFTWARE	programmed code or routines that control the functioning of a computer application.
VAT	means Value-Added Tax as defined in the Value-Added Tax Act 89 of 1991.
WEB HOSTING	means a shared hosting service provided specifically for the use of presenting a website to the internet audience, on one or multiple servers. Management rights by the Customer or Customer will be limited.
VAT	means Value-Added Tax as defined in the Value-Added Tax Act 89 of 1991.

The clause headings contained in this Agreement are for reference purposes only and shall not be used in the interpretation of this Agreement. Words importing any one gender includes the other gender, the singular includes the plural and vice versa, and natural persons includes juristic entities and vice versa.

1. DESCRIPTION OF SERVICE AND SUPPLY
1.1 **Imagine IPS undertakes to provide Customer with capacity to house, in a cabinet at Imagine IPS'** premises hereinafter referred to as the **"premises", the Equipment specified in this document, and provide a connection to Imagine IPS's network facilitating access to the networked system known as** the Internet, based on interconnected hyper-media documents commercially known as the World Wide Web.

2. EFFECTIVE DATE AND DURATION
2.1 The Effective Date of this Schedule is the date when the Hosting Service/s first commences. Should the Effective Date occur after the date of signature of the Agreement, nothing herein contained shall be construed so as to give either party the right to cancel or rescind the Agreement before the Effective Date.
2.2 If at any time during the currency of the Agreement, the Customer upgrades the service, then the Effective Date in respect of the Service/s as upgraded shall be the date when the upgraded Service/s first commences.
2.3 The duration period of each of the Service/s shall be 12 (twelve) months (the Initial Period).
2.4 Either party hereto shall be entitled to terminate this Agreement by way of 90 (ninety) days prior written notice of termination to be effective at the end of the Initial Period. Failing such notice of termination, the duration of the Service shall thereafter automatically renew for successive periods of 12 (twelve) months each on terms and conditions set out in the Agreement and Schedules, subject to 90 (ninety) days prior written notice of termination effective at the end of the then current 12 (twelve) month period, and subject to an escalation in fees per clause 5.7 of the Standard Terms and Conditions.

3. INSTALLATION AND MAINTENANCE
3.1 Installation
3.2 Imagine IPS shall provide the following installation and operational support in respect of the Equipment:
3.2.1 necessary power connections, equipment and terminal connections;
3.2.2 operational support such as simple checking for faults, notification of faulty Equipment;
3.2.3 procedures for fault isolation and communication of existence of a fault in Equipment and escalation procedures in regard thereto.
3.3 Maintenance
3.3.1 Customer shall have physical access to the Equipment upon reasonable notice to Imagine IPS, for the purposes of maintaining and repairing the Equipment.
3.3.2 In the event of breakdown or malfunction of the Equipment, the owner of the Equipment shall at its **cost effect repairs in accordance with the manufacturer's specifications.**
3.3.3 Customer shall abide by any rules notified to it relating to use of, access to, or security measures respecting the Equipment and the premises.
3.4 Insurance
3.5 The Customer will be responsible for insuring all Imagine equipment on the Customer'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. DOMAIN NAMES
4.1 Should Imagine IPS assist the Customer to register a domain name in respect of its web site, the Customer hereby indemnifies Imagine IPS against any claim if the use of such domain name is in conflict with any statutory enactment or court order or where the use of such domain name infringes the legal rights of a third party including circumstances where such third party contests the Customer**'s** intellectual property rights such as trademarks, trade names or other proprietary rights to any name. Imagine IPS shall not be liable for any claim or damages of whatsoever nature if it is unable for any reason to secure the registration of the Customer**'s requested domain name.**

5. CHARGES & PAYMENT
5.1 All Service/s provided are to be billed as of the Effective Date. In the event of a single Service consisting of a number of components, billing will commence for each respective component of that Service as and when each component of that Service goes live.
5.2 Customer is responsible for and agrees to pay to Imagine all fees for the Service/s in South African currency, without deduction or set-off of any amount of whatsoever nature or for whatsoever reason.
5.3 Unless otherwise stipulated, all prices specified exclude:
5.3.1 VAT and any other any taxes and duties including any regulatory surcharge, which Customer becomes obligated to pay by virtue of this Agreement, and
5.3.2 PSTS provider service fees, for which Customer agrees to make payment directly to the PSTS provider on such terms as are agreed between the PSTS provider and Customer, and shall at all times be the responsibility of the Customer.
5.4 Unless otherwise agreed, invoicing will be processed and delivered in advance and all invoices for Services will be settled, in full, in advance of using the Service.
5.4.1 Over Usage Bandwidth will be invoiced at the end of each month and the Customer will settle within 7 (seven) days for receipt.
5.4.2 Imagine will suspend or terminate the Service until payment is received as in Clause 11.1.
5.5 In the event of any dispute arising as to the amount or calculation of any fee or charge to which Imagine is entitled, the dispute shall be referred for determination to Imagine's auditors. They shall act as experts and their decision shall be final and binding on Imagine and Customer. The cost of the determination shall be paid on demand by the party against whom the determination is made, or as determined by the said auditors.
5.6 Any amount falling due for payment by Customer to Imagine in terms of or pursuant to this Agreement which is not paid on its due date shall bear interest calculated from the due date for payment thereof until date of payment, at a rate equal to the prime overdraft rate plus two percent (2%) charged by ABSA Bank from time to time, monthly in arrears.

5.7 Imagine shall be entitled from time to time on 30 (thirty) days prior written notice thereof to the Customer to increase the monthly fees referred to in the Service Schedule, provided that:
5.7.1 Imagine shall not be entitled to increase the monthly fees more than the current CPI rate.
5.8 Invoices will be processed and sent to the Customer's designated Billing Contact indicated in the Application Form to which this document is attached, unless the Customer gives its written request for delivery of invoices by means other than, or that the e-mail details of the Billing Contact have been changed.

6. CUSTOMER'S AGREEMENTS & OBLIGATIONS
6.1 Customer shall abide by any rules notified to it relating to use of, access to, or security measures respecting the Equipment and the premises. In the event that Customer permits unauthorised parties to gain access to the premises, Customer shall be responsible for any damages incurred as a result thereof.
6.2 In the event that the Customer has elected not to rent the necessary software from Imagine IPS, Customer is obliged to provide Imagine IPS with the appropriate licensed software.
6.3 **The Customer bears sole responsibility for all applications, including Customer's 3rd party and** business applications, stored on the server. Customer is also responsible for any data stored on the server.
6.4 Imagine will bill the Customer as per the rates for the various Services.
6.5 Imagine reserves the right to restrict access to Services, pricing or commission structures.
6.6 Customer shall comply strictly with all restrictions imposed on computer networks through which any information and/or data transmitted by Customer passes.
6.7 Customer shall not commit nor attempt to commit any act or omission which directly or indirectly:
6.7.1 damages in any way Imagine' technical infrastructure or any part thereof;
6.7.2 impairs or precludes Imagine from being able to provide the Service/s in a reasonable and businesslike manner;
6.7.3 constitutes an abuse or malicious misuse of the Service/s;
6.8 or is calculated to have the abovementioned effect. In such an event, should Imagine incur expenses to remedy the situation, Imagine reserves the right to charge the Customer the amount necessary to cover Imagine's additional expenditure. Notwithstanding the above, Imagine reserves the right to take any other appropriate action it may deem necessary to remedy the situation.
6.9 Under no circumstances may Customer resile from this Agreement or withhold or defer payment or be entitled to a reduction in any charge or have any other right or remedy against Imagine, its servants, its agents or any other persons for whom it may be liable in law (and in whose favour this provision constitutes a stipulation alteri) if Imagine interrupts the Service to Customer as it would be entitled to do if Customer is in default of any of its obligations under this Agreement to Imagine or in the circumstances contemplated in clause 9.4 below.
6.10 Customer may not at any time use the Service in contravention of any South African law. In particular, Customer undertakes to familiarize itself and ensure that it is kept continuously appraised of all South African law in force from time to time which has any bearing on the Service and/or its use. Customer acknowledges that Imagine has no obligation to assist Customer in this regard.
6.11 The Customer 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 of not, will result in the service being terminated by Imagine, in which event the Customer will be liable for a termination fee.

7. COMMUNICATION
7.1 The Customer 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.

8. SECURITY
8.1 In order to ensure the security and reliable operation of the service to all Imagine Customers, Imagine hereby reserves the right to take whatever action Imagine finds necessary to preserve the security and reliability of its network.
8.2 The Customer 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.

9. EXCLUSION OF LIABILITY
9.1 Except as otherwise expressly provided herein to the contrary, Imagine shall not be liable to Customer or any third party for any loss or damage of whatsoever nature and/or howsoever arising (including consequential or incidental loss or damage which shall include but shall not be limited to loss of property or of profit, business, goodwill, revenue, data or anticipated savings) or for any costs, claims or demands of any nature whether asserted against Imagine or against Customer by any party, arising directly or indirectly out of the Service/s, their use, access, withdrawal or suspension or out of any information or materials provided or not provided, as the case may be.
9.2 Subject to clause 9.1 above, the entire liability of Imagine and Customer's exclusive remedy for damages from any cause related to or arising out of this Agreement, regardless of the form of action, whether in contract or in delict, will not exceed the aggregate of the fees and charges paid by Customer under this Agreement for the period of 12 (twelve) months preceding Customer's written notice to Imagine in respect of such claim.
9.3 Customer hereby indemnifies Imagine against and holds Imagine harmless from any claim by any third party arising directly or indirectly out of access to or use of the Service/s or information obtained through the use thereof or in respect of any matter for which liability of Imagine is excluded in terms of clause 9.1 above.
9.4 Because of the need to conduct maintenance, repair and/or improvement work from time to time on the technical infrastructure by means of which the Services are provided, the provision of the Services may be suspended from time to time, and all liability on the part of Imagine of any loss or damage (whether direct or consequential) thereby incurred or for any costs, claims, or demands of any nature arising therefrom, is excluded, and the provisions of clause 9.1 above shall apply mutatis mutandis to such exclusion. Should the provision of the Service/s be suspended by Imagine for the purpose aforementioned for a period in excess of 48 (forty eight) consecutive hours, Imagine shall give Customer credit in an amount which represents a pro rata portion of Customer's basic monthly subscription fee for the month during which the said suspension occurred.
9.5 Where the Service/s provided include Hosting Services, then, notwithstanding anything to the contrary contained in this Agreement, Imagine reserves the right in its absolute discretion and after the receipt by Imagine of any complaint from any governmental department, or any other third party (including but not limited to any Internet industry body or any other organisation) that Customer's web site contains information that infringes against any third party's rights in terms of the Constitution of the Republic of South Africa, the Electronic Communications and Transactions Act, any other legislative enactment or regulation in force from time to time, or is defamatory in nature, to immediately give written notice to Customer of Imagine' intention to remove the offending information or any portion thereof from Customer's web site. Should said offending information not be removed from the web site by Customer within 24 hours of written notice to that effect, Imagine shall be entitled to immediately remove the offending information or any portion thereof from Customer's web site, or where it is not possible to remove such content, to terminate the Web Hosting Services of such Customer. Any removal or termination by Imagine shall in no way constitute a breach by Imagine of this Agreement.

10. DOCUMENTATION
10.1 Any specifications, descriptive matter, drawings and other documents which may be furnished by Imagine to Customer from time to time:
10.2 do not form part of this Agreement and may not be relied upon, unless they are agreed in writing by both parties hereto to form part of this Agreement;
10.3 shall remain the property of Imagine and shall be deemed to have been imparted by it in trust to Customer for the sole use of Customer. All copyright in such documents vests in Imagine. Such documents shall be returned to Imagine on demand.

11. BREACH
11.1 If the Customer hereto:
11.1.1 fails to make payment in full for a Service prior to use of that Service or;
11.1.2 where agreed, is invoiced after the use of Service and fails to make payment in full to Imagine within 7 (seven) days of receipt of invoice:

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11.1.3 breaches any of the terms or conditions of this Agreement and fails to remedy such breach, as the case may be, within 7 (seven) days after the receipt of written notice from Imagine;

11.1.4 commits any act of insolvency;

11.1.5 endeavours to compromise generally with its creditors or does or causes anything to be done which may prejudice Imagine' rights hereunder or at all;

11.1.6 allows any judgement against it to remain unsettled for more than 10 (ten) days without taking immediate steps to have it rescinded and successfully prosecuting the application for rescission to its final end; or

11.1.7 is placed in liquidation or under judicial management (in either case, whether provisionally or finally) or, being an individual, his estate is sequestrated or voluntarily surrendered;

11.2 If Clause 11.1 is true, Imagine shall have the right, without prejudice to any other right which it may have against the Customer and in any event without prejudice to Imagine's right to claim damages.:

11.2.1 suspend or terminate the Services;

11.2.2 treat as immediately due and payable all outstanding amounts which would otherwise become due and payable over the unexpired period of the Agreement, and to claim such amounts as well as any other amounts in arrears including interest and to cease performance of its obligations hereunder as well as under any other contract with the Customer until Customer has remedied the breach; and/or

11.2.3 cancel this Agreement;

11.3 Customer shall be liable for all costs incurred by Imagine in the recovery of any amounts or the enforcement of any rights which it has hereunder, including collection charges and costs on an attorney and own client scale whether incurred prior to or during the institution of legal proceedings or if judgement has been granted, in connection with the satisfaction or enforcement of such judgement.

12. LIEN

12.1 The parties agree that in the event of a breach of this Agreement by Customer which causes Imagine to suffer damages of any nature whatsoever, Imagine shall not be required to attach any of Customer's hardware in execution, and shall be entitled to retain a lien over such hardware in reduction of any debt due by Customer to Imagine.

13. CESSION AND DELEGATION

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

13.2 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.

14. FORCE MAJEURE

14.1 Imagine shall not be liable for non-performance under this Agreement to the extent to which the non-performance is caused by events or conditions beyond the control of Imagine, provided that Imagine makes all reasonable efforts to perform.

14.2 It is expressly recorded that for purposes of this clause the following shall be considered circumstances beyond the control of Imagine and the force majeure provisions shall apply:-

14.2.1 a PSTS provider fault that affects the Service/s; and/or

14.2.2 the non-performance, inability to perform or delay in performance by the PSTS provider relating to the provisioning of equipment, services and/or facilities to Imagine that affects the Service/s; and/or

14.2.3 acts or omissions of any government, government agency, provincial or local authority or similar authority, any laws or regulations having the force of law, civil strife, riots, insurrection, sabotage, acts or war or public enemy, illegal strikes, interruption of transport, lockouts, flood, storm or fire.

15. GOVERNING LAW AND JURISDICTION

15.1 This Agreement will be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with South African law by a South African court having jurisdiction.

16. AMENDMENT OF THIS AGREEMENT

16.1 Imagine reserves the right to amend this agreement from time to time with a minimum of 30 days 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.

17. INTELLECTUAL PROPERTY

17.1 All Imagine intellectual property (including, without limitation, copyright, trademarks, designs and patents) relating to or used in connection with the Service/s provided under this Agreement shall belong to Imagine. Customer undertakes that it shall at no time, have any right, title or interest in the intellectual property and agrees that it shall not (or permit any third party to) reverse engineer, decompile, modify or tamper with the equipment or software owned by Imagine, or any of its third party suppliers. Imagine shall notwithstanding anything to the contrary, have no right, title or interest in any intellectual property that belongs to the Customer and/or that the Customer has the lawful entitlement to.

17.2 Customer warrants that it shall not use the Service/s to produce, host or present any content in contravention of any person's intellectual property rights, and in particular warrants that it shall recognize, acknowledge and use any content in accordance with any third party's intellectual property rights. Customer furthermore warrants that it has received all necessary permissions to make use of any intellectual property relating to 3rd parties.

18. PROTECTION OF PROPRIETARY INFORMATION

18.1 Each party will keep in confidence and protect Proprietary Information from disclosure to third parties and restrict its use to that which is provided for in this Agreement. Either party acknowledges that unauthorised disclosure or use of Proprietary Information may cause substantial economic loss. All printed materials, containing Proprietary Information will be marked with "Proprietary" or "Confidential", or in a manner which gives notice of its proprietary nature. Proprietary Information shall not be copied, in whole or in part, except when essential for correcting, generating or modifying Proprietary Information for either party's authorized use. Each such copy, including its storage media, will be marked with all notices, which appear on the original.

18.2 Each party shall ensure that its employees comply with its obligations under this clause.

18.3 This clause shall survive termination or cancellation of this Agreement.

18.4 This Agreement does not transfer to either party title to any intellectual property contained in any Proprietary Information of the other party.

19. WARRANTIES

19.1 Save as expressly set out in this Agreement, Imagine does not make any representations nor gives any warranties or guarantees of any nature whatsoever in respect of the Service/s and all warranties which are implied or residual at common law are hereby expressly excluded.

19.2 Without limitation to the generality of 19.1 above, Imagine does not warrant or guarantee that the information transmitted by or available to Customer by way of the Service/s:

19.2.1 will be preserved or sustained in its entirety;

19.2.2 will be delivered to any or all of the intended recipients;

19.2.3 will be suitable for any purpose;

19.2.4 will be free of inaccuracies or defects or bugs or viruses of any kind; or

19.2.5 will be secured against intrusion by unauthorised third parties;

19.2.6 And Imagine assumes no liability, responsibility or obligations in regard to any of the exclusions set forth in this clause.

20. SURETYSHIP

20.1 The signatory to this Agreement, as the authorized representative of the Customer, hereby binds himself/herself to Imagine as personal surety and as co-principle debtor in solidum with Customer for the due, punctual and proper fulfilment and performance by Customer of all its obligations in terms of this Agreement. The aforementioned signatory hereby renounces all benefits arising from the legal exceptions of non numeratae pecuniae, non causa debiti, errore calculi and beneficio excussionus et divisionis, with the force and effect of which he/she hereby declares himself/herself to be fully acquainted.

21. DOMICILIUM CITANDI ET EXECUTANDI

21.1 For all purposes, including but not by way of limitation, the giving of any notice, the making of any communication and the serving of any process, Customer chooses its domicilium citandi et executandi ("domicilium") at the physical address appearing on the application form to which these Standard Terms and Conditions are attached. Imagine chooses its domicilium citandi et executandi ("domicilium") at Imagine: 2nd Floor West Wing 158 Jan Smuts, 9 Walters Ave, Rosebank, Johannesburg, South Africa. Either party shall be entitled from time to time to vary its domicilium and shall be obliged to give notice to the other within ten (10) days of the said change. Any notice which either party may give to the other shall be posted by prepaid registered post or hand delivered to the other party's domicilium and shall be presumed, unless the contrary is proved by the party to whom it is addressed, to have been received by that party on the tenth (10th) day after the date of posting or on the day of delivery as the case may be.

22. DATA PROTECTION

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

23. THIRD PARTY NETWORK CONNECTIONS

23.1 If the Customer 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.

24. GENERAL

24.1 No variation, amendment or consensual cancellation of this Agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by a duly authorized representative from both Imagine and Customer.

24.2 The parties acknowledge having read and understood this Agreement and are not entering into this Agreement on the basis of any representations not expressly set forth in it.

24.3 Neither party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the Agreement between Customer and Imagine or not.

24.4 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against either party hereto in respect of its right under this Agreement, nor shall it operate so as to preclude either of the parties thereafter from exercising its rights strictly in accordance with this Agreement.

24.5 In the event that any provision of this Agreement conflicts with any statute, ruling or order of any governmental or regulatory body from time to time, then such provision of this Agreement shall be controlled by the statute, ruling or order.

24.6 Should any of the terms and conditions of this Agreement be held to be invalid, unlawful or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable.

24.7 In the event of any expiration, termination or cancellation of this Agreement, provisions hereof which are intended to continue and survive shall so continue and survive. In particular, termination or cancellation of this Agreement shall not affect any rights or duties arising under it with respect to Proprietary Information as set out in Clause 18 above.

24.8 The terms and conditions appearing in the Schedule(s) hereto, are hereby incorporated into the Agreement. In the event of any conflict between the Standard Terms and Conditions of this Agreement and those appearing in any Schedule/s hereto, these Standard Terms and Conditions shall prevail. In respect of any conflict in respect of pricing in the Agreement or the Schedules hereto, the costs set out in the Service Schedule shall prevail.

24.9 These terms and conditions, together with the Schedule(s), Annexures and attachments hereto, constitute the whole of the agreement between Imagine and Customer relating to the subject matter hereof, notwithstanding anything in Customer's inquiry, specification, acceptance, order or other documentation or discussion to the contrary.

IMAGINE IPS BANKING DETAILS

Account Name : Benwest Internet Services
Account number : 4051061382
Branch Code : 633005
Branch Name : 160 Jan Smuts
Account Type : ABSA Cheque Account

OFFICIAL USE ONLY

Scanned to file? ☐   Date ....

Signed ....

Print Name ....

Position...

Date ....

Initialled ....

Director : W.G. Bennett   Reg No.: 1999/022516/07

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