DATAOPT SERVICE / SYSTEM APPLICATION FORM

Application Date: `d d m m y y y y`   Company CK No

Company Name:

Company Vat No: Trading As:

SERVICES / SYSTEM	☐ FUNPOL SYS	☐ PARLOUR-MATE	☐ PREMIUM COLLECTION	☐ ADMINISTRATION SERVICES
REQUIRED	☐ WEB & EMAIL HOSTING	☐ DATA CABLING	☐ NEW SOFTWARE DEV	☐ NETWORK ADMIN

PARTICULARS OF COMPANY REPRESENTATIVE

Surname: ID Number:

Names: D.O.B.:

Position: ....   Email Address: ....

Address (Physical):   Code

Address (Postal):   Code

Telephone number (O):   C   F   Web Site

BANK DEBIT ORDER AUTHORISATION

Banking With	ABSA BANK	FNB	STANDARD	NEDBANK	CAPITEC	INVESTEC	OTHER
Account Type	CURRENT	SAVINGS	TRANSMISSION		CREDIT	INVESTMENT	OTHER
Account Number				BRANCH CODE			
Branch Name							
Deduction Date	1st	7th	15th	20th	25th	28th	LAST DAY

DataOpt is hereby authorised to arrange with my bank or building society to collect the monthly amount due against my bank or transmission account (wherever it may be) in terms of a debit order to be processed on the date selected above following the preceding month's invoice.

Signature of payer or authorised official: ………….………………………………………. Date: …………………

DataOpt Banking Details	ABSA	Account No	4072903917	Branch Code	632005	Branch Name	Benoni

Basic Terms and Conditions

Please Note:
    All information supplied in connection with this application will form the basis of the contract
    with DataOpt.

REQUIRED DOCUMENTATION

Tick

1. Electronic Copy of Company Logo
2. Electronic Copy of Company Letterhead
3. Company Registration Documents
4. Copy of Company Representative Identity Document
5. Proof of Bank Details e.g: cancelled cheque, bank statement etc.

DECLARATION:

THE CUSTOMER HEREBY AGREES THAT ALL SERVICE/S PROVIDED PURSUANT TO DATAOPT'S ACCEPTANCE
APPLICATION FORM WILL BE SUBJECT TO THE ADDITIONAL TERMS AND CONDITIONS ATTACHED HERETO,
WHICH TERMS AND CONDITIONS ARE EXPLICITLY INCORPORATED INTO AND FORM AN INTEGRAL
PART OF THE AGREEMENT BETWEEN DATAOPT AND THE CUSTOMER.

Full Name: Date:

Signature: Designation:

STANDARD TERMS AND CONDITIONS

1 Definitions and Interpretation

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

1.1.1 "**Agreement**" means these Standard Terms and Conditions and any Application Form, Schedules, Annexures and attachments hereto;

1.1.2 "**Contract Value**" means the total cost of the Service/s being provided to the Customer by DataOpt cc in terms of this Agreement;

1.1.3 "**Cost Schedule**" means Schedule 1 attached hereto wherein the costs of the Service/s are specified;

1.1.4 "**Customer**" means the party specified as Customer on the Application Form to which these Standard Terms and Conditions are attached;

1.1.5 "**Customer Support Schedule**" means the schedule attached hereto containing customer support information;

1.1.6 "**Effective Date**" means, notwithstanding the date of signature of this Agreement, the date when each Service/s reflected in the Schedule/s is commissioned by DataOpt cc for use by the Customer irrespective of whether or not the Customer uses the Service/s;

1.1.7 "**DataOpt cc**" means DataOpt (company registration number 2001/025391/23);

1.1.8 "**Initial Period**" means the initial contract term of the Service/s, as set out in the Cost Schedule (Schedule 1) hereto;

1.1.9 "**Proprietary Information**" means any and all trade secrets and data/information of a proprietary and/or confidential nature, including data/information that the parties should reasonably have known to be proprietary or confidential;

1.1.10 "**Service/s**" means all the service/s provided by DataOpt cc as specified in the Schedules to this Agreement, including all software and equipment necessary for the provision of the Service/s;

1.1.11 "**Service Specification Schedule**" means the schedule attached hereto wherein the service specifications of the Service/s are specified;

1.1.12 "**PSTS provider**" means public switched telecommunications services providers licensed to provide those services in terms of the Electronic Communications Act 36 of 2005;

1.1.13 "**VAT**" means Value-Added Tax as defined in the Value-Added Tax Act 89 of 1991.

1.2 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.

2   Commencement and Duration

2.1   The Agreement shall commence upon the Effective Date of the first Service to be provided in terms of the Agreement and shall endure throughout the duration period of the Service/s provided.

2.2   The duration period of each of the Service/s shall be as specified in the relevant Service Specification Schedule attached hereto.

3. Charges and Payment

3.1   All Service/s provided are to be billed as of the Effective Date in respect of each Service. 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.

3.2   Customer is responsible for and agrees to pay to DataOpt cc all fees for the Service/s specified in the Cost Schedule in South African currency, without deduction or set-off of any amount of whatsoever nature or for whatsoever reason.

3.3   All prices specified in the Cost Schedule exclude:

3.3.1   VAT and any other any taxes and duties including any regulatory surcharge, which Customer becomes obligated to pay by virtue of this Agreement, and

3.3.2   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.

3.4   Invoicing will be processed and delivered in advance, and all invoices for Services shall be settled monthly within 30 days of the date of invoice.

3.5   In the event of any dispute arising as to the amount or calculation of any fee or charge to which DataOpt cc is entitled, the dispute shall be referred for determination to DataOpt cc' auditors. They shall act as experts and their decision shall be final and binding on DataOpt cc 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.

3.6   Any amount falling due for payment by Customer to DataOpt cc 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 Nedcor Bank Limited from time to time, monthly in arrears.

3.7   DataOpt cc shall be entitled from time to time on 30 (thirty) days prior written notice thereof to Customer to increase the monthly fees referred to in the Cost Schedule, provided that:

3.7.1   DataOpt cc shall not be entitled to increase the monthly fees during the first 12 (twelve) months of this Agreement; and

3.7.2   DataOpt cc shall not increase the fees on more than one occasion in any subsequent 12 (twelve) month period of this Agreement.

3.8   Invoices will be processed and emailed to the Customer's designated administrative 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 email, or that the email details of the administrative contact have been changed.

4. Customer's Obligations

4.1 Customer shall comply strictly with all restrictions imposed on computer networks through which any information and/or data transmitted by Customer passes. In particular, the Customer shall at all times comply with DataOpt cc' Acceptable Use Policy available at www.dataopt.co.za.

4.2 Customer shall not commit nor attempt to commit any act or omission which directly or indirectly:

4.2.1   damages in any way DataOpt cc' technical infrastructure or any part thereof;

4.2.2   impairs or precludes DataOpt cc from being able to provide the Service/s in a reasonable and businesslike manner;

4.2.3   constitutes an abuse or malicious misuse of the Service/s;

          or is calculated to have the abovementioned effect. In such an event, should DataOpt cc incur expenses to remedy the situation, DataOpt cc reserves the right to charge the Customer the amount necessary to cover DataOpt's additional expenditure. Notwithstanding the above, DataOpt cc reserves the right to take any other appropriate action it may deem necessary to remedy the situation.

4.3 Customer is prohibited from selling, reselling or otherwise dealing with the Service/s in any manner whatsoever. Without limitation to the aforegoing, any consideration which Customer may receive whilst acting in breach of this prohibition shall be forfeited to DataOpt cc.

4.4 Customer is prohibited from allowing any person other than its employees or other authorised parties, access to the Service/s through any of Customer's equipment, personnel and/or address.

4.5 Customer is prohibited from modifying any equipment (including but not limited to router equipment) utilised by Customer to receive any of the Service/s, in any way whatsoever, including the changing of any of the settings of such equipment.

4.6 Customer shall at all times adhere to and ensure compliance with the Customer Support Schedule.

4.7 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 DataOpt cc, 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 DataOpt cc 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 DataOpt cc or in the circumstances contemplated in clause 6.4 below.

4.8 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 DataOpt cc has no obligation to assist Customer in this regard.

5. Warranties

5.1 Save as expressly set out in this Agreement, DataOpt cc 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.

5.2 Without limitation to the generality of 5.1 above, DataOpt cc does not warrant or guarantee that the information transmitted by or available to Customer by way of the Service/s:

5.2.1   will be preserved or sustained in its entirety;

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

5.2.3   will be suitable for any purpose;

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

5.2.5   will be secured against intrusion by unauthorised third parties;

and DataOpt cc assumes no liability, responsibility or obligations in regard to any of the exclusions set forth in this clause 5.

6. Exclusion of Liability

6.1 Except as otherwise expressly provided herein to the contrary, DataOpt cc 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 DataOpt cc 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.

6.2 Subject to clause 6.1 above, the entire liability of DataOpt cc 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 DataOpt cc in respect of such claim.

6.3 Customer hereby indemnifies DataOpt cc against and holds DataOpt cc 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 DataOpt cc is excluded in terms of clause 6.1 above.

6.4 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 DataOpt cc 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 6.1 above shall apply mutatis mutandis to such exclusion. Should the provision of the Service/s be suspended by DataOpt cc for the purpose aforementioned for a period in excess of 48 (forty eight) consecutive hours, DataOpt cc 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.

6.5 Where the Service/s provided include Hosting Services, then, notwithstanding anything to the contrary contained in this Agreement, DataOpt cc reserves the right in its absolute discretion and after the receipt by DataOpt cc 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 DataOpt cc' intention to remove the offending information or any portion thereof from Customer's web site. Should such offending information not be removed from the web site by Customer within 24 hours of written notice to that effect, DataOpt cc 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 Hosting Services of such Customer. Any removal or termination by DataOpt cc shall in no way constitute a breach by DataOpt cc of this Agreement.

7. Documentation

Any specifications, descriptive matter, drawings and other documents which may be furnished by DataOpt cc to Customer from time to time:

7.1 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;

7.2 shall remain the property of DataOpt cc 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 DataOpt cc. Such documents shall be returned to DataOpt cc on demand.

8. Breach

8.1 Subject to the provisions of clause 8.3 to the contrary, if Customer hereto:

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

8.1.2   commits any act of insolvency;

8.1.3   endeavors to compromise generally with its creditors or does or causes anything to be done which may prejudice DataOpt cc' rights hereunder or at all;

8.1.4   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

8.1.5   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;

-    DataOpt cc shall have the right, without prejudice to any other right which it may have against Customer, to:

a. suspend or terminate the Services;

b. 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

c. cancel this Agreement;

in any event without prejudice to DataOpt cc' right to claim damages.

8.2 Customer shall be liable for all costs incurred by DataOpt cc 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.

8.3 Subject to what is set out in Clause 8.1.1 above, DataOpt cc shall be entitled to suspend the provision of the Services where Customer breaches any provision of this Agreement or where any payment to DataOpt cc is overdue by more than 30 (thirty) days.

9. Intellectual Property

9.1 Notwithstanding anything set out in Clause 10 below, all 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 DataOpt cc. 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 DataOpt cc, or any of its third party suppliers.

9.2 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.

10.   Protection of Proprietary Information

10.1 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.

10.2 Each party shall ensure that its employees comply with its obligations under this clause10.

10.3 This clause 10 shall survive termination or cancellation of this Agreement.

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

11. Cession

Customer shall not be entitled to cede or assign any rights and/or obligations which it may have in terms of this Agreement to any third party unless consented to in writing by DataOpt cc.

12. Suretyship

The signatory to this Agreement, as the authorized representative of the Customer, hereby binds himself/herself to DataOpt cc 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.

13. Lien

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

14. Force Majeure

14.1 DataOpt cc 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 DataOpt cc, provided that DataOpt cc 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 DataOpt cc 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 DataOpt cc 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

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.   Domicilium Citandi Et Executandi

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. DataOpt cc chooses its domicilium citandi et executandi ("domicilium") at DataOpt Building, 59 Kemston Avenue, Benoni, Gauteng, 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.

17.   General

17.1 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 DataOpt cc and Customer.

17.2 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.

17.3 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 DataOpt cc or not.

17.4 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.

17.5 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.

17.6 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.

17.7 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 10 above.

17.8 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 Cost Schedule shall prevail.

17.9 These terms and conditions, together with the Schedule(s), Annexures and attachments hereto, constitute the whole of the agreement between DataOpt cc 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.

SCHEDULE 1 - COST SCHEDULE

The Service/s below are the services accepted by the Customer for the purpose of this Agreement.
Please refer to pricing schedule supplied when completing this cost schedule:

Schedule	Type of Service	Initial Period of Service (months)	Once-Off (Set Up) Cost	Monthly Cost (If applicable)	Per Policy Per Month Cost (If applicable)
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
			R	R	R
TOTAL			**R**	**R**	**R**

Notes

18.   The above costs are the initial and annual costs for the Services. In respect of certain of the Services (as indicated in the respective Service Schedules) additional costs shall be incurred in arrears and shall be dependent, inter alia, on usage of the Service. Customer shall be invoiced for such additional costs together with the fixed monthly costs indicated above.

19.   Should Customer upgrade the Service/s and/or subscribe to Service/s in addition to those specified in the Schedules, an amended Schedule will replace this Cost Schedule, and, where necessary, additional Service Schedules will be attached.

20.   the above costs are exclusive of VAT unless the contrary is indicated