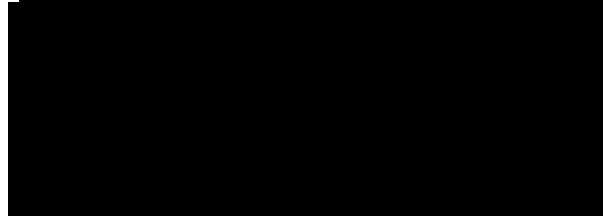


**SERVICE AGREEMENT ENTERED INTO BY AND BETWEEN**

**UNIVERSAL KNOWLEDGE SOFTWARE (PTY) LIMITED**  
(hereafter referred to as **'UKS'**)

- Registration Number
- Registered Address



- Contacts
  - o E-Mail
  - o Fax
  - o Telephone

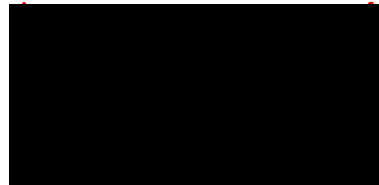


Herein represented by \_\_\_\_\_ in his/her capacity as \_\_\_\_\_, duly authorised thereto.

**And**

**City of Cape Town Library and information Services**  
(hereafter referred to as **'the Client'**)

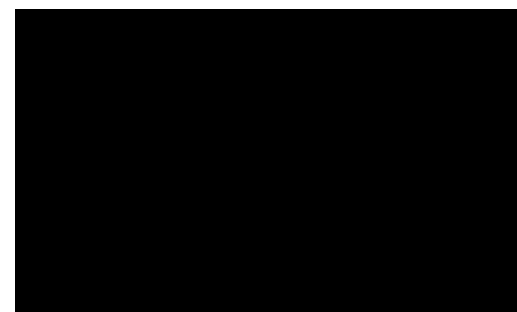
- Registration Number
- Registered Address



- Contacts
  - o E-Mail
  - o Fax
  - o Telephone

Herein represented by \_\_\_\_\_ in his/her capacity as \_\_\_\_\_, duly authorised thereto.

Hereafter collectively referred to as 'the Parties' and individually as 'Party'.



**INTRODUCTION**

**WHEREAS** the Client has obtained a licence from the Company to make use of the Software in terms of the Licence Agreement.

**AND WHEREAS** UKS is the distributor of the Company in South Africa and provides installation, implementation, training, maintenance and support services in respect of the Software Licence Agreement.

**AND WHEREAS** the Client and UKS hereby conclude this Agreement, to establish the terms and conditions of the relationship between them.

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS****1. DEFINITIONS**

- 1.1 Unless the context otherwise indicates, a reference to the masculine gender shall include a reference to all other genders, the singular shall include the plural, and any reference to a person or party shall include both natural and juristic persons.
- 1.2 The headings in this Agreement are for reference purposes only, and shall not be used as an aid to the interpretation of this Agreement.
- 1.3 This Agreement shall be adjudicated and interpreted according to the laws of the Republic South Africa.
- 1.4 The following words or phrases shall bear the following special meaning assigned to them below, and shall be interpreted as such for the purposes of this Agreement, even if such interpretation is contrary to the ordinary grammatical meaning of the words and phrases:
- 1.4.1 **"Agreement"** shall refer to this Agreement and shall include the annexures attached thereto, which annexures shall form an integral part of this Agreement and any addendum that may be added to from time to time as agreed to by the Parties in writing;
- 1.4.2 **"Client"** shall refer to the Client as defined in the title page;
- 1.4.3 **"Client Error Incident"** is defined as any Services unavailability related to Client's applications, Client's Data, or Client's equipment, or the acts or omissions of any user of the Service;
- 1.4.4 [REDACTED]
- 1.4.5 **"Contract Year"** means each successive 12 (twelve) month period during the term of this Agreement, as measured from the Effective Date and each anniversary thereof thereafter;
- 1.4.6 **"Effective Date"** means the date the Service Provider receives a copy of the signed report (signed contract).
- 1.4.7 **"Emergency Maintenance"** means downtime of the Services due to the cloud application of urgent patches or fixes, or other urgent maintenance recommended by the Company's vendor's that is performed outside of Scheduled Maintenance;
- 1.4.8 **"Escalation Factor"** means greater of 10% and the latest available year on year increase in the CPIx figures (being the Consumer Price Index (metropolitan areas, all items) excluding mortgage interest) as published in the Statistical Release P0141.1 compiled by Statistics South Africa as at the effective date of increase. Such amount may be adjusted by UKS to take into account the average increase of salaries over such period in the Information Technology Industry as reflected in the South African remuneration survey for Information Technology and Support Services published on the RemChannel website (www.remchannel.co.za) by Channel Consulting (Pty) Ltd, or any similar survey as may be agreed to by the Parties in writing from time to time;
- 1.4.9 **"Facility Maintenance"** means with respect to the Services, periods of time where Services might be adversely impacted due to colocation partner maintenance periods carried out by Company for the cloud application;
- 1.4.10 **"Go Live"** means the moment that the Software implemented by UKS is put into a live or transactional environment or is used by the Client or its users to process queries or transactions;
- 1.4.11 **"Intellectual Property"** means all intellectual property whether or not registrable including, without limitation, copyright, patents, proprietary material, trademarks, designs, deliverables, know-how, trade secrets, new proprietary and secret concepts, methods, techniques, processes, adaption, ideas, technical specifications and methods.
- 1.4.12 **"Licence Agreement"** shall refer to the agreement entered into between the Client and the Company, in terms of which the Client has been granted a licence to make use of the Software, which Licence Agreement is attached hereto as Annexure A;
- 1.4.13 **"Reduced Functionality"** means, with respect to Services, a situation where server performance effectively limits the number of users to a number lower than normal. Examples of this could include, but are not limited to, failover to an alternate server with less CPU or RAM resources, recovery of a RAID array, excessive web hits by robots, spiders, or Denial of Service ("DOS") attacks;
- 1.4.14 **"Services"** shall refer to the services to be provided by UKS to the Client pursuant to this Agreement;
- 1.4.15 **"SirsiDynix Scheduled Maintenance"** shall refer to periods of time where Services will not be available due to planned maintenance. Examples of this kind of maintenance includes server or infrastructure hardware changes, defective parts replacement, operating system changes and patches, nightly halt-init-run of services, application upgrades or reports requiring downtime of Services, Facility Maintenance, planned network outages between SirsiDynix and the Internet, by colocation vendors and/or Tier-1 Internet providers, planned power tests and outages;
- 1.4.16 **"Software"** shall refer to each SirsiDynix-developed and/or SirsiDynix-owned software product in machine readable object code (not source code), the documentation for such product, and any Updates thereto, and to the Oracle software, licensed to the Client in terms of the Licence Agreement, as same is specified therein;

- 1.4.17 **"Staff"** means any director, employee, agent, consultant, contractor or other representatives of a party involved in the provision of services and hardware under this Agreement;
- 1.4.18 **"UKS"** shall refer to Universal Knowledge Software (Pty) Ltd, as further defined in the title page; and
- 1.4.19 **"Unscheduled Outage"** means, with respect to Services, application outages during normal working hours as per clause 5.1, caused by an unplanned event or changes in items such as, but not limited to, loss of electrical power, server hardware, network or disk infrastructure and Internet connectivity. Examples of an Unscheduled Outage include, but are not limited to, server panic crash, server hardware failure, network failure, interrupted or degraded Internet connectivity upstream of the SirsiDynix firewall and Scheduled Maintenance events extending into normal working hours support as defined.

## 2. SCOPE OF AGREEMENT

- 2.1 UKS hereby agrees to provide certain services to the Client in respect of the software, hardware and any other services required during the lifecycle of the contract as outlined in Annexure C, and subject to terms and conditions of the End User License Agreements attached in Annexure A. The Client hereby appoints UKS to provide the services on the terms and conditions of this Agreement.
- 2.2 The Parties relationship shall in all respects remain that of independent contractors. Nothing in this Agreement shall be taken to construe a partnership, or agency or any other legal relationship as existing between the Parties, and the Parties shall not be legally entitled to represent each other except as provided for in this Agreement.
- 2.3 UKS Staff shall at all times when on the Client premises adhere to the standard health, safety and security procedures and guidelines applicable to the Client's Staff and abide by the Client's mission statement (collectively referred to as "Regulations"), as varied and conveyed by the Client to UKS from time to time. Should the Client at any time have reason to believe that any of UKS's staff are failing to comply with such standard health, safety and security procedures and guidelines, the Client may deny such person access to any or all of the Client's premises or systems and require UKS to replace such person without delay.

## 3. DURATION, TERMINATION AND SURVIVABILITY

- 3.1 Notwithstanding the date of signature hereof, this Agreement comes into effect on the Effective Date, and, unless terminated earlier in terms hereof, shall remain in effect for 10 years after the Effective Date, subject to the right of either party to terminate this Agreement on no less than 90 (ninety) days written notice to the other party.
- 3.2 This Agreement shall terminate immediately in the event of the Company withdrawing its appointment of UKS as its designated agent for the discharge of its obligations in terms of the Licence Agreement.
- 3.3 In the event of the termination of this Agreement in accordance with the provisions of this clause 3, UKS shall complete the provision of any outstanding services to the Client, and the Client shall make payment to UKS for all Services satisfactorily performed prior to the date of termination.

## 4. GOVERNANCE

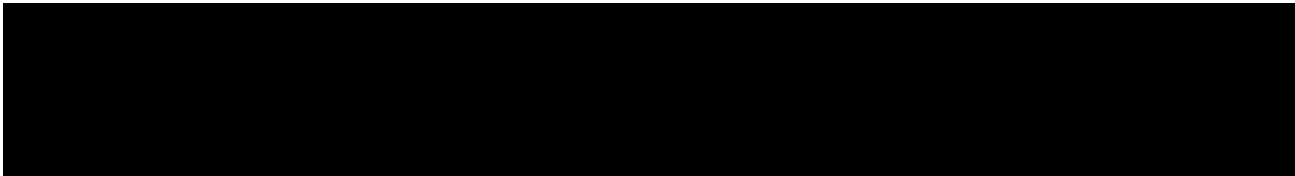
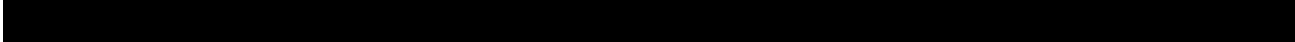
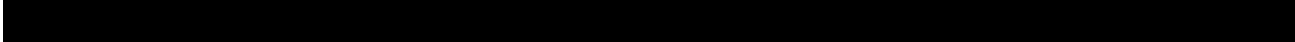
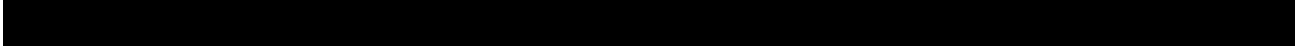
- 4.1 In order to facilitate the smooth and effective management of the relationship, the Parties shall each appoint a suitably qualified and responsible person to act as their Service Manager in respect of the relationship between the Parties and the management of the provision by UKS of the Services in terms of this Agreement. In respect of such Service Managers:-
- 4.1.1 they will have the power and authority to make decisions with respect to actions to be taken by them in the ordinary course of day-to-day management of this Agreement. For the purposes of clarity, it is recorded that the Service Managers shall not be entitled to vary the terms of this Agreement;
- 4.1.2 all invoices, communications, documentations and materials relating to this Agreement shall be sent by each Party to the appropriate Service Manager or their designee; and
- 4.1.3 either Party may, on 7 (seven) days written notice to the other, appoint an alternative Service Manager who is suitably qualified and responsible.

## 5. SERVICES

- 5.1 UKS shall deliver the Software, Hardware and any other services required during the lifecycle of the contract and associated documentation and be responsible for the collection of all licensing, hardware and associated fees that may be due to the Company in terms of the Licence and Maintenance Agreement.
- 5.2 UKS shall provide the following Services to the Client:
- 5.2.1 UKS has installed the Software on the equipment of the Client contemplated in the Licence Agreement. As part of the installation, UKS carried out, together with the Company, the data conversion for Borrower and Bibliographic data. It is recorded that UKS shall, if necessary and upon request, effect re-installation processes and/or updates to the Software which may be required in order to maintain functionality in accordance with the terms of this Agreement, UKS will provide such services after a quotation has been accepted by the Client for the above services.
- 5.2.2 UKS configured the system according to the policies detailed in the Symphony System Configuration Questionnaire ("**SSCQ**"). It is recorded that UKS was responsible for the management of this activity, but was not responsible for any errors contained in the SSCQ.
- 5.2.3 UKS has provided initial training to the Staff of the Client who will be responsible for the use of the Software. Such training is in respect of the number of users set out in UKS's quote only and has been conducted at the premises of the Client at times convenient to both Parties. All additional training shall be provided by UKS after confirmation of its written quotation by the Client.

- 5.2.4 UKS shall provide adequate resources and suitably qualified Staff to ensure that the services are rendered timeously and efficiently;
- 5.2.5 In accordance with the principles contained in this Agreement, UKS shall provide ongoing support and maintenance in respect of the Software, including but not limited to test server support, once it has been installed at the Client, electronically by remote access. UKS and the Client shall co-operate to ensure that such remote access is possible and functioning efficiently and the Client shall be responsible for establishing and maintaining the telecommunications link into its server.
- 5.3 UKS provides Software which is a hybrid model comprised of and accessed in accordance with the following:
  - 5.3.1 Through the local server, the Symphony server can be accessed via a Java Workflow client or an Internet browser. The Client can access the Symphony server via the internet or intranet depending on where they are and the type of connection they have;
  - 5.3.2 Java Workflows, through which the Client enables access to the Symphony server via the intranet due to a local installation on a relevant personal computer; and
  - 5.3.3 The Bluecloud suite, which holds applications in the SirsiDynix cloud while Client data resides on the Customer server in the case of a local installation or on SirsiDynix server in the case of Software as a service environment. Access to the Symphony server service is via a web services interface and an internet connection.

**6. SOFTWARE AND HARDWARE SUPPORT, MAINTENANCE AND PENALTIES**

- 6.1 After the installation and commissioning of the Software and/or Hardware as contemplated above, UKS shall maintain and support the operation of the Software for the duration of this Agreement. Maintenance and support shall be provided from during normal working hours, being 07:00 to 20:00 on weekdays and Saturdays, excluding public holidays. All Hardware includes a (12) twelve-month warranty. UKS will provide a maintenance plan for the specified hardware after a quotation has been accepted by the Client for the above service.
- 6.2 UKS shall endeavour to ensure 98% service availability (where uptime is defined as availability of the Service to the Client during normal working hours) and to rectify any fault or problem, reported and prioritised in accordance with the provisions of this clause 6, unless it falls within an exclusion as set out in clause 7.
- 6.3 UKS shall inform the Client a minimum of 14 working days before planned system maintenance (that will entail system downtime) that is performed by UKS in order to inform Clients. Scheduled Maintenance and Emergency Maintenance is outside the control of UKS and falls in the scope of exclusions as per clause 7.
- 6.4 Save as provided for to the contrary in this Agreement, the Parties hereby agree that UKS does not provide any other service level undertaking in respect of the rectification of faults or problems with the Software.
- 6.5 In the event of the Client encountering any fault or problem with the performance of the Software and/or Hardware, after the installation and commissioning thereof by UKS, the Client shall report such fault or problem to the UKS support desk on the following contact details and in the following order of preference:
  - 6.5.1 
  - 6.5.2 
  - 6.5.3 
  - 6.5.4 
- 6.6 Upon receipt of any such report, UKS shall accurately and timeously record, investigate and respond to all faults or problems, and provide the Client with a fault control / service request reference number, and a formal written confirmation and response to all reports so made.
- 6.7 The Parties agree that 'respond' as mentioned in clause 6.6 above means the obligation of UKS to confirm receipt of a fault or problem reported by the Client, and does not include the actual resolution of a fault or problem reported to UKS.
- 6.8 The Client will categorise incidents into one of the following categories with the applicable penalties and UKS will respond according to this classification:

Description	Definition	Comment	Target Response Time – Log no	Progress Report	Mean Time to Repair	Penalty
<b>Critical Impact Incident</b>	Total failure of Hosting Service resulting in unavailability of service	Total service unavailable	1 hour	1 hour if in business hours	4 hours*	5% of monthly charges for every hour after 4 hours (subject to exclusions Clause 7)
<b>High Impact Incident</b>	Failure of Circulations Module	Failure of Circulations Module	1 hour	4 hours if in business hours	6 hours*	5% of monthly charges for every hour after 6 hours (subject to exclusions Clause 7)
<b>Medium Impact Incident</b>	Failure of critical Application Module	Partial service inoperability, critical application module unavailable	1 hour	6 hours if in business hours	8 hours*	5% of monthly charges for every hour after 8 hours (subject to exclusions Clause 7)
<b>Low Impact Incident</b>	Minor fault	Transactional Fault logged	1 hour	1 working day	16 hours*	2.5% of monthly charges for every hour after 16 hours(subject to exclusions Clause 7)
<b>Service Requests</b>	System changes, application development, configuration	Enhancements	1 hour	1 working day	As per agreed timeframes as per quotation or current	2.5% of service request value

Description	Definition	Comment	Target Response Time – Log No.	Progress Report	Mean Time To Repair
<b>High Impact Incident</b>	Total failure of hardware	The service is unavailable to library users as a result of the hardware failure.	1 hour	4 hours if in business hours	48 Hours
<b>Medium Impact Incident</b>	Certain feature of the equipment not working	Partial service impacted. Users are able to use this service but may experience a problem with a certain feature	1 hour	6 hours if in business hours	5 working days
<b>Low Impact Incident</b>	Minor fault	Full service available. There is no formal urgency to address the incidence and normal work can continue	1 hour	1 working day	10 working days
<b>Service Requests</b>	System changes, application development, configuration	Enhancements	1 hour	1 working day	As per agreed timeframes as per quotation or current project plan

If a spare part is in stock it will be sent to the customer via courier and installed upon receipt. If the required part is not in stock it will need to be ordered from the supplier in and delivery will take between 6-8 weeks.

Technicians will try as a first response to resolve the reported problems by phone or via remote connection (VPN).

6.9 If UKS fails to achieve the service levels that are stipulated in clause 6.8, thereby not complying with its obligations and duties, UKS shall compensate the Client by raising a credit note with an amount calculated as set out above.

6.10 The service level failure must not be caused by the following:

- a) a failure of the Client's hardware;
- b) failure to allow UKS remote access; or
- c) a Client Error Incident;

and is subject to Clause 7 (Exclusions to Support and Maintenance).

6.11 Credit notes will be processed for such penalties in the event of the Client's account being in arrears.

## 7. EXCLUSIONS TO SUPPORT AND MAINTENANCE

7.1 Client will not levy penalties against UKS for any downtime caused by Client Error Incidents.

7.2 Client will not levy penalties against UKS where Client fails to maintain the hardware configuration established by the Company.

7.3 Services will be available during the normal working hours with the exception of Scheduled Maintenance periods or any events or occurrences due to the products, services, and/or actions of third parties beyond UKS' reasonable control which result in Reduced Functionality or an Unscheduled Outage.

7.4 For Scheduled Maintenance, UKS will promptly notify the Client upon receiving written notification from the Company which is usually more than 24 hours in advance of the Schedule Maintenance. In emergency situations, notice of Scheduled Maintenance may be sent with less than 24 hours in advance. The Company may perform maintenance on some or all of the Services in order to upgrade hardware or software that operates or supports the Services, implement security measures, or address any other issues it deems appropriate for the continued operations of the Services.

7.5 Scheduled Maintenance is outside the control of UKS and in the event that there is no support available during normal working hours, the Client may not levy any penalties against UKS.

7.6 Emergency Maintenance is outside the control of UKS and in the event that there is no support available during normal working hours, the Client may not levy any penalties against UKS.

7.7 UKS is not responsible for monitoring Client availability to access the Internet, nor is UKS responsible for monitoring the Client's ability to access Services via the Internet. Monitoring and documentation is solely for internal use. In the event that there is no access to the Internet and no support available during normal working hours, the Client may not levy any penalties against UKS.

7.8 All consumables are excluded and will attract a charge to the Client.

7.9 Any additional callouts will attract travel and accommodation charges.

## 8. CLIENT RESPONSIBILITIES

8.1 In order to enable UKS to provide the Services in terms of this Agreement, the Client shall, to the extent required by UKS and at the Client's cost:-

- 8.1.1 provide UKS and its Staff with access to adequate working space, office furniture and parking at the Sites to enable such Staff to fulfil its obligations in terms of this Agreement;
- 8.1.2 provide electricity services, telephone services and other connectivity at each Site;
- 8.1.3 make available sufficiently competent and authorised resources, with appropriate access rights and permissions, to assist UKS;
- 8.1.4 ensure that all required hardware, software and communication devices are available at the Sites;
- 8.1.5 provide all such other assistance and support as may be contemplated in this Agreement or any Schedule.

**9. SERVICE REPORTS**

- 9.1 Upon request by the Client, UKS shall provide the Client with information and/or statistics concerning reports submitted to it by the Client, and the rectification of faults or problems.

**9.2 Software Upgrades**

- 9.2.1 The Client has the right to receive periodic upgrades of the Software as and when same is released by the Company ("**Upgrades**") at no additional upgrade fee or cost. The Client shall be obliged at the written request of UKS to install such upgraded software, provided that should the Client require the assistance of UKS in installing such Upgrades, same shall be undertaken by UKS on the written request of the Client at a fee to be agreed between the parties in writing.
- 9.2.2 The Client needs to be informed **a minimum of 30 working** days in advance of planned system "Upgrades" in order to review planned upgrades before giving written consent to install said upgrade.
- 9.2.3 Further, the Client shall however be liable for the cost of any development required to be undertaken by UKS, which may require to facilitate the ongoing operation of any Client-enhanced software, which may have to be amended as a result of the introduction of an Upgraded as contemplated above.
- 9.2.4 The "Costs" of any such change includes the time taken by UKS to investigate and specify required software changes for the Client, as well as the costs associated with the development, testing and implementation thereof in the Client's environment.

**10. CHARGES AND PAYMENT**

- 10.1 The Client shall pay to UKS the following charges:

- 10.1.1 The annual licence fees for the use of the Software, as contemplated in the Service Agreement and notified by UKS to the Client in writing from time to time. In this regard it is recorded that UKS shall endeavour to notify the Client of the relevant annual licence fees not later than 90 (ninety) days prior to the end of each Contract Year (provided that any failure to do so shall not prevent UKS from implementing any increase).
- 10.1.2 Additional maintenance and support fees and expenses are payable on the basis set out below (based on the guidelines from DPSA hourly consulting rates). The maintenance and support of the Software to the Client is included in the annual licence fee, save for site visits agreed to by the Parties which may be required from time to time, in which case UKS shall be entitled to charge the Client as follows:

a) Technical Services	[REDACTED]
b) Materials	[REDACTED]
c) Motor Travel	At published Automobile Association rates
d) Air fares	economy class cost plus 10%
e) Car hire	economy class cost plus 10%
f) Accommodation	Cost plus 10%
g) Subsistence	[REDACTED]

- 10.2 All annual fees due in terms of this Agreement and the Licence Agreement shall be payable annually in advance, on or before the first day of the first month of the year to which such fees relate. UKS shall invoice the Client at least 30 days prior to the expiry of any such annual fee or licence for the ensuing period.
- 10.3 All other fees and/or costs, with the exception of hardware, due in terms of this Agreement shall be payable within 30 days of presentation to the Client of an invoice detailing such fees and/or costs. Such invoices shall be submitted on the completion of the task and/or the supply of the goods to which they relate and shall comply with the reasonable requirements of the Client in respect of such invoices. All hardware fees and/or costs are payable upfront prior to delivery and installation. Once payment has been received, equipment will be ordered (if not in stock).
- 10.4 UKS shall be entitled to review all fees annually, with adjustments being effective from the anniversary date of the Effective Date. Increases will relate to all services itemised in Schedules A to G, as well as Schedule 16, taking into account the average increase of salaries over such period in the Information Technology Industry. Such increases shall not exceed the Escalation Factor as referred to in 1.4.8. UKS shall give the Client 90 (ninety) days prior written notice of any increases in any fee.
- 10.5 All payments due to UKS, or which are to be administered by UKS in terms of the Licence Agreement, shall be paid in the quoted currency, free of deduction or set-off, into the bank account of UKS.
- 10.6 Unless specifically indicated to the contrary, all prices quoted in this Agreement exclude Value Added Tax.

**11. WARRANTIES**

- 11.1 The Services are provided "as is" and UKS makes no warranties of any kind, whether express, implied, statutory or otherwise, and UKS specifically disclaims all implied warranties, including, without limitation, any warranties of merchantability, fitness for a particular purpose, non-infringement or warranties that may arise by operation of law. Without limiting the foregoing, UKS does not make any warranties that the Software or Services are free from any bugs, errors or omissions and the Client

accepts the entire risk arising out of its use of or inability to use the Services. The foregoing disclaimers will apply to the maximum extent permitted by applicable law.

## 12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 All Intellectual Property belonging to either of the Parties shall remain the property of such Party and the other Party will not acquire any right, title or interest in and to such Intellectual Property.
- 12.2 Each Party agrees that it shall not duplicate, reverse assemble, decompile, reverse engineer or otherwise attempt to derive source code (or the underlying ideas, algorithms, structure, or organisation) from any such Intellectual Property which constitutes computer products, except as specifically authorised in writing by the Party owning such property. Such conduct will entitle the Supplier to immediately terminate the Agreement.
- 12.3 Nothing contained in this Agreement shall restrict a Party from the use of general ideas, concepts, know-how, methodologies, processes, technologies, algorithms or techniques, retained in the unaided mental impressions of such Party's personnel relating to the Services that either Party, individually or jointly, develops or discloses under this Agreement, provided that in doing so such Party does not (a) breach its obligations with respect to the confidential information of the other Party or (b) infringe the Intellectual Property rights of the other Party or of third parties that have licensed or provided materials to the other Party. Except for the express license rights contained herein, neither this Agreement nor any disclosure made hereunder, grants any license to either Party under Intellectual Property rights. This clause 12.3 shall survive the termination of the expiry of this Agreement.
- 12.4 Neither Party shall in any manner alter, remove or affect the display of the respective Intellectual Property rights notices (and disclaimers) of the other Party and/or their vendors and licensors without the prior written approval of the other Party, and their vendors or licensors where applicable.
- 12.5 Neither Party may use the other Party's Intellectual Property, trade names, logo's or any derivative or component thereof without the prior written approval of the other Party.

## 13. DOMICILIUM

- 13.1 The Parties hereto respectively choose domicilium citandi et executandi for all purposes of and in connection with this Agreement the physical addresses in the title page of this Agreement.
- 13.2 Each Party shall be entitled to change its domicilium from time to time, provided that any new domicilium selected by it shall be situated within the Republic of South Africa, and any such change shall only be effective 14 (fourteen) days after receipt of notice of such change in writing by the other Party.
- 13.3 All notices to be given by the Parties to each other shall be given to the aforesaid addresses either by hand delivery or fax, or by posting by prepaid registered mail. In the event of hand delivery or fax, the date of receipt shall, unless and until the contrary is proved, be deemed to be the date of delivery or faxing. In the event of prepaid registered mail, the date of receipt shall, unless and until the contrary is proved, be deemed to be seven (7) days after such posting.
- 13.4 The Parties record that whilst they may correspond via email during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement, nor any amendment or variation to this Agreement may be given or concluded via email.

## 14. DISPUTE RESOLUTION

- 14.1 Any dispute which arises between the Parties shall be referred to a joint committee of a Director, or equivalent officer of each of the Parties, or alternates appointed by them, which committee will use its best endeavours to resolve the dispute within 14 (fourteen) days of the dispute having been referred to it.
- 14.2 If so agreed by the committee, any dispute of a technical nature concerning the interpretation of any specifications or requirements or relating to the functions or capabilities of the Software or Services, may be referred by such committee, together with reasons for referring the matter, to a panel of three experts appointed by the President for the time being of the Computer Society of South Africa for final settlement. Such experts shall be deemed to act as experts and not as arbitrators. The decision of the experts shall (in the absence of clerical or manifest error) be final and binding on the parties and the experts' fees for so acting shall be borne by the parties in equal shares unless the experts determine that the conduct of either party was such that it should bear a greater proportion or all of such fees.
- 14.3 Should such committee be unable to agree on whether a dispute is technical or not, or if it is unable to resolve a dispute in accordance with the foregoing, such dispute will be finally resolved in accordance with the Rules of AFSA by an arbitrator or arbitrators appointed by it.
- 14.4 Either Party to this Agreement may demand that a dispute be referred to arbitration by giving written notice within 14 days of the dispute arising to that effect to the other Party.
- 14.5 After the outcome of a dispute, either Party may approach a court of competent jurisdiction for further and or alternative relief.
- 14.6 The arbitration referred to in clause 14.4 shall be held:-
- 14.6.1 at Cape Town in the English language; and
- 14.6.2 immediately and with a view to its being completed within 21 (twenty-one) days after it is demanded;
- 14.7 The Parties irrevocably agree that the decision in arbitration proceedings:-
- 14.7.1 shall be final and binding upon the Parties;
- 14.7.2 shall be carried into effect; and
- 14.7.3 may be made an order of any court of competent jurisdiction.
- 14.8 The costs of the arbitration shall be borne by the Parties in equal shares, unless otherwise determined by the arbitrator.
- 14.9 This clause 14 is severable from the rest of this Agreement and shall remain valid and binding on the Parties notwithstanding any termination of this Agreement.

**15. FORCE MAJEURE**

- 15.1 If the performance of this Agreement is suspended due to force majeure (any event which makes the performance due by any Party to this Agreement impossible and which is beyond the reasonable control of such Party, e.g. an act of God), such Party shall give the other Party written notice of the condition of force majeure within 5 (five) working days of the date on which the condition of force majeure takes effect, and shall do its utmost to reinstate the performance due in terms of this Agreement in the shortest possible time subject to the provisions of clause 15.3.
- 15.2 The suspension of performance of this Agreement due to force majeure is restricted to a period of no longer than 30 (thirty) days from the date of commencement of the condition of force majeure.
- 15.3 If the period of 30 (thirty) days has elapsed, and if the condition of force majeure persists, Either Party shall be entitled to cancel this Agreement with immediate effect and without prejudice to such Party's rights obtained in terms of this Agreement or otherwise.

**16. PROTECTION OF CONFIDENTIAL INFORMATION**

- 16.1 Information (methods of operation, documentation, plans, programs, drawings, discoveries, inventions, models or works including any adaptations thereof or modifications thereto, as meant in this Agreement, and the like, unique, or of a sensitive nature to either Party and which is not general public knowledge) in any conceivable form whatever which is disclosed in terms hereof, as a result of the performance of this Agreement, shall be strictly confidential.
- 16.2 Such information shall not be disclosed in any form or manner whatsoever, to any third party, or removed without the prior written consent of the relevant Party. In the event of approved removal of such information, each Party shall take the necessary steps to ensure the continued security, secrecy and confidentiality of the information so removed.
- 16.3 Neither Party shall, under any circumstances, disclose to any news publisher or news media (such as newspapers, magazines, radio or television) any information of any nature whatsoever, with regard to the products, services or activities of the Parties, without the prior written consent.
- 16.4 Both Parties shall maintain confidentiality until the disclosing Party make such information public.

**17. RESTRICTION OF CESSIONARY RIGHTS**

- 17.1 Neither Party shall be entitled to cede any of their rights nor assign any of their obligations flowing from this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

**18. BREACH**

- 18.1 Should either party ("Defaulting Party"):-

- 18.1.1 commit a material breach of this Agreement, and fail to remedy such breach within 14 (fourteen) days of having been called upon in writing by the other party ("Innocent Party") to do so; or
- 18.1.2 effect or attempt to effect a compromise or scheme of arrangement with its creditors; or
- 18.1.3 be provisionally or finally liquidated or be placed in judicial management, whether provisionally or final; or
- 18.1.4 cease or threaten to cease to carry on its normal line of business in the Republic of South Africa or default or threaten to default in the payment of its liabilities generally, or commit any act or omission which would, in the case of an individual, be an act of insolvency in terms of the Insolvency Act, 1936 (as amended);

then the Innocent Party may, in its discretion, terminate this Agreement on written notice to the Defaulting Party, in which event such termination shall be without prejudice to any claims which the Innocent Party may have for damages against the Defaulting Party occasioned by the termination of this Agreement in terms of this clause.

**19. LIMITATION OF LIABILITY**

- 19.1 Notwithstanding the form (whether in contract, delict, or otherwise) in which any legal action may be brought, both Parties' maximum liability for direct damages for any breach of this Agreement or any act or omission arising during the course and scope of fulfilling its obligations in terms of this Agreement, shall, in respect of the Services provided pursuant to this Agreement be limited to an aggregate amount of the licence fees paid by the Client to UKS during the preceding 12 (twelve) month period, provided that in the first year of this Agreement, such cap shall be the annualised average monthly fees for the duration of the Agreement at the time such loss arises. Such maximum amount shall be an aggregate amount for all claims arising out of the causes mentioned.
- 19.2 Neither Party shall be liable for any loss of profits, goodwill, business, clients, contracts, revenue, the use of money, anticipated savings or data; or any special, indirect or consequential loss and such liability is excluded whether it is foreseen, foreseeable, known or otherwise. For the purposes of clarity it is recorded that the provisions of this clause apply whether such loss is indirect, consequential or otherwise, whether caused contractually or delictually and whether caused directly or indirectly.
- 19.3 UKS and the Client each acknowledge that the foregoing limitations and exclusions represent the Parties' agreement based on the level of risk assumed by UKS in connection with its obligations under this Agreement and the payments provided under this Agreement to UKS for the performance of those obligations.

**20. NON-SOLICITATION**

The Parties agree that neither Party shall, without the prior written consent of the other, either during, or within 12 (twelve) months of the termination of this Agreement, engage, employ or otherwise solicit for employment whether directly or indirectly, any person who during the currency of this Agreement was a member of the Staff of the other Party involved in the acquisition or provision of Services in terms hereof. To the extent that either Party breaches this provision ("**the Defaulting Party**"), such Party shall pay the innocent party a recruitment fee equal to half the gross annual package (wh



necessary) paid by the innocent party to the Staff member concerned. Such amount shall be payable within 30 (thirty) days of commencement of such Staff's appointment with the Defaulting Party.

**21. INTERPRETATION**

This Agreement shall be subject to the following rules of interpretation.

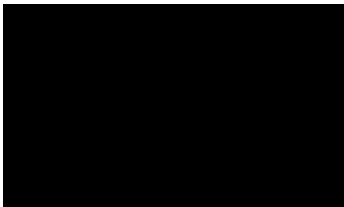
- 21.1 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 21.2 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a business day, in which case the last day shall be the next business day.
- 21.3 The rule of construction that the Agreement shall be interpreted against the party responsible for the drafting or preparation of the Agreement, shall not apply.

**22. GENERAL**

- 22.1 This Agreement constitutes the entire Agreement between the Parties in respect of the subject matter hereof and neither Party shall be bound by any undertakings, representations, warranties or promises not recorded in this Agreement.
- 22.2 No variation or consensual cancellation of this Agreement and no addition to this Agreement shall be of any force or effect unless reduced to writing and signed by the Parties or their duly authorised representatives.
- 22.3 No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 22.4 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. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to negotiate an amendment to remove the invalidity.
- 22.5 This Agreement will be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.
- 22.6 Each Party shall bear and pay its own fees and costs of and incidental to the negotiation, drafting, preparation and execution of this Agreement.
- 22.7 This contract is subject to a periodic review by the City of Cape Town once every three years.

**AGREED AND ACCEPTED BY:**

**UKS: Universal Knowledge Software**



11/05/2021

Signature

Date

Name

CEO

Witness 1

Witness

**the Client:**

Signature

Name

Executive Director: Community Services and Health

Witness 1

Witness 2

**Annexure Index**

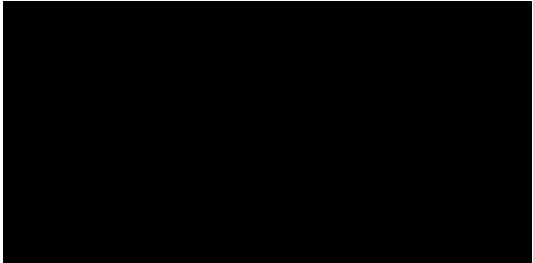
**Annexure A – Licence Agreement  
(see attached)**

**Annexure B – “Licensed Use” for City of Cape Town**



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- \* Prices are subject to annual CPI increase for the period of 120 months
- \* All prices excl. VAT



**Annexure C – “Pricing Schedule for Services and Future Services”**

**Integration**

Description	Unit of Measure	Rate Excl. VAT
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

**Application Programming Interfaces**

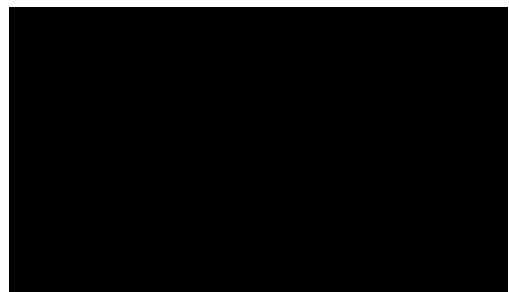
Description	Unit of Measure	Rate Excl. VAT
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	100 000.00

**Additional Maintenance and Support Services Required During the Lifecycle of the Contract**

Description	Unit of Measure	Rate Excl. VAT
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

**Any Other Services, Expansions Modules, Applications, Mobile Apps Required During the Lifecycle of the Contract**

Description	Unit of Measure	Rate Excl. VAT
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]



**Products/Devices Not Specified in the Schedules, but Necessary to Implement an Optional Service. (Such as RFID or Additional Modules to Complete the Project)**

Description	Quantity	Rate Excl. VAT
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
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[Redacted]	[Redacted]	257.03

\* All prices excl. VAT

