

**UPDRAFT'S TERMS AND CONDITIONS APPLICABLE TO THE USE OF THE PREMIUM LEGAL SUPPORT SERVICES FOR BUSINESSES:**

- a) Origin Dynamic Systems (Pty) Ltd, trading as Updraft, registration number 2009/009379/07, ("Origin Systems") has been appointed by Discovery to provide Discovery Clients with the services set out herein ("the Legal Services").
- b) A Discovery Client's use of the Legal Services is subject to the terms and conditions set out below.
- c) In compliance with section 49 of the Consumer Protection Act 68 of 2008 ("the Act"), bold text is used in these terms and conditions to draw your attention to important provisions that may limit your existing rights. Please read these terms carefully.

**1. INTERPRETATION**

1.1. Unless the context indicates otherwise, the following terms shall have the following meanings:

1.1.1. "Benefit Period" means the period during which the Discovery Client is a client of Discovery and entitled to the Legal Services provided by Origin Systems;

1.1.2. "Contact Centre" means the specialist legal call centre number that Discovery Clients are entitled to contact on 0860 017 455 in order to receive telephonic legal advice on the terms and conditions set out in this document;

1.1.3. "Intellectual Property" means all right, title and interest in and to the intellectual property rights inherent in, used by, or forming part of, the Legal Services, the Legal Portal, and/or the Software (including but not limited to trademarks, copyrights, patents, trade names, website "look-and-feel" and trade secrets), as well as all proprietary information and services listed on (and/or accessed via) the Legal Portal, including but not limited to information relating to the contents of legal documents, and the underlying HTML code, XML code, text, graphics, video clips, content, selection and organization of all of the information available on every page of the Legal Portal, its servers and or its underlying databases;

1.1.4. "Legal Portal" means the online legal drafting portal or website that is accessible to Discovery Clients and that will allow them to step through online questionnaires in order to receive legal documentation customised to their circumstances;

1.1.5. "Legal Services" means the services set out in this document to be provided by Origin Systems to Discovery Clients for the duration of the Benefit Period;

1.1.6. "Representative" means any employee, officer, independent contractor, agent, associate, consultant, subcontractor or other representative.

1.1.7. "Service Hours" means 08h00 to 17h00 on any day other than a Saturday, Sunday or Public Holiday officially recognised as such in the Republic of South Africa;

1.1.8. "Service Providers" means all natural and/or juristic persons appointed by Origin Systems as sub-contractors and/or who are directly or indirectly involved in the development, marketing, support and/or provision of the Legal Services and shall include (but not be limited to) the Service Providers and/or their owners and Representatives, as well as the owners, Representatives, licensees and/or holders of any of the Intellectual Property;

1.1.9. “Software” means the online questionnaires, document generation and management systems, call centre systems, databases, legal information, coding and related components of the legal drafting, compliance and advice solutions developed and owned by Origin Systems and/or its affiliates or licensors; and

1.1.10. “Updraft Console” means the online legal drafting and contract management application that Discovery Clients with rights to the Commercial Premium Services may log into in order to:

1.1.10.1 receive legal documentation customised to their circumstances and transactions by means of online questionnaires completed by them;

1.1.10.2 securely store all documents created or uploaded by them in a central, online repository;

1.1.10.3 manage the lifecycle of each legal transaction through the receipt of system notifications related to key transaction deadlines; and

1.1.10.4 extract reporting information drawn from the information contained in the legal documents concluded by the Discovery Client.

1.2 If any provision in clause 1 confers rights or imposes obligations on any party, it shall be implemented as if it were a substantive provision in the body of the terms and conditions, notwithstanding that it is contained in clause 1.

## **2. THE LEGAL ADVICE SERVICE BENEFITS**

2.1. Discovery Clients shall be entitled during the Service Hours to call the Contact Centre on 0860 017 455 in order to receive telephonic legal advice from an admitted attorney in relation to legal issues directly related to the conduct of the Discovery Client’s business that is insured by Discovery Insure.

2.2. Advice will be provided in relation to commercial matters and business issues arising within the context of the regular business operations of the Discovery Client’s business.

2.3. The Legal Services exclude detailed advice on highly specialist legal areas, including (but not limited to) intellectual property law, taxation, municipal regulations, structured finance and/or non-commercial law. Assistance is only provided in relation to South African commercial law.

2.4. The Legal Services include those legal drafting and advice services that can be provided responsibly online or through a call centre and they therefore do not include ongoing legal support in relation to protracted legal matters (for example, but not limited to, litigation cases and conveyancing processes). For such ongoing matters, Discovery Clients may elect to be referred to a law firm in their area that has been pre-approved by Origin Systems and will be entitled to receive a free half-hour first consultation with an attorney at the law firm concerned.

2.5. Advice will be available during the Service Hours.

2.6. The Legal Services do not cover disputes or issues existing before or after the Benefit Period.

2.7. Subject to clauses 3.4 and 6 below, the Discovery Client may call the Contact Centre as many times as they like in any given month and can also request assistance with the drafting of any number of the legal documents set out in clause 3 below;

2.8. All calls in the Contact Centre, whether inbound or outbound will be digitally recorded and stored for a minimum of 5 years. The Discovery Client grants the Service Providers permission to access the call recordings and any related information for the purposes of reporting and quality control;

### **3. THE LEGAL DRAFTING SERVICE BENEFITS**

3.1. Discovery Clients shall during the Benefit Period be entitled to receive commercial drafting services in respect of the following drafting processes and agreements:

- Shareholders' Agreement • Sale of shares
- Association Agreement • Sale of members' Interest
- Commercial lease • Residential Lease
- Sale of motor vehicle • Trust deed
- Loan agreement • Deed of suretyship
- Employment agreements • Non-Disclosure agreement
- Acknowledgement of debt • Sale of property
- Service Provider Agreement • Standard conditions of trade

3.2. The above agreements will be made available to the Discovery Clients online through the Updraft Console (accessible through login details that will be emailed to the Discovery Client on enrolment) or by calling the Contact Centre. Subject to clauses 3.4 and 11 below, Discovery Clients are entitled to receive an unlimited number of the commercial agreements set out in clause 3.1 above.

3.3. Whether drafted via the Updraft Console or the Contact Centre, the legal agreements will be generated as a publishing service by means of a structured process that makes use of decision-tree questionnaires and legal algorithms to establish the Discovery Client and transaction details, appropriate clauses, applicable legislation and document formats.

3.4. The Discovery Client shall only be entitled to use the legal agreements and advice provided as part of the Legal Services for the purposes of managing its own day-to-day business operations and shall not sell, alienate, exploit and/or distribute for gain any of the agreements and/or advice provided.

3.5. A unique identification number is allocated to every document created as part of the Legal Services and is inserted into the footer of every document provided. The Software will automatically store and secure all documents drafted on behalf of Discovery Clients, together with a full audit trail of all questions and answers given in the process of drafting a document. Any changes made to a document as originally created by the Software and provided to the Discovery Client as part of the Legal Services are made entirely at the Discovery Client's own risk and (in addition to, and separately from, any other indemnities included in these terms and conditions) the Service Providers will not be liable for any consequences, claims and/or losses of whatsoever nature and howsoever arising that may be incurred arising from, or related to, the use of an amended legal document.

3.6. Requests for support in relation to the use of the Updraft Console can be made via email to [support@updraftsoftware.com](mailto:support@updraftsoftware.com) or via telephone on 021 300 3800.

3.7. The Updraft Console has security measures in place to protect against the loss, misuse, and alteration of the information under the control of the Service Providers. The Service Providers have no control over the security measures adopted by Discovery Clients in respect

of their own computers or environments and the Service Providers therefore accept no responsibility for, or liability of whatsoever nature in respect of, any security breach or misuse of information occasioned by a Discovery Client's failure to use adequate security measures.

3.8. Origin Systems shall take, and shall ensure that all Services Providers take, all reasonable steps to protect the personal information of users. For the purpose of this clause, "personal information" shall have the meaning as defined in the Protection of Personal Information Act, 4 of 2013.

#### **4. COMMERCIAL COMPLIANCE AND RISK MANAGEMENT**

Discovery Clients enrolled for the Commercial Premium Services will be entitled to receive unlimited access to the legal audit service via the Updraft Console or the Contact Centre. This legal compliance and business advice service will provide the Discovery Client with access to the assessment of more than thirty legal areas which have an impact on the daily operations of the Discovery Client's business, including labour law, tax law, consumer protection, competition law, company law, risk management and a wide range of further issues. Discovery Clients can complete a detailed questionnaire which then forms the basis of a customized report setting out the areas in which their particular business is legally compliant and those critical areas in which the business has failed to comply with the law, or is exposed to unacceptable levels of legal risk.

#### **5. COMMERCIAL LEGAL ADVICE PACKAGES**

The following legal advice packages are included in the Legal Services available to Discovery Clients who have signed up for Commercial Premium Services:

##### **5.1. Selecting the correct corporate vehicle for your business**

This advice package provides detailed advice on the legislative restrictions, tax implications, and management restrictions associated with different corporate vehicles. Discovery Clients are also provided with a detailed assessment of the advantages and disadvantages of co-operatives, companies, close corporations, partnerships and trusts.

##### **5.2. Complying with the tax legislation applicable to your business**

This advice package allows business owners to become aware of the tax obligations associated with their businesses, including detailed explanations relating to PAYE, Income Tax, VAT, the Skills Development Levies and other related topics.

##### **5.3. Labour law compliance – How to hire and fire legally**

This support service provides business-specific guidance in relation to unfair labour practices and correct dismissal procedures.

##### **5.4. Bullet-Proofing your business – Avoiding liquidation and personal liability**

This insolvency package provides detailed advice on how to structure the operations of your business to minimize risk. It also provides a clear description of the conduct that could render a business manager or director personally liable for the debts of the business in the event of liquidation.

##### **5.5. Forms of security when raising funding**

A business-appropriate explanation of debt factoring, deeds of suretyship, pledges, asset leases, special and general notarial bonds and other forms of security, including the pros and cons and what to avoid.

## 5.6. Protecting your intellectual property

An interview and advice package that allows business owners to identify the intellectual property inherent in their businesses. The package includes practical advice and step-by-step guides to the protection of a businesses' intellectual property.

## 6. **LETTERS OF DEMAND / DEBT RECOVERIES**

Discovery Clients enrolled for the Commercial Premium Services will be entitled to have up to 3 (three) legal letters of demand per calendar month drafted on behalf of their business via the Contact Centre and/or the Updraft Console. This service includes only the following causes of action:

- 6.1. Repayment of a loan.
- 6.2. Payment of the purchase price for goods sold.
- 6.3. Delivery of goods purchased but not delivered.
- 6.4. Payment for services rendered.
- 6.5. Losses suffered from damage to a business vehicle in an accident.
- 6.6. Damages suffered as a result of defective building work.
- 6.7. The return of an asset owned by the business and in someone else's possession.
- 6.8. Payment of arrear rental.
- 6.9. Ejectment of a tenant for failure to pay rental.
- 6.10. Repayment of a purchase price because goods purchased are defective.

## 7. **THE UPDRAFT CONSOLE - CONTRACT MANAGEMENT SOFTWARE WITH MAINTENANCE AND SUPPORT**

7.1. Discovery Clients enrolled for the Commercial Premium Service will be granted a single-user license for the Updraft Console, which license will remain in force for the Benefit Period.

7.2. Within 48 hours of the commencement of the Benefit Period, the Discovery Client will receive an email providing the Discovery Client's login name and providing an internet link that will allow the business user to create their own password and login into the Updraft Console.

7.3. The services included as part of the provision of the Updraft Console are set out below.

### 7.3.1. Document Drafting services:

The Updraft Console will allow the Discovery Client to access drafting questionnaires that will automatically generate as many of the documents as are set out in clauses 3.1, 4 and 5 above as the Discovery Client requires (subject to clauses 3.4 and 11). These documents will be generated by means of a structured process that makes use of decision-tree questionnaires to establish transaction details, appropriate clauses, applicable legislation and contracts formats. This component of the Services will include the following:

7.3.1.1. Custom-built online questionnaires tailored to the documents set out in clauses 3.1, 4 and 5 above;

7.3.1.2. The questionnaires used to draft the documents will include input restrictions, user limitations and structured choices that will assist the Discovery Client in avoiding unauthorized or unenforceable contractual provisions;

7.3.1.3. Version control of contracts drafted through the Updraft Console;

7.3.1.4. An audit trail of activities undertaken by a named user through the system in relation to a document, identifying the responsible named user and the time and nature of the activity undertaken on the Updraft Console;

7.3.1.5. A visible audit trail of all questions and answers given in the process of drafting a document;

7.3.1.6. An automated “amend” function that allows for fast and controlled questionnaire amendments;

7.3.1.7. An automated “clone” function that allows a completed questionnaire to be used as a base for the drafting of a new agreement;

7.3.1.8. Contracts are generated in Word (for editing, if needed) or a locked-down PDF (for distribution to third parties).

### 7.3.2. Document Management services:

The features of the document management services included as part of the Software are the following:

7.3.2.1. Every legal document created through the Updraft Console will be automatically stored and displayed in the document management console.

7.3.2.2. The system is a web-based solution, so that documents can be created at any geographical location but will be viewable in real-time in the Updraft Console, thereby allowing for central and immediate control.

7.3.2.3. Documents are easily found using the search and filter functions linked to document types and descriptions.

7.3.2.4. All key contract dates and deadlines will be stored as part of the drafting process and, wherever possible, will be used to trigger notifications in the Updraft Console ‘inbox’ and, if requested, via emails to the named user concerned. In addition, users can link their own ‘custom’ reminders to any transaction for the future dispatch of notifications and/or emails on a defined date.

7.3.2.5. The “Note” function allows multiple, audited user comments to be attributed to documents.

7.3.2.6. The “Document description” function allows for meaningful grouping and retrieval of documents.

7.3.2.7. A unique identification number is allocated to every document created and stored in the console. This number is also hard-coded into the footer of every Word and PDF document so that a defined link is maintained between the circulating hard-copies of the document and versions stored in the console.

7.3.2.8. With the “Upload” function, external documents can be loaded into the Updraft Console. These documents can be uploaded as independent items (for example, historical contracts) or as items linked to existing contracts stored in the console (for example, a signed version of a document created through the system). Customised “Upload” interviews are created for each document type to capture reporting and contract management data for these external documents, thereby allowing for the documents to be managed and reported on together with documents drafted through the Updraft Console.

7.3.2.9. A document log is retained for every document created and stored in the Updraft Console.



7.3.2.10. The Discovery Client will be entitled to upload and store up to two gigabytes of data per annum.

7.3.2.11. Based on the metadata collected during the drafting and upload interviews, reports and reminders can be generated in respect of contract deadlines, escalations, expiries and similar dates, in the form of the standard reports offered by the Updraft Console, as well as in the form of customised data exports or reports per document.

7.3.2.12. Daily automated back-ups and off-site storage of all data and documents stored in the system is also included.

### 7.3.3. System Hosting, Training and Professional Support:

The drafting and document management solutions are provided as “Software as a Service”, incorporating the following key elements:

7.3.3.1. hosting, maintenance and management of the underlying servers, databases, document generation engines, infrastructure and systems necessary to provide the Legal Services;

7.3.3.2. the configuration and support of all security measures, such as SSL communications, security certificates, data extraction, storage and encryption;

7.3.3.3. IT technical maintenance, generic system enhancements, upgrades and support in relation to the Updraft Console;

7.3.3.4. user administration support, including (where required) user account creation, removal and password management; audit trail management of user activities and associated security, as well as configuration and administration of available user privileges;

7.3.4. requests for technical support (legal support is provided via the Contact Centre) can be made via email to support@originsystems.co.za or on 021 300 3800. Support requests are ranked by severity and the Service Providers will use their best endeavours to resolve any technical problems within the shortest possible time, taking into account the levels of expertise required to resolve the issue and the nature and complexity of the problem concerned.

## 8. INTELLECTUAL PROPERTY AND LIMITED LICENSE

8.1. Origin Systems and/or the Service Providers are the sole and exclusive owners and/or licensees of all right, title and interest in and to the Intellectual Property. Discovery Clients may not sub-license, resell, republish (including internet posting, electronic mailing, faxing, archiving in a public database, redistributing via a computer network, or in a printed form to third parties), reproduce, disseminate, commercially exploit, reverse-engineer, adapt or circulate any of the Intellectual Property without the prior written consent of Origin Systems.

**8.2. All forms and documents available through the Updraft Console or the Contact Centre are solely for the use of the Discovery Client and such use is authorised solely for the purposes of recording one specific project, relationship or transaction. Discovery Clients may not re-use any document obtained through the Updraft Console or the Contact Centre for any additional matters or transactions which are not the subject of the original use of the document. Save as aforesaid, the download and use of any document does not confer upon the Discovery Client the right to make use of any of the Intellectual Property.**

## 9. DURATION OF SERVICES

9.1. Subject to the Discovery Client making payment of then prevailing fees due and payable in return for access to the Legal Services (as communicated by Discovery from time to time), the Discovery Client shall be entitled to receive all of the Legal Services with effect from the date of the Discovery Client's acceptance of the terms and conditions set out in this document ("the Inception Date"). The Benefit Period shall commence on the Inception Date and shall endure for an indefinite period thereafter, terminable by either the Discovery Client or Discovery on 1 (one) months' written notice to the other. However (and notwithstanding the provisions of this clause 9.1):

9.1.1. The Benefit Period shall not be terminable during the first 12 months after the Inception Date; and

9.1.2. Notwithstanding anything else contained in clauses 9.1 and/or 9.1.1, the Benefit Period shall terminate automatically and with immediate effect on the termination of the Discovery's Client's insurance cover with Discovery.

## 10. NO WARRANTIES

10.1. Origin Systems seeks to ensure that the information and documents made available by the Service Providers as part of the Legal Services are up to date and accurate. However, owing to continuing developments in the law and the unknown nature of the circumstances in which the documents and services provided by the Service Providers will be utilised, neither Origin Systems nor the Service Providers make any warranties and/or guarantees that any of the information or documents contained on, or accessed via the Legal Services, is accurate, current or appropriate for the purposes for which it has been acquired.

10.2. **The information and documents provided on the Updraft Console should not in any manner whatsoever be regarded, or relied upon, as the provision of legal, financial, business, professional or any other form of advice, and are not intended to be used as a substitute for specific legal, financial, business or professional advice.** Many factors may affect the applicability of any statement, comment, legal contract, clause, document or other information available on the Updraft Console. If you are in any doubt whatsoever about the suitability or accuracy of any information or document provided as part of the Legal Services, you should not rely upon such information or document without first consulting an independent lawyer or professional advisor with respect to your specific situation.

10.3. Whilst every effort is made to ensure the secure and problem-free operation of the Updraft Console, Origin Systems does not guarantee uninterrupted or error-free use of the online services, or the security of any information provided by you in the course of your use of the online services.

## 11. THE USE AND LIMITS OF THE UPDRAFT CONSOLE AND THE LEGAL SERVICES

11.1. Origin Systems offers a service falling within the ambit of the publishing industry which markets and sells legal support products for use exclusively within the Republic of South Africa.

11.2. The information and documents made available as part of the Legal Services are provided to Discovery Clients solely for their commercial and legitimate use in accordance with the terms and conditions set out herein.



11.3. Discovery Clients may not:

11.3.1. use the Updraft Console in any manner that could damage, disable, overburden, or impair any server used by the Service Providers, or the network(s) connected to any server used by the Service Providers, or interfere with any other party's use of the Updraft Console;

11.3.2. attempt to gain unauthorised access to any products, services, other accounts, computer systems or networks connected to any server used by the Service Providers through hacking, password mining or any other unauthorised means; and/or

11.3.3. use the Updraft Console so as to conduct a business that is in competition with the businesses of the Service Providers.

11.4. Without limiting any of Origin System's rights and remedies, Origin Systems may deny Discovery Clients access to all or part of the Legal Services immediately and without notice if the Discovery Client engages in any conduct or activities that Origin Systems believes (in its sole and absolute discretion) are an abuse of the Legal Services and/or are contrary to the import and intent of these terms of use. Origin Systems will inform Discovery immediately in the event that it denies all or part of the Legal Services to a Discovery Client (where the Discovery Client is entitled thereto) and Origin's reason/s for such denial.

**11.5. The Updraft Console is provided as a general service over the internet and should not be construed as specific legal advice for any specific factual situation. The service offered by the Updraft Console is a publishing service and the legal documents provided are intended as forms generated by the user for use in common and standard situations.**

## **12. INDEMNITY AND DISCLAIMERS**

**12.1. In relation to any and all Legal Services obtained by the Discovery Client through the Contact Centre, Origin Systems' liability to the Discovery Client and/or its Representatives (whether jointly or individually) from any cause whatsoever and whether such liability is strictly imposed, arises as a result of a breach of contract and/or the contravention of any statutory provision on the Service Providers' part, or is due to the negligent or reckless conduct of the Service Providers and/or of any other person for which any of the Service Providers may be held vicariously liable:**

**12.1.1. shall not include any consequential, exemplary, indirect, incidental, punitive, pure economic and/or special losses or damage of any kind and howsoever caused; and**

**12.1.2. shall be limited in amount to the direct damages actually suffered by the Discovery Client or the sum of R5,000,000.00 (five million rand), whichever is the lesser.**

**12.2. The Legal Portal and the Updraft Console provide dynamic legal publishing services over the internet catering for common and standard situations and should not be construed as specific legal advice for any particular factual situation. If the Discovery Client has any concerns, they should seek specific legal advice from the Contact Centre or a law firm. Without specific legal advice from an attorney, any reliance placed on information or documents obtained through the Legal Portal and/or the Updraft Console is strictly at the Discovery Client's own risk. In such circumstances, the Discovery Client absolves Origin Systems of any liability to the Discovery Client and/or its Representatives (whether jointly or individually) from any cause whatsoever, whether such liability is strictly imposed, arises as a result of a breach of contract and/or the contravention of any statutory provision on the Service Providers' part, or is due to the negligent or reckless conduct of the Service**

**Providers and/or of any other person for which any of the Service Providers may be held vicariously liable.**

**12.3. Neither Origin Systems nor any Service Provider will be liable for any claim, loss or damage suffered by or claims made against a Discovery Client or any other person as a result of or arising out of the Legal Services and/or document(s) made available to a Discovery Client or any other person, unless as a result of Origin Systems' or a Service Provider's fraud or deliberate misconduct.**

### **13. GENERAL TERMS**

13.1. No failure to enforce, or delayed or partial enforcement of, a right by Origin Systems shall prejudice or derogate from its rights under these terms and conditions, nor shall it constitute a waiver or novation of its rights under these terms and conditions and it shall not estop or otherwise prevent Origin Systems from enforcing at any time all its rights arising out of these terms and conditions.

13.2. These terms and conditions shall be governed by and interpreted in accordance with South African law. Each provision of these terms and conditions shall be deemed to be separate and severable.