

## **jdeDIRECT ODBC DRIVER LICENSE and SUPPORT AGREEMENT**

*UES LIMITED trading as Unity*  
*www.unitysolutions.com*



COMPAY NAME

### **1. Definitions and Interpretation**

- 1.1. In the License and Support Agreement as hereinafter defined the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires.
  - 1.1.1. "The Client" shall mean the company whose details and whose registered office or main place of business is as detailed on Page 7 of this License and Support Agreement and all its subsidiary companies
  - 1.1.2. "Unity" shall mean UES Limited trading as Unity whose main place of business is at 49 Batley Technology Centre, Grange Road, Batley, West Yorkshire, WF17 6ER, U.K.
  - 1.1.3. "JdeDirect" shall mean the Unity JdeDirect ODBC Drivers software package.
  - 1.1.4. "Agreement" shall mean this license and support agreement as from time to time amended or varied and shall include appendices and schedules hereto.
  - 1.1.5. "Contract Date" shall mean the original purchase date.
  - 1.1.6. "Maintenance and Support Service" shall mean those services defined in clause 4 in this Agreement.
- 1.2. Words importing the singular also include the plural and vice versa where the context requires.
- 1.3. Words importing the masculine also include the feminine and vice versa where the context requires
- 1.4. The headings in this Agreement shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction of this Agreement.
- 1.5. All references herein to clauses are references to clauses numbered in this Agreement and not to those in any other document unless the context otherwise requires
- 1.6. This Agreement shall apply to ALL versions of jdeDirect ODBC Driver
- 1.7. Unity will occasionally update this Agreement. When we do, we will also revise the version number at the foot of this page. The latest copy of this agreement will be available for download from our website. For material changes to this agreement, Unity will notify you by email with the updated version attached.

### **2. Versions and limitations of use**

- 2.1. **SINGLE USER VERSION, Evaluation Period**  
The Client is licensed to use one copy of jdeDirect, on one (1) computer or workstation, for evaluation purposes without charge for a period of 30 days. If the Client uses this software after the 30 day evaluation period a further registration is required. After completion of the evaluation or 90 days from initial installation, whichever comes first, the Client must either purchase a fully licensed Single User version or uninstall the Evaluation copy.
- 2.2. **MULTI-USER (SERVER) VERSION**  
The Multi-User version of jdeDirect is a site wide license and as such the number of concurrent users and servers permitted to install or establish a connection to jdeDirect is governed by the number of active users licenses purchased. The Client must not install or permit to be connected more users than their license permits.
- 2.3. **STANDALONE VERSION**  
The Client is licensed to use one copy of jdeDirect, on one (1) computer or workstation, when running JD Edwards OneWorld/EnterpriseOne Standalone (Demo Junior) without charge for a period of 90 days. If the software is used after the initial 90 days period a further activation is required.
- 2.4. **SITE – WIDE LICENCE**  
The site wide licence is limited to connection to a single production database instance (database server) and does NOT permit connectivity to multiple production database instances, unless clearly defined in appendix A.

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**2.5 MULTI - SITE LICENCE**

The multi site licence is limited to connection to multiple production database instances (database server) for **one** of the following 8 continents: Antarctica, South America, North America, Central America, Europe, Asia, Africa and Oceania. The licensed continent will be clearly defined in appendix A.

**2.5 WORLD WIDE LICENCE**

The world wide licence is permitted for connection to multiple database instances (database server) for one or more of the following 8 continents: Antarctica, South America, North America, Central America, Europe, Asia, Africa and Oceania.

**2.6 ALL LICENCES**

This is not free software. Subject to the terms above, and the scope of Agreement pertaining to the version purchased, the Client is hereby licensed by Unity to install each copy of jdeDirect Purchased. See the jdeDirect web site at [www.unitysolutions.com](http://www.unitysolutions.com) for information about online ordering.

**3. The Client's Responsibilities**

3.1. By using, copying, transmitting, distributing or installing jdeDirect ODBC Driver ("jdeDirect"), the Client agree to all of the terms of this jdeDirect ODBC Driver Licence and Support Agreement ("Agreement").

3.2. The Client should carefully read the following terms and conditions before using this software. Unless the Client has a different agreement signed by UES Limited, ("Unity") Their use, distribution, or installation of this copy of jdeDirect indicates the Client's acceptance of this Agreement. If the Client does not agree to all of the terms of this Agreement, then they must not use, copy, transmit, distribute, or install jdeDirect. Different agreement do not include a previous version of this same agreement as defined in section 1 above.

3.3. UNREGISTERED USE OF jdeDirect IS IN VIOLATION OF U.S., U.K. AND INTERNATIONAL COPYRIGHT LAWS.

3.4 The jdeDirect ODBC driver software is key protected and as such the Client will be issued with a user id and password to enable acquisition of an electronic key from Unity's support website. This will be renewed annually.

3.5 THE CLIENT IS SPECIFICALLY PROHIBITED FROM CHARGING, OR REQUESTING DONATIONS, FOR ANY COPIES, HOWEVER MADE, AND FROM DISTRIBUTING SUCH COPIES WITH OTHER PRODUCTS OF ANY KIND, COMMERCIAL OR OTHERWISE, WITHOUT PRIOR WRITTEN PERMISSION FROM UES LIMITED.

3.6 All rights of any kind in jdeDirect which are not expressly granted in this Agreement are entirely and exclusively reserved to and by Unity. The Client may not rent, lease, modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on jdeDirect. The Client may not make access to jdeDirect available to others in connection with a service bureau, application service provider, or similar business.

3.7 The Client shall provide the following levels of competence within its organisation.

3.7.1 At least one person at each site where the JdeDirect Software is used who is adequately trained and competent to use the JdeDirect Software.

3.7.2. The Client shall notify Unity of a nominated contact employed by The Client who shall be responsible for providing Unity with all the information and assistance reasonably required allowing Unity to fulfil its obligations under this Agreement.



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- 3.7.3 Client's nominated contact shall be responsible for categorising all issues to Unity in accordance with the responses outlined in Section 4. Unity reserves the right to change the level of response per category if it is deemed that the levels of priority, which are being applied, are unreasonable. This will be in consultation with The Client.
- 3.7.4 If any of the requirements referred to in clauses 3.7.1 and 3.7.2 of this Agreement have not been complied with then Unity reserves the right to charge The Client for any maintenance work undertaken or any general activities performed arising out of the failure to comply with any such requirements for the time used at our prevailing consultancy rates which are available on request and revised annually.
- 3.8 If necessary and agreed by both parties in advance, The Client agrees to install and bear all the installation running and all other costs associated with a fixed data communication link between The Client's and Unity's computers.

#### **4 Unity's Responsibilities**

- 4.1 Unity will provide a Maintenance and Support Service for the JdeDirect ODBC Drivers software package  
The scope and method of the Maintenance and Support Service will be as defined in 4.2 below.
- 4.2 Unity warrants that the Maintenance and Support Service will be performed by suitably qualified people with reasonable care and skill. All requests for Maintenance and Support to be logged via the web-based Support Centre. Unity will endeavour to:
- 4.2.1. Provide an immediate e-mail response to all issues classified as **Urgent**
  - 4.2.2 Respond as soon as possible to all issues classified **High** but on a first come first served basis and usually within one hour.
  - 4.2.3. Handle all **medium** priority issues on first come first served basis and usually within 24 hours.
  - 4.2.4 Handle all **low** priority issues on first come first served basis and usually within 96 hours.
- 4.3 Any **Urgent** issue that has not been allocated an agreeable action plan, within four hours, will be referred to the Unity Support Supervisor.
- 4.4 Unity will provide the Maintenance and Support Service so far as is possible from its own offices. The Service will be available between the hours of 08.30 hours and 17.00 hours (local UK time) each weekday except Public and Bank Holidays.

#### **5 General**

- 5.1 This Agreement is the complete statement of the agreement between the parties on the subject matter, and merges and supersedes all other or prior understandings, purchase orders, agreements and arrangements. This Agreement shall be governed by the laws of England. Exclusive jurisdiction and venue for all matters relating to this Agreement shall be in courts located in England, and you consent to such jurisdiction and venue.
- 5.2 There are no third party beneficiaries of any promises, obligations or representations made by Unity herein. Any waiver by Unity of any violation of this Agreement by the Client shall not constitute or contribute to a waiver of any other or future violation by the Client of the same provision, or any other provision, of this Agreement.
- 5.3 Save as elsewhere expressly provided neither party shall assign or sub-contract this Agreement, or any interest herein, or any part of this Agreement without the other party's written

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- consent (which consent shall not be unreasonably withheld or delayed). Any sub-contractor shall be bound by the provisions hereof in a like manner to the parties.
- 5.4 In consideration of the obligations accepted by The Client hereunder, Unity agrees to provide the Maintenance and Support Service to The Client for the JdeDirect ODBC Driver software for the term of this Agreement.
- 5.5 Copyright and any other intellectual property rights of whatever nature in the work done by Unity under this Agreement are and shall remain the property of Unity.
- 5.6 Unity does not warrant that any work done under this Agreement will not contain errors and Unity shall not in any way be liable for any loss damage or consequential loss arising from or upon the existence of such errors.
- 5.6.1 The Client acknowledges that good data processing procedure dictates that any program, including jdeDirect, must be thoroughly tested with non-critical data before you rely on it, and the Client hereby assumes the entire risk of using the program. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT.
- 5.6.2 Any liability of Unity will be limited exclusively to refund of purchase price, if any. In addition, in no event shall Unity, or its principals, shareholders, officers, employees, affiliates, contractors, subsidiaries, or parent organisations, be liable for any indirect, incidental, consequential, or punitive damages whatsoever relating to the use of jdeDirect, or to your relationship with Unity
- 5.6.3. In addition, in no event does Unity authorise the Client to use jdeDirect in applications or systems where jdeDirect's failure to perform can reasonably be expected to result in a significant physical injury, or in loss of life. Any such use by the Client is entirely at their own risk, and the Client agrees to hold Unity harmless from any and all claims or losses relating to such unauthorised use.
- 5.7 No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or excuse shall be in writing and signed by the party claimed to have given waiver or excuse.

### 6 Term of this Agreement

This Agreement will continue until terminated in accordance with clause 11 or written notice is given by either party to the other of not less than 90 days.

### 7 Charges and Payments

- 7.1. In consideration of the obligations accepted by Unity hereunder (and provided such obligations are fulfilled) The Client shall pay a fee **annually** for the Maintenance and Support Service. The fee(s) shall be that defined in Appendix A plus VAT at the prevailing rate (if applicable).
- 7.2 Payment of the fees will be made by The Client on the agreed anniversary of the Contract date each year during the term of this Agreement following receipt of an invoice submitted by Unity provided such invoice is correct in all regards.
- 7.3 An invoice for Maintenance and Support Services will be raised automatically, and annually, 4 weeks prior to the anniversary of the contract date (shown on page 7). If payment of the fees for the annual Maintenance and Support are not received from The Client within 60 days, Maintenance and Support Services will be terminated. Re-instatement of these services will be chargeable at a rate of 40% of the invoice amount.



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- 7.4 Additional application software may be added by The Client to this Agreement subject to the terms of this Agreement and provided that agreement in writing is reached between the parties to this Agreement as to any increase in fee resulting from the addition.

## **8 Limitation of Employee Liability**

- 8.1 The following provisions set out Unity's entire liability for the acts and omissions of its employee's agents and sub-contractors to The Client in respect of:-
- 8.1.1 Any breach of its contractual obligations arising under this Agreement; and
  - 8.1.2 Any representation statement or tortious act or omission including negligence arising under or in connection with this Agreement
- 8.2 Any act or omission on the part of Unity or its employees agents or sub-contractors falling within clause 8.1 above shall for the purposes of this clause 8.2 be known as an "Event of Default"
- 8.3 Subject to the limits set out in clause 8.4 below Unity shall accept liability to The Client in respect of damage to the tangible property of The Client resulting from the negligence of Unity or its employee's agents or subcontractors.
- 8.4 Unity's entire liability in respect of any Event of Default shall be limited to damages of an amount equal to \$3,000.00 (three thousand US Dollars) or the Licence cost whichever is the lower.

## **9 Confidentiality**

- 9.1 Proprietary Information.

Each party acknowledges and agrees that any and all information emanating from the other's business, in any form, including any methods, systems, or other elements created, learned or developed by the other party in performing this Agreement is Confidential and Proprietary Information. Each party agrees that it will not, during or after the term of this Agreement, permit duplication or disclosure of any such Confidential and Proprietary Information to any person including a sub-contractor (other than an employee, agent or representative of the other party who reasonably requires such information for the performance of its obligations hereunder), unless such duplication, use or disclosure is specifically authorised by the other party in writing. Confidential and Proprietary Information shall not include any information which, at the time of disclosure, is in the public domain, known to the other party at the time of disclosure and can be proved to the reasonable satisfaction of the other party by documentary evidence or is disclosed to the other party by a third party.

- 9.2 Publicity

Neither party shall use the name(s), trademark(s), or trade name(s), whether registered or not, of the other party in publicity releases or advertising or in any other manner, or for other promotional purposes, without obtaining the prior written approval of the other party, which approval may be withheld at the relevant party's absolute discretion.

## **10 Staff Recruitment**

Neither party, during the course of this Agreement and for a period of one year following its conclusion or termination, either alone or jointly with or on behalf of any other person firm or company will entice or endeavour to entice away from the other party any person who is or was an employee of the other party or was contracted, sub contracted or otherwise engaged by the other.

## **11 Termination**

- 11.1.1 Should either party materially fail to perform any of its obligations under this Agreement, the other party may give notice in writing specifying the nature of the complaint and, if the party in default does not remedy the failure within twenty eight days from the date of service of the

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notice, then the other party may forthwith terminate this Agreement by written notice to that effect.

- 11.1.2 Either party may terminate this Agreement forthwith by written notice to the other and may regard the other party as in default of this Agreement, if either party shall make any composition or scheme of arrangement with its creditors, enter into voluntary liquidation (except solely for the purpose of amalgamating or restructuring, providing that the resulting business agrees to be bound by this agreement) suffer or permit the appointment of a receiver or administrative receiver of its business or assets, become the subject of a petition for the appointment of an administrator or become subject to any proceedings under any bankruptcy or insolvency law, whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise. Each party shall immediately notify the other party of any act of insolvency, liquidation or similar.

**12 Force Majeure**

- 12.1 Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to fires strikes (of its own or other relevant employees) insurrection or riots embargoes container shortages wrecks or delays in transportation inability to obtain supplies and raw materials requirements or regulations of any civil or military authority (an "Event of Force Majeure").
- 12.2 Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.
- 12.3 If a default due to an Event of Force Majeure shall continue for more than 4 weeks then the party not in default shall be entitled to terminate this Agreement. Neither party shall have any liability to the other in respect of the termination of this Agreement as a result of an Event of Force Majeure.

**13 Entire Agreement**

This Agreement consists of the entire agreement between the parties relating to the subject matter hereof and any changes to this Agreement shall be of no effect unless made or evidenced in writing and signed by the parties.

**14 Invalidity and severability**

If any provision of this Agreement shall be found by any court or administrative body or competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

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This LICENSE and SUPPORT AGREEMENT is made on the xxth day of Month Year and is known as the CONTRACT DATE.

BETWEEN

1 *Company Name* whose corporate office is at *Full Company Address*

AND

2 UES Limited trading as Unity (Company Registration Number 3716811) whose registered office is at Shaddick Smith Accountants, Royal Bank of Scotland Chambers, Market Street, Leigh, Lancashire, WN7 1ED, United Kingdom, and whose main place of business is at 49 Batley Technology Centre, Grange Road, Batley, West Yorkshire, WF17 6ER, United Kingdom.

FOR THE PURPOSE of the provision of a license and for the provision of ongoing support of JdeDirect application software by UES Limited trading as Unity for *Company Name Here* or any subsidiary company of *Company Name Here* as hereinafter defined.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed and do each hereby warrant and represent that their respective signatory whose signature appears below has been and is on the date of this Agreement duly authorised by all necessary and appropriate corporate action to execute this Agreement.

**SIGNED:**.....

**NAME:**.....

**DATE:**.....

**TITLE:**.....

For and on behalf of  
**UES LIMITED trading as UNITY**

**SIGNED:**.....

**NAME:**.....

**DATE:**.....

**TITLE:**.....

For and on behalf of  
**THE CLIENT**

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COMPANY NAME

**APPENDIX A**

**FEE RATES FOR THIS AGREEMENT**

- Annual maintenance and support will be charged at 20% of current list price less any original discount percentage. *List prices are reviewed annually. Current fee rates and charges are available on request.*
- All charges and fees are quoted in US Dollars – UK Sterling – Euros.
- Fees quoted are for the supply, maintenance and support of jdeDirect ODBC Driver(s).

Software Purchased	Production Instances	Licensed Users	Server or Desktop	Price	Total Purchase Price	Annual Maintenance
jdeDirect ODBC Driver for World – Site Wide Licence	1	Unlimited	10 x Server	nn,000.00	nn,000.00	N,000.00
		Unlimited	Desktop			
				<b>TOTAL</b>	<b>\$nn,000.00 USD</b>	<b>\$n,000.00 USD</b>

Multi-Site, Reference to one of the following continents: Antarctica, South America, North America, Central America, Europe, Asia, Africa and Oceania.

**All prices quoted are in US DOLLARS – UK Sterling - Euros**