

# Terms and Conditions

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## *Acceptance of Terms and Conditions*

These terms and conditions constitute a legally binding agreement between you and KDBS Consulting (Pty) Ltd (hereinafter referred to as "KDBS"), which company has been appointed by Nelson Mandela University (hereinafter referred to as "NMU") to oversee and independently manage the Online SRC elections in 2021 in its capacity as the Independent Chief Elections Administrator. By accessing, browsing, and/or using the website and all electronic material provided by KDBS, you acknowledge that you have read, understood, and agree to be bound by these terms and conditions as may be amended from time to time. If you do not agree to these terms and conditions, you must promptly exit the website, as further use will automatically bind you to these terms and conditions.

## *Definitions*

The following definitions are used in these terms and conditions and will apply unless the context determines otherwise:

**'Content'** means any functions, facilities, material, information or services as found or embedded in a website and any reference to 'Content' shall mean one or more or all of the above-mentioned as required by the context.

**'Data Message'** means a data message as defined in terms of the ECT Act.

**'ECT Act'** means the Electronic Communications and Transactions Act 25 of 2002, available from <http://www.polity.org.za/pdf/ElectronicCommunications.pdf>

**'RIC Act'** means the Regulation of Interception of Communications Act 70 of 2002, available from <http://www.polity.org.za/pdf/RegOfInterOfCommAct70/pdf>

**'UFS'** means an education institution duly established under the Higher Education Act No 101 of 1997.

**'Website'** means the website located at [www.ufs-srcelection.co.za](http://www.ufs-srcelection.co.za) and all other related links and domains, and includes any part or element thereof (including the content).

**'User(s)'** mean any person who enters or uses the website, notwithstanding the fact that such a person only visited the home page of the website.

## *Use and Licence*

The purpose of this website is to provide users with general information regarding NMU SRC Elections to be held in 2021, the processes related thereto, voter education material and to facilitate nomination of candidates and voting for NMU students at its various Campuses. Users may only use the elections website and the electronic forms and online material for these and related legal purposes. KDBS and NMU hereby grant the user a personal, non-transferable licence to view, download and print the content of this website.

## *Limitations on Use*

The licence granted to the user as contemplated above, shall be subject to the following:

1. The content may only be used for the SRC elections.
2. Content so obtained by the user may not be sold, resold, transmitted or otherwise made available or disseminated in any manner via any media to any third parties, unless prior written consent of NMU has been obtained.
3. The following copyright notice should appear on all copies of the content of this website: © Copyright 2020, KDBS Consulting (Pty) Ltd, South Africa. All rights reserved.

4. KDBS Consulting (Pty) Ltd reserves the right to terminate or cancel the licence without providing any reasons.
5. The licence granted to a user will automatically terminate if a user breaches these terms and conditions.
6. Upon termination of the licence, a user must immediately destroy any content which the user has printed and/or downloaded from this website.
7. The user may not delete or change any copyright, trademark, or other proprietary notices, or distort or otherwise modify the proprietary information contained in the content in a manner that may be prejudicial to KDBS Consulting and/or the University of the Free State (UFS).
8. KDBS and NMU may limit the user's access to any part of this website without notice to the user.
9. Email addresses, names, telephone numbers and fax numbers published on this website may not be incorporated into any database use for electronic marketing or similar purposes. No permission is given or should be implied that information on this website may be used to communicate unsolicited communications to KDBS and/or NMU and all rights detailed in section 45 of the ECT Act are reserved.
10. The content of this website is intended for general information purposes only and is not intended to serve as financial, legal or other advice, and should not be regarded as professional advice or the official opinion or views of KDBS and/or NMU.

### *Disclaimers*

KDBS and NMU have used reasonable endeavours to ensure that the content posted on this website is correct at the time of posting. However, KDBS and NMU make no representations and gives no warranties, either express or implied, with respect to the accuracy, suitability or the completeness of content provided on the website and all electronic forms for any purpose whatsoever. The user acknowledges and agrees that all the content on the website and all electronic forms is provided 'as is' and has not been compiled to meet individual needs. No reliance should therefore be made by any user on the content so posted, and the user should independently verify the accuracy, suitability, and completeness of the content.

KDBS and NMU individually and collectively make no representation or warranties, whether express or implied, that the content or technologies available from the elections website located at [www.nmuvote.co.za](http://www.nmuvote.co.za) or access to this website and electronic forms transmitted independently of the website will be free from errors or omissions or that the service will be 100% uninterrupted and secure, that defects will be corrected or that the electronic forms, the website and/or the server that makes the forms and website available to the user, is free of viruses, infections, bugs or the like. Users are encouraged to report any possible malfunctions and errors.

### *Limitation of Liability*

The user acknowledges and agrees that NMU or KDBS as its service provider shall not be liable for, and hereby indemnify NMU and KDBS from and against any losses, liability, costs or damage of whatsoever nature suffered or incurred by a user or any other person arising out of or in connection with the use, inability to use or unavailability of the website, any content available from this website or reliance upon any content contained in or omitted from this website or other linked websites, whether through negligence or otherwise.

Notwithstanding any term or condition contained herein, the user or any other person shall not be entitled to institute any delictual, contractual or other claim against KDBS and/or NMU for any indirect or consequential losses or damages (including without limitation, loss of profit, loss of use, loss of production, loss of business, or loss of business opportunity) due to any cause whatsoever related to or arising from the use of this website or other linked websites.

### *Intellectual Property Rights*

All intellectual property on this website, including without limitation; the content, trademarks, logos, branding, domain names, patents, design elements, software, databases, text, graphics, icons, and hyperlinks are the sole and exclusive property of or are licensed to KDBS or NMU. Subject to the rights licensed to the user herein, the user undertakes not to use, duplicate, copy, reproduce, redistribute,

disseminate, adapt display, alter, reverse engineer, disassemble, decompile, transcribe, store in a retrieval system, translate into any language or computer language, retransmit in any form or by any means (electrical, mechanical, photo reproduction, recordation or otherwise), or otherwise deal with such intellectual property viewed, downloaded or otherwise retrieved from this website, without the prior written consent of KDBS and/or NMU.

All rights not expressly granted in terms of these terms and conditions are reserved. Any use of KDBS and NMU's proprietary information by a user otherwise than expressly authorised in terms hereof may violate intellectual property laws and other regulations and statutes and be liable for criminal prosecution and/or civil liability.

#### *Links from the Website*

This website may contain links to other websites operated by parties other than KDBS and NMU. The user is advised to use caution and discretion when searching or accessing such links. Links from this website are provided as a service for the convenience of the users of this website. As KDBS and NMU have no control over such websites, the user acknowledges and agrees that KDBS and NMU will not be liable for any content on or available from such websites. In providing such links, KDBS and NMU do not in any way, expressly or implicitly, endorse or accept the linked websites or the respective content thereof. KDBS and NMU give no warranty or guarantee and make no representations in respect of such linked website. The user further acknowledges and agrees that KDBS and NMU shall not be liable, whether directly or indirectly, and hereby indemnifies KDBS and NMU from and against any and all damage or loss caused or sustained by or alleged to be caused or sustained by the user, in connection with the use, inability to use or reliance on the content available on such linked websites.

#### *Linking to the Website and Framing*

The UFS should be notified in advance of any links to its website from external websites and reserves the right to disable any unauthorised links. Deep linking to and framing of pages and content on this website are prohibited.

#### *Search Technologies*

Apart from *bona fide* search engine operators and the use of the search facility provided on the website by users, the user may not use or attempt to use any technology or applications (including web crawlers or web spiders) to search or copy content from the website for any purposes, without the prior written consent of NMU.

#### *Security*

In terms of section 86 of the ECT Act it is a criminal offence to gain unauthorised access to any restricted areas of this website or to otherwise interfere with the proper functioning thereof.

#### *Software and Equipment*

It is the responsibility of the user to acquire and maintain at the user's own expense the computer hardware, software, communication lines, and internet access accounts required to access the internet and this website and/or to download content from this website.

#### *Removal and correction of Content*

The user is encouraged to report inaccurate, illegal, infringing, and/or harmful content available on this website to KDBS and/or NMU, and KDBS and NMU undertake to correct and/or remove such content or any part thereof if such content on reasonable grounds prove to be inaccurate, illegal, infringing, and/or harmful.

#### *Amendments*

KDBS and NMU reserve the right in their sole and absolute discretion to temporarily or permanently modify, amend, change or discontinue the website or any part thereof on a periodical basis, without prior notice. It is the user's responsibility to continually stay abreast with the changes to these terms

and conditions. The user's continued use of this website after the terms and condition have been changed indicates a user's acceptance of the new terms and conditions.

#### *Agreement in terms of section 21 of the ECT Act*

The user shall be bound to these terms and conditions and such agreement is concluded in Bloemfontein (South Africa) at the time the user enters the website for the first time.

Data messages addressed by the user to KDBS and/or NMU shall only be deemed to have been received if and when responded to. An auto-reply shall not constitute such a response.

No content provided on this website shall be deemed to constitute an offer to the user or any other person.

No agreements shall be concluded merely by the sending of data messages to or from KDBS and/or NMU or any employee of KDBS and NMU or any student of NMU.

#### *Interception of Communications*

Subject to the provisions of the RIC Act, the user agrees to KDBS and NMU's rights to intercept, block, filter, read, delete, disclose and use all communications sent or posted by the user to this website, KDBS or the students and employees of NMU. The user agrees and acknowledges that this agreement constitutes the written consent required in terms of the ECT Act and the RIC Act.

#### *Jurisdiction and Governing Law*

This site is created, hosted, maintained, and controlled in the Republic of South Africa and as such the laws of the Republic of South Africa and the jurisdiction of the South African Courts govern this agreement and the use or inability to use this website.

#### *Severability*

These terms and conditions are severable and if any provision is found to be defective or unenforceable for any reason by any competent court or arbitrator, the remaining provisions shall be of full force and effect.

#### *Entire Agreement*

These terms and conditions contain the entire agreement between the user, KDBS and NMU concerning the subject matter hereof and no terms, conditions, warranties or representations whatever apart from those contained in these terms and conditions have been made.

#### *Contact Information*

Kindly direct any queries, comments, and authorisation requests to the KDBS webmaster at [nmusrcelection@kdb.co.za](mailto:nmusrcelection@kdb.co.za)