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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO.: 182405/2025

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: YES

DATE: 04 NOVEMBER 2025

SIGNATURE

In the matter between:-

LIFESENSE DISEASE MANAGEMENT (PTY) LTD

First Applicant

[Registration number: 1999/008159/07]

V

LIFESENSE GROUP (PTY) LTD

First Respondent

[Registration number: 1999/005168/07]

LIFEQUBE (PTY) LTD

Second Respondent

[Registration number: 2022/682315/07]

ANGUS KEI ROWE

Third Respondent

[Identity number: 6[...]]

Heard on: 14 October 2025

Delivered: 04 November 2025 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 16:00 on 04 November 2025.

ORDER

It is ordered that:-

1. This application be heard as an urgent application and that the necessary condonation be granted to the applicant in terms of Rule 6(12) of the Uniform Rules of Court in respect of the non-compliance with the prescribed time limit and forms;
2. The first respondent is ordered to host and/or allow the applicant's data and management (via the LifeQube system) on the first respondent's server facility / hosting environment (with immediate effect) for a period ending on the last date of November 2025;

3. The first respondent is ordered to allow the applicant access to its Company Data and Patient Data for purposes of its day to day business and allow the applicant (or any authorised representative nominated by the applicant) to download/extract/migrate/copy any of the applicant's data from the first respondent's server/hosting environment;
4. The second respondent is to comply with its contractual obligations in terms of the Licence, Maintenance and Support Agreement (including to the extent necessary the provision of an environment for the hosting of the system as provided for in clause 3.2.1) with immediate effect;
5. the applicant is ordered to pay the amount of R70 000 plus VAT for the month of November 2025 into the respondent's attorneys trust account for the hosting environment services;
6. the respondents are jointly and severally liable, the one paying the other to be absolved, for the costs of this application.

JUDGMENT

KOOVERJIE J

- [1] In this urgent application the applicant seeks in essence relief to the following effect:

- 1.1 to allow the applicant unfettered access to the applicant's company data and patient data, which is essential for the efficient running of its business and provisions of critical medical services to patients living with HIV Aids;
- 1.2 for specific performance of the first and/or second respondents' contractual obligations in respect of licence and hosting services;
- 1.3 for an interdict against the respondents, interdicting them from unlawfully interfering with the business of the applicant.

[2] The relief sought in terms of the notice of motion reads:

- "1. that this application be heard as an urgent application and that the necessary condonation be granted to the applicant in terms of Rule 6(12) of the Uniform Rules of Court in respect of the non-compliance with the prescribed time limit and forms;*
- 2. that the first respondent be ordered and directed to host and/or allow the applicant's data and management (via the LifeQube system) on the first respondent's server facility / hosting environment (with immediate effect) for a period ending on the last date of November 2025 on condition the applicant pays an amount of R70 000.00 plus VAT per month (October and November 2025) for the service / facility into the trust account of the first respondent's attorney as provided for in prayer 5;*
- 3. that the first respondent be ordered to allow the applicant to have unfettered access to its Company Data and Patient Data for purposes of its day to day business and to allow the applicant (or any authorised representative*

nominated by the applicant) to download/extract/migrate/copy any of the applicant's data from the first respondent's server/hosting environment;

4. *that the second respondent be ordered to execute and comply with its contractual obligations in terms of the Licence, Maintenance and Support Agreement (including to the extent necessary the provision of an environment for the hosting of the system as provide for in clause 3.2.1) with immediate effect and assist the applicant in accordance with the terms of its agreement to allow the applicant to resume and conduct its business and resume its patient care obligations;*
5. *that the applicant be ordered to pay the amount of R70 000.00 plus VAT per month for the months of October 2025 and November 2025 into the respondents' attorney's trust account from where payment to the first alternatively second respondent can be made for the provision of the server/hosting environment of the first and/or second respondent for the months of October 2025 and November 2025 as and when the amounts fall due;*
6. *that the respondents jointly and severally be interdicted from interfering with the business of the applicant or to conduct its/themselves, directly or indirectly in any fashion which may jeopardise or unlawfully interfere in the business or rendering of the medical services to patients of the applicant."*

[3] The respondents opposes this application on both urgency and on the merits. The third respondent, Mr Rowe, is a director of the first respondent, "Lifesense Group" and the sole director of the second respondent, "LifeQube" and attests to the affidavit on behalf of the respondents.

URGENCY

[4] The first hurdle that the applicant has to overcome is whether this matter warrants the urgent attention of this court. At this juncture it is convenient to set out the timelines in which this application was instituted:

4.1 the application was served on the respondents' attorneys via email, on 6 October 2025 at 12h48 to be heard on the 14 October 2025;

4.2 the respondents were required to oppose the applicant's application by 11h00 on 7 October 2025 and to file their answering affidavit by 16h00 on 8 October 2025. Before the respondents could file their answering papers, the applicant served a further supplementary affidavit via email on 9 October 2025, at 11h53;

4.3 the answering affidavit was filed 3 days later, on Saturday, 11 October 2025, at 08h57 and was served to the applicant via email late on 10 October 2025. Consequently the respondents sought condonation for the late filing of their answering affidavit. The applicant's replying affidavit was prepared thereafter and was served on Monday, 13 October 2025 just before 11 AM;

4.4 the respondents delivered their heads of argument without having sight of the applicant's replying affidavit. Consequently, on the morning of the hearing I was presented with their supplemented heads of argument.

[5] In opposing urgency, the following submissions were made on behalf of the respondents that:

- 5.1 the manner in which the applicant has instituted the application offends the well-established principles pertaining to urgent applications;
- 5.2 the applicant should have given proper consideration to the degree of urgency and to tailor the notice of motion in accordance therewith;
- 5.3 the respondents have been prejudiced. The applicant could not have reasonably expected the respondents to deliver an answering affidavit within the timeframe afforded to them due to the extent of the issues involved;
- 5.4 the court was reminded that a prior winding-up application was instituted by the first respondent which has yet not been finalized;
- 5.5 the court was further inconvenienced in that papers and heads of argument are still being filed after the Thursday on which the applications should have been finalized. Clearly the matter was not ripe for hearing by 12:00 Thursday, 9 October 2025.

[6] The applicant, on the other hand, argued that the matter warrants urgent attention. The application was necessitated on urgency due to the fact that the applicant's access to its data was terminated on 30 September 2025 and further that it was exited from the hosting environment in which its data was housed.

[7] The applicant indicated that its intention was to migrate its data to an independent hosting environment and consequently terminate its contract with the respondents.

[8] The applicant indicated that it had extended its hand several times in order to resolve the dispute between the parties, but it was to no avail. Consequently, this urgent application became necessary. It explained:

8.1 Since it was unable to render services to its clients and patients from 1 October 2025, it directed an urgent letter to the respondent. Prior thereto it was already in a process of preparing an urgent application, due to Mr Rowe's response. Mr Rowe informed the applicant on 2 October 2025 that he would not allow the applicant access to its own data;

8.2 The applicant continued with the preparation of the urgent application during the weekend of 4 and 5 October 2025. The applicant's main issue is that any interruption in its business affects its ability to serve patients and would result in irreparable harm to both, the patients and the applicant, its reputation, as well as its commercial relationship with the medical schemes.

[9] The applicant submitted that it would not attain substantial redress in the normal course and the truncation of time periods was commensurate with the degree of urgency.

[10] It persists with the urgent resolution of the matter. It explained that although the "old" data has been handed over, it requires continued access to its live data to be able to properly comply with its obligations.

[11] The thrust of the respondents' case is that this is self-created urgency in that:

- 11.1 the applicant was aware months ago that it required continuous hosting services. When the respondent made an offer to provide a managed hosting agreement, the applicant declined the offer as it intended to migrate to its own alternative platform, “STM”;
- 11.2 the applicant was further aware that the agreement between the applicant and the first respondent (Lifesense Group), in terms of the shared services agreement would terminate on 30 September 2025;
- 11.3 furthermore the applicant’s data was released on 2 October 2025;
- 11.4 there is no life critical interruption, hence no urgency whilst the applicant migrates its data to its own chosen new platform, STM. The respondents suggested that the applicant can manually migrate its data to its own alternative platform during the temporary short-term interruption. The respondents claim that during the short-term interruption the prescribed minimum benefit treatment plans would be in place, namely there will be continuity of the designated service providers, the bridging packs, out of network reimbursements, hospital dispensing.

[12] At this juncture I find it apt to reiterate the often quoted extract from the ***Several Matters on the Urgent Court Roll, 2013 (1) SA 549 (GSJ)*** matter where the court warned the parties as to which matters deserve urgency. At paragraph [15] the court stated:

“[15] Further, if a matter becomes opposed in the urgent court and the papers become voluminous there must be exceptional reasons why the matter is not to be removed to the ordinary motion roll. ‘The urgent court is not geared to

dealing with the matter which is not only voluminous but clearly includes some complexity and even some novel points of law.’ See Digital Printers v Riso Africa (Pty) Ltd case number 17318/02, an unreported judgment of Cachalia J delivered in this Division...”

Paragraph 18 reads:

“[18] Urgency is a matter of degree. See Luna Meubel Vervaardigers (Edms) Bpk v Makin (t/a Makins Furniture Manufacturers) 1977 (4) SA 135 (W). Some applicants who abused the court process should be penalised and the matters should simply be struck off the roll with costs for lack of urgency. Those matters that justify a postponement to allow the respondents to file affidavits should in my view similarly be removed from the roll so that the parties can set them down on the ordinary opposed roll when they are ripe for hearing, with costs reserved.”

[13] Insofar as placing an obligation on the applicant to ensure that the matter is properly before court and that the truncated time periods are appropriate, I refer to *Harvey v Niland and Others 2016 (2) SA 436 (ECG)* where the court stated:

“[19] While it is so that an applicant has the right to determine time periods in urgent applications, and the respondent must simply do the best he or she can to comply with them, the applicant must give proper consideration to those time periods. In Luna Meubel Vervaardigers (Edms) Bpk v Makin & another (t/a Makin’s Furniture Manufacturers), Coetzee JP said:

‘Practitioners should carefully analyse the facts of each case to determine, for the purposes of setting the case down for hearing, whether a greater or lesser degree of relaxation of the Rules and of the ordinary practice of the Court is required. The degree of relaxation should not be greater than the exigency of the case demands. It must be commensurate therewith’...

[22] *I accordingly find that a proper case for urgency has been made out. It may, however, be apposite nonetheless to say that an applicant who brings an urgent application should, generally speaking, err on the side of affording a*

respondent more, rather than less, time. Not only is that fair but it also makes for the smooth running of the matter.”

[14] Ultimately the issue for determination is whether the applicant can attain substantial redress at a hearing in due course. The applicant has to show prejudice for the matter to be urgent¹.

[15] Having considered the facts in this matter as well as the argument proffered by both parties it cannot be disputed that the applicant was shut out from the respondents' hosting platform at very short notice.

[16] The applicant highlighted the unenviable circumstances that it was placed under namely:

16.1 at all relevant times were the respondents aware that the applicant intended to migrate to its own independent hosting service provider and that it sought hosting services for a temporary period until it fully migrates to its new service provider;

¹ In *Mogalakwena Municipality v Provincial Executive Council, Limpopo and Others 2016 (4) SA 99 (GP)* the following was stated:

“[64] It seems to me that when urgency is in issue the primary investigation should be to determine whether the applicant will be afforded substantial redress at a hearing in due course. If the applicant cannot establish prejudice in this sense, the application cannot be urgent.

Once such prejudice is established, other factors come into consideration. These factors include (but are not limited to): whether the respondents can adequately present their cases in the time available between notice of the application to them and the actual hearing, other prejudice to the respondents and the administration of justice, the strength of the case made by the applicant and any delay by the applicant in asserting its rights. This last factor is often called, usually by counsel acting for respondents, self-created urgency.”

16.2 Mr Rowe persisted in forcing the applicant into a two year contract that it did not want to enter into. Mr Rowe presented an agreement for hosting services for a period of two years at a certain rate of R70 000.00 per month. He refused to consider any interim arrangement until the applicant was able to fully migrate to another hosting environment;

16.3 Mr Rowe further demanded that the applicant pay the outstanding amount alleging that it owes in terms of the shared services agreement. This debt remains in dispute between the parties and is the subject of the liquidation application by the respondent.

[17] I further wish to point out that an amicable arrangement could have been mediated upon since the applicant sought relief for an interim period only. I engaged with counsel to consider an interim proposal until the applicant is fully with its independent hosting service provider. Both counsel, after a short adjournment advised that no agreement could be reached. The core issue for determination is whether the applicant has made out a case for urgency and whether it can succeed in its claim for specific performance.

[18] The respondents, on the other hand, argued that there is no basis for the relief sought as there exists no contractual relationship between the parties.

[19] In determining urgency, one of the factors for consideration is to determine whether the non-access of the respondent's services is critical to patient care.

[20] Mr Rowe seemed to have changed his opinion on this issue. His version now is that there is no urgency in the matter and the disruption of services would not affect patient care.

[21] However previously, in his correspondence dated 4 August 2025 he held a different view, where he expressed that disruption of services provided to the applicant would be critical to patient care and moreover, the respondents guard their reputation and moral obligations by ensuring the systems remain in place, particularly when there is non-payment. The extract from the letter reads:

*“As an organisation with over 25 years of delivering healthcare services of the highest quality across South Africa and Africa – both directly and through our subsidiaries – **LSG holds patient care as its paramount concern.***

*Although LDM has not fulfilled its contractual obligations under the shared services arrangement, **LSG has determined that it will not discontinue any services classified as critical to patient wellbeing at this stage. The potential risk of service disruption to patient care weighs heavily, and we believe strongly that ethical responsibility must take precedence over financial enforcement in such contexts.***

We further note the reputational and moral implications of allowing critical systems to fall due to non-payment, and we wish to make clear that LSG will not permit its name to be associated with any breakdown in care continuity.
This continuation is strictly without prejudice and will be terminated without further notice should any risk to LSG’s own viability or regulatory position arise”.²

[22] It cannot be disputed that the core of the applicant’s business was to manage patients’ wellbeing. There can be no doubt that disruption of services and no access to data compromises patient care. Mr Rowe, in fact, indicated that disputes should

² My emphasis

not be a reason to interrupt services. His latter change in stance does not assist him. Consequently, in my view this matter deserves urgent attention. Patient care is critically dependent on the applicant doing its job.

- [23] I will proceed to deal with whether the applicant has made out a case for the relief it sought.

The Hosting Services

- [24] It is common cause that LifeQube released the applicant's data on 2 October 2025. This included both the company and patient data which the applicant submitted was mostly on a server owned, managed and operated by the respondents.

- [25] It is also common cause that the applicant was shut out the hosting environment at midnight on 30 September 2023, thereby also not having access to its data.

- [26] In its papers, the applicant alleged that it was always under the impression that the hosting services were provided by LifeQube. This is evident from its correspondence on 11 August 2025 where the applicants alleged:

"In the SLA with LQ, there was no disclosure of LQ having to outsource any hardware requirements to LSG, or any other third party, and thus I have clearly been under the impression that LQ had its own hardware and infrastructure in order to supply a bespoke software programme to LDM"

- [27] Upon being advised that this was not the case, the applicant contended that the first respondent, Lifesense Group, was bound to provide such services by virtue of the licence agreement, which is still in existence.

- [28] The respondents contend otherwise. They argued that the hosting services were provided in terms of the Shared Services Agreement that was in place between the applicant and the first respondent, Lifesense Group. Simply put, the Lifesense Group, provided the hosting services. Consequently since the Shared Services Agreement terminated on 30 September 2025, the hosting services are also terminated.
- [29] They argued that the applicant is disingenuous. At all relevant times it was aware that the hosting services was not always provided by the first respondent.
- [30] In this regard, it referred to the applicant's version in the founding affidavit when it alleged that according to the arrangement/agreement between the applicant and Lifesense Group, the data would be hosted and managed for as long as the LifeQube Agreement is in existence or until terminated with reasonable notice.
- [31] The respondent points out that there are further disputes of fact which should have been foreseen by the applicant. The dispute regarding the Shared Services Agreement persists; hence the liquidation proceedings are relevant to determine the nature of the relationship between the parties.
- [32] I was advised that the Share Services Agreement was not concluded in writing. It was a tacit agreement between the parties. The applicant contended that if hosting services were provided in terms of the said agreement then it should have been listed as an item on the invoices issued to the applicant. No such fee was recorded.
- [33] In my view, the applicant's version has credence. It is aligned to the terms set out in the licence agreement as well as the context in which the parties corresponded. As late as August 2025, the applicant informed Mr. Rowe that it understood that LifeQube provided the hosting services.

[34] It is common cause that LifeQube entered into a contract with the applicant on 8 July 2024. The agreement is titled "Licence Maintenance and Support Agreement" (Licence Agreement). The relevant clauses are.

34.1. The term "hosting" is defined in the agreement as:

"1.18 Hosting means any and all costs in respect of the hosting of the Alcu Chronic Disease Management System in a physical environment. This includes but is not limited to any hardware costs (service etc) storage, transaction costs, bandwidth costs, software licences, fees outside the LD Chronic Disease Management System (example Microsoft Office exchanges, SQL Server and Management/Support, costs in respect of the physical server environment)."

34.2. Clause 3 reads:

"3. GRANT OF LICENCE

3.1 Grant: LifeQube hereby grants a lincense to the licensee, strictly in accordance with the terms set out in this agreement. Notwithstanding that the licence is non-exclusive.

3.2 Restriction: Any rights not expressly granted in terms of this agreement are hereby reserved without derogating from the generality of the foregoing, except to the extent committed by law or expressly under its agreement, the licensee may not:

3.2.1 host the system in any environment other than provided by LifeQube as defined in 1.18 above "hosting".

Clause 2.1 states that:

“2.1 LifeQube is the owner, developer and licensor of the system and renders related services.

2.3 LifeQube agrees to grant the licence to the licensee upon the terms and conditions in this agreement.”³

[35] In summary, the applicant submitted that:

35.1 LifeQube granted the licence strictly in accordance with the licence agreement);

35.2 the licence was restricted in that the applicant could not host the system in any other hosting environment other than that provided by LifeQube:

35.3 LifeQube is the owner, developer and licensor of the system and agreed to grant the licence in terms of the agreement.

[36] In terms of the aforesaid provisions, the applicant’s understanding is not unreasonable. The only reference of hosting services was set out in the agreement which in particular stated that the hosting environment was provided by LifeQube.

[37] When the applicant was advised by Mr Rowe that it was in fact the first respondent, the Lifesense Group, that provided the hosting services in terms of the licence agreement, the applicant persisted with its reasoning that for as long as the licence agreement is in place, the hosting services must be provided, hence the relief sought against the first respondent.

³ My emphasis

[38] The applicant sought the hosting on the “chroniqube system” until it fully migrated to the new service provider. It is crucial to consider this matter in context. Shortly before the hosting services was terminated, the nature of the communication between the parties was as follows:

38.1 on 26 September 2020 the applicant requested that the respondents provide STM (the new service provider) with interim patient data in order for STM to download and map the data field so that there is no interruption of patient management once hosting has been discontinued;

38.2 in response Mr. Rowe, advised that the Lifesense Group can continue with the hosting services if the contract is renewed since the Shared Services Agreement will terminate on 30 September 2025;

38.3 he further advised that Lifesense Group is not a party to the agreement between the applicants and LifeQube, hence it cannot provide any indication regarding the download or transfer of patient data. He advised that the applicant approach LifeQube directly;

38.4 shortly thereafter on 1 October 2025 Mr Rowe cornered the applicant. He demanded payment of the alleged outstanding amount due in terms of the shared services agreement and further that the applicant enter into a one year contract, and advance payment of fees for the entire year. It was on this basis that Mr Rowe agreed to continue providing hosting services;

38.5 on the 1 October 2025, LifeQube undertook to provide the data and expedite the extraction process of all the data accumulated up to and including 30 September 2025 for all the active applicants' clients. It alleged that it would do so on ex gratia basis even though it was not contractually obligated to do so;

38.6 on 2 October the data was placed in the Google shared folder and provided to the applicant, LifeQube further undertook to provide the next quarterly active client data post 31 December 2025;

38.7 on 3 October 2025, Mr Rowe informed the applicant that it will not have access to the hosting environment due to the termination of the shared services agreement;

[39] The applicant explained it is crucial to have access to the hosting environment. The data captured and provided to it is of little value without the hosting system. Moreover, for it to comply with its contractual obligations with its clients, it requires access to live data on a hosting platform.

[40] It has not been disputed that as things stand the licence agreement is extant. It was not terminated by any of the parties, that is the applicant or LifeQube. There is therefore no reason why LifeQube should derogate from continuing with its services in terms of the agreement, particularly the continuation of hosting services, albeit through the Lifesense Group.

[41] Moreover there is no provision in the license agreement that the Lifesense Group provided the hosting platform. Even if this is the case, the applicant maintains that such services were rendered in terms of the licence agreement which remains in existence. The relief sought is for a transitional period, presently for a period of one month, that is until the end of November 2025.

[42] In applying the established test for interpreting contracts, starting point is the language used in the contract. The Supreme Court of appeal in **Endumeni**⁴ settled the approach to be followed when interpreting inter alia contracts. Wallis JA said:

“Interpretation is the process of attributing meaning to the words used in a document.... Having regard to the context provided by reading that particular provision in light of the document as a whole and the circumstances attendant on its coming into existence. Whatever the nature of the document, consideration must be given to the language used in light of the ordinary rules of grammar and syntax, The context in which the provision appears, the apparent purpose to which it is directed and the material known to those responsible for its production..... The process is objective, not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document The inevitable point of departure is the language in the provision itself, read in context and having regard to the purpose of the provision.....”

[43] In applying the said test objectively the interpretation that I arrive at by having regard to the language in the contract and the context of the contract as a whole, is that the hosting services was to be provided in terms of the licence agreement

THE RELIEF SOUGHT

[44] The respondents argued that the relief in respect of the prayers remains incompetent for the reasons they advanced. I will address these contentions:

⁴ Natal Joint Municipality Pension Fund v Endumeni Municipality 2012 (4) SA S93 SCA at paragraph 18

44.1 I find the relief in prayer 2 is competent. The applicant has made out a case that Lifesense Group is directed to allow the applicants data and management via the LifeQube system on its hosting environment until 30 November 2025;

44.2 With regard to prayer 3, it is noted that LifeQube had provided the historic data to the applicant and has further undertaken to provide same on a quarterly basis. The applicant's concern is that it does not have access to the live data which it requires to carry out its obligations in respect of patient care protocols. In the premises I find the relief is competent Insofar as the live data is concerned and should be given access thereto until 30 November 2025;

44.3 In respect to prayer 4, the licence agreement is in existence and LifeQube is required to comply with its contractual obligations until the migration to the end of November 2025 is complete;

44.4 In respect prayer 5, the applicant make provision for the first respondent not to be out of pocket for providing the hosting services. The respondent is at liberty to accept payment if is so advised. The amount of R70 000 per month was offered which is in accordance with what Mr Rowe proposed in the event of the new hosting management agreement being entered. There would be no prejudice to the respondents if this relief is granted;

44.5 with regard to prayer 6, I am not inclined to grant this relief as it is vague. Ultimately the respondents have been directed to comply with their obligations in terms of the licence agreement.

[45] In the premises, I find that the applicant is entitled to the relief sought until the end of November 2025.

COSTS

[46] In exercising my judicial discretion, I find that the successful party, being the applicant, should be entitled to the costs. The costs follow the results.

H. KOOVERJIE
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearances:

Counsel for the applicant: Adv. E Kromhout
Instructed by: Van der Merwe & Associates

Counsel for the respondents: Adv. Hollander
Instructed by: HBG Scindlers Attorneys

Date heard: 14 October 2025
Date of Judgment: 04 November 2025