



CANDY CLOUD SOLUTION HOSTED SERVICES AGREEMENT

RECITALS

- a) Whereas RIB CCS has developed the Candy Cloud Solution for use by the Client;
- b) Whereas the Client wishes to appoint RIB CCS to host the Candy System on its Cloud Services Platform in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE RIB CCS and the Client hereby agree to the following:

1. This Agreement must be read with the Candy Licence Agreement entered into between the Client and RIB CCS. All Terms enclosed in inverted commas in this Agreement are defined terms in the Candy Licence Agreement and are to be given the meaning set out therein.

2. DEFINITIONS AND INTERPRETATION\

- 2.1. Unless the contrary is clearly indicated, the following words and/or phrases used in this Agreement shall have the following meaning:
 - 2.1.1. "**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity;
 - 2.1.2. "**Agreement**" means this written document together with the Signed Proposal, including all written appendices, annexures, exhibits or amendments as attached hereto from time to time;
 - 2.1.3. "**Anti-Corruption Laws**" means any applicable foreign or domestic anti-bribery and anticorruption laws and regulations, including but not limited to the Foreign Corrupt Practices Act, 1977, as amended, 15 U.S.C. §§ 78dd-1, et seq. (United States of America); Bribery Act, 2010, as amended, c.23, § 1 (United Kingdom); and the Prevention and Combating of Corrupt Activities Act, 2004, as amended (Republic of South Africa), as well as any laws intended to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;
 - 2.1.4. "**AWS**" means the applicable AWS Contracting Party as stipulated in the AWS Customer Agreement which can be found at <https://aws.amazon.com/agreement/>;
 - 2.1.5. "**Azure**" means Microsoft Ireland Operations Limited as stipulated in the Microsoft Online Subscription Agreement which can be found at <https://azure.microsoft.com/en-us/support/legal/subscription-agreement/?country=za&language=en>;
 - 2.1.6. "**Candy System**" means the computer software system known as the Candy Estimating, Planning and Project Control solution and to which the Client has signed a Candy Licence Agreement;

- 2.1.7. "**Client**" means in the case of an individual accepting this Agreement on his or her own behalf, such individual, or in the case of an individual accepting this Agreement on behalf of a company or other legal entity, the company or other legal entity for which such individual is accepting this Agreement, and Affiliates of that company or entity (for so long as they remain Affiliates) which have entered into a Signed Proposal;
- 2.1.8. "**Client Master Data Form**" means a form to be completed by the Client indicating its company and contact details including details of the Account Administrator, Licence Administrator and Users;
- 2.1.9. "**Cloud Services Platform**" is the Candy Cloud service solution powered by the Platform Provider, which said platform will host the Candy System;
- 2.1.10. "**Confidential Information**" shall mean:
- 2.1.10.1. Any information of whatever nature, which has been or may be obtained by either of the Parties from the other, whether in writing or in electronic form or pursuant to discussions between the Parties, or which can be obtained by examination, testing, visual inspection or analysis, including, without limitation, scientific, business or financial data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specifications, sample reports, models, customer lists, price lists, studies, findings, computer software, inventions or ideas;
- 2.1.10.2. Analyses, concepts, compilations, studies and other material prepared by or in possession or control of the Receiving Party which contain or otherwise reflect or are generated from any such information as is specified in this definition;
- 2.1.10.3. Any dispute between the Parties resulting from this Agreement;
- 2.1.11. "**Content**" any Personal Data, electronic data, information and content, including any hypertext markup language files, scripts, programs, recordings, sound, music, graphics, images, applets or servlets that belongs to the Client and/or which it shall create, install, upload or transfer on, from or through the Candy System and Cloud Services Platform;
- 2.1.12. "**Data Protection Laws**" means all applicable law relating to data protection, privacy and security when Processing Personal Data under the Agreement. This includes without limitation applicable international, regional, federal or national data protection, privacy, export or data security directives (e.g. directives of the European Union), laws, statutes, regulations, rulings, decisions and other binding restrictions of, or by, any judicial or administrative body, whether domestic, foreign or international, including the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002) and the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
- 2.1.13. "**Distributor**" means RIB CCS's authorised distributor of the Candy System as identified on the Signed Proposal;
- 2.1.14. "**Effective Date**" means the date upon which the Client signed the Signed Proposal;
- 2.1.15. "**Fees**" shall mean any and all the fees payable by Client to RIB CCS or RIB CCS's Distributor pursuant to this Agreement;
- 2.1.16. "**Hosted Infrastructure**" means the virtual infrastructure used to run the Candy System as specified in the Signed Proposal;
- 2.1.17. "**Intellectual Property Rights**" means all intellectual rights of any kind whatsoever, including without limitation, patents (patent rights and registrations and applications, renewals and extensions therefor), all present

and future copyrights (including, but not limited to, ownership rights in all computer code, concepts, and methods of operation, moral rights and any related documentation, whether or not any of these are registered and including applications for any such right or registration thereof), unregistered design rights, product-specific know-how, trademarks, trade secrets, inventions, trade names and rights in confidential technical information, whether written or not, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these;

- 2.1.18. "**Parties**" shall mean both RIB CCS, or RIB CCS's Distributor and the Client and "Party" shall mean either RIB CCS, or RIB CCS's Distributor or the Client as the context may dictate;
 - 2.1.19. "**Personal Data**" shall mean personal data as defined in the Data Protection Laws, including any information relating to an identified or identifiable individual (including, but not limited to, name, postal address, email address, telephone number, date of birth, social security number, driver's license number, other government-issued identification number, financial account number, credit or debit card number, insurance ID or account number, health or medical information, consumer reports, background checks, biometric data, digital signatures, any code or password that could be used to gain access to financial resources, or any other unique identifier) that is Processed by RIB CCS or RIB CCS's Distributor under the Agreement;
 - 2.1.20. "**Platform Provider**" means the third-party provider of the relevant platform as specified in the Signed Proposal, which may either be AWS or Azure;
 - 2.1.21. "**Process**" shall mean any operation, or set of operations, performed on Personal Data, by any means, such as by collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction and "Processing" shall have a corresponding meaning;
 - 2.1.22. "**RIB CCS**" means Construction Computer Software (Pty) Ltd a private company registered in accordance with the laws of South Africa with registration number 1982/007709/07, whose registered office is at Southdowns Office Park, Block A, 21 Karee Street, Irene ext. 54, Centurion, Gauteng, South Africa;
 - 2.1.23. "**Signed Proposal**" means an ordering document or online order specifying the products and services to be provided hereunder that is entered into between the Client and RIB CCS, or RIB CCS's Distributor or any of their Affiliates, including any addenda and supplements thereto. By entering into a Signed Proposal hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto;
 - 2.1.24. "**Support Services Policy**" means RIB CCS's policy for providing support on the Cloud Services Platform as attached hereto as Annexure "A", which Support Services Policy may be updated from time to time on notice to the Client; and
 - 2.1.25. "**Users**" means individuals with a valid email address who are authorised by the Client to access the Cloud Services Platform and who have been supplied log-in credentials and passwords.
- 2.2. The clause headings in this Agreement have been inserted for convenience only and will not be taken into consideration in the interpretation of this Agreement.
 - 2.3. Any reference in this Agreement to the singular includes the plural and vice versa.
 - 2.4. Any reference in this Agreement to natural persons includes legal persons and references to any gender include references to the other genders and vice versa.

- 2.5. If any provision in a definition clause in the Agreement is a substantive provision conferring any right or imposing any obligation on any Party, then, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the Agreement.
- 2.6. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.7. The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply to this Agreement.
- 2.8. The use of any expression in this Agreement covering a process available under South African law, such as winding-up, shall, if either of the Parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 2.9. The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it; the application of the eiusdem generis rule is hereby excluded.

3. DURATION

- 3.1. This Agreement shall commence on the Effective Date and subject to the rights of termination stipulated herein, shall continue until terminated by either Party on 1 (one) calendar months written notice.

4. CLOUD HOSTED SERVICES

4.1 Hosted infrastructure

- 4.1.1 RIB CCS will provide the Hosted Infrastructure as per the Signed Proposal. The Hosted Infrastructure quoted in the Signed Proposal is scaled in line with the number of Users. Should the Users change at any point during the term of the Agreement, the Hosted Infrastructure may need to be scaled accordingly. Any additional data or memory storage capacity and/or changes to the current Hosted Infrastructure shall be quoted for separately and shall upon signature of that Signed Proposal referencing the Signed Proposal under which the existing Cloud Services Platform was initially purchased shall be deemed to form part of this Agreement.

4.2 Initial Configuration

- 4.2.1 The initial configuration of the Cloud Services Platform will be provided by RIB CCS as per the Signed Proposal. In this regard and in order for RIB CCS to configure the Cloud Services Platform, the Client authorises RIB CCS to accept on its behalf the Platform Provider customer agreement which can be found at <https://aws.amazon.com/agreement/forAWS> and <https://azure.microsoft.com/en-us/support/legal/subscription-agreement/?country=za&language=en> for Azure. The Client agrees that its signature of the terms contained herein constitutes it irrevocable acceptance and obligation to be bound by the terms referred to in the agreement above (to the extent applicable).

4.2.2 It will be the Client's responsibility to transfer its Content. Any requests to configure, move, delete or transfer any Content out of the data centre shall be costed separately at the rate set out in the Signed Proposal.

4.3 **Maintenance Services**

4.3.1 Planned maintenance will be carried out by the Platform Provider in accordance with its terms relative thereto, which currently provides that planned maintenance will be provided during the maintenance window of 00:00 and 4:00 every Sunday for the applicable data centre region where the Candy System is being hosted. The data centre region is specified in the Signed Proposal.

4.4 **Support Services**

4.4.1 RIB CCS will provide to the Client its standard support in accordance with its Support Services Policy.

4.4.2 Uptime of the Cloud Services Platform will be guaranteed as per the Platform Provider's website, which could be found at https://aws.amazon.com/agreement/for_AWS_and_https://azure.microsoft.com/en-us/support/legal/subscription-agreement/?country=za&language=en for Azure.

5. **FEES**

5.1 In consideration for the use of the Cloud Services Platform and the Hosted Infrastructure, the Client shall pay RIB CCS or RIB CCS's Distributor the Fees monthly in advance by no later than the 3rd (third) last working day of each month, in the amounts as set out in the Signed Proposal. For the avoidance of doubt and by way of example, Fees for June will be payable by no later than the 3rd (third) last working day of May, being the 29th of May.

5.2 All invoices shall be paid in the currency set forth in the Signed Proposal and all payments shall be made free of set-off and bank charges, by electronic fund transfer, unless otherwise agreed in writing. Payments must be paid directly into RIB CCS or RIB CCS's Distributor's bank account, the details of which will be provided on the relevant VAT invoice.

5.3 The Fees, as well as any other funds due by either of the Parties to the other, shall exclude any taxes and/or levies due as a result of a requirement by any governmental organization (which shall include but not be limited to any value added tax, importation tax, withholding tax and general sales tax) and all these taxes and/or levies, shall be paid by the Client.

5.4 The Fees shall be reviewed by RIB CCS on the 1st of March of each year and any changes in such Fees shall be affected within 30 (thirty) days of such notice to the Client.

5.5 RIB CCS reserves the right to amend the Fees at any time during the term of the Agreement, on notice to the Client, should any of the below (or a combination of the below) occur:

5.5.1 The Platform Provider or any other third-party provider which provide services relevant to the Cloud Services Platform increase its fees and charges payable to them by RIB CCS;

5.5.2 In the event the Fees payable by the Client are subject to a rate of exchange as specified in the Signed Proposal and such rate of exchange increases by more than 5%.

- 5.6 If the Client fails to make any payment on the due date, RIB CCS or RIB CCS's Distributor may (at its sole discretion), without prejudice to any of its other rights under this Agreement, charge the Client interest on the overdue amount at 1% per month on the unpaid balance.

6. CLIENT OBLIGATIONS

- 6.1 The Client will provide RIB CCS or RIB CCS's Distributor with (i) all necessary co-operation in relation to this Agreement; and (ii) all necessary access to such information as may be required by RIB CCS or RIB CCS's Distributor in order to provide the Cloud Services Platform.
- 6.2 The Client is responsible for all activities that occur whilst using the Cloud Services Platform, regardless of whether the activities are authorized or undertaken by the Client, its employees or a third party (including your contractors or agents).
- 6.3 The Client is solely responsible for procuring and maintaining its network connections and telecommunications links and is solely responsible for any and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.
- 6.4 The Cloud Services Platform log-in credentials, passwords and private keys generated are for the Client's internal use only and may (i) only be used by the named Users and (ii) cannot be shared or used by more than one User but may be reassigned (with RIB CCS's consent) to a new named User replacing former Users who are no longer going to require access to the Cloud Services Platform. The Client shall ensure that the Users use the Cloud Services Platform in accordance with the terms and conditions of this Agreement and shall be responsible for any User's breach of this Agreement.
- 6.5 The Client shall ensure that its network and systems comply with the relevant specifications provided by the Client from time to time.
- 6.6 The Client shall promptly comply with all fair and reasonable notices, instructions or directions given by RIB CCS or RIB CCS's Distributor in respect of the installation, use or operation of the Cloud Services Platform.

7. CONTENT

- 7.1 Subject to the limited rights granted by the Client hereunder, RIB CCS acquires no right, title or interest from the Client in or to the Client's Content (and/or Data), including any Intellectual Property Rights therein.
- 7.2 The Client warrants that the Processing of the Content (and/or Data) provided by the Client to RIB CCS in terms of this Agreement does not and will not infringe the Intellectual Property Rights of any person or breach any confidentiality or Data Protection Laws.
- 7.3 The Client will ensure that its use of the Cloud Services Platform will not violate any applicable laws, rules and/or regulations governing the use of the Cloud Services Platform as made available by RIB CCS and/or Platform Provider;
- 7.4 The Client is solely responsible for the development, operation, maintenance and use of its Content.
- 7.5 The Client agrees that, for RIB CCS to provide the Cloud Services Platform, the Client's Content may be:
- 7.5.1 held on a variety of systems, networks and facilities worldwide including systems and databases used by Client's help desks, service desks and/or network management centres used for providing the Cloud Services Platform and/or used for billing, sales, technical, commercial and/or procurement purposes;

7.5.2 located, hosted, managed, accessed or transferred worldwide; and

7.5.3 provided or transferred by RIB CCS to the Platform Provider, subcontractor or supplier worldwide to the extent necessary to allow the Platform Provider, subcontractor or supplier to perform its obligations in respect of the Cloud Services Platform.

7.6 RIB CCS does not guarantee that the Content on the Cloud Services Platform is secure, encrypted or confidential. As such the Client is responsible for taking appropriate action to secure, protect and backup its Content in a manner that will provide appropriate security and protection, which might include use of encryption to protect the Content from unauthorized access and routinely archiving the Content.

8. THIRD PARTY PROVIDERS

8.1 The Client acknowledges that the Cloud Services Platform may require, enable or assist it to access website content of, correspond with, and/or purchase products and services from, third parties and that the Client does so solely at its own risk. RIB CCS makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, product and/or service, or any transactions completed, and any contract entered into by the Client, with any such third party. Any contract entered into and any transaction completed is between the Client and the relevant third party, and not RIB CCS. RIB CCS recommends that the Client refers to the third party's terms and conditions and privacy policy prior to using the relevant third-party website, product and/or service. RIB CCS does not endorse or approve any third-party website, product and/or service nor the content of any of the third-party website, product and/or service made available via the Cloud Services Platform.

9. SUSPENSION OF THE CLOUD SERVICES PLATFORM

9.1 RIB CCS may suspend the Client (or any of its User's) right to access or use any portion or all of the Cloud Services Platform immediately upon notice to the Client if it is determined that:

9.1.1 the Client's use of the Cloud Services Platform (i) poses a security risk to the Cloud Services Platform or any third party, (ii) could adversely impact the Cloud Services Platform or the systems or content of any other customer, (iii) could subject RIB CCS, its affiliates, or any third party, including the Platform Provider to liability, or (iv) could be fraudulent;

9.1.2 the Client is in breach of this Agreement, including but not limited to clause 13;

9.1.3 The Client is in breach of its payment obligations under clause 4.

9.2 If RIB CCS suspends the Client's right to access or use any portion or all of the Cloud Services Platform, the Client shall remain responsible for the accrued Fees as well as any and all Fees it incurs during the period of suspension.

10. LIMITATION OF LIABILITY

10.1 Notwithstanding the form (whether in contract, delict, or otherwise) in which any legal action may be brought, RIB CCS or RIB CCS's Distributor's maximum liability to compensate the Client for direct damages for any breach, penalty, act or omission arising out of this Agreement shall not exceed the amount of the total Fees already paid by the Client to RIB CCS or RIB CCS's Distributor in respect of the Cloud Services Platform that is the subject of the claim. Such maximum amount shall be an aggregate amount for all claims arising out of such this Agreement during the currency thereof. In no event shall

RIB CCS or RIB CCS's Distributor be liable for any indirect, incidental, special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including, without limitation, loss of profits, loss goodwill, lost or damaged data or software, loss of use, downtime or costs of substitute products) arising from this Agreement.

11.WARRANTIES AND DISCLAIMERS

- 11.1 RIB CCS undertakes that the Candy System will materially function and/or perform as it usually does within the Cloud Services Platform. The Client's sole and exclusive remedy for a breach of this undertaking shall be to terminate the Agreement as per clause 2 and (at Client's option, at a cost to be agreed between the Parties) to convert the Candy System to a single User on a single computer physically installed.
- 11.2 EXCEPT AS DESCRIBED IN THIS AGREEMENT THE CLOUD SERVICE PLATFORM IS PROVIDED "AS IS." TO THE EXTENT PERMITTED BY APPLICABLE LAW. RIB CCS, ITS AFFILIATES, THE PLATFORM PROVIDER AND ANY RESPECTIVE THIRD PARTY SERVICE OR DATA PROVIDERS, DISTRIBUTORS OR SUPPLIERS (a) MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE CLOUD SERVICES PLATFORM AND (b) DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED OR EXPRESS WARRANTIES (I) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, (II) ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE, (III) THAT THE CLOUD SERVICES PLATFORM WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, AND (IV) THAT ANY CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR ALTERED.
- 11.3 WITHOUT LIMITING THE FOREGOING, INTERNET SPEEDS AND CONNECTIVITY, TRANSMISSION QUALITY, NETWORK SECURITY OR RELIABILITY ARE NOT THE RESPONSIBILITY OF RIB CCS AND ARE NOT GUARANTEED IN ANY WAY WHATSOEVER AND THE CLIENT AGREES THAT ITS USE AND OR ACCESS TO THE CANDY SYSTEM AND/OR CLOUD SERVICES PLATFORM MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATION FACILITIES.
- 11.4 SAVE WHERE RIB CCS IS IN BREACH OF ITS OBLIGATIONS WITH SUCH THIRD-PARTY PROVIDER, RIB CCS DISCLAIMS ALL LIABILITY ARISING FROM THE UNAVAILABILITY OF THE CANDY SYSTEM DUE TO ANY FAILURE, BREAKDOWN AND/OR UNAVAILABILITY (FOR ANY REASON WHATSOEVER) OF ANY OF THE DATA CENTRES HOSTING THE CANDY SYSTEM .

12.BREACH AND TERMINATION

- 12.1 Without prejudice to any other rights or remedies to which the Parties may be entitled, either Party may terminate this Agreement immediately on 7 (seven) days' notice if:
- 12.1.1 The other Party fails to pay any amount validly due hereunder;
- 12.1.2 the other Party commits a material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 (thirty) days of that Party being notified in writing of the breach; or
- 12.1.3 an order is made or a resolution is passed for the winding up (whether interim or final) of the other Party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other Party; or

12.1.4 an order is made for the placing of either Party under business rescue; or

12.1.5 a receiver is appointed of any of the other Party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other Party;

12.2 RIB CCS shall be entitled to terminate the Agreement immediately on 7 (seven) days' notice to RIB CCS if (i) it suspended the Cloud Services Platform as provided for in clause 8 and/or (ii) its relationship with the Platform Provider any/or any third-party provider who provides technology and/or services in respect of the Cloud Services Platform expires and/or terminates for any reason whatsoever.

13.EFFECT OF TERMINATION

13.1 Upon any expiration or termination of this Agreement, whichever occurs first the rights granted under the Agreement shall terminate.

13.2 The Client understand that RIB CCS or RIB CCS's Distributor has no access to any of the Content stored and/or hosted within the Cloud Services Platform and/or on the Candy System and as such the Client is solely responsible for retrieving its Content from the Cloud Services Platform prior to termination of the Agreement. If RIB CCS terminates the Agreement, it will provide the Client (at the Client's written request) with a reasonable opportunity to retrieve its Content from the Cloud Services Platform. Such request must be sent by email to RIB CCS within 5 (five) days after the Client receives a notice of termination. Save for agreement otherwise between the Parties, all Content will be deleted from the Cloud Services Platform no later than the date of termination of the Agreement and such Content cannot be retrieved thereafter under any circumstances.

13.3 The accrued rights of the Parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

14.AUDIT

14.1 The Client shall permit RIB CCS to audit the Users using the Cloud Services Platform at any time (with or without notice) in order to establish that the log-in credentials, passwords and private keys generated are being used by the allocated Users. Such audit may be conducted, at RIB CCS's discretion, either physically at the Client's premises and/or remotely/electronically.

14.2 If the audit referred to above reveal that any log-in credentials, passwords and private keys has been provided and/or used by any individual who is not a User, then without prejudice to RIB CCS's other rights, the Client shall promptly disable such log-in credentials, passwords and private keys and RIB CCS shall not issue any new log-in credentials and private keys to any such individual until the Client has paid for the Fees applicable to those individuals that have been using the Cloud Services Platform without the necessary authority. Such payment will be made upon demand, upon issuance of an invoice by RIB CCS or RIB CCS's Distributor.

15.CONFIDENTIALITY

15.1 The Parties ("Receiving Party") shall hold in confidence all Confidential Information received from each other Party ("Disclosing Party") and not divulge the Confidential Information to any person, including any of its employees, save for employees directly involved with the execution of this Agreement.

15.2 The Receiving Party shall prevent disclosure of the Confidential Information, except as may be required by law.

- 15.3 Within 10 (ten) days after the termination of this Agreement, for whatever reason, the Receiving Party shall at the request of the Disclosing Party return same or at the discretion of the Disclosing Party, destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.
- 15.4 It is recorded that the following information will, for the purpose of this Agreement, not be considered to be Confidential Information:
- 15.4.1 Information known to the Receiving Party prior to the date that it was received from the Disclosing Party; or
 - 15.4.2 Information known to the public or generally available to the public prior to the date that it was disclosed by the Disclosing Party to the Receiving Party; or
 - 15.4.3 Information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by Disclosing Party to the Receiving Party, through no act or failure to act on the part of the Receiving Party of such Information; or
 - 15.4.4 Information which Disclosing Party, in writing, authorizes the Receiving Party to disclose.
- 15.5 The provisions and restrictions contained in this clause 13 shall continue in force notwithstanding termination of the Agreement.

16. PROPRIETARY RIGHTS

- 16.1 The Client acknowledges and agrees that RIB CCS, Platform Provider and/or its third-party providers (as the case may be) own all Intellectual Property Rights in the Cloud Services Platform. Except as expressly stated herein, this Agreement does not grant the Client any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade-marks (whether registered or unregistered), or any other rights or licences in respect of the Cloud Services Platform.
- 16.2 RIB CCS confirms that it has all the rights in relation to the provision of the Cloud Services Platform that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

17. DISPUTE RESOLUTION

- 17.1 In the event of a dispute arising in terms of this Agreement, the Parties shall firstly submit such dispute to their respective chief executive officers (or their appointed delegates) for purpose of resolution. Should the chief executive officers (or their appointed delegates) of the Parties fail to resolve the dispute referred to them within 10 (ten) days, the Parties agree to attempt to resolve the dispute by mediation;
- 17.2 The Parties shall, by agreement to be reached within 10 (ten) days following the decision of the Parties to refer the dispute to mediation, appoint a third party to act as a mediator, and not as an arbitrator, to mediate in the resolution of the dispute. The Parties agree that the mediator shall be an advocate of the Johannesburg Bar Council of not less than 10 (ten) years in practice. Should the Parties not be able to agree on the mediator, then the mediator shall be selected by the chairman for the time being of the Arbitration Foundation of Southern Africa. Such mediation shall be held in English, in Sandton, and in accordance with the rules determined by the mediator and the timeframes agreed to by the Parties and the mediator;
- 17.3 In the event that the Parties fail to resolve the dispute by way of mediation then that dispute shall be submitted to a court of competent jurisdiction.

18.NOTICES AND DOMICILIUM

18.1 The Parties elect the following addresses as their respective *domicilium citandi et executandi*:

18.1.1 RIB CCS at

Physical address: Southdowns Office Park
Block A, 2nd Floor
21 Karee Street
Irene ext. 54
Centurion,
South Africa

Postal address: P O Box 9838,
Centurion,
0046,
South Africa marked for the attention of The CEO

E-mail: info@ribccs.com marked for the attention of The CEO

18.1.2 Client at At the address set forth in the Client Master Data Form.

18.1.3 Distributor at At the address set forth in the Signed Proposal.

18.2 Any notice addressed to a Party at its physical address shall be sent by prepaid registered post, or delivered by hand, or sent by facsimile. Any notice by shall deemed to be served: if posted by prepaid registered post, 7 (seven) days after the date of posting thereof; if hand delivered, on the day of delivery; if sent by e-mail, on the date and time reflected on the e-mail confirmation of receipt.

18.3 Either of the Parties may change its *domicilium citandi et executandi* to another address within the same country, by way of a notice to the other party to this Agreement, provided that such a notice is received by the addressee, at least 7 (seven) calendar days prior to such a change taking effect.

19.FORCE MAJEURE

19.1 If the performance of any part of this Agreement, other than the payment of money, is prevented or delayed by reason of an act of God, act of war, act of terrorism, fire, governmental action, labour dispute or other cause beyond the performing Party's control, then that Party will be excused from performance for the length of that prevention or delay. Should Either Party be unable to fulfil a material part of its obligations under this Agreement for a period in excess of 60 (sixty) days due to circumstances beyond its reasonable control, as aforementioned the other Party may cancel this Agreement on 1 (one) calendar months written notice.

20. EXPORT CONTROL AND COMPLIANCE WITH INTERNATIONAL TRADE REGULATIONS.

The Software provided by Licensor under this Agreement contain or may contain components and/or technologies from the United States of America ("US"), the European Union ("EU") and/or other nations. The Licensee acknowledges and agrees that the supply, assignment and/or usage of the products, software, services, information, other deliverables and/or the embedded technologies (hereinafter referred to as "Software") under this Agreement shall fully comply with related applicable US, EU and other national and international export control laws and/or regulations.

Unless applicable export license/s has been obtained from the relevant authority and the Licensor has approved, the Software shall not (i) be exported and/or re-exported to any destination and party (may include but not limited to an individual, group and/or legal entity) restricted by the applicable export control laws and/or regulations; or (ii) be used for those purposes and fields restricted by the applicable export control laws and/or regulations. Licensee also agrees that the Software will not be used either directly or indirectly in any rocket systems or unmanned air vehicles; nor be used in any nuclear weapons delivery systems; and will not be used in any design, development, production or use for any weapons which may include but not limited to chemical, biological or nuclear weapons.

If any necessary or advisable licenses, authorizations or approvals are not obtained, whether arising from inaction by any relevant government authority or otherwise, or if any such licenses, authorizations or approvals are denied or revoked, or if the applicable export control laws and/or regulations would prohibit Licensor from fulfilling any order, or would in Seller's judgment otherwise expose Seller to a risk of liability under the applicable export control laws and/or regulations if it fulfilled the order, Licensor shall be excused from all obligations under such order and/or this Agreement

21. ANTI-CORRUPTION

- 20.1 Neither Party shall engage in any unlawful trade practices or any other practices that are in violation of the Anti-Corruption Laws in connection with any actions or activities associated with this Agreement or in connection with the relationship between the Parties.
- 20.2 Each Party shall ensure that neither it nor its Affiliated Company, subcontractors and agents: either directly or indirectly, seek, receive, accept, give, offer, agree or promise to give any money, facilitation payment, or other thing of value from or to anyone (including but not limited to government or corporate officials or agents) as an improper inducement or reward for or otherwise on account of favourable action or forbearance from action or the exercise of influence; or fail to establish appropriate safeguards to protect against such prohibited actions.
- 20.3 Each Party shall, upon request from the other Party, provide evidence of the steps being taken to avoid prohibited actions, including the establishment of policies, practices, and/or business controls with respect to these laws.
- 20.4 The offending Party shall indemnify, keep indemnified and hold harmless the other Party and its Affiliated Company, its directors, officers, employees, consultants and agents from and against all losses, damages, costs (including but not limited to legal costs and disbursements) arising from or incurred by reason of the offending Party's, or any Staff's breach of the Anti-Corruption Laws.
- 20.5 The provisions of this clause 20 as well as any other clauses in relation thereto shall survive the termination of this Agreement for any reason whatsoever.

22. GENERAL PROVISIONS

- 21.1 This Agreement is the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The parties agree that any term or condition stated in a Client purchase order or in any other Client order documentation (excluding Signed Proposals) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Signed Proposal and (2) this Agreement. Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.
- 21.2 The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. Each Party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.
- 21.3 No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right.
- 21.4 If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.
- 21.5 Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other Party's prior written consent (not to be unreasonably withheld); provided, however, either Party may assign this Agreement in its entirety (including all Purchase Orders), without the other Party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a Party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favour of, a direct competitor of the other Party, then such other Party may terminate this Agreement upon written notice. In the event of such a termination, RIB CCS or RIB CCS's Distributor will refund the Client any prepaid fees covering the remainder of the term of all subscriptions for the period after the effective date of such termination. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties, their respective successors and permitted assigns.
- 21.6 Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, or (c), except for notices of termination or an indemnifiable claim ("Legal Notices"), which shall clearly be identifiable as Legal Notices, the day of sending by email. Billing-related notices to Client will be addressed to the Account Administrator designated by the Client.
- 21.7 This Agreement will be governed by and construed in accordance with the Governing Law as stipulated in the Candy Licence Agreement.
- 21.8 Each Party shall bear and pay its own costs of or incidental to the drafting, preparation and execution of this Agreement.
- 21.9 Each Party represents and warrants to the other Party that it has the authority necessary to enter into this Agreement and to do all such things necessary to procure the fulfilment of its obligations in terms of this Agreement.
- 21.10 Any indulgence which either Party may show to the other in terms of or pursuant to the provisions contained in this Agreement shall not constitute a waiver of any of the rights of the Party which granted such indulgence.

21.11 The Parties hereby confirm that they have entered into this Agreement with a full and clear understanding of the nature, significance and effect thereof and freely and voluntarily and without duress.