



RIB CANDY MASTER LIBRARY SALES AGREEMENT

RECITALS

- a) Whereas RIB has made available three (3) variations of the RIB Candy Master Data Library ("Master Library") which work in conjunction with the RIB Candy System provided by RIB.
- b) Whereas RIB hereby sells to the Client, who purchases the Master Library in accordance with the terms and conditions set forth in this Agreement.

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

1. This Agreement must be read with the RIB Candy Licence Agreement entered into between the Client and RIB. All Terms enclosed in inverted commas in this Agreement are defined terms in the RIB 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**" shall mean this written document, the RIB Candy Licence Agreement and with all written appendices, annexures, exhibits or amendments attached to it 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. "**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;
 - 2.1.5. "**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;
 - 2.1.6. "**Confidential Information**" shall mean:
 - 2.1.6.1. 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;

2.1.6.2. 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;

2.1.6.3. Any dispute between the Parties resulting from this Agreement;

- 2.1.7. **"Effective Date"** means the date upon which the Client signed and returned the Signed Proposal to RIB.
- 2.1.8. **"Fees"** means any and all the fees payable by the Client to RIB pursuant to this Agreement and the Signed Proposal;
- 2.1.9. **"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;
- 2.1.10. **"Parties"** means both RIB and the Client and **"Party"** shall mean either RIB or the Client as the context may dictate;
- 2.1.11. **"RIB Candy System"** means the computer software system known as the RIB Candy Estimating, Planning and Project Control solution and to which the Client has signed a RIB Candy Licence Agreement;
- 2.1.12. **"RIB"** 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;
- 2.1.13. **"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 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; and
- 2.1.14. **"Users"** means any of the Client's employees that may be authorised by the Client to use the RIB Candy System.
- 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. INTRODUCTION

- 3.1. RIB has made available for purchase three variations of the Master Library covering the specifications for:
 - 3.1.1. Building work set up in accordance with JBCC 2000 + series.
 - 3.1.2. General Civil work set up within the SABS framework adaptable for SANS.
 - 3.1.3. Roads, Earthworks and Bridges work set up in accordance with COLTO 2000 plus series.
- 3.2. There is also an option to purchase a combined version of all three (3) Master Libraries as referred to in Clause 3.1 above.
- 3.3. Each Master Library consists of the following:
 - 3.3.1. Fully coded resource list.
 - 3.3.2. Trade Definitions.
 - 3.3.3. Priced Bill of Quantities (BOQ) relevant to each Section. Bill Items within the specific discipline with Trades, Resources and Production parameters.
- 3.4. The Master Libraries are provisional and need to be adjusted by the Client before use.
- 3.5. The Master Libraries operate within the RIB Candy System, which is not supplied with these Master Libraries.
- 3.6. The Client accepts that;
 - 3.6.1. All versions of the Master Library contain only example costs, the resources and subcontractor prices are fictitious and actual cost needs to be inserted from suppliers, including subcontractor estimates related to the contract being priced. The Client is also required to insert its company's actual labour and equipment costs.
 - 3.6.2. The Client is required to insert its own production rates and ensure they are relevant and in accordance with the specification, special conditions and method of measurement related to the contract and item being priced.

- 3.6.3. No coding related to RIB's BuildSmart solution is incorporated in the Master Library. The Client is expected to insert these as required.
- 3.7. It is specifically recorded that the parties agree that the Client and its Users will at all material times have working knowledge of the RIB Candy System.

4. DURATION

This Agreement shall commence on the Effective Date and continue indefinitely, the Client will have the perpetual right to the use of the Master Library.

5. FEES

- 5.1. In consideration for the use of the Master Library the Client shall pay RIB fees which shall not be subject to any manner of set off. The Client shall be liable for any applicable local taxes or duties, and where the Client is required by law to pay any tax, an equivalent amount shall be added to the fees to ensure the full amount of fees payable are received without deductions of any kind.
- 5.2. The cost of each variation of the Master Library is listed in the Signed Proposal.
- 5.3. The Master Libraries remain the property of RIB until fully paid for by the Client. RIB reserves the right to revoke access to any or all RIB products should the Client's account fall into arrears.
- 5.4. Payment options are available and will attract the following additional fees:
 - 5.4.1. Three consecutive equal payments: 0% administration fee;
 - 5.4.2. Six consecutive equal payments: 5% administration fee; and
 - 5.4.3. Twelve consecutive equal payments: 10% administration fee.
- 5.5. Unless otherwise stated in the Signed Proposal, invoiced fees are due net 30 days from the invoice date.

6. LIMITATION OF LIABILITY

- 6.1. In no event shall RIB be liable whether in contract, delict, statute or under any legal basis for any loss of profits, loss of business, depletion of goodwill and /or similar losses or loss, or pure economic loss, or for any special, indirect or consequential loss, costs, damages or expenses however arising under this Agreement.
- 6.2. In the event of the Master Library not meeting the requirements or substantially not performing the functions as expected, the Client's only right of recourse and or remedies are strictly restricted to the cancellation of this Agreement.
- 6.3. It is specifically recorded that the Client purchases the perpetual right to the use of the Master Library subject to the following terms;
 - 6.3.1. By using any version of the Master Library, the Client agrees that RIB or the authors of the Master Library shall not whether in contract, delict, statute, or under any legal basis be held liable for worksheets, resources or any other pricing errors that may occur as a consequence of the use of any of the Master Libraries or their modus operandi.
 - 6.3.2. The Master Library is property to the RIB, the Client and its Users may not distribute or transmit same in any form whatsoever, either electronic or printed, neither in part nor as a whole.
 - 6.3.3. The Master Library merely provides guidance on best practice application and knowledge of minimum requirements for rate build-ups. The Client is responsible for effecting adjustments related to resource pricing,

productions and method statements based on its organisational knowledge and methods of operation.

- 6.3.4. RIB accepts no liability for errors or omissions of any nature whatsoever and the Client uses the Master Library solely at its own risk.

7. CONFIDENTIALITY

- 7.1. 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.
- 7.2. The Receiving Party shall prevent disclosure of the Confidential Information, except as may be required by law.
- 7.3. 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.
- 7.4. It is recorded that the following information will, for the purpose of this Agreement, not be considered to be Confidential Information:
- 7.4.1. Information known to the Receiving Party prior to the date that it was received from the Disclosing Party; or
- 7.4.2. 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
- 7.4.3. 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
- 7.4.4. Information which Disclosing Party, in writing, authorizes the Receiving Party to disclose.
- 7.5. The provisions and restrictions contained in this clause 7 shall continue in force notwithstanding termination of the Agreement.

8. PROPRIETARY RIGHTS

- 8.1. The Client acknowledges and agrees that RIB owns all Intellectual Property rights in the Master Library. 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, trademarks (*whether registered or unregistered*).
- 8.2. The Client will own the perpetual right to the use of the Master Library upon full payment of the fees in accordance with Clause 5 above.
- 8.3. RIB confirms that it has all the rights in relation to the provision of the Master Library that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

9. DISPUTE RESOLUTION

- 9.1. 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;

- 9.2. 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;
- 9.3. 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.

10. NOTICES AND DOMICILIUM

10.1. The Parties elect the following addresses as their respective domicilium citandi et executandi:

10.2. RIB 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,

South Africa

0046 marked for the attention of The CEO

E-mail: info.za@rib-software.com marked for the attention of The Vice President.

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

10.4. 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.

10.5. 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.

11.FORCE MAJEURE

11.1. 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.

12.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.

13.ANTI-CORRUPTION

13.1. The Clients acknowledges that RIB and RIB's distributors are committed to eliminating all risk of bribery and corruption influence pending, money laundering and tax evasion or the facilitation hereof in its business activities and the client acknowledges RIB's Trust Charter, a copy of which is available at our parent company, Schneider Electric's website:

<https://www.se.com/ww/en/about-us/sustainability/responsibility-ethics>.

The Client will notify RIB of any suspected, or known, breaches of Anti – Corruption Law. The Client may raise this alert through their point of contact or through the Trust Line

<https://www.se.com/ww/en/about-us/sustainability/responsibility-ethics/trustline>.

- 13.2. 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.
- 13.3. 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.
- 13.4. 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.
- 13.5. 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.
- 13.6. The provisions of this clause 11 as well as any other clauses in relation thereto shall survive the termination of this Agreement for any reason whatsoever.

14. GENERAL PROVISIONS

- 14.1. This Agreement is the entire agreement between RIB and the Client 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.
- 14.2. 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.
- 14.3. No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right.
- 14.4. 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.
- 14.5. 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 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.

- 14.6. 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.
- 14.7. This Agreement will be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.
- 14.8. Each Party shall bear and pay its own costs of or incidental to the drafting, preparation and execution of this Agreement.
- 14.9. 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.
- 14.10. 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.
- 14.11. 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.