Ryland Technology Ltd – Terms and Conditions
Version 2.0 (23 May 2018)

i.   Introductory Terms

1.   Definitions

1.1   In these Terms and Conditions, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

1.1.1   Agreement: a contract between Ryland and the Client for Services, created by an Order incorporating these Terms and Conditions, and any amendment to that contract (including amendments to these Terms and Conditions) from time to time;

1.1.2   Applicable Laws: all English, European Union, and other Member State laws, and the laws of any other relevant jurisdiction, to which the Client or Ryland are subject;

1.1.3   Applicable Rate: the "hourly rate" applicable for Ryland's Work for the Client as specified in the Order;

1.1.4   Bulk Email: email sent to more than 25 recipients, either as a single email or as multiple, consecutive, identical (or near-identical) emails;

1.1.5   Business Day: a day which is not a Saturday or a Sunday and which is not a public or bank holiday in England and Wales;

1.1.6   Business Hours: between 9am and 5pm on each Business Day;

1.1.7   Chargeable Support Services: Support Services provided by Ryland to the Client on a standalone basis, either for a regular Charge set out in the Order or charged on an ad hoc basis at the Applicable Rate;

1.1.8   Charges: the charges or fees due from the Client to Ryland for the provision of Services as set out in the Order (or as otherwise due under the Agreement);

1.1.9   Client: the other party to the Agreement as identified in the Order;

1.1.10   Client Materials: any and all data, text, images, graphics, videos, logos and any other content and material, hardware, and equipment provided by the Client to Ryland (or transferred to or through Ryland or any of Ryland's Servers) pursuant to or in connection with the Agreement, whether owned by the Client or a third party and whether the Client is Controller or Processor or otherwise in respect of them;

1.1.11   Client Personal Data: any Client Materials that constitute Personal Data; this will include Personal Data for which the Client is Controller and for which the Client is Processor pursuant to a contract between the Client and a Third Party Controller;

1.1.12   Completion: either:

1.1.12.1   30 days after the Delivery date; or

        1.1.12.2   the date on which the Client notifies Ryland that the Project is complete,

whichever is earlier;

1.1.13   Contracted Processor: Ryland or a Subprocessor;

1.1.14   Data Protection Laws: EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;

1.1.15   Deficiency: where the software provided to the Client does not conform to the Agreement in a material way, other than as permitted elsewhere in the Agreement;

1.1.16   Delivery:

        1.1.16.1   If the product is to be installed on a server provided by Ryland, Delivery takes place when Ryland has installed and setup the product and provides access to the Client for testing and/or use, unless otherwise agreed in writing; or

        1.1.16.2   If the product is to be installed elsewhere, Delivery is the time at which the product is provided to the Client by Ryland in electronic or other form, unless otherwise agreed in writing.

1.1.17   Effective Date: the date upon which Ryland receives the signed Order from the Client;

1.1.18   Estimate: a document, letter or email prepared by Ryland and communicated to the Client which sets out Services to be provided and indicates an estimate of the time required and/or cost to be charged for those Services;

1.1.19   EU Data Protection Laws: EU Directive 95/46/EC, as transposed into the domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

1.1.20   FTP Server: a Server that is configured to allow file transfer to and from the Server via the FTP or equivalent protocol;

1.1.21   GDPR: EU General Data Protection Regulation 2016/679;

1.1.22   Included Support Services: support Services provided by Ryland as part of Development Services or Hosting and Domain Name Services at no additional cost;

1.1.23   Intellectual Property Rights: any and all patents, trademarks, service marks, copyright, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other parts of the world together with all or any goodwill relating to the same;

1.1.24   Mail Server: a Server that is configured to allow the sending and/or receiving of email via the SMTP, POP3 and/or IMAP or equivalent protocols;

1.1.25   Netiquette: Generally accepted standards and codes of practice for the use of the Internet including for example not sending bulk unsolicited email and not impersonating other persons;

1.1.26   Order: a document, letter or email setting out an agreement between Ryland and the Client for Ryland to provide specified Services to the Client and incorporating these Terms and Conditions to form the Agreement;

1.1.27   Party: a party to this Agreement;

1.1.28   <u>Permanent Connection</u>: a connection which is functional in accordance with the Service Level Guarantee;

1.1.29   <u>Person</u>: any individual, firm, body corporate, unincorporated association, partnership, government, state or stage agency or joint venture;

1.1.30   <u>Project</u>: a development which is the subject of an Order for Development Services under the Agreement;

1.1.31   <u>Project Length</u>: the number of days from the start date to the completion date specified in the Order;

1.1.32   <u>Quote</u>: a document, letter or email prepared by Ryland and communicated to the Client which sets out Services to be provided and specifies a fixed cost;

1.1.33   <u>Restricted Transfer</u>:

       1.1.33.1   A transfer of Client Personal Data from Ryland to a Contracted Processor; or

       1.1.33.2   An onward transfer of Client Personal Data from a Contracted Processor to a Contracted Processor, or between two establishments of a Contracted Processor,

in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreement put in place to address the data transfer restrictions of Data Protection Laws) in the absence of the Standard Contractual Clauses to be established under Clause 24.4.3 or 29.3;

1.1.34   <u>Ryland</u>: Ryland Technology Ltd;

1.1.35   <u>Server</u>: a computer connected to the Internet via a Permanent Connection;

1.1.36   <u>Services</u>: the services and other activities to be supplied or carried out by or on behalf of Ryland for the Client pursuant to the Agreement;

1.1.37   <u>Specification</u>: a document setting out the functional and/or technical specification of a Project;

1.1.38   <u>Standard Contractual Clauses</u>: those clauses specified in the European Commission's decision of 5 February 2010 on Standard Contractual Clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection. These clauses are deemed to be amended from time to time, to the extent that they relate to a Restricted Transfer which is subject to the Data Protection Laws of a given country or territory, to reflect any change (including any replacement) made in accordance with those Data Protection Laws (i) by the European Commission to or of the equivalent contractual clauses approved by the Commission under EU Directive 95/46/EC or the GDPR (in the case of the Data Protection Laws of the European Union or a Member State); or (ii) by an equivalent competent authority to or of any equivalent contractual clauses approved by it or by another competent authority under another Data Protection Law (otherwise).

1.1.39   <u>Subprocessor</u>: any Person (including any third party, but excluding an employee of Ryland) appointed by or on behalf of Ryland to Process Personal Data on behalf of the Client in connection with this Agreement;

1.1.40   <u>Support Services</u>: maintenance and/or support Services in relation to software and/or systems, provided by Ryland to the Client as set out in the Order;

1.1.41   <u>Terms and Conditions</u>: this document;

1.1.42   <u>Time and Materials</u>: where the Client will be charged for the time taken to do Work at the Applicable Rate;

1.1.43   <u>Third Party</u>: Any person or legal entity not a party to this Agreement;

1.1.44 Third Party Software: Any software or code component which is the property of a Third Party;

1.1.45 Top Level Domain (TLD): the last part of the domain name designating the type of domain and/or country of registration (e.g. .com, .net, .co.uk, .org.eu);

1.1.46 Webspace: space on a Server to be used for the purposes of displaying a Website on the Internet;

1.1.47 Web Server: A Server that is configured to serve web pages and related content via the HTTP and/or HTTPS protocols;

1.1.48 Work: any time spent by Ryland on the Project including but not limited to on-site visits, travel, writing specifications, general advice, consultancy, project management and programming;

1.2 The terms Commission, Controller, Data Subject, Member State, Personal Data, Personal Data Breach, Processing, and Supervisory Authority shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

1.3 The word include shall be construed to mean include without limitation, and cognate terms shall be construed accordingly. The term in writing shall include by email, and cognate terms shall be construed accordingly.

2. Interpretation

2.1 In the event of a conflict between these Terms and Conditions and any Order, these Terms and Conditions shall have precedence, but shall only affect the validity of the Order to the minimum extent necessary for the inconsistency to be resolved.

2.2 In the Agreement the masculine includes the feminine and the neuter, and the singular includes the plural, and vice versa as the context shall admit or require.

2.3 Reference in the Agreement to the provisions of any statutes, statutory instruments, or other legislation are deemed to include those provisions as amended or substituted.

3. Term

3.1 The Agreement shall come into force on the Effective Date.

3.2 The Agreement shall continue in force indefinitely except as otherwise specified in the Order, and subject to termination in accordance with Clause 35.

3.3 Unless the parties expressly agree otherwise in writing, each Order shall create a distinct Agreement incorporating these Terms and Conditions.

4. Amendments

4.1 Ryland may amend these Terms & Conditions at any time by providing notice to the Client in writing. Such amendment shall take effect 30 days after notification and shall apply to all existing and future contracts between Ryland and the Client.

4.2 If the Client does not consent to an amendment under Clause 4.1, the Client shall terminate the Agreement within 30 days of notification.

ii. Ordering Services from Ryland

5. Overview of Services

5.1 The Services provided by Ryland to the Client covered by the Agreement will fall into one or more of the following categories, as specified in the Order:

5.1.1 Development Services (including specification, design, programming, testing, and consultancy Services);

5.1.2 Hosting and Domain Name Services;

5.1.3 Support Services;

6. Orders, Quotes, Estimates, and Specifications

6.1 The Terms and Conditions contained within this document (including any amendments under Clause 4) shall be incorporated into all present and future contracts between the Client and Ryland.

6.2 All Services provided by Ryland to the Client shall be set out in an Order, which shall incorporate these Terms and Conditions. The Order:

6.2.1 may refer to further documents, including Quotes, Estimates and Specifications, the contents of which shall be deemed to be included in the Order;

6.2.2 shall specify the nature and details of the Services to be provided by Ryland and whether such Services will be provided on the basis of a standing regular charge, existing or future Quotes, or on a Time and Materials basis (and, if the latter, whether Estimates are to be provided or not);

6.2.3 shall specify the Applicable Rate and any additional Charges;

6.2.4 shall specify any particular data protection and security measures required by the Client to be taken by Ryland and any Subprocessors in pursuance of the Agreement.

6.3 It is the Client's responsibility to review the Order and confirm that the details contained therein (including those relating to security and data protection) satisfy the Client's requirements, including any obligations under Data Protection Laws or other Applicable Laws, before agreeing to the Order. If the Client requires (or is obliged to require) any particular security or data protection measures, or any other measures, the Client shall notify Ryland before the Order is agreed. Ryland shall not be held liable for the result of a failure by the Client to notify Ryland of any such requirements.

6.4 For the avoidance of doubt, while Ryland may advise the Client on appropriate security and data protection measures forming part of the Services, Ryland cannot and will not provide legal advice as to the suitability of such measures in relation to Data Protection Laws or other Applicable Laws relating to the Client's obligations, either as Controller of Personal Data or otherwise. It is the Client's responsibility to seek independent legal or other advice in that regard.

6.5 Ryland shall not be obliged to carry out any request or instruction from the Client, whether pursuant to the Agreement or otherwise, if in Ryland's reasonable opinion such request or instruction is contrary to Data Protection Laws or other Applicable Laws.

6.6 Quotes are valid for 30 days from the date of delivery but may be varied by Ryland (by written notice) at any time prior to acceptance by the Client.

6.7 Ryland reserves the right to amend any Specification or other details of the Services where the effect will be to maintain or enhance (at no additional cost to the Client) the overall performance of the Services and still to meet the terms of the Order.

7. Processing Personal Data about the Client

7.1 This Clause 7 relates to Ryland's processing of Personal Data where the Client is the Data Subject. It does not relate to processing of Personal Data where the Client is the Controller, which is covered in Clauses 21 to 31.

7.2 Personal Data relating to the Client as Data Subject (for example, the Client's representatives' names and contact details) will be collected and processed by Ryland on the following legal bases:

7.2.1 Where necessary for the performance of the Agreement or to take steps to enter into a contract with the Client;

7.2.2 Where required by Applicable Laws;

7.2.3 Where it is in Ryland's legitimate interests in operating its business;

7.2.4 In exceptional cases, where it is in the substantial public interest.

7.3 Further information on Ryland's use of this data (including the purposes for which data is used) is set out in Ryland's Privacy Notice, which is available here: http://www.ryltech.com/privacy.

8. Client's Obligations

8.1 Save to the extent that the Agreement specifies otherwise, the Client shall provide to Ryland, or procure for Ryland, such:

8.1.1 cClient Materials;

8.1.2 co-operation, support and advice;

8.1.3 information, documentation, and products;

8.1.4 governmental, legal, or regulatory: licences, consents, and permits; and

8.1.5 access to the Client's or relevant Third Party computer hardware, software, networks, systems, and facilities,

as specified in the Agreement or as may reasonably be required by Ryland to enable Ryland to perform its obligations under the Agreement.

8.2 The Client shall perform its duties under Clause 8.1 by the relevant dates specified in the Order or, in the absence of such dates, before Ryland begins the Work. Any delay in the Client meeting its obligation under Clause 8.1 will result in a corresponding delay to subsequent Project dates, including the Delivery date.

8.3 Ryland shall under no circumstances be liable for any delay or Deficiency due to delay or failure on the part of the Client to perform its obligations under Clause 8.1.

8.4 Where the provision or procurement by the Client under Clause 8.1 differs from that specified in the Agreement, Ryland may amend the Agreement (including additional Charges) if in Ryland's reasonable opinion there is a significant impact on the Work to be done by Ryland.

8.5 Should Ryland personnel be required to attend the Client's site, the Client shall provide safe working conditions for those personnel.

iii. Development Services

9. Standard of Work

9.1 Ryland shall carry out all Work with reasonable care and skill.

9.2 Ryland will use its reasonable endeavours to complete Projects in accordance with delivery dates specified but shall not be liable for any loss resulting from late delivery where the number of days by which the Project is overdue is fewer than:

9.2.1 where the Project Length is 2 months or less, 50% of the Project Length; or

9.2.2 where the Project Length is over 2 months, 25% of the Project Length.

9.3 Any deficiencies in the product or service delivered by Ryland must be notified to Ryland in writing within 30 days of Delivery.

10. Intellectual Property Rights

10.1 If the Data Management System (DMS) is provided to the Client as part of a Project, it will be specified on the order and the following terms shall apply:

10.1.1 All intellectual property rights in DMS are retained exclusively by Ryland;

10.1.2 the Client is granted a perpetual, non-exclusive licence to use DMS for the purposes of the Agreement;

10.1.3 The Client is not permitted to copy, transfer, reverse-engineer, edit, redistribute or view the source code of DMS in any way;

10.1.4 Should the Client's project be hosted on a Ryland server, the Client will not be granted access to the DMS source code;

10.1.5 Should the Client wish to host DMS on a non-Ryland server, the Client shall be required to sign a separate DMS Licence Agreement, a copy of which is available on request.

10.2 If Third Party Software is provided by Ryland to the Client as part of a Project, it will be specified on the Order and the following terms shall apply:

10.2.1 For each item of Third Party Software supplied, Ryland shall either:

10.2.1.1 obtain a licence on the Client's behalf for that software (the details of which shall be supplied to the Client on request); or

10.2.1.2 notify the Client that the Client must obtain a licence directly.

10.2.2 Any such Third Party Software is supplied to the Client subject to the Third Party's licence terms. By agreeing to an Order, the Client accepts those Third Party licence terms.

10.3 In relation to all other software developed and provided by Ryland to the Client under the Agreement the following terms shall apply:

10.3.1 Ryland uses re-usable code components from its own library as well as custom code written specifically for each Project to build each complete solution for the Client;

10.3.2 Use of the Ryland re-usable components enables the solution to be developed more quickly and at lower cost than developing the software from scratch for each Client;

10.3.3 For this reason, ownership (including all Intellectual Property Rights) of re-usable components used within a Project remains with Ryland;

10.3.4 The Client is granted a perpetual, non-exclusive licence to use, copy or modify in any way any re-usable code component (subject to Clauses 10.1 and 10.2) used in the Client's Project;

10.3.5 In relation to software developed and provided by Ryland to the Client under the Agreement which is not a reusable code component and which is not excluded under Clause 10.1 or 10.2, ownership (including all Intellectual Property Rights not reserved herein) of the software transfers to the Client immediately upon Delivery and payment by the Client to Ryland of all sums due under the Agreement; for the avoidance of doubt, Ryland retains ownership (including all Intellectual Property Rights) until full payment has been made;

10.3.6 Once ownership has transferred, the source code for the Project (subject to the exceptions set out above) shall be provided to the Client upon request.

11. Payment Terms

11.1 Where the Order includes a Quote, 30% of the purchase price is payable before the start of the Project, 30% at the midpoint of the Project and the remaining 40% upon Completion of the Project. The relevant dates will be set out in the Order.

iv.   Hosting and Domain Name Services

12. Hosting Services

12.1 Where the Services include Dedicated Hosting Services:

12.1.1 The Client will be provided with a Server housed in a purpose-built data centre;

12.1.2 The Server will be configured as a Web Server, Mail Server and/or FTP Server as specified in the Order;

12.1.3 The Server's hardware and software specification and bandwidth limits will be as specified in the Order. It is the Client's responsibility to ensure that the Server's specification and bandwidth limits meet the Client's requirements.

12.2 Where the Services include Shared Hosting Services:

12.2.1 The Client will be provided with Webspace for one website on a Web Server as specified in the Order;

12.2.2 Unless otherwise stated in the Order, the Service is subject to the following limits per website (Quotas):

12.2.2.1 250 MB (megabytes) of disk space on the Server, including all database and statistics files;

12.2.2.2 2 GB (gigabytes) of data transfer in/out (bandwidth) per calendar month.

12.2.3 Prices for additional disk space and bandwidth are available on request;

12.2.4 If either of the Quotas is exceeded for any part of a calendar month without first upgrading, the Client will be charged 150% of the relevant upgrade Charge for that month;

12.2.5 The Client will be provided with FTP access to the Webspace upon request.

12.3 Where the Services include Email Services:

12.3.1 The Client will be given one POP3 account for each email account specified in the Order;

12.3.2 The Client will be given access to each allocated POP3 account via a Server of Ryland's choosing;

12.3.3 The Client will be given access to an SMTP Server of Ryland's choosing in order to send email;

12.3.4 Additional POP3 email accounts can be supplied at an additional cost.

12.4 Unless otherwise specified in the Order, the Client shall be prohibited from using Email Services provided by Ryland for the sending of Bulk Email (whether unsolicited or otherwise), due to the risk of the Mail Server being blacklisted and a resulting impact on other clients of Ryland.

12.5 Ryland shall not be held liable for the result of activity by the Client or a Third Party which prevents a Server from performing its functions, e.g. due to spam sent from the Server, negative IP reputation, or denial of service attacks.

12.6 In addition to the express restrictions specified in the Order, all use of Hosting Services is subject to a 'reasonable use' limit.

12.7 Hosting Services are a managed service and as such no root or administrator access to the Server will be provided to the Client.

13. Domain Name Services

13.1 Where the Services include Domain Name Services:

13.1.1 The Client undertakes and warrants to Ryland that the registration of any domain name requested by it (a Requested Domain):

13.1.1.1 and the manner in which it is to be directly or indirectly used will not infringe any Third Party rights; and

13.1.1.2 is not being made in bad faith and could not be considered an abusive registration under the ICANN, Nominet or other registry dispute resolution policies as appropriate; and

13.1.1.3 is not being made for or in connection with any unlawful purpose.

13.1.2 On receipt of an Order from the Client, Ryland will use its reasonable endeavours to procure the Requested Domain for the Client;

13.1.3 The Client acknowledges that the nature of the Internet and domain name registration processes mean that Ryland cannot guarantee to procure any Requested Domain but that if such a domain cannot be procured and Charges for the registration of that specific domain have already been paid to Ryland, the Client will have the option of a refund of such Charges that relate solely to that domain registration or of Ryland attempting to procure an alternative domain (of the same TLD) instead;

13.1.4 The Client acknowledges that the registration of any Requested Domain will be subject to the registration requirements of the appropriate registry;

13.1.5 Domain Name Services are limited to seeking to register the Requested Domain on behalf of the Client, providing reasonable administration services in relation to the application and notifying the result of the application to the Client within a reasonable period after communication from the authority;

13.1.6 Ryland will use reasonable endeavours to notify the Client of any domain renewal dates, but Ryland accepts no liability whatsoever for the loss of registration of any Requested Domain for any reason;

13.1.7 The Requested Domain must be specified in writing by the Client. Ryland will seek to register the domain name exactly as spelt in the Order and will not be held liable for any mistake in that spelling;

13.1.8 Notwithstanding Clause 13.1.7 the Client will check that any Requested Domain is spelt correctly in all communication from Ryland to the Client and will notify Ryland immediately of any incorrect spelling;

13.1.9 The Client will at all times comply with the terms and conditions from time to time applying to the registration of domain names published by the relevant naming authority (or any other authority having similar force) including the dispute resolution policy of that authority;

13.1.10 All domains registered by Ryland for the Client will be registered with the Client as the registrant or legal owner of the domain and with Ryland as all other contacts for the domain;

13.1.11 Ryland will not authorise the transfer of a Requested Domain elsewhere until all Charges payable by the Client under the Agreement have been paid in full, whether or not such Charges relate to the domain name in question;

13.1.12 The Client agrees and acknowledges that Ryland will make registration information provided by the Client in relation to the Requested Domain (including the contact details of the Client) available to certain organisations (Recipients) including ICANN, Nominet and any other appropriate registration authority, the registry administrators and any domain reseller selected by Ryland. The Client further acknowledges that Ryland and/or these Recipients may make publicly available (or directly available to third parties) some or all of this information for purposes of inspection (for example through the WHOIS service) or for other purposes as required or permitted by ICANN and/or Nominet (or other applicable registries) and Applicable Laws. The Client consents to any and all such disclosures whether during or after the term of registration.

14. Client's Obligations

14.1 The Client shall be under an obligation to:

14.1.1 notify Ryland immediately on becoming aware of any unauthorised use of any of the Services or of the possibility of any such use;

14.1.2 not use the Services or allow them to be used for any unlawful purpose or for the publication, issue, storage, sharing, or display of or linking to any material which:

14.1.2.1 is obscene, pornographic, threatening, malicious, harmful, abusive, or defamatory;

14.1.2.2 breaches the rights including Intellectual Property Rights of any third party;

14.1.2.3 is, encourages, promotes, facilitates or aids a criminal act or acts in any way;

14.1.2.4 contains any virus, worm, trojan horse, or any other harmful or malicious code;

14.1.2.5 is unlawful under Applicable Laws; or

14.1.2.6 otherwise in the absolute discretion of Ryland may harm Ryland or its clients or bring Ryland into disrepute.

14.1.3 not use the Services or allow them to be used in any way which is reasonably deemed by Ryland to be a breach of good Netiquette practices;

14.1.4 not provide any technical or other information obtained under or as a result of the Agreement about Ryland or the Services of Ryland to any person other than an employee of Ryland;

14.1.5 not refer to any internet web site hosted by Ryland or to any e-mail address or domain name hosted by or purchased through Ryland in any communication or other material which is unlawful or breaches good Netiquette practices;

14.1.6 use best endeavours to ensure that all material or data transmitted to Ryland or transmitted using any of Ryland's hardware or Services is free from viruses and other harmful or malicious code;

14.1.7 comply with any security policy or security instructions regarding the Services as may be notified to the Client from time to time by Ryland;

14.1.8 ensure that all passwords and usernames provided by Ryland or chosen by the Client are at all times kept confidential, are used properly and are not disclosed to any other party. In the event that any such information is or may have been disclosed the Client must notify Ryland immediately. Failure to do so will be grounds for Ryland in its absolute discretion to withdraw all Services with no refund of Charges;

14.1.9   ensure that all passwords chosen by the Client are secure, consisting of at least eight characters and containing at least one lower case letter, one upper case letter and one number or symbol, and not consisting solely of a dictionary word or a word obviously associated with the Client;

14.1.10   be entirely liable for all activities conducted and all charges incurred under its usernames and passwords with or without the Client's knowledge or consent, unless such use arises solely as a direct result of a failure by Ryland to keep such usernames or passwords confidential;

14.1.11   not attempt to access any information or data owned by or regarding any other of Ryland's clients, or otherwise access any part of Ryland's systems except such parts that Ryland expressly gives the Client access to pursuant to the Agreement;

14.1.12   ensure that all details provided to Ryland are at all times true, current, accurate and complete. The Client shall promptly notify Ryland of any change to such details and Ryland shall not be liable for any loss suffered or incurred by the Client as a direct or indirect result of failure by the Client to notify Ryland of such changes.

14.2   The Client acknowledges that it has sufficient knowledge and understanding of the Internet, the systems, products and Services provided to it pursuant to the Agreement, and what uses and content are and are not acceptable (including a good knowledge of Netiquette) in order to ensure compliance with the Agreement. Lack of knowledge of such things shall not alter the standard of care required of the Client or affect what constitutes a breach of such standard of care or be a defence to any breach of the Agreement and shall not affect liability for breach in any way.

14.3   Except as otherwise stated in the Order, the Client acknowledges that Ryland shall be under no obligation whatsoever to:

14.3.1   train the Client to use the Services or any related products, services or systems;

14.3.2   manipulate any Client Materials;

14.3.3   validate or vet any Client Materials for usability, legality, content or correctness.

14.4   The Client agrees and warrants that the Client takes full responsibility for compliance with Data Protection Laws in relation to any Client Personal Data or any other data that the Client transfers to or via any Webspace, Servers or Email Services provided by Ryland. The Client agrees that Ryland has no direct control over what data the Client chooses to host on or transfer through Ryland's Servers and that in relation to Hosting Services Ryland's obligations as Processor are strictly limited to the management of the infrastructure itself.

15.   Service Level Provision

15.1   Ryland guarantees that, subject to the other provisions of the Agreement, the Services will be functional in accordance with the Agreement for a minimum of 99% of the time in each calendar month (the Service Level Guarantee).

15.2   Should the Services not be functional contrary to the Service Level Guarantee and should no other provision of the Agreement remove or reduce Ryland's liability for such drop in service, then the Client shall be entitled to a refund of the pro rata monthly Charge. In order to be entitled to this refund the Client must notify Ryland within 14 days of the relevant outage.

15.3   Ryland will use its reasonable endeavours to provide the Services pursuant to the Agreement but the Client acknowledges that due to the nature of the Services covered by the Agreement Ryland cannot guarantee that the Services, when delivered via the Internet, will be uninterrupted or free of errors. Other than in a case falling within Clause 15.2 Ryland shall not be liable to the Client where Service provision fails in any way.

15.4 Notwithstanding Clauses 15.1 and 15.2, Ryland shall not be liable for any failure to provide the Services which results from any breach of the Agreement by the Client or by any party who gains access to the Services or to Ryland's systems through the Client, with or without the Client's knowledge or consent.

15.5 Without prejudice to its other rights and remedies Ryland may at its sole discretion suspend the provision of the Services in whole or in part (temporarily or permanently) and will have no liability to the Client to provide any of the Services should any of the following occur:

15.5.1 Failure by the Client to pay any Charges owing to Ryland by the day on which they are due;

15.5.2 The issue by a Court or any other competent authority of any order which is binding upon Ryland and which relates directly or indirectly to the Services covered by the Agreement;

15.5.3 Any disk space, bandwidth, memory or other usage limits being exceeded by the Client without prior express written consent from Ryland;

15.5.4 An external attack on the Server beyond the control of Ryland designed to prevent the normal functioning of the Server such as a denial of service attack;

15.5.5 Ryland determines in its sole discretion that the Client's use of any of the Services is unreasonable to the extent that it risks causing detrimental effect to services provided to other of Ryland's clients;

15.5.6 An event occurs or is likely to occur which Ryland in its sole discretion believes requires the suspension of the relevant Services in order to ensure system security or protect the services or property of Ryland or any of its clients.

15.6 Should any Services be suspended under Clause 15.5 Ryland shall only be obliged to reinstate provision of Services once the relevant event which justified suspension has ceased and Ryland is satisfied that the same or similar event will not arise again should Service be reinstated.

15.7 Should any Services be suspended under Clause 15.5.1 a charge shall apply for the reactivation of Services following receipt of correct payment. This charge will be at the Applicable Rate for the time taken by Ryland in reactivating the Services.

15.8 It shall be the Client's responsibility to backup any and all data stored on Ryland's systems. No such responsibility shall lie with Ryland for backing up data unless expressly stated in the Order.

16. Intellectual Property Rights

16.1 The Client acknowledges and agrees that it will not own or acquire ownership of any Intellectual Property Rights in or relating to the Hosting and Domain Name Services provided under the Agreement or in or relating to any hardware, software or other information, data or material relating to the provision of such Services.

17. Payment Terms

17.1 Except as stated otherwise in the Order, the following terms shall apply:

17.1.1 Charges paid monthly or yearly shall be payable in advance and shall not be refundable in whole or in part if the Agreement is terminated by either party during the period to which the payment relates;

17.1.2 Any setup Charges shall be payable immediately and before Ryland commences provision of the Services.

v. Support Services

18. Support Services

18.1 Except where otherwise specified under Clause 20, Support Services provided by Ryland to the Client (whether under the Agreement or otherwise) shall be Chargeable Support Services. Unless specified otherwise in the Order, Chargeable Support Services shall be charged to the Client on a Time and Materials basis at the Applicable Rate.

18.2 Except where otherwise specified in the Order, Support Services may be requested by contacting Ryland during Business Hours on the telephone number and/or email address specified published on Ryland's website or in the Order.

18.3 Ryland shall use reasonable endeavours to respond to requests from the Client for Support Services within a reasonable time period but:

18.3.1 Ryland shall be under no obligation to respond to requests for Support Services within a set period unless otherwise specified in the Order;

18.3.2 Ryland shall be under no liability whatsoever for any delay in responding or failure to respond to requests for Support Services.

19. Chargeable Support Services

19.1 Chargeable Support Services are any Support Services which are not Included Support Services as defined in Clause 20.

19.2 Except where specified otherwise in the Order, Chargeable Support Services shall be charged to the Client on a Time and Materials basis at the Applicable Rate.

19.3 Chargeable Support Services may:

19.3.1 relate to Development Services or Hosting and Domain Name Services provided by Ryland, including:

19.3.1.1 issues arising from the day-to-day use of those Services by the Client, other than where those issues are a result of a failure to provide the Services by Ryland in accordance with the Agreement;

19.3.1.2 attempts to use or integrate those Services with systems or services of Third Parties or non-standard hardware or software;

19.3.1.3 issues arising directly or indirectly from a lack of technical knowledge on the part of the Client;

19.3.1.4 issues arising directly or indirectly from the failure of the Client to follow any instructions issued by Ryland in relation to the Services;

19.3.1.5 issues arising directly or indirectly from any act or omission of the Client or of any third party other than where expressly directly so to act by Ryland;

19.3.1.6 the recovery or rectification of lost or corrupted data, other than where expressly stated in the Order to be included in the Services, or

19.3.2 relate to systems owned or provided by the Client or a Third Party, including:

19.3.2.1 providing technical support, advice, assistance, or rectification in response to questions, errors or issues relating to the relevant system as notified to Ryland by the Client;

19.3.2.2 providing ad hoc programming services in response to requests by the Client for changes to functionality in those systems, whether in

relation to errors or bugs or other requirements for amended functionality.

20. Included Support Services

20.1 Included Support Services are provided by Ryland to the Client under the Agreement as part of Development Services and/or Hosting and Domain Name Services at no extra cost.

20.2 Included Support Services:

20.2.1 shall only extend to ensuring that the Development Services and/or Hosting and Domain Name Services specified in the Order are provided to the level required by the Agreement;

20.2.2 shall only be available during Business Hours unless expressly stated otherwise in the Order;

20.2.3 shall only be provided in relation to the Development Services and/or Hosting and Domain Name Services provided under the Agreement and shall not extend to any related or ancillary systems, software or services;

20.2.4 shall only be provided in relation to matters directly under the control of Ryland;

20.2.5 shall not extend to cases where the entire cause or a significant cause of the question, issue, or problem is:

20.2.5.1 any lack of knowledge on the part of the Client, other than where that knowledge could only have been provided by Ryland and has not been so provided;

20.2.5.2 any action by the Client or any Third Party acting on the Client's behalf contrary to instructions or advice provided by Ryland to the Client in relation to the Services;

20.2.5.3 any fault in the systems of the Client;

20.2.5.4 any action by the Client other than those which are reasonable and foreseeable for the enjoyment of the Services;

20.2.5.5 any non-standard feature or configuration whatsoever in the systems of the Client;

20.2.6 shall terminate:

20.2.6.1 in the case of Development Services, 30 days after Delivery;

20.2.6.2 in the case of Hosting and Domain Name Services, immediately upon termination of the Agreement.

20.3 For the avoidance of doubt, Included Support Services do not include assisting the Client in setting up their systems so as to utilise the Services provided by Ryland, apart from the provision of the relevant necessary information to allow the Client to do so with a standard configuration.

20.4 Included Support Services will be provided by Ryland at no additional charge unless Ryland in its absolute discretion believes that the Client's use of such Support Services is unreasonable.

vi. Client Materials and Data Protection

21. Processing of Client Materials Including Personal Data

21.1   Except as otherwise prohibited under this Agreement (including under the subsequent provisions of this Clause 21) or under Data Protection Laws, the Client hereby grants to Ryland a non-exclusive licence to use, copy, reproduce, store, distribute, publish, export, adapt, edit and translate Client Materials to the extent reasonably necessary for the performance of Ryland's obligations and the exercise of Ryland's rights under the Agreement. The Client also grants to Ryland the right to sub-license these rights to the extent reasonably necessary for the same purpose.

21.2   The Client warrants to Ryland that the Client Materials when used by Ryland in accordance with the Agreement will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation in any jurisdiction under any Applicable Laws.

21.3   The Client agrees that in relation to any Client Personal Data, the Client is:

21.3.1   the Data Controller; or

21.3.2   the Data Processor pursuant to a contract between the Client and a Third Party Data Controller,

and that in either case Ryland acts as Data Processor on behalf of the Client.

21.4   Ryland shall:

21.4.1   comply with all applicable Data Protection Laws in the Processing of Client Personal Data; and

21.4.2   not Process Client Personal Data other than on the Client's written instructions unless Processing is required by Applicable Laws to which Ryland is subject, in which case Ryland shall to the extent permitted by Applicable Laws inform the Client of that legal requirement before the relevant Processing of that Personal data.

21.5   The Client hereby instructs Ryland (and authorises Ryland to instruct each Subprocessor) to:

21.5.1   process Client Personal Data; and

21.5.2   in particular, transfer Client Personal Data to any country or territory,

as reasonably necessary for the provision of the Services and as set out in the Order in accordance with Clause 21.6.

21.6   If Processing of Client Personal Data by Contracted Processors is necessary under the Agreement, the Order shall contain relevant information as required by Article 28(3) of the GDPR (and, where applicable, equivalent requirements of other Data Protection Laws). This shall include:

21.6.1   the subject matter and duration of the Processing of Client Personal Data;

21.6.2   the nature and purpose of the Processing of Client Personal Data;

21.6.3   the types of Client Personal Data to be Processed;

21.6.4   the categories of Data Subject to whom the Client Personal Data relates.

22.   Ryland Personnel

22.1   Ryland shall take reasonable steps to ensure the reliability of any employee, agent, or contractor of any Contracted Processor who may have access to the Client Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know

and/or access the relevant Client Personal Data, as strictly necessary for the purposes of this Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

23. Security

23.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context, and purposes of Processing as well as risks of varying likelihood and severity for the rights and freedoms of natural persons, Ryland shall in relation to the Client Personal Data implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

23.2 In assessing the appropriate level of security, Ryland shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

23.3 Notwithstanding Clauses 23.1 and 23.2, the Client takes full responsibility for ensuring that any particular security and/or data protection measures required under Data Protection Laws (or in accordance with the Client's obligations as Controller) in relation to any Client Personal Data are communicated to Ryland and included in the Order.

24. Subprocessing

24.1 The Client authorises Ryland to appoint (and permit each Subprocessor appointed in accordance with this Clause 24 to appoint) Subprocessors in accordance with this Clause 24.

24.2 Ryland may continue to use those Subprocessors already engaged by Ryland as at the date of the Agreement, subject to Ryland in each case as soon as practicable meeting the obligations set out in Clause 24.4.

24.3 Ryland shall give the Client prior written notice of the appointment of any new Subprocessor including details of the nature of the Processing to be undertaken by the Subprocessor. If, within 30 days of receipt of that notice, the Client notifies Ryland in writing of any objections (on reasonable grounds) to the proposed appointment:

24.3.1 Ryland shall work with the Client in good faith to make available a commercially reasonable change in the provision of the Services which avoids the use of that proposed Subprocessor; and

24.3.2 where in Ryland's sole opinion such a change cannot reasonably be made, notwithstanding any other terms of the Agreement Ryland may by written notice to the Client with immediate effect terminate the Agreement or any other contract between Ryland and the Client to the extent that it relates to the Services which require the use of the proposed Subprocessor;

24.3.3 where an agreement is terminated under Clause 24.3.2:

24.3.3.1 the provisions of Clause 35.2 shall apply;

24.3.3.2 Ryland shall be paid in full for Work done up to the date of termination;

24.3.3.3 where the Client has paid in advance for Services which have not been performed, the Client shall be entitled to a partial refund of those Charges to the extent that they relate to wholly unperformed Services.

24.4 With respect to each Subprocessor, Ryland shall:

24.4.1 before the Subprocessor first Processes Client Personal Data (or, where relevant, in accordance with Clause 24.2), carry out adequate due diligence to

ensure that the Subprocessor is capable of providing the level of protection for Client Personal Data required by this Agreement;

24.4.2   ensure that the arrangement between on the one hand Ryland or the relevant intermediate Subprocessor and on the other hand the Subprocessor, is governed by a written contract including terms which offer at least the same level of protection for Client Personal Data as those set out in this Agreement and which meet the requirements of Article 28(3) of the GDPR;

24.4.3   if that arrangement involves a Restricted Transfer, ensure that the Standard Contractual Clauses are at all relevant times incorporated into the agreement between on the one hand Ryland or the relevant intermediate Subprocessor, and on the other hand the Subprocessor, or before the Subprocessor first Processes Client Personal Data procure that it enters into an agreement incorporating the Standard Contractual Clauses with the Client; and

24.4.4   provide to the Client for review such copies of the Contracted Processors' agreements with Subprocessors (which may be redacted to remove confidential commercial information not relevant to the requirements of Data Protection Laws) as the Client may request from time to time.

24.5   Ryland shall ensure that each Subprocessor performs the obligations under Clauses 21.1, 22, 23, 25.1, 26.2, 26.3, and 29.1 as they apply to Processing of Client Personal Data carried out by that Subprocessor, as if it were party to this Agreement in place of Ryland.

24.6   A general list of current Subprocessors used by Ryland can be found at http://www.ryltech.com/subprocessors. Updating this list and notifying the Client in writing of the update shall satisfy the notification requirements of Clause 24.3. Additional Subprocessors relevant to specific Projects may be notified to the Client separately.

25.   Data Subject Rights

25.1   Taking into account the nature of the Processing, Ryland shall assist the Client by implementing appropriate technical and organisational measures, insofar as is reasonable and possible, for the fulfilment of the Client's obligations, as reasonably understood by the Client, to respond to requests to exercise Data Subject rights under Data Protection Laws.

25.2   Ryland shall:

25.2.1   promptly notify the Client if any Contracted Processor receives a request from a Data Subject under any Data Protection Law in respect of Client Personal Data; and

25.2.2   ensure that the Contracted Processor does not respond to the request except on the documented instructions of the Client or as required by Applicable Laws, in which case Ryland shall to the extent permitted by Applicable Laws inform the Client of that legal requirement before the Contracted Processor responds to the request.

25.3   Any assistance or Work provided by Ryland to the Client under this Clause 25 shall be charged to the Client at the Applicable Rate unless agreed otherwise in writing by a director of Ryland.

26.   Personal Data Breach

26.1   Ryland shall notify the Client without undue delay upon Ryland or any Subprocessor becoming aware of a Personal Data Breach affecting Client Personal Data, providing the Client with sufficient information to allow the Client to meet any obligations to report or inform Data Subjects of the Personal Data breach under Data Protection Laws.

26.2   Ryland shall cooperate with the Client and take such reasonable commercial steps as are directed by the Client to assist in the investigation, mitigation and remediation of each such personal Data Breach.

26.3   Any assistance or Work provided by Ryland to the Client under this Clause 26 shall be charged to the Client at the Applicable Rate unless agreed otherwise in writing by a director of Ryland.

27.   Data Protection Impact Assessment and Prior Consultation

27.1   Ryland shall provide reasonable assistance to the Client with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which the Client reasonably considers to be required of the Client by Article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to the Processing of Client Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

27.2   Any assistance provided by Ryland to the Client under Clause 27.1 shall be charged to the Client at the Applicable Rate unless agreed otherwise in writing by a director of Ryland.

28.   Deletion or Return of Client Personal Data

28.1   Subject to Clauses 28.2 and 28.3 Ryland shall promptly and in any event within 90 days of the termination of the Agreement delete and procure the deletion or anonymisation of all copies of Client Personal Data provided to Ryland under the Agreement.

28.2   Subject to Clause 28.3 the Client may in its absolute discretion by written notice to Ryland within 7 days of the termination of the Agreement require Ryland to (a) return a complete copy of all the Client Personal Data to the Client by secure file transfer in a reasonable format; and (b) delete and procure deletion of all other copies of Client Personal Data Processed by any Contracted Processor. Ryland shall comply with any such written request within 90 days of the termination of the Agreement.

28.3   Each Contracted Processor may retain Client Personal Data to the extent required by Applicable Laws and only to the extent required and for such period as required by Applicable Laws and always provided that Ryland shall ensure the confidentiality of all such Client Personal Data and shall ensure that such Client Personal Data is only Processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage and for no other purpose.

28.4   If requested by the Client in writing, Ryland shall provide written confirmation to the Client that Ryland has fully complied with this Clause 28.

29.   Audit Rights

29.1   Subject to Clauses 29.2, Ryland shall make available to the Client on request all information necessary to demonstrate compliance with Data Protection Laws, and shall allow for and contribute to audits, including inspections, by the Client or an auditor mandated by the Client in relation to the Processing of the Client Personal Data by the Contracted Processors.

29.2   The Client undertaking an audit shall give Ryland reasonable notice of any audit or inspection to be conducted under Clause 29.1 and shall make (and ensure that each of its mandated auditors make) reasonable endeavours to avoid causing (or, if it cannot avoid, to minimise) any damage, injury or disruption to the Contracted Processors' premises, equipment, personnel and business while its personnel are on those premises in the course of such an audit or inspection. A Contracted Processor need not give access to its premises for the purposes of such an audit or inspection:

29.2.1   to any individual unless he or she produces reasonable evidence of identity and authority;

29.2.2   outside Business Hours, unless the audit or inspection needs to be conducted on an emergency basis and the Client undertaking an audit has given notice to Ryland that this is the case before attendance outside those hours begins; or

29.2.3   for the purposes of more than one audit or inspection, in respect of each Contracted Processor, in any calendar year, except for additional audits or inspections which:

29.2.3.1   the Client undertaking an audit reasonably considers necessary because of genuine concerns as to Ryland's compliance with Data Protection Laws; or

29.2.3.2   the Client is required or requested to carry out by Data Protection Laws, a Supervisory Authority, or any similar regulatory authority responsible for the enforcement of Data Protection Laws in any country or territory,

where the Client undertaking an audit has identified its concerns or the relevant requirement or request in its notice to Ryland of the audit or inspection.

29.3   Any time spent by Ryland in preparing for or facilitating an audit or inspection in accordance with this Clause 29 shall be charged to the Client at the Applicable Rate unless agreed otherwise in writing by a director of Ryland.

30.   Restricted Transfers

30.1   Subject to Clause 30.3, the Client (as Data Exporter) and each Contracted Processor, as appropriate, (as Data Importer) hereby enter into the Standard Contractual Clauses in respect of any Restricted Transfer from the Client to that Contracted Processor.

30.2   The Standard Contractual Clauses shall come into effect under Clause 30.1 on the later of:

30.2.1   the Data Exporter becoming a party to them;

30.2.2   the Data Importer becoming a party to them; and

30.2.3   commencement of the relevant Restricted Transfer.

30.3   Clause 30.1 shall not apply to a Restricted Transfer unless its effect, together with other reasonably practicable compliance steps, is to allow the relevant Restricted Transfer to take place without breach of applicable Data Protection Law.

31.   Confidentiality

31.1   Subject to clause 31.2 each Party must (unless otherwise required by law):

31.1.1   keep confidential all information obtained from the other Party (the "Disclosing Party") under or in relation to this Agreement ("Information");

31.1.2   not disclose any Information to any Third Party without the prior written consent of the Disclosing Party other than to such persons and to such extent as may be strictly necessary for the performance of this Agreement;

31.1.3   not use any Information otherwise than for the purposes of this Agreement;

31.1.4   delete, destroy or return to the Disclosing Party any Information (or copies thereof) upon the Disclosing Party's request.

31.2   The provisions of Clause 31.1 do not apply to information which:

31.2.1   is or becomes public knowledge (otherwise than by a breach of this Clause 31); or

31.2.2   was in the possession of the Party concerned without restriction as to its disclosure before it was received from the Disclosing Party.

31.3   The provisions of clause 31.1 do not apply to disclosures of Information:

31.3.1   for a proper purpose to any public authority, regulatory body or a court of law in legal proceedings or to either Party's senior management, auditors, bankers, lawyers or professional advisers; or

31.3.2   as required by Applicable Laws.

31.4   The provisions of this clause 31 shall continue to apply notwithstanding termination of the Agreement.

vii.   Payment Terms

32.   Charges

32.1   Any Work carried out by Ryland shall be charged at the Applicable Rate unless an alternative rate or cost is agreed in the Order (subject to Clause 32.2).

32.2   No rate below the Applicable Rate may be agreed other than in writing by a director of Ryland.

32.3   Subject to prior notification in writing, Ryland reserves the right to vary the Applicable Rate at any time.

32.4   In the case of a Quote, the Client will be charged the amount specified in the Quote for the Work carried out in accordance with it, regardless of the time actually taken to complete that Work.

32.5   In the case of an Estimate or other Time and Materials Work, the Client will be charged on a Time and Materials basis for the time taken and costs incurred in carrying out the Work, regardless of whether this is higher or lower than any estimated price.

32.6   Except where Work is being carried out pursuant to a Quote, any change in the Applicable Rate shall apply to the remainder of the Work carried out on any Project.

32.7   On-site visits will be charged at the Applicable Rate including travel time plus reasonable travel expenses, unless otherwise agreed in writing. Subject to prior written notification, Ryland reserves the right to vary this charge at any time.

33.   Payment Terms

33.1   Any Charges stated as payable by the Client are (unless expressly stated otherwise) exclusive of Value Added Tax at the then applicable rate which will be payable by the Client in addition to the Charges stated.

33.2   All invoices are due for payment within 30 days of receipt by the Client unless otherwise agreed in writing by a director of Ryland.

33.3   Payment must be made in sterling unless otherwise agreed in writing by a director of Ryland.

33.4   Without prejudice to Ryland's other rights or remedies (including the right to suspend the provision of Services), the Client will be liable to pay interest on any sum not paid by the due date at the rate of 2.5% per month or part thereof until the date on which payment is received.

33.5   All Charges must be paid to Ryland in full with no set-off or deduction.

33.6   Without prejudice to any other of its rights or remedies Ryland shall be entitled to remove all Client Materials from its systems if any amount due under the Agreement is not paid within 21 days of the relevant due date. In such circumstances Ryland shall not

be under any obligation to backup such data or return such data to the Client whether or not the amount due is later paid.

33.7   Payment may be made in the following ways only:

33.7.1   Cash: Sterling currency tendered in person. Cash should not be sent by post or carrier; any cash sent is at the risk of the Client until physically received by Ryland during Business Hours;

33.7.2   BACS: Payment may be made by bank transfer to the Ryland account specified on the relevant invoice, with the invoice number used as the transfer reference;

33.7.3   Other: No other method of payment is permitted except where agreed in writing by a director of Ryland.

viii.   General Provisions

34.   Insolvency

34.1   If the Client ceases to pay its debts in the ordinary course of business or cannot pay its debts as they become due or being a company is deemed unable to pay its debts or has a winding up petition issued against it or being a person commits an act of bankruptcy or has a bankruptcy petition issued against him, Ryland without prejudice to any other remedy shall:

34.1.1   be under no obligation to proceed further with any Work under any agreement with the Client;

34.1.2   be entitled to immediate payment for all Work already carried out (whether completed or not) and materials purchased for the Client;

35.   Termination

35.1   Either party may terminate this Agreement at any time upon giving 30 days' written notice.

35.2   However, notwithstanding any termination of this Agreement under Clause 35.1 or otherwise:

35.2.1   the terms of this Agreement shall continue to apply to any Work carried out under or in relation to any contract entered into prior to the expiry of the 30 days' notice; and

35.2.2   the terms of this Agreement relating to Confidentiality (Clause 31) and Non-Solicitation (Clause 40) shall continue to apply.

36.   Indemnification and Limitation of Liability

36.1   To the fullest extent permitted by law and except as provided elsewhere in the Agreement the Services are provided by Ryland to the Client on an "as is" and "as available" basis and no warranty or representation (express or implied) of any kind is given in connection with the Agreement including as to quality and fitness for a particular purpose. In particular, other than as expressly stated in the Order or the Service Level Guarantee, Ryland gives no warranty or representation that:

36.1.1   the Services will meet the Client's requirements; or

36.1.2   the Services will be provided on an uninterrupted, timely, secure or error-free basis.

36.2 Ryland's liability in the event of any breach of contract or tortious act shall be limited to the Charges paid by the Client under the Agreement for the Services in question.

36.3 To the maximum extent permitted by law Ryland hereby excludes all liability for claims, expenses, losses, damages, and costs made against or incurred or suffered by the Client which are:

36.3.1 economic or financial in nature (including loss of profit, loss of business, loss of contract, and depletion of goodwill); or

36.3.2 indirect or consequential,

or which arise in any way from:

36.3.3 a breach of the Agreement by the Client;

36.3.4 any unreasonable action by the Client;

36.3.5 any inability of the Client to access the Services which is not due to an error within systems under Ryland's control;

36.3.6 any use or misuse of the Services by any Third Party who obtains access to the Services through the Client or using information at some time in the possession of the Client with or without the Client's knowledge or consent;

36.3.7 termination of the Agreement by either party for any reason; or

36.3.8 any breach of Data Protection Laws in relation to Client Personal Data where:

36.3.8.1 the breach relates to a failure to meet requirements under Data Protection Laws where those requirements were not contained in the Order or were not communicated by the Client to Ryland;

36.3.8.2 the breach resulted from actions or inactions, or measures taken or not taken, by Ryland which were agreed to or requested by the Client; or

36.3.8.3 the breach resulted from events beyond the reasonable control of Ryland.

36.4 The Client will indemnify and keep Ryland indemnified from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, losses, damages, claims, demands, legal costs (on a full indemnity basis) and judgments which Ryland incurs or suffers as a consequence of infringement of any Intellectual Property Right of any Third Party arising directly or indirectly from:

36.4.1 any breach of the Agreement by the Client;

36.4.2 the Client's use or misuse of the Services;

36.4.3 the use or misuse of any Services by any Third Party who obtains access to such Services through the Client, with or without the Client's knowledge or consent;

36.4.4 the use by Ryland in the course of the provision of Services of any Client Materials;

36.4.5 the Client's failure to procure all necessary rights from Third Parties which are from time to time required in order for Ryland lawfully to provide the Services; or

36.4.6 any breach of Data Protection Laws in relation to Client Personal Data where:

36.4.6.1 the breach relates to a failure to meet requirements under Data Protection Laws where those requirements were not contained in the Order or were not communicated by the Client to Ryland;

36.4.6.2 the breach resulted from actions or inactions, or measures taken or not taken, by Ryland which were agreed to or requested by the Client; or

36.4.6.3 the breach resulted from events beyond the reasonable control of Ryland.

37. Illegality

37.1 Ryland shall be under no obligation to print, reproduce, or publish (or to facilitate any of the above) any material which in their reasonable opinion:

37.1.1 is or may be illegal, defamatory, or tortious;

37.1.2 would or may infringe the proprietary rights of Ryland or any third party.

38. Entire Agreement

38.1 The Agreement contains the entire agreement between the parties and supersedes all prior or contemporaneous understandings and agreements relating to the subject matter of the Agreement whether oral or in writing. Neither party was induced by any representation to enter into this Agreement. There are no provisions, representations, undertakings, agreements or collateral agreements other than as set out in this document and in the Order.

38.2 No addition, deletion or modification to this document may be made other than in writing signed and dated by the Client and a director of Ryland.

39. Choice of Law

39.1 The Agreement was concluded in England.

39.2 The Agreement is governed exclusively by English law.

39.3 Any disputes whatsoever relating to or arising under the Agreement shall be decided according to English law.

39.4 The Agreement and any matter arising in relation to the Agreement shall be subject to the exclusive jurisdiction of the English courts.

40. Non-solicitation

40.1 For the purposes of this Clause 40:

40.1.1 "Former Employee" means any former employee of the relevant Party whose employment with that Party terminated in the preceding 12 months;

40.1.2 "any Contract" means any contract whatsoever, regardless of whether it incorporates these Terms and Conditions.

40.2 During, and for a period of 12 months following termination of, any Contract between Ryland and the Client:

40.2.1 neither Party shall seek to entice away from the other's employment any employee of that other Party;

40.2.2 neither Party shall offer employment to, or agree to employ, any employee of the other party;

40.2.3 neither Party shall seek to entice away any Third Party client of the other Party.

40.3 During, and for a period of 12 months following termination of, any Contract between Ryland and the Client, neither Party shall offer employment to, or agree to employ, any Former Employee of the other Party.

40.4 Either Party shall be entitled to seek an injunction to prevent any breach of this Clause 40.

40.5 In the event of breach of this Clause 40, the Party in breach shall be liable for all resulting losses of the other Party, including:

40.5.1 lost business;

40.5.2 costs of finding a replacement employee, including:

40.5.2.1 all recruitment agency fees;

40.5.2.2 time spent by the relevant Party in finding a replacement (at the Applicable Rate);

40.5.3 costs of training a replacement employee, including:

40.5.3.1 time spent by the relevant Party training the replacement employee (at the Applicable Rate);

40.5.3.2 external training course fees;

40.5.3.3 losses resulting from the decreased productivity of the replacement employee.

40.6 The measure of damages in the event of breach of this clause in relation to an employee or Former Employee (being a reasonable estimate of the loss stated in clause 40.5 above) shall be fifty per cent (50%) of the leaving salary (annual) of the employee or £15,000, whichever is greater.

40.7 The provisions of this clause 40 shall continue to apply notwithstanding termination of the Agreement.

41. Waiver

41.1 The failure by Ryland or the Client to enforce at any time any one or more of these Terms and Conditions shall not amount to a waiver of any such term or condition and shall not prevent Ryland or the Client from enforcing such terms or conditions at any future time.

42. Severance

42.1 Should any provision of the Agreement or part thereof be or become inconsistent with or invalid or unenforceable under any Applicable Laws such provision shall be construed as limited to the minimum extent necessary in order to be consistent with and fully enforceable under the relevant law. Such inconsistency, invalidity, unenforceability or limitation shall not affect in any way the validity or effect of the remainder of that provision or of any other provision of the Agreement.

43. Third Parties

43.1 No person or entity who is not a party to this Agreement shall have any rights in relation to this Agreement as a result of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

44. Notice

44.1 The 'postal rule' is declared not to apply to any notices given under this Agreement.

44.2 Any notice under the Agreement shall be effective and deemed to be delivered:

44.2.1 if and only if it is delivered to the address given in the Order for the relevant party (subject to Clause 44.3);

44.2.2 at the time of actual delivery if during Business Hours or if otherwise then at the commencement of Business Hours on the following Business Day.

44.3 Should either party notify the other party in writing of a change of address, then Clause 44.2.1 shall refer to that new address instead of the address specified in the Order.

45.   Assignment

45.1   Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other Party.

46.   Force Majeure

46.1   Force Majeure is defined as circumstances beyond the reasonable control of either party including acts of God, acts of governmental or supra-national authority, war or national emergency, riots, civil disorder, fire, external network or system failures or faults, explosion, flood, epidemic, strikes and other industrial disputes, restraints or delays affecting shipping or carriers, inability or delay in obtaining supplies of adequate or suitable material and currency restrictions.

46.2   Neither party is under any liability to the other party in respect of anything which, apart from this provision, may constitute a breach of this Agreement and which arises by reason of Force Majeure.

47.   Conclusion

47.1   By agreeing to or signing an Order or otherwise ordering Services from Ryland the Client agrees to these Terms and Conditions in their entirety and without modification.