



## Client EULA 2018

### PLEASE READ CAREFULLY BEFORE AGREEING TO THE TERMS AND CONDITIONS

This is a legal Agreement, as amended from time to time, between you ("the Client") and CHAS 2013 Limited, whose company number is 08466203 and whose registered office address is Civic Centre, London Road, Merton, SM4 5DX ("CHAS").

(The Parties)

#### IMPORTANT NOTICE:

- BY CLICKING ON THE "ACCEPT" BUTTON YOU AGREE TO THE TERMS OF THE AGREEMENT WHICH WILL BIND YOU.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, WE WILL NOT PROCESS YOUR APPLICATION. BY CLICKING ON THE "CANCEL" BUTTON YOUR APPLICATION WILL BE CANCELLED AND YOU WILL NOT BE ABLE TO OBTAIN INFORMATION HELD BY CHAS ABOUT CONTRACTORS.

## BACKGROUND

- a) CHAS has established an assessment scheme subscription service (“the Services”).
- b) Contractors apply to CHAS to become Accredited Contractors and, subject to paying the Subscription Fee and passing the CHAS Assessment, are listed as Accredited Contractors.
- c) The Client wishes to subscribe and use the Services.

## AGREED TERMS

### 1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

**Accredited Contractor:** means a company and/or organisation which has been accredited by CHAS following a CHAS Assessment.

**Authorised Users:** means employees and agents of the Client who are authorised by the Client to use the Services and whose name(s) are notified to CHAS

**CHAS Assessment:** means where CHAS assesses the contractor’s standards and their level of competence and determines whether or not the contractor should be accredited within CHAS’s Services scheme.

**Client Criteria:** means that CHAS will assess the Client’s application before the Client is permitted to access and use the Services.

**Contractor:** means, but is not limited to, companies, organisations, vendors and suppliers who provide services, goods and works.

**Data Protection Legislation:** means the Data Protection Act 1998, as amended, replaced or superseded from time to time, including by the Data Protection Act 2018 (subject to Royal Assent) and the EU General Data Protection Regulation 2016/679.

**Intellectual Property Rights:** means all inventions (whether patentable or not), design rights, database rights, copyright, moral rights, semiconductor topography rights, unregistered trade and service marks, logos, get-up and trade names and, in each case, the goodwill attaching to them, all registered intellectual property rights, know-how, and any rights or forms of protection of a similar nature and having equivalent or similar effect to any of them which subsist anywhere in the world.

**Services Database:** means the services assessment scheme database of Contractors who have been accredited by CHAS.

**Supplier Engagement Process:** means the Client working with CHAS to market the Services to

the Client's existing suppliers, who are not Accredited Contractors.

- 1.2 References to clauses are references to clauses of this Agreement unless stated otherwise.
- 1.3 "you", "yours" refers to you the Client
- 1.4 "we", "us", "our" refers to CHAS
- 1.5 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 Reference to an enactment or statutory provision shall include a reference to any subordinate legislation made under the relevant enactment or statutory provision and is a reference to that enactment, statutory provision or subordinate legislation as from time to time amended, consolidated, modified, re-enacted or replaced.

## **2. SUBSCRIPTION SERVICES**

- 2.1 Subject to the Client Criteria, CHAS shall permit the Client to subscribe, use and gain access to the Services Database.
- 2.2 CHAS reserves the right to reject the Client's application to access the Services in the event that the Client does not meet the Client Criteria.
- 2.3 Subject to acceptance of the Client's application CHAS shall provide the Client with a password(s) to gain access to the Services Database. The password(s) may be changed on a periodic basis by CHAS.
- 2.4 The Client and any and all Authorised Users shall keep the password(s) secure and confidential at all times and shall not disclose the same to any unauthorised user or third party.
- 2.5 The Client shall:
  - 2.5.1 use all reasonable endeavours to prevent any unauthorised access to or use of the Services. In the event of any such unauthorised access or use the Client shall promptly notify CHAS;
  - 2.5.2 be responsible for the management of who is able to access and how access is gained to the Services Database system; and
  - 2.5.3 notify CHAS of all Authorised Users prior to or within fourteen (14) days of authorisation being

given by the Client.

**2.6** The Client shall not:

- 2.6.1** use the Services in any unlawful manner, for any unlawful purpose, or in any manner that is inconsistent with this Agreement;
- 2.6.2** act fraudulently or maliciously in using the Services or in dealing with CHAS;
- 2.6.3** infringe our Intellectual Property Rights or those of any third party in relation to your use of the Services;
- 2.6.4** permit third parties, except the Authorised Users, to use and access the Services;
- 2.6.5** subject to clause 12.2, licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users;
- 2.6.6** use the Services to provide services to third parties;
- 2.6.7** attempt to obtain or assist third parties in obtaining access to the Services, other than as provided under this clause 2.

**2.7** The rights provided under this clause 2 are granted to the Client only, and shall not be considered as granted to any subsidiary or holding company of the Client.

### **3. CLIENTS'S OBLIGATIONS**

**3.1** The Client warrants that the information which it has provided and shall provide to CHAS in relation to this Agreement is true, accurate and not misleading in any way.

**3.2** The Client shall:

- 3.2.1** fully co-operate and provide necessary access to information required by CHAS in order to provide the Services;
- 3.2.2** comply with all applicable laws and regulations with respect to its activities under this Agreement;
- 3.2.3** ensure that the Authorised Users use the Services in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
- 3.2.4** ensure that no viruses are introduced in to the Services Database and that if a virus is found, promptly, upon its discovery, notify CHAS and take all reasonable steps to eliminate and/or

ameliorate its effect; and

- 3.2.5 comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; and
- 3.2.6 provide relevant information and reasonable assistance to CHAS in respect of the Supplier Engagement Process.

## **4. CHARGES AND PAYMENT**

- 4.1 In consideration of the provision of the Services to the Client, the Client shall pay CHAS £1.00.
- 4.2 Payment will be due on the date of this Agreement.
- 4.3 For the avoidance of doubt the Client is not required to pay a renewal fee on renewal of this Agreement in order to continue to access and use the Services.

## **5. DURATION**

- 5.1 This Agreement shall commence on the date of this Agreement and shall expire 3 years thereafter, unless terminated in accordance with clause 11, or renewed in accordance with clause 5.2.
- 5.2 Following expiry in accordance with clause 5.1 this Agreement shall be automatically renewed for a further 12 month period, subject to clause 11.

## **6. PROVISION OF SERVICES**

- 6.1 CHAS undertakes that the Services will be performed with reasonable skill and care.
- 6.2 CHAS warrants that it has and will maintain all licences, consents and permissions necessary for the performance of its obligations under this Agreement.

## **7. DATA PROTECTION**

- 7.1 The Client and its personnel shall comply with any notification requirements under the Data Protection Legislation.
- 7.2 The Client confirms that any personal data disclosed by the Client to CHAS as part of the Services (including when it uploads personal data to the Services Database) is disclosed in accordance with the laws and regulations applicable to the Client including, Data Protection Legislation.
- 7.3 The Client shall promptly, and without undue delay, notify CHAS in the event of an actual or suspected breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise

processed by the Client in connection with the use of Services (a "personal data breach").

- 7.4 The Client shall provide CHAS with sufficient information to meet any obligations to report or inform data subjects of the personal data breach under the Data Protection Legislation. Such notification shall as a minimum:
- 7.4.1 describe the nature of the personal data breach, the categories and numbers of data subjects concerned, and the categories and numbers of personal data records concerned;
  - 7.4.2 describe the likely consequences of the personal data breach; and
  - 7.4.3 describe the measures taken or proposed to be taken to address the personal data breach.
- 7.5 The assessor shall co-operate with CHAS and take such steps as are directed by CHAS to assist in the investigation, mitigation and remediation of each such personal data breach.
- 7.6 Both Parties shall duly observe all their obligations under the Data Protection Legislation, which arise in connection with this Agreement.
- 7.7 The Parties shall comply with any relevant European regulations on protection of personal data in force from time to time.
- 7.8 For the purposes of this Agreement, the terms, "data subject", "personal data", and "processing" shall have the same meaning as in the Data Protection Legislation.

## 8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 Save as expressly set out in this Agreement, the Client shall not acquire, and the Client acknowledges and agrees that this Agreement does not grant to the Client any right, title or interest in or to the Intellectual Property Rights or any other rights or licences in respect of the Services or the Services Database.

## 9. INDEMNITY

- 9.1 The Client shall indemnify and keep CHAS indemnified against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this Agreement, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its employees, agents, or of any of its representatives or sub-contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Agreement or applicable law by CHAS or its representative(s) (excluding any Client's personnel).

## 10. LIMITATION OF LIABILITY

- 10.1 Neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the Agreement whatsoever and howsoever arising whether in contract, tort, (including negligence) breach of statutory duty or otherwise, nor for any loss

of (or damage to) profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.

- 10.2 The Client shall not be entitled to make a claim, recover damages, or obtain payment, reimbursement, restitution or indemnity against CHAS in respect of any claims or actions arising from the Client's decision to either engage or appoint an Accredited Contractor.
- 10.3 For the avoidance of doubt CHAS will not accept any responsibility for the decision of the Client to either engage or appoint an Accredited Contractor.
- 10.4 Save to the extent that CHAS's liability cannot be excluded or limited by law, subject to the exclusions contained in this clause 10, the maximum liability of CHAS, its employees, agents or contractors in connection with the Services shall not exceed the charges payable by the Client to CHAS for the Services in the year in which any claim for such direct losses was brought against CHAS.
- 10.5 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the other party is entitled to bring a claim against it pursuant to this Agreement.
- 10.6 Notwithstanding any other provision of this Agreement neither party limits or excludes its liability for:
  - 10.6.1 fraud or fraudulent misrepresentation;
  - 10.6.2 death or personal injury caused by its negligence;
  - 10.6.3 breach of any obligation as to title implied by statute; or
  - 10.6.4 any other liability to the extent which it cannot be lawfully excluded.

## 11 TERMINATION

- 11.5 CHAS may terminate this Agreement immediately by written notice to you, including termination of your access to the Services Database:
  - 11.1.1 if you commit a material or persistent breach of this Agreement which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so; or
  - 11.1.2 if you fail to meet the Client Criteria; or
  - 11.1.3 if you breach clause 3.2.5.
- 11.6 Without affecting any other right or remedy available to it, CHAS may terminate this Agreement on giving not less than seven (7) working days' written notice.
- 11.7 The Client may terminate this Agreement upon twelve (12) calendar months advance notice in writing to CHAS and with CHAS's prior written consent.
- 11.8 On termination of this Agreement for any reason:
  - 11.8.1 all rights granted to you under this Agreement shall cease; and
  - 11.8.2 you must immediately cease all activities authorised by this Agreement, including your

use of the Services and use of the Services by any Authorised User(s).

## 12 OTHER TERMS

- 12.1 CHAS may transfer their rights and obligations under this Agreement to another organisation. A transfer in accordance with this provision shall not affect the Client's rights or obligations under this Agreement.
- 12.2 The Client may transfer their rights or obligations under this Agreement to another person with the prior written consent of CHAS, which shall not be unreasonably withheld.
- 12.3 If CHAS fails to require the Client to perform any of their obligations under this Agreement; or CHAS does not enforce their rights against the Client; or delays in doing so, that will not mean that CHAS has waived their rights against the Client and will not mean that the Client does not have to comply with their obligations. If CHAS does waive a default by the Client, CHAS will only do so in writing, and that will not mean that CHAS will automatically waive any later default by the Client.
- 12.4 This Agreement, and any documents referred to in it, constitute the whole agreement between the Parties and supersede any previous agreement, understanding or agreement between them relating to the subject matter they cover.
- 12.5 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 12.6 Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 12.7 Each of the conditions of this Agreement operates separately. If any court or competent authority decides that any of them is/are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 12.8 This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 12.9 This Agreement, its subject matter and its formation, are governed by English law. You and we both agree that the courts of England and Wales will have exclusive jurisdiction.

This agreement has been entered into on the date of Application