

IMPORTANT NOTICE: PLEASE READ THESE TERMS CAREFULLY AS THEY GOVERN YOUR USE OF OUR SOFTWARE (YOUR "SUBSCRIPTION") AND LIMIT OUR LIABILITY TO YOU.

Foundation is an internet based web service provided by CHS Engineering Services Limited ("CHS") that provides access to a CHS server, database and associated file storage as well as any associated components or software that CHS may make available from time to time (the "Software"). WHEN CHS ACCEPTS YOUR ORDER A CONTRACT IS FORMED AND YOU ARE AGREEING TO THE TERMS THAT APPEAR BELOW. By using the Software in the course of your business, you are agreeing to these terms on behalf of that business and references to "you" and "your" include your business. If you have any questions please email us at notifications@chsservices.com.

GENERAL TERMS

1 Provision of Software

- 1.1 The Software is provided by CHS Engineering Services Limited, whose registered office is at Kensal House, 77 Springfield Road, Chelmsford CM2 6JG, UK. You will receive access to the Software following payment for your Subscription.
- 1.2 You acknowledge that you have provided CHS with accurate and complete registration information and that it is your responsibility to update CHS with any changes to that information (including an appropriate email address) by emailing notifications@chsservices.com.
- 1.3 Each Subscription is for a single organisation only as included in your registration information. On registration, you will be allocated user names and passwords ("ID"). You may choose to authorise up to five concurrent logons to the Software at any one time (together "Users") to use the Software whilst carrying out the business of your organisation on the terms of this licence. Each User will be allocated a unique user name and password. You are responsible for all use of the Software by all such Users and anyone else using your ID or the ID of a User and for preventing unauthorised use of your ID or the ID of a User. You must ensure that your Users comply with these terms.
- 1.4 If you believe there has been any breach of security such as the disclosure, theft or unauthorised use of your ID or the ID of a User, you must notify CHS immediately by emailing notifications@chsservices.com. If CHS reasonably believes that your ID or the ID of a User is being used in any way which is not permitted by these terms, CHS reserves the right to suspend access rights immediately on giving notice to you and to block access from that ID until the issue has been resolved.
- 1.5 CHS is continually seeking to improve the Software. CHS reserves the right, at its discretion, to make changes to any part of the Software provided that it does not materially reduce functionality. It is CHS's aim to make the Software available on a continuous basis, however CHS may temporarily suspend the availability of the Software or part of it, to the extent necessary to carry out maintenance, technical repair, upgrades, enhancement or emergency work. CHS will try to minimise the impact of any suspension of the Software.
- 1.6 Following CHS's acceptance of your order, CHS will make the Software available to you and, except as set out in these terms, you will have no right to cancel the contract before the end of your Subscription once we have done so.

2 Grant of Licence

- 2.1 The Software and any CHS software that is available for download to enable you to obtain access to the Software is protected by copyright laws and international copyright treaties, database protection laws, as well as other intellectual property laws and treaties. CHS software is licensed, not sold. Your licence grants you the non-exclusive rights to access the Software and any client software application that works in conjunction with the Software that may be supplied by CHS from time to time (the "Client Software") to use the Client Software on computers that connect to the Software via the Internet for the number of Users authorised under this licence.
- 2.2 Unless prior written permission is provided by CHS you may not use the Client Software in conjunction with access to the Software otherwise than pursuant to these terms. Any attempt to defeat or circumvent these enforced restrictions is a breach of these terms.
- 2.3 You must maintain all copyright notices on all copies of Client Software. Any alteration, change or removal of any identification from Client Software, including but not limited to copyright, trademark or other notices or proprietary legends is forbidden. You may not rent, lease or lend Client Software.
- 2.4 You may not reverse engineer, decompile or disassemble Client Software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.
- 2.5 Unauthorised copying of Client Software, including any part of Client Software that has been modified, merged, or included with other software, or of written materials, is expressly forbidden.
- 2.6 You acknowledge that "Foundations CHS", "CHS Foundations" and the logo incorporating "CHS" are trade marks and that you may not use them without written permission.
- 2.7 In consideration of CHS's granting a licence to use the Software, you grant to CHS a worldwide, transferable, non-exclusive, royalty free right and licence to use any data that you input into the Software (to the extent, if any, that you may have any proprietary rights or database rights in such data) such licence including (but not being limited to) the rights for CHS to reproduce, prepare derivative works from, or otherwise use the data in connection with the Software, provided that CHS undertakes to keep the source of any such data confidential as between you and CHS.

3 Fees

- 3.1 The fees for your Subscription are as notified to you by CHS. CHS shall be under no obligation to provide access to the Software until the fees have been paid.
- 3.2 Unless otherwise agreed by CHS, payment of the Subscription fees shall be made without deduction, counterclaim or set-off. Prompt payment is essential. CHS shall be under no obligation to provide access to the Software for any period during which payment is delayed.

4 Documentation

- 4.1 You are required to possess certain documentation approved by CHS in order to access the Software. It is a condition of your Subscription that, unless expressly

stated otherwise by CHS, only documentation approved by CHS may be used with the Software. CHS documentation is licensed, not sold. Your licence grants you the non-exclusive right to use the documentation for the purposes of using the Software.

- 4.2 You must maintain all copyright notices on all copies of documentation. Any alteration, change or removal of any identification from documentation, including but not limited to copyright, trademark or other notices or proprietary legends is forbidden. You may not rent, lease or lend CHS documentation.

5 Limited Warranties

- 5.1 CHS warrants that:
 - 5.1.1 it will use all reasonable skill and care in making the Software available to you and in ensuring its availability;
 - 5.1.2 it has the right to license the Client Software;
 - 5.1.3 it will take reasonable steps to ensure that the Client Software is virus free.
- 5.2 Because of the nature of the Internet, software and databases, errors and omissions do occur and CHS does not give any other warranties in respect of the Software. In particular, CHS makes no warranty that the Software is free from infection by viruses or anything else that has contaminating or destructive properties and CHS makes no warranty that changes to settings or User details will be error free. **All implied warranties and conditions are excluded from these terms to the extent that they may be excluded as a matter of law.**

6 Limitation of Liability

- 6.1 CHS will use its reasonable endeavours to remedy faults in the Software during the Subscription. If we are in breach of these terms, you agree that your only recovery for damages that you incur, and your exclusive remedy, shall be limited to an amount equivalent to the Subscription fee paid in relation to your use for the relevant period of your use of the Software during which we are in breach.
- 6.2 CHS will not be liable for any business losses such as lost data, lost profits or business interruption arising from your (or your Users') use or inability to use the Software or from any action taken (or refrained from being taken) as a result of using the Software.
- 6.3 Notwithstanding the above provisions of this clause 6, CHS's liability will not be limited in the case of fraud or for death or personal injury caused by CHS's negligence.

7 Privacy Policy

- 7.1 The information that you provide to CHS will only be used by CHS in accordance with its Privacy policy. Please read the Privacy policy carefully and if you have any questions please email notifications@chsservices.com.
- 7.2 CHS confirms that to the extent that it processes Personal Data supplied by you in the course of supplying the Software, it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

- 7.3 In this clause 7, "Personal Data" shall have the meaning given in the Data Protection Act 1998.

8 Notices

- 8.1 All notices shall be given to CHS via email at notifications@chsservices.com or by post at the address in clause 1.1 above or to you at either the email or postal address you provide during the registration process.
- 8.2 Notice will be deemed received when an email is received (or else on the next business day if it is received on a weekend or a public holiday in the place of receipt) or 3 days after the date of posting.

9 Support

- 9.1 The Software includes the customer support advertised by CHS from time to time. This will include administrative support, such as addition/removal of Users and changes to User settings.
- 9.2 CHS will use its reasonable endeavours to make support and training available but, to the extent that the Software depends on the availability of the Internet, CHS cannot warrant the availability of it. The provision of timely customer support is dependent upon your providing detailed and timely fault information and CHS will not be liable for any problems with the Software caused by any delay in reporting on your part.

10 Term and Termination

- 10.1 Your Subscription period is as notified to you by CHS. These terms, and your access to the Software, will terminate automatically at the end of that period, unless:
- (a) you have given advance notice to CHS that you wish to renew the Subscription;
 - (b) CHS has notified you of your new Subscription period and the relevant renewal fee; and
 - (c) you have paid the fees for the renewal of your Subscription,
- in which case these terms, and your access to the Software, will continue for the new Subscription period (and for any subsequent further periods of renewal in accordance with this clause 10.1).
- 10.2 These terms and your access to the Software may be terminated by written notice if you are in material breach of these terms and the breach is not remedied within the period of 14 days after written notice of the breach has been given to you. If we reasonably believe you are in breach of clause 2 we may suspend your access to the Software at any time.
- 10.3 You may terminate your Subscription and receive a pro-rata refund if access to the Software is discontinued or if we are in material breach of these terms and the breach is not remedied within the period of 30 days after written notice of the breach has been given to us.

11 General

- 11.1 We may make changes to these terms from time to time. We will give you 30 days notice of the revised terms. Your use of the Software after the end of the notice period will be deemed acceptance that the revised terms apply to your Subscription. If the changes may reasonably be considered to be materially detrimental to your position as a user of the Software, you may end your Subscription by giving CHS 7 days notice within 21 days of receipt of the notice of the revised terms.
- 11.2 We may transfer and/or assign our rights and/or our obligations under these terms. This will not affect your rights under your Subscription. You may not transfer any of your rights or obligations under your Subscription.
- 11.3 Nothing in these terms shall confer rights on any other person.
- 11.4 If you breach these terms and we ignore this, we will still be entitled to use our rights and remedies at a later date or in any other situation where you breach these terms.
- 11.5 If any of these terms is held to be illegal or otherwise unenforceable, such term may be severed from these terms and the remaining terms shall continue to have their full effect.
- 11.6 These terms, together with the Privacy policy, the details of the fee, Subscription period and support package supplied to you by CHS from time to time, and any additional terms on the Software, represent the entire terms agreed between the parties in relation to its subject matter and may be amended only by our agreement in writing. Nothing in this clause excludes liability for fraudulent misrepresentation.
- 11.7 These terms and your Subscription shall be governed by English law.
- 11.8 We will try to solve any disagreements quickly and efficiently. If you want to take court proceedings in relation to your Subscription you must do so in England or Wales.