

## TERMS AND CONDITIONS FOR USE OF OUCH!

These terms and conditions apply to Student's use of the OUCH! module.

Accessing the module and acceptance of these terms and conditions shall give rise to a contract between Student and the Licensor on the basis of these terms and conditions (the "**Contract**"). These terms and conditions shall apply to the exclusion of any other terms and conditions.

### 1. Definitions

Term	Definition
<b>OUCH!</b>	means the interviews recorded by individuals to assist A Level students prepare for university applications for medicine, dentistry, veterinary medicine and other healthcare professions
<b>Intellectual Property Rights</b>	means all copyright, patent rights, trade or service marks, design right, rights in or relating to databases, rights in or relating to confidential information, and any other intellectual property rights (registered or unregistered) throughout the world including all rights of reversion and rights to any applications and pending registrations and the right to sue for and recover damages for past infringements
<b>Licensor</b>	Dr. Claire O'Donnell
<b>Registration Period</b>	means the period of A Level study in the Lower and Upper Sixth
<b>Online Registration Process</b>	means the online access by the Student through the School/College Portal or Intranet to enable the Student to use OUCH!
<b>Party</b>	means either Licensor or the Student (and " <b>Parties</b> " will be construed accordingly).
<b>Registration Date</b>	is the date on which the Student first accesses OUCH!
<b>Student</b>	means the A Level student who registers to use OUCH!
<b>Student Data</b>	means information relating to Student that is entered by Student accessing OUCH!

### 2. Commencement and term

Usage of OUCH! shall commence on the Registration Date and shall continue for the Registration Period.

### 3. Provision of Services

Following acceptance of these terms and conditions and completion of the Online Registration Process, OUCH! will be made available to the Student.

#### **4. Student Obligations**

The Student agrees to:

- (a) not knowingly interfere with the proper functionality or content of OUCH!
- (b) not to use any part of OUCH! to knowingly load, post or distribute any information that:
  - (i) infringes the Intellectual Property Rights of any other person or entity; or
  - (ii) is harmful, inaccurate, misleading, fraudulent, defamatory, obscene, offensive or otherwise illegal;
- (c) use their reasonable endeavours to ensure that computer software viruses that may damage hardware, software or communication systems, are not knowingly created or introduced when using OUCH!

#### **5. Exclusions and Limitations**

5.1 Neither party's liability:

- (a) for death or personal injury caused by its negligence or the negligence of its employees or agents;
- (b) under any express indemnities in this Contract; or
- (c) for fraudulent misrepresentation,

is excluded or limited by this Contract, even if any other term of this Contract would otherwise suggest that this might be the case.

5.2 Other than as set out in Section 5.1, neither party shall be liable (whether for breach of contract, negligence, misrepresentation or for any other reason) for:

- (a) any loss of profits, loss of sales or revenue or loss of use of hardware, software or data; or
- (b) any indirect, consequential or special loss.

5.3 Subject to sections 5.1 and 5.2, the maximum liability of the Licensor under this Contract (and whether the liability arises because of breach of contract, negligence, misrepresentation or for any other reason) shall be limited to £1.00.

#### **6. Intellectual Property Rights**

The Intellectual Property Rights in OUCH! and any underlying software or data shall remain vested in and be the property of Licensor. Students shall not to copy, decompile, reverse assemble or otherwise replicate OUCH! or publish any interviews or extracts of interviews contained in OUCH!

#### **7. Confidentiality and Data Protection**

7.1 The Student shall not disclose the confidential information of the Licensor to any third party.

7.2 The obligations as to confidentiality in this Contract will not apply to any information which:

- (a) is available to the public other than because of any breach of this Contract;
- (b) is, when it is supplied, already known to whomever it is disclosed to in circumstances in which they are not prevented from disclosing it to others;
- (c) is independently obtained by whomever it is disclosed to in circumstances in which they are not prevented from disclosing it to others; or
- (d) is required to be disclosed by law or by any court or tribunal with proper authority to order its disclosure.

7.3 It is not intended that any personal data will be captured by OUCH! however some anonymised data may be indirectly captured. This will only be used to monitor site usage. in accordance with the requirements of the Data Protection Act 2018.

## **8. Termination**

- 8.1 Without affecting any other right or remedy available to it, and in addition to Licensor ' rights under section , the Licensor may terminate the Contract with immediate effect by giving written notice to the Student if the Student materially breaches any term of the Contract and it is not possible to remedy that breach or the Student materially breaches any term of the Contract and it is possible to remedy that breach, but the Student fails to do so within 30 days of being asked to do so; or
- 8.2 In the event of any breach of Contract by the Student, then in circumstances in which Licensor is entitled to terminate the Contract, the Licensor may instead suspend performance of the services. In that event, unless expressly stated otherwise in writing by Licensor, Licensor ' right to terminate the Contract will be reserved and may be exercised by Licensor at a later date if Licensor so wishes.

## **9. General**

- 9.1 Neither party may assign any of their rights or obligations under the Contract without the prior consent of the other party, except that Student agrees that Licensor may without the prior consent of Student assign their rights under the Contract to any third party.
- 9.2 Neither party will be liable to the other for any breach of the Contract which arises because of any circumstances which that party cannot reasonably be expected to control.
- 9.3 If any section of these terms and conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If this is not possible, it shall be deemed deleted. Any such modification or deletion shall not affect the validity or enforceability of the rest of the Contract.
- 9.4 These terms and conditions shall continue in effect until amended by Licensor by written notice.
- 9.5 These terms and conditions may be provided with translations into other languages, and if a contradiction should occur between such translations, then the terms of the English version will take precedence.
- 9.6 No term of this Contract is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Contract.

## **10. Law and Jurisdiction**

The Contract is governed by English law. Both parties submit to the exclusive jurisdiction of

the English courts in relation to any dispute concerning this Contract.