CARE CHECK DATA PROCESSING AGREEMENT

This DATA PROCESSING AGREEMENT ("**DPA**") is incorporated into and made part of the Terms and Conditions ("**Terms**") between you ("**Client**") and **Care Check LTD** ("**Care Check**"). Each of Care Check and Client a "**Party**" and together, the "**Parties**". This DPA prevails over any conflicting term of the Terms, but does not otherwise modify the Terms.

RECITALS

(A)   Care Check provides online vetting and screening services to Client under the Terms. In connection with the Services, Care Check may process Personal Data in respect of which Client may be a Controller under the Data Protection Laws.

(B)   Client and Care Check have agreed to enter into this data processing agreement ("**DPA**") in order to ensure that adequate safeguards are put in place with respect to the protection of such Personal Data as required by the Data Protection Laws.

Definitions and interpretation

The following definitions and rules of interpretation apply in this DPA.

1.1   Definitions:

(a)   **"Adequate Country"** means a country or territory recognised under the Data Protection Laws from time to time as providing adequate protection for Personal Data

(b)   **"Client Information"** means all Personal Data provided to Care Check by Client, or by Client staff or agents under the terms of this DPA necessary or desirable for Care Check to offer the Services. This includes Personal Data belonging to Client staff or agents to the extent that it is identifiable

(c)   "**Controller, Data Subject, Personal Data, Personal Data Breach, Processing, Processor, Pseudonymisation and Supervisory Authority**": have the meanings given to them in the Data Protection Laws

(d)   **"Data Protection Laws"** means all data protection and privacy laws applicable to the processing of Personal Data, including without limitation, EU GDPR and UK Data Protection Law; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the processing of Personal Data; and the guidance and codes of practice issued by the relevant regulatory authority and which are applicable to a Party

(e)   "**Data Subject Request**" means a request from a data subject relating to access to, or rectification, erasure or data portability of that person's Personal Data or an objection from a data subject to the processing of its Personal Data

(f)   "**EU GDPR**" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (known as the General Data Protection Regulation)

(g)   "**Services**" means any Services provided by Care Check to Client pursuant to the Terms, or provided during any handover period to another service provider or to Care Check

(h)   "**Standard Contractual Clauses (SCCs)**" means the ICO's International Data Transfer Addendum to EU Commission Standard Contractual Clauses ("**Addendum**") and the relevant module of the European Commission's Standard Contractual Clauses for the transfer of Personal Data to third countries pursuant to Regulation (EU) 2016/679 as

set out in the Annex to Commission Implementing Decision (EU) 2021/914 ("**EU SCCs**").

(i) "**Sub-processor**" means any third party engaged directly or indirectly by the Processor to process Client Information under this DPA in the provision of the Services to the Controller

(j) **"UK Data Protection Laws"** means the Data Protection Act 2018, including the UK General Data Protection Regulation and Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 each as amended, supplemented or replaced from time to time

(k) "**UK GDPR**" has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018

1.2 This DPA is subject to the Terms and is incorporated into the Terms. Interpretations and defined terms set forth in the Terms apply to the interpretation of this DPA.

1.3 **Annex A** forms part of this DPA and will have effect as if set out in full in the body of this DPA. Any reference to this DPA includes **Annex A**.

1.4 In the case of conflict or ambiguity between:

(a) any of the provisions of this DPA and the provisions of the Terms, the provisions of this DPA will prevail; and

(b) any of the provisions of this DPA and any executed SCCs, the provisions of the executed SCCs will prevail.

2. Status of the parties

2.1 The type of Personal Data processed pursuant to this DPA and the subject matter, duration, nature and purpose of the processing, and the categories of Data Subjects, are as described in **Annex A**.

2.2 Care Check and Client each warrant in relation to Personal Data that it will (and will ensure that any of its staff and/or Sub-processors will) comply with the Data Protection Laws. Client shall have sole responsibility for the accuracy, quality, and legality of Personal Data and Client Information subject to this DPA.

2.3 The Parties acknowledge and agree that the Client are the Controller and Care Check is the Processor for the processing activities described in **Annex A** and accordingly Care Check agrees that it shall process all Client Information related to these activities in accordance with its obligations pursuant to this DPA.

2.4 Client acknowledges that Care Check may Process Personal Data relating to the operation, support, or use of the Service(s) for its own business purposes, such as billing, account management, technical support, product development, and compliance with law. Care Check is a Controller for such Processing and so such Processing is not subject to this DPA, but will be Processed in accordance with Data Protection Laws. Client is directed to Care Check's Privacy Notice for further information in this regard.

2.5 Care Check and Client shall notify each other of an individual within its organisation authorised to respond to enquiries regarding Client Information and the Parties shall deal with such enquiries promptly.

3. Care Check's obligations

3.1 With respect to Client Information subject to this DPA, Care Check warrants that it shall:

(a) only process the Personal Data in order to provide the Services and shall act only in accordance with Client's written instructions as represented by the Terms and this DPA;

(b)   in the unlikely event that applicable law requires Care Check to process Personal Data other than pursuant to Client's written instructions, notify Client (unless prohibited from so doing by applicable law);

(c)   as soon as reasonably practicable upon becoming aware, inform Client if, in Care Check's opinion, any instructions provided by Client under Clause 3.1(a) violate any Data Protection Laws;

(d)   implement appropriate technical and organisational measures designed to ensure a level of security appropriate to the risks that are presented by the processing, in particular protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data including:

   i)   where relevant pseudonymising or encrypting Personal Data;

   ii)   ensuring confidentiality, integrity, availability and resilience of its systems and Services;

   iii)   ensuring that availability of and access to Personal Data can be restored in a timely   manner   after   an   incident;

   iv)   regularly assessing and evaluating the effectiveness of the technical and organisational   measures   that   have   been   adopted;

   v)   ensuring that any persons used by it to provide the Services have undergone training in data protection and in the care and handling of Personal Data;

(e)   take reasonable steps to ensure that only authorised personnel have access to such Personal Data and that any persons whom Care Check authorises to have access to the Personal Data are under obligations of confidentiality;

(f)   without undue delay upon becoming aware, notify Client of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data (a "**Security Breach**");

(g)   promptly provide Client with reasonable cooperation and assistance in respect of the Security Breach and all information in Care Check's possession concerning the Security Breach that is required for Client to provide adequate notice under the Data Protection Laws;

(h)   unless required by applicable law, not make any public announcement that references Client about a Security Breach (a "**Breach Notice**") without:

   (i)   Client prior written consent; and

   (ii)   Client prior written approval of the content, media, and timing of the Breach Notice.

(i)   promptly within at least three (3) days notify Client if it receives a Data Subject Request. Care Check shall not respond to a Data Subject Request received by Care Check without Client prior written consent except to confirm that such request relates to Client. To the extent Client does not have the ability to address a Data Subject Request, Care Check shall upon Client request provide reasonable assistance to facilitate a Data Subject Request to the extent Care Check is able to be consistent with Data Protection Laws.

(j)   retain and delete Client Information in accordance with Annex A, or upon Client request, delete or return Client Information within (90) days of termination or expiration of the Terms or completion of the Services,. Upon Client written request, Care Check will provide Client with a copy of all Personal Data processed pursuant to the provision of the Services prior to deletion or anonymisation of the Personal Data.

(k)   provide such assistance as Client reasonably requests (taking into account the nature of processing and the information available to Care Check) in relation to Client obligations under Data Protection Laws with respect to:

(i)   data protection impact assessments (as such term is defined in the EU/UK GDPR);

(ii)   notifications to the Supervisory Authority under Data Protection Laws;

(iii)   communications to Data Subjects by Client in response to any Security Breach; and

(iv)   Client compliance with Client obligations under the Data Protection Laws with respect to the security of processing.

(l)   to the extent legally permitted: (i) promptly notify Client in writing upon receipt of an order, demand, or document purporting to request, demand or compel the production of Personal Data to any third party, including, but not limited to the government for surveillance and/or other purposes; and (ii) not disclose Personal Data to the third party without providing Client at least forty-eight (48) hours' notice, so that Client may, at Client's own expense, exercise such rights as it may have under applicable laws to prevent or limit such disclosure.

4.   Sub-processing

4.1   Client hereby authorise Care Check to use and engage Sub-processors to carry out any Processing of Client Information for the Services. A list of current Sub-processors are listed against each service in Annex A.

4.2   Client hereby authorise Care Check to replace any of its Sub-processors or to add a new Sub-processors. However, before any such replacement or addition Care Check shall inform Client of any intended changes concerning the addition or replacement of Sub-processors. Client can object to such changes by writing to privacy@carecheck.co.uk. All objections must be reasonably motivated. In such case, Care Check will take reasonable steps to accommodate Client, however in the case that a mutual agreement cannot be found, Client can immediately terminate all Services to Client without indemnification or further notice, notwithstanding any other provisions in this DPA.

4.3   Care Check will ensure that obligations no less onerous to the obligations set out in this DPA are included in all contracts between Care Check and permitted Sub-processors.

4.4   Where the Sub-processor fails to fulfil its obligations under the written agreement with Care Check which contains terms substantially the same as those set out in this DPA, Care Check remains fully liable to Client for the Sub-processor's performance of its agreement obligations.

5.   Audit and records

5.1   Upon reasonable request, Care Check shall make available to Client all information necessary to demonstrate compliance with the obligations of this DPA and contribute to audits, as mandated by a Supervisory Authority or reasonably requested no more than once a year by Client and performed by an independent auditor as agreed upon by Care Check and Client. The foregoing shall only extend to those materials relevant to the Processing of Client Information under the DPA, and shall be conducted during normal business hours and in a manner that causes minimal disruption.

5.2   Care Check will inform Client if Care Check believes that Client instructions under Section 5.1 infringes Data Protection Laws. Care Check may suspend the audit or inspection, or withhold requested information until Client has modified or confirmed the lawfulness of the instructions in writing.

5.3   Client and Care Check each bear their own costs related to an audit.

6.   Data transfers

6.1   Care Check will only process, or permit the processing, of Client Information outside the EEA/UK under the following conditions:

(a)   Care Check is processing the Client Information in an Adequate Country; or

(b)   Care Check participates in a valid cross-border transfer mechanism under the Data Protection Laws, so that Care Check can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the EU/UK GDPR.; or

(c)   the transfer otherwise complies with the Data Protection Laws.

6.2   If any Personal Data transfer between Care Check and Client requires execution of SCCs in order to comply with the Data Protection Laws, the Parties will complete all relevant details in, and execute, the SCCs required to legitimise the transfer.

7.   General

7.1   This DPA is without prejudice to the rights and obligations of the parties under the Terms which shall continue to have full force and effect. In the event of any conflict between the terms of this DPA and the terms of the Terms, the terms of this DPA shall prevail so far as the subject matter concerns the processing of Personal Data.

7.2   Care Check's liability to Client under or in connection with this DPA shall be subject to the same limitations and exclusions of liability as apply under the Terms as if that liability arose under the Terms. Nothing in this DPA will limit Care Check's liability in respect of personal injury or death in negligence or for any other liability or loss which may not be limited by agreement under applicable law.

7.3   This DPA sets out all of the terms that have been agreed between the parties in relation to the subjects covered by it. No other representations or terms shall apply or form part of this DPA.

7.4   A person who is not a party to this DPA shall not have any rights to enforce this DPA including (where applicable) under the Contracts (Rights of Third Parties) Act 1999 of the United Kingdom.

7.5   Should any provision of this DPA be invalid or unenforceable, then the remainder of this DPA shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

7.6   This DPA shall be governed by and construed in accordance with the laws of England and Wales and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims), arising out of or in connection with this DPA or its subject matter or formation.

7.7   Other than in respect of any accrued liabilities of either party and the provisions of clauses 1, 2 and this clause 7, this DPA shall terminate automatically on the expiration or termination for whatever reason of the Terms.

ANNEX A. DESCRIPTION OF PROCESSING AND TRANSFER

Service	Categories of Data Subjects	Categories of Personal Data	Sensitive Data	Frequency of Processing	Nature of Processing	Purpose(s) of Processing:	Retention Period:	Sub-processors:
DBS services	Prospective employees/actual employees of Client	Country of Employment, Name(s), DOB, 5-year address history, passport number, driving license number, NI number, place of birth, change of nationality, other names known by, contact number, email address, confirmation as to whether any previous conditions that are not spent.	Criminal Offence Data	Data will be processed as and when checks are carried out. Client will have access to data through Client portal.	Online vetting and screening	To enable Client to determine whether data subjects are suitable for their roles/the roles to which they have applied.	DBS Check Data will be deleted after 6 months. Care Check will retain an archived record of the check with minimal data for 3 years, for record-keeping and customer service purposes.	Matrix – Provides the eBulk solution, our secure IT system used to process and host all data related to checks. https://www.securitywatchdog.org.uk/

Disclosure Scotland services	Prospective employees/actual employees of Client	Country of Employment, Name(s), DOB, 5-year address history, passport number, driving license number, NI number, place of birth, change of nationality, other names known by, contact number, email address, confirmation as to whether any previous conditions that are not spent.	Criminal Offence Data	Data will be processed as and when checks are carried out. Client will have access to data through Client portal.	Online vetting and screening	To enable Client to determine whether data subjects are suitable for their roles/the roles to which they have applied.	Disclosure Scotland Check Data will be deleted after 3 months. Care Check will retain an archived record of the check with minimal data for 3 years, for record-keeping and customer service purposes.	Matrix – Provides the eBulk solution, our secure IT system used to process and host all data related to checks. https://www.securitywatchdog.org.uk/
Social Media Checks	Prospective employees/actual	Name, DOB, email address, previous employers,	Sensitive data may be processed	Data will be processed as and when	Online vetting and screening	To enable Client to determine	Data will be deleted	Matrix - Provides the eBulk solution, our secure IT system used to process

	employees of Client	information contained in publicly available social media pages	contingent on the content of social media pages	checks are carried out. Client will have access to data through Client portal.		whether data subjects are suitable for their roles	after 6 months. Care Check will retain an archived record of the check with minimal data for 3 years, for record-keeping and customer service purposes.	and host all data related to checks. https://www.securitywatchdog.org.uk/ SP Index – Assists with social media checking services. https://sp-index.com/
Employment History Checks	Prospective employees/actual employees of Client	First name, middle name, last name, date of birth, telephone number, NI number, email address, company name of new employer, job title at new employer, previous	N/A	Data will be processed as and when checks are carried out. Client will have access to data through Client portal.	Online vetting and screening	To enable Client to determine whether data subjects are suitable for their roles	Client will be provided a copy of the report. Data will only be held on Care Check systems for 6 months	Konfir – Provides the solution to securely verify employment history. https://www.konfir.com/

		employment information (dates to and from, company name, job title), education information (including institution and dates to and from).					before deletion. Care Check will retain an archived record of the check with minimal data for 3 years, for record-keeping and customer service purposes.	
Digital ID Checks	Prospective employees/actual employees of Client	Passport or driving licence details, including scans, photos, and numbers, national insurance number, proof of address documentation, ID	N/A	Data will be processed as and when checks are carried out. Client will have access to	Identity verification	To verify the identity of individuals subject to the Services	Data will be deleted after 6 months.	TrustID - Conduct digital identity verification and authentication solutions using ID Data. https://www.trustid.co.uk/

		reports and a recent photo or "selfie"		data through Client portal.				
Right to Work Checks	Prospective employees/actual employees of Client	Passport or driving licence details, including scans, photos, and numbers, national insurance number, proof of address documentation.	N/A	Data will be processed as and when checks are carried out. Client will have access to data through Client portal.	Identity verification	To ensure an individual is eligible to work in the UK.	Data will be deleted after 6 months.	Matrix - Provides the eBulk solution, our secure IT system used to process and host all data related to checks. https://www.securitywatchdog.org.uk/ TrustID - Conduct digital identity verification and authentication solutions using ID Data. https://www.trustid.co.uk/