



*Effective starting the date the Checkit Terms of Service are effective.*

This Data Processing Agreement (“**DPA**”) supplements the Checkit Terms of Service, or other agreement in place between Customer and Checkit covering Customer’s use of Checkit’s Products and Services (the “**Agreement**”). Unless defined in this DPA or in the Checkit Terms of Service, all capitalised terms used in this DPA will have the meanings given to them in Section 1 of this DPA.

## **1. Definitions**

We use the following definitions in this DPA:

**Additional Services** means services (including products supplied in order to access the services) provided by us, as part of or related to Checkit, but which are not covered by your Subscription (examples of which are described in clause 5.3) and Excluded Services;

**Authorised User** means those of your employees and agents that you have authorised to access the Software and who have their own login credentials;

**Checkit** means the Checkit solution comprising the Software and the Equipment and any applicable workflows and other content as offered by Checkit Europe Limited or Checkit UK Limited and as described in more detail in the Quote and/or the Website;

**Data** means the data captured by the App and/or Checkit Sensors, including any Personal Data received and stored by Checkit;

**Derived Data** means any data (wholly or in part) resulting from the combination or aggregation of Data with other information or Data such that it:

- a. cannot be identified as originating or deriving directly from the Data and cannot be reverse engineered such that it can be so identified; and
- b. it is not capable of identifying any individual.

**Data Controller** means the natural or legal person, public authority, agency, or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

**Data Processor** means the entity which Processes Personal Data on behalf of the Data Controller.

**Data Protection Laws** means any applicable data privacy laws which apply to you or us, which may include the Data Protection Act 2018, the UK GDPR and certain U.S. state privacy laws (as amended or superseded from time to time) depending on the scope of our contract with you;

**Data Sheets** means our definition of the product features as published on the website from time-to-time;

**Data Subject** has the meaning given to it in the Data Protection Laws;

**GDPR** means the General Data Protection Regulation, Regulation (EU) 2016/679, as it forms part of the domestic law in the United Kingdom by virtue of section 3 of the European (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time);

**List Price** means our standard price list as revised from time to time a copy of which is available on request;

**One-off Charges** means charges payable for Additional Services or other items which are not covered by Subscription Fees, as set out in these Terms of Service, the Accepted Quote or otherwise;

**Processing** (and **Process**) means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction;

**Sub-processor** means any third party engaged by Checkit to Process Data;



**you** means the organisation placing an Order and entering into a contract with us (and **your** shall be construed accordingly); and

**Writing or Written** includes email.

## **2. Term**

- 2.1. The term of this DPA coincides with the term of the Agreement and terminates upon expiration or earlier termination of the Agreement (or, if later, the date on which Checkit ceases all Processing of your Personal Data).

## **3. Order of Precedence**

- 3.1. If there is any conflict or inconsistency among the following documents, the order of precedence is: (1) Checkit's Terms of Service; and (2) the main body of this DPA.

## **4. Data and Data Processing**

- 4.1 You will own all right, title and interest in and to all of the Data and shall have sole responsibility for its legality, reliability, integrity, accuracy and quality. You are the Data Controller of the Data, to the extent it consists of Personal Data.
- 4.2 We require Personal Data about your Authorised Users (comprising identifiers such as names, email addresses and mobile telephone numbers) to be stored on our systems so that you can access it and to enable you to instruct us to set up reports for you using such Personal Data. To that limited extent only we process Personal Data in connection with your Subscription or Additional Services as your Data Processor. Except as expressly set out in this clause 4.2, you will not transfer, process or otherwise transmit any Personal Data to us or request, authorise or permit us to process any Personal Data. To the limited extent that we are your Data Processor, as described above, you may only give us instructions to process such Personal Data within those limits and may not instruct us to process Personal Data such that you or we may breach Data Protection Laws and our further obligations are set out in clause 4.11.
- 4.3 You also agree to us accepting and using the Data if required to provide Additional Services or in order to assist you with your use of Checkit but accept that we have no duty to do so in the latter case.
- 4.4 You further agree and acknowledge that we may, for our own purposes, process any of the Data which is Personal Data by anonymising it so that it is no longer capable of identifying individuals, and further process it for any legal business purpose including but not limited to product development, benchmarking, research and marketing purposes.
- 4.5 Without limiting any other provision of this clause 4, you are responsible for and undertake to obtain all necessary consents from your users and Authorised Users with respect to the Processing and storage of Data by you or by us and you warrant that you shall provide all affected data subjects with transparency information in accordance with relevant Data Protection Laws.
- 4.6 Data will be stored online and/or offline as described in our Data Sheets and/or SLA. Where applicable, longer storage periods are available for One-off Charges as per our List Price. You hereby give your general written authorisation to our use of sub-processors including but not limited to Amazon Web Services and Microsoft Azure. We shall notify you of any changes to our sub-processors by updating our list of Sub-Processors on the Website. We shall enter into suitable contracts with all sub-processors which shall comply with all relevant Data Protection Laws and we shall remain liable to you as primary obligor.
- 4.7 Checkit is not a data loss insurance policy. In the event of any loss or damage to Data, your sole and exclusive remedy shall be for us to use reasonable commercial endeavours to restore the lost or damaged Data from the latest back-up of such Data we maintain. We will not be held responsible for any loss, destruction, alteration or disclosure of Data caused by any third party. Data stored by us may be held in the UK and other jurisdictions in accordance with applicable laws.

- 4.8 We will use our reasonable endeavours to ensure that appropriate safety and security services and procedures are maintained and enforced to prevent unauthorised access or damage to the Data or the Cloud Software.
- 4.9 You agree to indemnify us, our employees, subcontractors and agents against all losses, liabilities, damages, fines, penalties and expenses (including reasonable legal fees) incurred by us arising from any breach by you, your employees and agents of this clause 18 and/or the Data Protection Laws.
- 4.10 Where we process Personal Data as your Processor, the description of processing is set out in Schedule 1.
- 4.11 You acknowledge and agree that we shall process Personal Data as a Controller for our own purposes including customer management and marketing and such processing shall continue after termination or expiry of this DPA, as set out in our privacy notice (<https://www.checkit.net/privacy-policy/>).
- 4.12 To the limited extent that we are your Data Processor we agree to:
  - 4.12.1 process that Personal Data only on your Written instructions as contained in these Terms of Service unless we are required by the laws of any jurisdiction to which we are subject to process Personal Data ("Applicable Laws"). Where we are relying on Applicable Laws as the basis for Processing Personal Data, we shall promptly notify you of this before performing the Processing required by the Applicable Laws unless those Applicable Laws prohibit us from so notifying you;
  - 4.12.2 ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data appropriate to the harm that might result from the unauthorised or unlawful Processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - 4.12.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
  - 4.12.4 except by way of repatriation to the country in which you supplied it, not transfer any Personal Data outside of the United Kingdom or the European Economic Area unless the following clauses are fulfilled:
    - 4.12.4.1 you or we have provided appropriate safeguards in relation to the transfer;
    - 4.12.4.2 we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
    - 4.12.4.3 we comply with reasonable instructions notified to us in advance by you with respect to the Processing of the Personal Data.
  - 4.12.5 assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments, consultations with supervisory authorities or regulators and any other obligations imposed on Data Processors as detailed in Article 28 (3) (h) of the GDPR;
  - 4.12.6 notify you without undue delay on becoming aware of a Personal Data breach;
  - 4.12.7 at your Written direction, delete or return Personal Data and copies thereof to you on termination of this agreement unless required by Applicable Laws to store the Personal Data; and
  - 4.12.8 maintain complete and accurate records and information to demonstrate our compliance with this agreement and make available to the Controller all information necessary to demonstrate



compliance with the obligations laid down in this DPA and allow for and contribute to reasonable audits, including inspections, conducted by the Controller or another auditor mandated by the Controller. .

Description of data subjects	Controller's employees to the extent such data is processed by Checkit as a Processor on behalf of the Controller.
Description of Customer Personal Data	Names, log-in details, email addresses, telephone numbers and user names.
Sensitive data processed (if applicable) and applied restrictions or safeguards, keeping a record of access to the data, restrictions for onward transfers or additional security measures.	None.
Description and purpose of processing	Providing Checkit and such other activities as are carried out in connection with the provision of Checkit.
Duration of processing and retention period	Subject to clause 4.12 of this DPA and unless agreed otherwise with you in Writing, for the duration of the term of the Agreement.