



# Data Processing Agreement

This Data Processing Agreement is effective as of the date of the last party signature below and is made by and between DeCare Dental Insurance Ireland DAC "DeCare" and [REDACTED] (hereinafter referred to as "The Corporate Customer").

This Agreement covers the provision of Managed Dental Services by DeCare to the Corporate Customer.

## RECITALS

- a) In connection with the provision of the Service(s) which DeCare is supplying to the Company this *Agreement* shall apply to all *Data*, disclosed by the Corporate Customer to DeCare for *Processing*, accessed by DeCare on the authority of the Corporate Customer for *Processing* and otherwise received by DeCare for *Processing* on the Corporate Customer's behalf.
- b) The Corporate Customer is the *Data Controller* in respect of all *Personal Data* that DeCare *Processes* on its behalf in connection with the provision of the Service(s).
- c) DeCare is a *Data Processor* in respect of all *Personal Data* it *Processes* on behalf of the Corporate Customer in connection with the provision of the Service(s).

## **1. Definitions:**

In this Agreement, unless the context otherwise requires:

**Data** shall mean any information of whatever nature that, by whatever means, is provided to DeCare by the Corporate Customer, is accessed by DeCare on the authority of the Corporate Customer or is otherwise received by DeCare on the Corporate Customer's behalf, for the purposes of the Processing specified in the Data Protection Acts and the GDPR and shall include, without limitation, any Personal Data;

**Data Controller or Controller** has the meaning given to that term in Section 1(1) of the Data Protection Acts and in Article 4 of the GDPR;

**Data Processor or Processor** has the meaning given to that term in Section 1(1) of the Data Protection Acts and in Article 4 of the GDPR;

**Data Protection Acts** means the Data Protection Acts 1988 and 2003 (as amended) and the European Communities (Electronic Communications, Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. 336/2011) and every statutory modification, re-enactment, replacement and/or amendment thereof for the time being in force (or, where the context so admits or requires, any one or more of such Acts) and all orders and regulations/statutory instruments made thereunder;

**Data Subject** has the meaning given to this term in Section 1(1) of the Data Protection Acts;

**Delete** for the purposes of this agreement means removing all Data which is electronically held in such a way that it can never be retrieved from the device on which it is held;

**Personal Data** has the meaning given to that term in Section 1(1) of the Data Protection Acts and in Article 4 of the GDPR

**Sensitive Personal Data** has the meaning given to that term in Section 1(1) of the Data Protection Acts and in Article 4 of the GDPR;

**Freedom of Information Act** means the Freedom of Information Act 2014 and any amendments to or replacements thereof, including by means of directly effective EU Regulation;

**GDPR** means the EU General Data Protection Regulation, Regulation (EU) 2016/679, the effective date of which is 25th May 2018;

**Processing and Process** has the meaning given to those terms in Section 1(1) of the Data Protection Acts and in Article 4 of the GDPR;

**Service(s)** shall mean the provision of the identified service(s) to be provided by DeCare to the Corporate Customer.

## **2. Obligations of DeCare (the “Data Processor”):**

DeCare agrees that it shall:

2.1 Process the Data at all times in accordance with the Data Protection Acts, the GDPR and any guidance issued by the Data Protection Commissioner;

2.2 Manage and Process any Data which they acquire from the Corporate Customer in accordance with the documented instructions of the Corporate Customer and the obligations of the Data Protection Acts and the GDPR in so far as these obligations apply to a Data Processor;

2.3 Not use the Data directly or indirectly for any purpose other than in connection with the provision of the Service(s) to the Corporate Customer;

2.4 Not disclose Data to any of DeCare staff, agents, subsidiaries or sub- contractors unless and only to the extent that such persons need to know such Data for the purposes of providing services in connection with the Service(s), and provided that such persons have been made aware of the restrictions in this Agreement on the disclosure of the Data;

2.5 Maintain secret and confidential all Data furnished to it or otherwise acquired by its staff, agents, subsidiaries or sub-contractors save and to the extent that such Data has been made available to the public by the Corporate Customer or by any third party lawfully in possession thereof and entitled to make such disclosure without restriction;

2.6 Not disclose the Data whether directly or indirectly to any third party (including any Affiliates, group companies or sub-contractors) other than in accordance with Sections 5 and 6 of this agreement.

2.7 Implement appropriate human, organisational and technological controls in accordance with Section 2(c) of the Data Protection Acts and Article 32 of the GDPR, to keep the Data secure and to protect against accidental loss, destruction, damage, alteration, or disclosure of the Data.

2.8 Take the necessary precautions for the prevention of unauthorised access to, unauthorised disclosure of or other unauthorised processing of the Data and in particular:

2.8.1 Have all necessary access controls in place to include authentication and authorisation for access to Data to ensure its security and confidentiality; and

2.8.2 Have all necessary systems in place to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services; and

2.8.3 Have the ability to restore the availability and access to the Data in a timely manner in the event of a physical or technical incident; and

2.8.4 Have a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Data;

2.9 Ensure all mobile computer devices which are used to access or store the Data are encrypted in accordance DeCare Encryption Policy;

2.10 Ensure the security of the Data in transit;

2.11 Assist the Corporate Customer to fulfil its obligations to respond to requests from Data Subjects exercising their rights under Section 2D of the Data Protection Acts and Chapter III of the GDPR, (including the rights of access to, rectification of and erasure of their Personal Data), and comply with any request from the Corporate Customer to amend, transfer or Delete such Personal Data;

2.12 Not Process or transfer the Data outside of Ireland other than in accordance with Sections 5 of this agreement.

2.13 Inform the Corporate Customer as soon as is practical, but no later than 72 hours after they become aware of any breaches in DeCare security which could potentially give rise to the loss, theft or unauthorised release or disclosure of the Data or any part thereof;

2.14 If so requested by the Corporate Customer, permit Corporate Customer or its representatives (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit DeCare data processing facilities.

### **3. Obligations of the Corporate Customer (the “Data Controller”):**

In consideration of the obligations undertaken by DeCare in clause 2 of this Agreement, the Corporate Customer agrees that it shall:

3.1 Ensure it complies at all times with the Data Protection Acts and the GDPR and, in particular, the Corporate Customer shall ensure that any disclosure of Personal Data by it to DeCare is made with the Data Subjects consent or is otherwise lawful;

3.2 Remain responsible for the quality and accuracy of the Data, Personal or otherwise that it makes available to DeCare; and

3.3 Ensure, where it is necessary to send Data from the Corporate Customer to DeCare for Processing, the Corporate Customer takes all the necessary precautions, to ensure the security of the Data before and during transit.

### **4. DeCare I.T. Resources**

The Corporate Customer acknowledges that DeCare may store and Process the Data on DeCare I.T. resources that are used for other purposes and which are not dedicated solely to the storage and Processing of the Corporate Customer.

### **5. Data Transfer**

Corporate Customer acknowledges that DeCare may store Data within ISO27001 compliant data centres at DeCare’s parent company “DeCare Dental LLC” which is located in Egan, MN, USA. DeCare will operate under a model contract with DeCare Dental LLC remain and will responsible and liable to Corporate Customer with regard to Data Protection Requirements.

## **6. Sub-processors**

DeCare may engage one or more third parties to act on its behalf. Should this occur DeCare will (i) enter into contractual arrangements with such Sub-processors requiring them to guarantee the same level of data protection compliance and information security to that provided for under this agreement and (ii) remain responsible and liable to Corporate Customer for the Sub-processor's acts and omissions with regard to Data Protection Requirements.

## **7. Disclosure Required by Law**

In the event that DeCare is legally required to disclose any of the Data to a third party, DeCare undertakes to notify Corporate Customer of such requirement prior to any disclosure and, unless prohibited by law, to supply Corporate Customer with copies of all communications between DeCare and any third party to which such disclosure is made.

## **8. Termination**

On termination of the Agreement, DeCare at the written request of the Corporate Customer shall return to Corporate Customer, all Data which has been disclosed by Corporate Customer to DeCare and copies thereof, or Delete all Data and certify to Corporate Customer that it has done so, unless legislation imposed upon DeCare prevents it from returning or destroying all or part of the Data or it is necessary to keep the data to fulfil the terms of the Insurance Contract.

## **9. Term**

This Data Processing Agreement shall remain in effect as long as DeCare carries out Personal Data processing operations on behalf of Corporate Customer or until the termination of the Agreement.

## **10. Survival of Obligations**

The non-disclosure obligations of this Agreement will survive and continue and will bind DeCare legal representatives, successors and assigns indefinitely, notwithstanding that the Service(s) may not be actually implemented by the parties.

## **11. Variation**

This Agreement may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties hereto.

**12. Notice**

Any notice or other communication given or made under this Agreement shall be in writing and may be delivered to the relevant party or sent by pre-paid registered post airmail or fax to the address of that party specified in this Agreement or to that party's fax number thereat or such other address or number as may be notified hereunder by that party from time to time for this purpose and will be effective notwithstanding any change of address or fax number not so notified. Unless the contrary is proved, each such notice or communication will be deemed to have been given or made and delivered, if by post 48 hours after posting, if by delivery when left at the relevant address or, if by fax upon transmission, subject to the correct code or fax number being received on the transmission report.

**13. Governing Law**

This Agreement will be governed by and construed in accordance with the laws of Ireland, and the parties submit to the exclusive jurisdiction of the Irish courts for all purposes connected with this Agreement, including the enforcement of any award or judgement made under or in connection with it.

**IN WITNESS WHEREOF** the Parties have each, through a duly authorized representative, executed this Data Processing Agreement.

**On behalf of  
DECARE DENTAL INSURANCE  
IRELAND DAC**

*Steven Moran*

\_\_\_\_\_  
**Signature**

*Steven Moran*

\_\_\_\_\_  
**Name (Printed)**

*Head of Finance and Compliance*

\_\_\_\_\_  
**Title**

Date: 16 May 2018

**On behalf of**

[REDACTED]

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name (Printed)**

\_\_\_\_\_  
**Title**

Date: