

TERMS AND CONDITIONS OF USE – CARE ADVANTAGE

An Order Form together with the attached Terms and Conditions constitute the entire Agreement between us, Care Source and you, the Customer. The Terms and Conditions set out the basis on which the Services, Care Advantage will be provided to you as a Customer for the duration of your Licence. These Terms and Conditions constitute a legally binding agreement between you and Care Source and are acknowledged and accepted by you when you sign an Order Form or by accessing or using Care Advantage via Care Source, our website, related services, application or tools.

You agree that our Terms and Conditions set out below are also taken to include any amendments that may be made from time to time, order forms, any exhibits or attachments thereto together with the Privacy Policy of both [PeopleClues UK](#) and [Care Advantage](#), [the PeopleClues UK Website Terms of Use](#) and the Care Advantage Terms of Use which you will access and need to agree to in the process of using the Services.

1. DEFINITIONS

- 1.1 **Care Source** is the registered business name of the trustee company ER Group Pty Ltd, ABN: 18 189 040 552;
- 1.2 **Customer** means you, a person, business or corporation purchasing the Services, Care Advantage as described in the attached Order Form;
- 1.3 **Care Advantage** means the Services as set out in clause 3 and clause 4;
- 1.4 **Term** means a period of 12 months whether original or renewed.

2. EXCLUSIVITY

- 2.1 Unless otherwise notified by Care Source, these Terms and Conditions apply to every Customer and every transaction undertaken for the Term.

3. SERVICES

- 3.1 Subject to these Terms and Conditions, Care Source agrees to provide the Services ordered by the Customer as set forth in any Order form completed by the Customer. The Customer agrees to purchase such Services.
- 3.2 Care Source reserves the right to make changes to its Services and its hosting and technical infrastructure during the Term as it deems reasonably necessary but will take all reasonable care not to materially degrade the performance or functionality of the Services.

4. TRAINING AND SUPPORT

- 4.1 Care Source will provide all reasonable and necessary user training and support to the Customer in respect of the Services for the Term.

5. LICENCE

- 5.1 In accordance with and subject to these Terms and Conditions, Care Source grants to the Customer a limited, non- exclusive, non-transferable and non-sub-licensable licence for the duration of the Term only to:
 - (1) access and use only the Services for which the Customer has paid; and
 - (2) use any applicable documentation (if any) current at the time which is provided on the PeopleClues UK platform.
- 5.2 The documentation and services are to be used for the internal business purposes of the Customer only.
- 5.3 Where applicable Care Source will deliver to the Customer all user ID's and passwords to enable the Customer and the authorised employees and agents as listed on the Order Form to access the Services in accordance with these Terms and Conditions.
- 5.4 The Customer must secure all its user ID's and passwords.
- 5.5 The Customer is solely responsible for ensuring that all of its employees and agents only use the ID's and passwords to access the Services in accordance with these Terms and Conditions.

6. EXPIRATION OF THE LICENCE TO USE THE SERVICES

- 6.1 The Customers right to access and use the Services will expire on the last day of the Term.
- 6.2 The Customer will no longer be able to access the Services from this date and must destroy all user ID's and passwords and any other access codes provided to them that may be used to access the Services.

7. RENEWAL OF THE LICENCE TO USE THE SERVICES

- 7.1 At the expiration of the Term the Customer may renew the Services.
- 7.2 The Customer may renew the Services by the completion of a further Order Form.
- 7.3 The new Term will not commence and the Customer is not permitted to use the Services until such time as the Order Form has been completed and accepted by Care Source.

8. RESTRICTIONS

- 8.1 The Customer acknowledges and agrees that it will not at any time now or in the future:
- (1) on-sell, sub-licence, lease, time-share or otherwise make the Services available to any third party;
 - (2) violate any laws;
 - (3) infringe the rights of Care Source, PeopleClues UK or other third parties with respect to the Services (including but not limited to intellectual property rights, copyright and trademark);
 - (4) distribute spam, chain letters or viruses that may harm the Services or its users;
 - (5) copy, modify, create derivative works or distribute the Services in any manner or form;
 - (6) attempt to gain unauthorised access to, or disrupt the integrity or performance of, the Services, documents or the data contained therein; or
 - (7) bypass measures used to monitor access to the Services and the associated website;

9. INTERNET

- 9.1 The Customer is responsible for obtaining and maintaining all computer hardware, software and telecommunications equipment needed to access and use the Services.

10. OWNERSHIP

- 10.1 The Customer acknowledges and agrees that ownership, right, title and interest in the Services and any other materials or documents that may be made available to the Customer in the provision of the Services, including any intellectual property rights, patent or copyright belong solely to Care Source and PeopleClues UK. These Terms and Conditions imply no rights or licences to the contrary.

11. FEES

- 11.1 The Customer will pay in advance the fees set out on the Order Form for the Services.
- 11.2 Care Source may amend the fees payable for the Services at any time, however the new fees will not be payable by the Customer until the beginning of the next Term (if any).
- 11.3 Care Source will not provide the Services until such time as all fees due and owing are paid by the Customer.

12.USING CARE ADVANTAGE

- 12.1 The Customer acknowledges and agrees that by using Care Advantage it is ultimately responsible for the outcome and subsequent employment of a candidate and that Care Source is not a party to that process nor is it in anyway involved in the final outcome nor responsible for the final outcome.
- 12.2 In respect of the Customers use of the Services, Care Source is not part of the employment transaction and does not screen potential candidates or have any control over the accuracy, truth or suitability of any information provided by the candidate or the candidate itself.
- 12.3 The Customer is solely responsible for the way in which the Services are used and all information obtained and any consequences that may result from the use of the Services and the Customer agrees to assume all responsibility in this respect whatsoever.
- 12.4 Care Source shall not be responsible for any loss or damage incurred as a result of the Customers use of the Services.
- 12.5 If Care Source believe that the Customer is in breach of any of these Terms and Conditions or is, acting inconsistently it reserves the right at its discretion to:
- restrict or terminate your use of the Services temporarily or permanently;
 - cancel your user rights;
 - take technical or legal steps;
 - charge you for all costs incurred by them in remedying your breach.
- 12.6 Care Source makes no express or implied representations, warranties or guarantees in connection with the site, Services or any materials contained on the site.

13.LIMITATION ON LIABILITY

- 13.1 Care Source shall not be liable to a Customer for any damages arising from the Customer's use or reliance on the site, Services and/or any material on the site.
- 13.2 You agree not to hold us responsible for things other users post or do.
- 13.3 We do not accept liability for anything unlawful, threatening, abusive, defamatory or obscene which is placed on the site.
- 13.4 To the extent legally permitted we disclaim all warranties, representations and conditions express or implied and are not liable for any loss which you may incur which arises out of your use of the site.

14.IDEMNITY AND RELEASE

- 14.1 The Customer indemnifies Care Source and its directors, officers and employees from any claim made by any third party together with any amounts that may be payable (including reasonable legal costs), arising from your use of the site, an alleged violation by you of these Terms and Conditions or any applicable laws.

15. TERM AND TERMINATION

- 15.1 This Agreement commences on the date specified on the Order Form and is for a 12 month Term only. This term may be renewed.
- 15.2 A party may terminate this Agreement if:
- (1) upon 30 days written notice if the other party materially defaults in performing its obligations under this Agreement and such default continues unremedied for a period of 30 days following written notice of default; or
 - (2) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors; or
 - (3) if the other party undergoes a change in control.

16. USE OF NAMES AND LOGOS

- 16.1 Subject to these Terms and Conditions, each party grants to the other the right to use the other's name and logo in its Customer Lists. Such usage shall be in compliance with the other party's trademark usage guidelines.

17. RELATIONSHIP OF THE PARTIES

- 17.1 Care Source and the Customer are independent contractors and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created by these Terms and Conditions.

18. ARBITRATION

- 18.1 If there is a dispute or difference between the parties arising out of or in connection with these Terms and Conditions, then within five (5) Business Days of a party notifying the other party in writing of the dispute the parties must meet and use all reasonable endeavours acting in good faith to resolve the dispute by joint discussion.
- 18.2 If the dispute is not settled within five (5) Business Days of notification under clause 18.1, the parties will, submit the dispute to mediation administered by the Australian Commercial Disputes Centre Limited ("**ACDC**").
- 18.3 The mediator will be an independent person agreed on by the parties from a panel suggested by the ACDC, or failing agreement, a mediator will be appointed by the President of the ACDC.
- 18.4 Any mediation, meetings and proceedings under this clause are to be held in Brisbane with each party meeting their own costs of same.
- 18.5 A party may not start court proceedings in relation to a dispute until it has exhausted the procedures in this clause, unless injunctive or interlocutory relief is being sought.
- 18.6 The decision of the mediator shall be kept confidential by Care Source and the Customer.

19. NOTICES

- 19.1 Any notice required or permitted by these Terms and Conditions will be given Notices given pursuant to these Terms and Conditions regardless of the subject matter will be sent by email to the email address you provide.

20.ASSIGNMENT

20.1 Neither Care Source nor the Customer may assign any of their rights and responsibilities under these Terms and Conditions or these Terms and Conditions themselves without the prior written consent of the other party and any such attempted assignment in violation of the foregoing will be void.

21.GOVERNING LAW

21.1 These Terms and Conditions and the transactions contemplated by it are governed and construed according to the laws of Queensland and you agree to submit to the exclusive jurisdiction of the courts of Queensland and Australia.

22.NO WAIVER

22.1 If we do not enforce any particular provision immediately, we are not waiving our right to do so later. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the waiver is to be asserted.

23.SEVERABILITY

23.1 If a provision of these Terms and Conditions is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law and the remaining terms survive.

24.REMEDIES

24.1 Except as otherwise provided, remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

25.FORCE MAJEURE

25.1 Neither party shall be liable to the other for any delay or failure to perform hereunder due to circumstances beyond such party's reasonable control, including acts of God, acts of government, civil unrest, acts of terror, strikes or other labour problems, service disruptions involving hardware, software or power systems not within such party's possession or reasonable control and denial of service attacks.

26.UPDATE TERMS AND CONDITIONS

26.1 No amendment to these Terms and Conditions will be effective unless made in writing and signed by Care Source and the Customer.

27.ENTIRE AGREEMENT

27.1 These Terms and Conditions, including any Order Forms and any amendments or attachments thereto and documents incorporated by reference herein, will constitute the entire agreement between the parties with respect to the subject matter hereof and all prior agreements, representations and statements with respect to such subject matter are superseded hereby.

28.ACCEPTANCE

I/We understand and agree to the terms of the attached Order Form and the above terms and conditions and I/we are authorised to sign on the Customer's behalf.

Customer's name: _____ Authorised Signatory: _____

Print name: _____ Position Held: _____

Date: _____