

This Data Processing Agreement (“**Agreement**”) forms part of the Contract for (

One Wirral CIC

(“**Principal Agreement**”) between
(the “**Organisation**”)

GP Practices in the vicinity of Wirral - see appendix B for list of GP Practices

and

(the “**Data Processor**”)
(together as the “**Parties**”)

WHEREAS

- (A) The Organisation acts as a Data Controller.
- (B) The Organisation wishes to subcontract certain Services, which imply the processing of personal data, to a Data Processor.
- (C) The Parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the 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.
- (D) The Parties wish to lay down their rights and obligations.

IT IS AGREED AS FOLLOWS:

1. Definitions and Interpretation

- 1.1 Unless otherwise defined herein, capitalised terms and expressions used in this Agreement shall have the following meaning:
 - 1.1.1 “**Agreement**” means this Data Processing Agreement and all Schedules;
 - 1.1.2 “**Organisation Personal Data**” means any Personal Data Processed by a Contracted Processor on behalf of the Organisation pursuant to or in connection with the Principal Agreement;
 - 1.1.3 “**Contracted Processor**” means a Data Processor;

- 1.1.4 “**Data Protection Laws**” means (i) the Data Protection Act 2018 (ii) the GDPR, the LED and any applicable national Laws implementing them as amended from time to time (iii) all applicable Law concerning privacy, confidentiality or the processing of personal data including but not limited to the Human Rights Act 1998, the Health and Social Care (Safety and Quality) Act 2015, the common law duty of confidentiality and the Privacy and Electronic Communications (EC Directive) Regulations
- 1.1.5 “**EEA**” means the European Economic Area
- 1.1.6 “**GDPR**” means EU General Data Protection Regulation 2016/679
- 1.1.7 “**Data Transfer**” means:
- 1.1.7.1 a transfer of Organisation Personal Data from Organisation to a Data Processor; or
- 1.1.7.2 an onward transfer of Organisation Personal Data from a Contracted Processor to a Subcontracted processor, or between two establishments of a Contracted Processor.
- 1.1.8 “**Services**” means the services the organisation provides.
- 1.1.9 “**Subprocessor**” means any person appointed by or on behalf of the Contracted Processor to process Personal Data on behalf of the Organisation in connection with the Agreement.
- 1.2 The terms, “**Commission**”, “**Controller**”, “**Data Subject**”, “**Member State**”, “**Personal Data**”, “**Personal Data Breach**”, “**Processing**” and “**Supervisory Authority**” shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

2. Processing of Organisation Personal Data

- 2.1 The Contracted Processor shall:
- 2.1.1 comply with all applicable Data Protection Laws in the Processing of Organisation Personal Data; and
- 2.1.2 not Process Organisation Personal Data other than on the relevant Organisation’s documented instructions.
- 2.2 The Organisation instructs the Contracted Processor to process Organisation Personal Data.

3. Processor Personnel

The Contracted Processor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Organisation Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know/access the relevant Organisation Personal Data, as strictly necessary for the purposes of

the Principal Agreement, and to comply with Data Protection Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4. Security

- 4.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Contracted Processor shall in relation to the Organisation Personal Data implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.
- 4.2 In assessing the appropriate level of security, the Contracted Processor shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

5. Subprocessing

- 5.1 The Contracted Processor shall not appoint (or disclose any Organisation Personal Data to) any Subprocessor unless required or authorised by the Organisation.

6. Data Subject Rights

- 6.1 Taking into account the nature of the Processing, the Contracted Processor shall assist the Organisation by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Organisational obligations, as reasonably understood by the Organisation, to respond to requests to exercise Data Subject rights under the Data Protection Laws.
- 6.2 Processor shall:
 - 6.2.1 promptly notify Organisation if it receives a request from a Data Subject under any Data Protection Law in respect of Organisation Personal Data; and
 - 6.2.2 ensure that it does not respond to that request except on the documented instructions of Organisation or as required by Data Protection Laws to which the Contracted Processor is subject, in which case the Contracted Processor shall to the extent permitted by Data Protection Laws inform Organisation of that legal requirement before the Contracted Processor responds to the request.

7. Personal Data Breach

- 7.1 The Contracted Processor shall notify the Organisation without undue delay upon becoming aware of a Personal Data Breach affecting Organisation Personal Data, providing the Organisation with sufficient information to allow

the Organisation to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.

- 7.2 The Contracted Processor shall cooperate with the Organisation and take reasonable steps as are directed by the Organisation to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8. Data Protection Impact Assessment and Prior Consultation

The Contracted Processor shall provide reasonable assistance to the Organisation with any Data Protection Impact Assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which the Organisation reasonably considers to be required by Article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Organisation Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

9. Deletion or return of Organisation Personal Data

- 9.1 Subject to this section 9, the Contracted Processor shall promptly and in any event within 10 business days of the date of cessation of any Services involving the processing of Organisation Personal Data, delete and procure the deletion of all copies of those Organisation Personal Data.
- 9.2 The Contracted Processor shall provide written certification to Organisation that it has fully complied with this section 9 within 10 business days of the Cessation Date.

10. Audit rights

- 10.1 Subject to this section 10, the Contracted Processor shall make available to the Organisation on request all information necessary to demonstrate compliance with this Agreement, and shall allow for and contribute to audits, including inspections, by the Organisation or an auditor mandated by the Organisation in relation to the Processing of the Organisational Personal Data by the Contracted Processor.
- 10.2 Information and audit rights of the Organisation only arise under section 10.1 to the extent that the Agreement does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law.

11. Data Transfer

- 11.1 The Contracted Processor may not transfer or authorise the transfer of Organisation Personal Data to countries outside the EU and/or the European Economic Area (EAA) without the prior written consent of the Organisation. If personal data processed under this Agreement is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed

otherwise, rely on EU approved standard contractual clauses for the transfer of personal data.

12. General Terms

12.1 **Confidentiality.** Each Party must keep this Agreement and information it receives about the other Party and its business in connection with this Agreement (“Confidential Information”) confidential and must not use or disclose that Confidential Information without the prior consent of the other Party except to the extent that:

- (a) disclosure is required by law;
- (b) the relevant information is already in the public domain.

12.2 **Notices.** All notices and communications given under this Agreement must be in writing, sent by post or sent by email to the address or email address set out in the heading of this Agreement or such other address as notified from time to time by the Parties changing address.

13. Governing Law and Jurisdiction

13.1 This Agreement is governed by the laws of England.

13.2 Any dispute arising in connection with this Agreement, which the Parties will not be able to resolve amicably, will be submitted to the exclusive jurisdiction of the courts of the England, subject to possible appeal.

This Agreement is entered into with effect from the date first set out below.

Organisation

Signed by **KAREN LIVESEY** for and on behalf of **ONE WIRRAL CIC**:

Signature_____K Livesey_____

Title_____DIRECTOR_____

Date Signed_____1st April 2021_____

Data Processor

Signed by Dr Julie Where for and on behalf of **Data Processor:**

Signature: *Dr Where*

Title: GP Partner

Date Signed: 24/05/2021

APPENDIX A– DATA PROCESSING SERVICES

1. The Contracted Processor shall comply with any further written instructions with respect to processing by the Organisation.
2. Any such further instructions shall be incorporated into this Annex.

Description	Details
Subject matter of the processing	<i>Receipt and storage of patient data for patients who are diagnosed with cancer and referred to the cancer prehabilitation service.</i>
Duration of the processing	<i>From 1 April 2021 to 31 March 2024</i>
Nature and purpose of the processing	<p><i>Receipt of referral information from WUTH for patients where there is a strong suspicion of cancer following diagnostics/scans. Data information sent from WUTH to a secure NHS email address.</i></p> <p><i>One Wirral receive referral and add to project database. Patient contacted to book appointment with the Practitioner.</i></p> <p><i>During initial appointment, plan is created that details personalised plan prior to all treatment.</i></p> <p><i>Consent gained from patient to access medical record and share information. Verbal consent via extended access system.</i></p> <p><i>Consultation notes added to clinical system.</i></p> <p><i>If patient declines information being shared with GP, then consultation notes will be saved on the secure project database.</i></p> <p><i>This receipt is to ensure the GPs are aware of all aspects of their patients care. No further dissemination will take place. The legal basis for the processing</i></p>

	<p><i>of personal and sensitive information is ‘processing is necessary for the performance of a task’ Article 6(e) clause, and Article 9(h) “processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment”; collectively being to carry out a public task, the provision of Direct Care.</i></p>
Type of Personal Data	<p><i>Patients, name, DOB, address, GP surgery, contact telephone number, details of their cancer diagnosis/stage (if known).</i></p> <p><i>As the data is selected based on treatment for a health condition it is to be regarded as ‘special category’ in nature in terms of Article 9.</i></p>
Categories of Data Subject	<p><i>Patients who are currently awaiting diagnosis or treatment for cancer.</i></p>

APPENDIX B– GP Practices party to this Data Processing Agreement

1. The following GP Practices are party to this Data Processing Agreement.

Practice Code	Practice	CCG
N85001	ESTUARY MEDICAL PRACTICE	Wirral CCG
N85002	MARINE LAKE MEDICAL PRACTICE	Wirral CCG
N85003	ALLPORT MEDICAL CENTRE	Wirral CCG
N85005	EASTHAM GROUP PRACTICE	Wirral CCG
N85006	CIVIC MEDICAL CENTRE	Wirral CCG
N85007	HESWALL & PENSBY GROUP PRACTICE	Wirral CCG
N85008	WEST WIRRAL GROUP PRACTICE	Wirral CCG
N85009	COMMONFIELD RD SURGERY	Wirral CCG
N85012	ST GEORGES MEDICAL CENTRE	Wirral CCG
N85013	UPTON GROUP PRACTICE	Wirral CCG
N85014	TOWNFIELD HEALTH CENTRE	Wirral CCG
N85015	DEVANEY MED CTR	Wirral CCG
N85016	RIVERSIDE SURGERY	Wirral CCG
N85017	CAVENDISH MEDICAL CENTRE	Wirral CCG
N85018	VILLA MED CTR	Wirral CCG
N85019	WHETSTONE LANE MED CTR	Wirral CCG
N85020	ST CATHERINE'S SURGERY	Wirral CCG
N85021	HAMILTON MED CTR	Wirral CCG
N85022	HOLMLANDS MED CTR	Wirral CCG
N85023	MANOR HEALTH CTR	Wirral CCG
N85024	SOMERVILLE MED CTR	Wirral CCG
N85025	ST HILARY GROUP PRACTICE	Wirral CCG
N85027	CENTRAL PARK MEDICAL CENTRE	Wirral CCG
N85028	MORETON CROSS GROUP PRACTICE	Wirral CCG
N85031	GLADSTONE MED CTR	Wirral CCG
N85032	GREASBY GROUP PRACTICE	Wirral CCG
N85034	PARKFIELD MED CTR	Wirral CCG
N85037	HEATHERLANDS MED CTR	Wirral CCG
N85038	VITTORIA MED CTR G	Wirral CCG
N85040	MORETON HEALTH CLINIC	Wirral CCG
N85044	PAXTON MEDICAL PRACTICE, CLAUGHTON MEDICAL CENTRE	Wirral CCG
N85046	HOYLAKE RD MET CTR	Wirral CCG
N85047	ORCHARD SURGERY	Wirral CCG
N85048	MORETON MEDICAL CENTRE	Wirral CCG
N85051	SUNLIGHT GROUP PRACTICE	Wirral CCG
N85052	GROVE RD SURGERY	Wirral CCG
N85054	KINGS LANE MEDICAL PRACTICE	Wirral CCG

N85057	TEEHEY LANE SURGERY	Wirral CCG
N85059	HOYLAKE & MEOLS MEDICAL CTR	Wirral CCG
N85616	LISCARD GROUP PRACTICE	Wirral CCG
N85617	SPITAL SURGERY	Wirral CCG
N85620	THE VILLAGE MEDICAL CENTRE	Wirral CCG
N85625	MIRIAM PRIMARY CARE GROUP	Wirral CCG
N85629	EGREMONT MED CTR	Wirral CCG
N85633	CHURCH ROAD MEDICAL PRACTICE	Wirral CCG
N85634	VITTORIA MED CTR K	Wirral CCG
N85640	LEASOWE MEDICAL PRACTICE	Wirral CCG
N85643	PRENTON MEDICAL CENTRE_MURUGESH V	Wirral CCG
N85648	BLACKHEATH MED CTR	Wirral CCG