

## DATA PROCESSING AGREEMENT

### Croydon NHS Talking Therapies South London and Maudsley SMS Programme

**Data Controller:**

SLaM Croydon GP Practices

**Data Processor:**

iPlato Healthcare Ltd

**Dated:** 12 June 2024

### **iPLATO Healthcare Ltd (“iPLATO”) – Data Processing Agreement:**

#### **1 BACKGROUND**

- 1.1 The GP Practice / Healthcare organisation directs iPLATO to provide the Services under a separate agreement (the Supply Agreement).
- 1.2 In performing the Services, iPLATO is required to process certain Personal Data (as defined below). The GP Practice / Healthcare organisation has agreed to provide such Personal Data to iPLATO for processing only in accordance with the terms of this Agreement from the date on which this Agreement is entered into (the Commencement Date).
- 1.3 The parties have agreed the terms as set out in this Agreement in respect of such activities.

#### **2 SCOPE**

- 2.1 From the Commencement Date, the terms of this Agreement will apply to and govern all processing of Personal Data by iPLATO pursuant to the Supply Agreement; and
- 2.2 This Agreement is supplemental to the Supply Agreement and, in the case of conflict or inconsistency between any of the provisions of this Agreement and the provisions of the Supply Agreement, the provisions of this Agreement shall prevail to the extent such conflict or inconsistency relates to the processing of Personal Data.

#### **3 PROCESSING SPECIFICS**

- 3.1 The details of Personal Data processing carried out by iPLATO under this Agreement are as follows:
  - 3.1.1 The type of Personal Data processed by iPLATO under this Agreement is Patient health, demographic and contact data obtained either directly from GP Practice or other Healthcare organisation or from patient medical records within their clinical systems.
  - 3.1.2 The data processed relates specifically to patients of the GP Practice or other Healthcare organisation.
  - 3.1.3 The Personal Data processed by iPLATO under this Agreement are processed for the sole purpose of aiding the GP Practice / Healthcare organisation in the provision of Services to patients using iPLATO services.
  - 3.1.4 To provide the Services, the Personal Data will be subject to automated and manual processing operations by iPLATO, including collection, use, transfer, storage and erasure.
  - 3.1.5 The Personal Data processed by iPLATO under this Agreement are not transferred by iPLATO to anybody unless expressly instructed by the GP Practice / Healthcare organisation.
  - 3.1.6 The duration of processing for Personal Data processed by iPLATO under this Agreement is the term of the Supply Agreement between the parties.

#### **4 GENERAL**

- 4.1 The GP Practice / Healthcare organisation acknowledges that iPLATO has appropriate accreditations / agreements with the relevant Clinical Systems providers to access Patient Data held in Clinical Systems through published and approved API's. The GP Practice / Healthcare organisation as Data Controller authorises iPLATO's access to all Patient Data records within their Clinical System for the purposes of providing its services.
- 4.2 Each party shall comply with Data Protection Legislation.

- 4.3 iPLATO is a Data Processor in respect of the Patient Data. iPLATO shall:
- 4.3.1 Process the Patient Data only on and in accordance with instructions from the relevant GP Practice / Healthcare organisation which may be specific instructions or instructions of a general nature provided directly to iPLATO;
  - 4.3.2 Process the Patient Data only to the extent, and in such manner (with due regard to any technical constraints) as is necessary for the provision of services to the GP Practice / Healthcare organisation; and
  - 4.3.3 Inform the GP Practice / Healthcare organisation of any legal requirement under any applicable law that would require iPLATO to process the Patient Data otherwise than only on the processing instructions, or if any GP Practice / Healthcare organisation instruction infringes Data Protection Legislation.
- 4.4 Notwithstanding the foregoing the parties agree that iPLATO may process personal data under this Agreement as a controller limited to the following purposes: to ensure the proper technical, functional and operational performance of the Services as described and otherwise in compliance with Law.
- 4.5 The GP Practice / Healthcare organisation acknowledges and agrees that iPLATO may at its discretion aggregate or anonymise Patient Data for the purposes of improving, refining, changing and/or upgrading existing products and/or services, as well as for any purpose in connection with supporting the development and/or delivery of new products and/or services aimed at improving healthcare / benefits to patients (including for the purposes of research) provided always that Patient data shall have all directly identifiable data removed, shall at all times be kept secure and such processing shall not extend past termination of the Supply Agreement.

## 5 SECURITY

- 5.1 iPLATO shall implement and maintain, at its cost and expense, appropriate technical and organisational measures in relation to its processing of Patient Data so as to ensure a level of security in respect of Patient Data processed by it is appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Patient Data transmitted, stored or otherwise processed.
- 5.2 In respect of any security incident involving Patient Data, iPLATO shall without undue delay notify and provide the GP Practice / Healthcare organisation with details of the security incident. System status updates will be notified via the online Status Page available to all users.

## 6 SUPPLIER STAFF AND OTHER PROCESSORS

- 6.1 iPLATO shall ensure that its personnel processing Patient Data have signed agreements requiring them to keep Patient Data confidential and take all reason able steps to ensure the reliability of iPLATO personnel processing Patient Data and that personnel processing Patient Data receive adequate training on compliance with the data protection provisions of this Agreement and Data Protection Legislation.
- 6.2 iPLATO shall not engage another Processor (Sub-Processor) to perform specific processing activities in respect of the Patient Data covered by this agreement without the prior consent of the GP Practice / Healthcare organisation. Where a new Sub-Processor is proposed, the Data Controller shall be given prior notice.
- 6.3 iPLATO shall hold Sub-Processors to the same standards as required under this DPA and shall remain liable for any acts or omissions of approved Sub-Processors.
- 6.4 The Services as specified by the Supply Agreement may involve one or more of the following existing approved Sub-Processors:

Sub-Processor	Service Provided	Data Processed
BT	Messaging provider	Mobile Number/message metadata/content <a href="#">Privacy Policy (bt.com)</a>
AWS	UK Cloud storage	All (except call recording - not stored) <a href="#">GDPR - Amazon Web Services (AWS)</a>
NHS mail	Encrypted email service	Practice provided patient data <a href="#">NHSmail - NHS Digital</a>
Microsoft Office	Data management	Practice provided patient data <a href="#">GDPR FAQs   Microsoft and the GDPR questions, answered</a>

## **7 OTHER OBLIGATIONS**

- 7.1 iPLATO shall forward to the GP Practice / Healthcare organisation and otherwise co-operate with and assist the GP Practice / Healthcare organisation with any requests received from data subjects of any Patient Data. iPLATO shall provide reasonable assistance, information and cooperation to the GP Practice / Healthcare organisation to ensure compliance with their obligations under Data Protection Legislation (in particular the obligations relating to Subject Access Requests, security measures, conducting data protection impact assessments (DPIA) and prior consultation with applicable data protection authorities).
- 7.2 iPLATO shall not transfer any Patient Data to any country outside the European Economic Area without the GP Practice / Healthcare organisation's prior written consent.
- 7.3 iPLATO shall make available to the GP Practice / Healthcare organisation on request in a timely manner such information as is reasonably required by the GP Practice / Healthcare organisation to demonstrate iPLATO's compliance with its obligations under Data Protection Legislation and this Agreement.
- 7.4 iPLATO shall permit audits conducted by the GP Practice / Healthcare organisation or another auditor mandated by the GP Practice / Healthcare organisation for the purpose of demonstrating iPLATO's compliance with its obligations under Data Protection Legislation and this Agreement. This shall be subject to the GP Practice / Healthcare organisation giving iPLATO reasonable prior notice of such audit and/or inspection and ensuring that any auditor is subject to binding obligations of confidentiality and that such audit or inspection is undertaken so as to cause minimal disruption to iPLATO's business. The GP Practice / Healthcare organisation shall pay iPLATO's reasonable costs of allowing or contributing to such audits or inspections.
- 7.5 iPLATO shall without delay, at the GP Practice / Healthcare organisation's request, either securely delete / anonymise or return all the Patient Data to the GP Practice / Healthcare organisation after the end of the provision of iPLATO services under this Agreement or, if earlier, as soon as processing by iPLATO of any Patient Data is no longer required for iPLATO's performance of its obligations under this Agreement, and securely delete/anonymise existing copies (unless storage of any data is required by applicable law).
- 7.6 Notwithstanding the foregoing, for clarification, where there is any copy of the Personal Data held by iPLATO in any back-up facility and it is not technically feasible to select the Personal Data for destruction, such Personal Data shall be destroyed in accordance with good practice, and until such destruction shall be subject to restricted access.
- 7.7 Notwithstanding any other term, where at the direction of the GP Practice / Healthcare organisation there is a request for any assistance, adopting of any measures, help and/or provision of information under this Agreement, iPLATO reserves the right to charge for such assistance, help or provision of information where reasonable.

## **8 TERM AND TERMINATION**

- 8.1 This Agreement shall commence on the Commencement Date. Unless terminated in accordance with this clause, this Agreement shall automatically terminate on termination or expiry of the Supply Agreement.
- 8.2 Without affecting any other right or remedy available to it, either party may immediately terminate this Agreement by notice in writing to the other party if the other party commits a material breach of any provision of this Agreement or repeatedly breaches any of the provisions of this Agreement.
- 8.3 If either party terminates this Agreement pursuant to the foregoing clause this shall be deemed an irremediable material breach of the Supply Agreement and the party terminating this Agreement shall be entitled (without affecting any other right or remedy available to it) to immediately terminate the Supply Agreement for the other party's irremediable breach of the Supply Agreement without incurring any liability.
- 8.4 On termination of this Agreement:
  - 8.4.1 Any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination, shall not be affected;
  - 8.4.2 The provisions of this Agreement which place obligations on iPLATO in respect of keeping the processing of Personal Data secure shall continue in force and effect until such time as all Personal

Data (including all copies thereof) has either been returned and/or destroyed in accordance with the foregoing sub-clause (unless otherwise strictly required by Law); and,

- 8.4.3 Without prejudice to the foregoing sub-clause, the provisions of this Agreement that expressly are intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

## 9 LIABILITY

- 9.1 Neither party may exclude liability for any fraud, death or personal injury.
- 9.2 Neither party shall be liable for indirect or consequential loss, loss of profits or equivalent expenditure, or loss of opportunity.
- 9.3 The total aggregate liability of both parties under this Agreement shall be limited to an amount equal to the sum paid under the Supply Agreement.

## 10 REMEDIES AND NO WAIVER

- 10.1 The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by Law or in equity.
- 10.2 A waiver of any right or remedy under this Agreement or by Law or in equity is only effective if given in writing and signed on behalf of the party giving it and any such waiver so given shall not be deemed a waiver of any similar or subsequent breach or default.
- 10.3 A failure or delay by a party in exercising any right or remedy provided under this Agreement or by Law or in equity shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by Law or in equity shall prevent or restrict the further exercise of that or any other right or remedy.

## 11 NOTICES AND VARIATION

- 11.1 Any notice given to a party under or in connection with this Agreement shall be in writing in the English language and shall be sent by email to the relevant address set out below.  
GP Practice / healthcare organisation – email address as specified in Supply Agreement  
iPLATO – help@iplato.com
- 11.2 Any notice validly given in accordance with the foregoing clause shall be deemed to have been received the following Working Day.
- 11.3 Neither Party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of the other. The foregoing shall not apply in the case of a bona fide sale, purchase, amalgamation, reconstruction or reconstitution of a party.
- 11.4 No variation of this Agreement shall be effective unless it is in writing and signed by the parties to this Agreement.
- 11.5 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. No counterpart shall be effective until each party has executed at least one counterpart.

## 12 GOVERNING LAW AND JURISDICTION

- 12.1 This Agreement is governed by the laws of England and Wales, and the parties submit to the exclusive jurisdiction of the courts of England and Wales for all purposes connected with this Agreement, including the enforcement of any award or judgement made under or in connection with it.

## 13 DEFINITIONS

- 13.1 As used in this Agreement and in any Order Forms now or hereafter associated herewith:

**“Clinical Systems”** means a system where Patient Data is stored.

**“Data Controller”** (or **“controller”**), **“Data Processor”** (or **“Processor”**), **“Data Subject”**, **“Personal Data”** all have the meaning given to those terms in Data Protection Legislation (and related terms such as **“process”** have corresponding meanings).

**“Data Protection Legislation”** means the Data Protection Act 2018, the UK General Data Protection Regulation (UK GDPR), the Privacy and Electronic Communications (EC Directive) Regulations 2003, and all applicable laws and regulations relating to processing of Personal Data and privacy, as may be

amended from time to time, including where applicable the guidance and codes of practice issued by the Information Commissioner.

**“UK GDPR”** means Regulation (EU) 2016/679 of the European Parliament as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as may be amended from time to time.

**“GP Practice / Healthcare organisation”** means the GP practices / Healthcare organisations who from time to time receive, or have previously received, services from iPLATO and are the end users of the iPLATO services. They are Data Controllers under this Agreement.

**“iPLATO Services”** includes all products and services generally and in particular includes its cloud based middleware platform (including all available modules eg Connect, PCM, Hub, FFT, PC Hub, preGP™) securely hosted within the HSCN network and integrated direct to NHS approved clinical systems.

**“Patient Data”** means Patient health, demographic, contact and appointment data obtained either directly from GP Practice or other Healthcare organisation or from patient medical records within their clinical systems. NOTE: Patient data will only be processed to the extent necessary to provide the Services specified in the Supply Agreement - iPLATO may process additional patient data under separate arrangements with individual GP practices.

**“Sub Processor”** means another Data Processor engaged by iPLATO to carry out processing activities in respect of the Patient Data.

**“Working Day”** means a day other than a Saturday, Sunday or bank holiday in England.

## Schedule 1

iPLATO Healthcare Ltd have been commissioned by SLaM Croydon NHS Talking Therapies to utilise text messaging technology contact patients informing them of the free service. The project aim is to increase uptake of SLaM Croydon NHS Talking Therapies service through self-referrals and raise awareness of other support available to patients.

Practices are invited to sign-up to authorise the involvement of eligible patients who are registered at their GP practice.

Patient Eligibility Criteria:

- 17+
- Patients registered at GP practices in the Croydon catchment area that have not opted out of SMS communications.

On receiving practice authorisation, iPLATO will conduct the following processing activities:

<b>Data collection from practice</b>	iPLATO will provide practices with a search guidance document for the practice to run a clinical system search of their patients that have opted out of SMS communications. The practice will provide the ODS Code and NHS numbers of these patients to iPLATO via secure NHSMail.
<b>SMS opt-outs</b>	SMS opt outs as provided by practices via NHSMail will be respected.
<b>Data collection from clinical system</b>	iPLATO will connect to the practice clinical system via approved APIs and download the 'patient phonebook' which includes basic contact and demographic data only. This patient phonebook will be regularly refreshed to ensure the latest contact details are utilised for messaging purposes. After each refresh the data will be purged as outlined. No patient medical information will be extracted.
<b>Purging of data</b>	All information pertaining to opted-out and non-eligible patients will be discarded as will all unnecessary data fields - the only personal data retained from the clinical system query will be NHS number, mobile number, DOB and gender.
<b>Messaging</b>	Patients identified as eligible will be contacted via SMS and provided with commissioner approved message content.
<b>Weblink</b>	A weblink will be provided to direct patients to a commissioner specified webpage to self-refer to the programme.
<b>Reporting – aggregated data</b>	The Commissioner will be provided with aggregated reporting in respect of the number of messages sent, delivered and weblinks clicked – no personal data will be shared.
<b>Reporting – case study and programme analysis</b>	iPLATO may process the programme data to produce aggregated figures for case study purposes and to support programme analysis and reporting.
<b>Retention of data</b>	Patient Data will be deleted within 30 days of project end. NOTE: where Practices are existing Connect Customers, iPLATO processes Patient Data under separate arrangements and this processing will continue as relevant.



## Data Controllers (GPs) to individually accept via (micro site address)

### Data Processor:

<b>Signed for and on behalf of iPLATO Healthcare Ltd:</b>	iPLATO Healthcare Ltd, Millbank Tower, 21-24 Millbank, London SW1P 4QP
<b>Name:</b>	Martin Rowden
<b>Position:</b>	Director
<b>Date:</b>	

### Data Controller:

<b>Surgery Name:</b>	
<b>Surgery ODS Code:</b>	
<b>Name:</b>	
<b>Position:</b>	