Mevagh Family Resource Centre

Data Processing Agreement

Document:	Data Processing Agreement
What is this?	This is Mevagh Family Resource Centre's (Mevagh FRC) Data Processing Agreement (DPA)
CRA Code Sections:	3.4, 3.7
Use of Document:	Directors of Mevagh FRC - CRA Compliance
Date Approved:	This DPA was approved by the Voluntary Board of Directors of Mevagh FRC at its meeting on 18.11.2024
Review Date:	This DPA will be reviewed every 3 years by the Voluntary Board of Directors of Mevagh FRC on 18.11.2027

Data Processing Agreement

Between:
Mevagh Family Resource Centre a company incorporated under Irish law, with registered offices at **Áras Ros Goill, Downings, Co. Donegal.** Company Registration number **6333576Q.**

Represented by **Gráinne Sheils, Project Manager**
Hereafter **"Data Controller"**

And:

(INSERT COMPANY NAME/INDIVIDUAL HERE), a company incorporated under Irish law, with registered office at **(INSERT REGISTERED ADDRESS HERE)**, Company Registration number **(INSERT NUMBER HERE)** OR **(INSERT INDIVIDUAL ADDRESS HERE).**

Represented by **XXXXX, Company Director/Owner**
Hereafter **"Data Processor"**

The Data Controller and the Data Processor may be referred to individually as a "Party" and collectively as the "Parties"

WHEREAS

- **(A)** The Data Controller – **Mevagh FRC**
- **(B)** The Data Controller wishes to subcontract certain Services (as defined below), which imply the processing of personal data, to the Data Processor.
- **(C)** The Parties seek to implement a data processing agreement that complies with the requirements of the General Data Protection Regulation 2018 and the Data Protection Act 2018.
- **(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 (including the recitals hereto) shall have the following meaning:

    1.1.1 means this Data Processing Agreement and all Schedules, if any.

    1.1.2 "Confidential Information" means all information disclosed by a Party to the other Party pursuant to this Agreement which is either designated as proprietary and/or confidential, or by its nature or the nature of the circumstances surrounding disclosure, should reasonably be understood to be confidential, including (but not

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limited to), information on employees, service users, clients accessing services, financial information.

1.1.3 "Schedule" means a schedule to the Data Processing Agreement and which forms an integral part of the Agreement.

1.1.4 "Service" means: The provision of **(INSERT SERVICE DETAILS HERE for e.g., Payroll, CCTV)**. The Service is described more in detail in Schedule 1.

1.2 The clause headings in this Agreement are for reference purposes only and shall not be used in the interpretation thereof.

2. Object of this Agreement

2.1 The Data Processor shall perform the Services in accordance with the provisions of the Agreement.

3. Price and Payment

3.1 The Data Controller shall pay the Data Processor for the Services the amounts described Schedule 1.

3.2 Any amount mentioned in this Agreement shall be VAT exclusive.

3.3 Invoices shall be paid within a period of thirty (30) days following receipt thereof.

4. Relationship between the Parties

4.1 None of the provision of this Agreement can be interpreted as indicating the intent of the Parties to form a company, association or joint venture.

5. Duration and Termination

5.1 The duration of this Agreement shall be for the duration of the delivery of the Service.

5.2 Either Party shall have the right to terminate the Agreement, partially or entirely forthwith by sending a written notice of termination to the other Party specifying the reasons for the termination, if any of the following events occur:

5.2.1 The other Party materially breaches any of its obligations under this Agreement.

5.2.2 The other Party breaches any of its obligations under this Agreement and, notwithstanding a written request from the non-breaching Party to remedy such a breach, fails to comply with such a request within a period of thirty (30) days following such notice.

5.2.3 An event of force majeure prevails for a period exceeding 5 business days.

5.2.4 The other party becomes insolvent or enters liquidation, a petition in bankruptcy is filed for it or a receiver is appointed.

5.3 Upon the termination or expiry of this Agreement, any rights and obligations of the Parties accrued prior to the termination or expiry thereof shall continue to exist.

5.4 Upon termination or expiry of the Agreement, or at any earlier moment if the personal data are no longer relevant for the delivery of the Services, at the choice of the Data Controller, the Data Processor shall delete or return all the personal data to the Data Controller and delete existing copies unless a law or regulation requires storage of the personal data.

5.5 The provision of articles 5,6 and 7 of this Agreement shall survive the termination of this Agreement.

6. Data Protection

6.1 As the performance of the Agreement and the delivery of the Services implies the processing of personal data, the Data Controller and the Data Processor shall comply with the applicable data protection legislation and regulations.

6.2 The Data Processor shall ensure that in relation to personal data disclosed to it by, or otherwise obtained from the Data Controller, it shall act as the Data Controller's data processor in relation to such personal data and shall therefore:

6.2.1 From **(INSERT DATE YEAR)** create and maintain a record of its processing activities in relation to this Agreement; the Data Processor shall make the records available to the Data Controller, any auditor appointed by it and/or the supervisory authority on first request.

6.2.2 Not process the personal data for any purpose other than to deliver the Services and to perform its obligations under the Agreement in accordance with the documented instructions of the Data Controller; if it cannot provide such compliance, for whatever reasons, it agrees to promptly inform the Data Controller of its inability to comply.

6.2.3 Inform the Data Controller immediately if it believes that any instruction from the Data Controller infringes applicable data protection legislation and regulations.

6.2.4 Not disclose the personal data to any person other than to its personnel as necessary to perform its obligations under the Agreement and ensure that such personnel is subject to statutory or contractual confidentiality obligations.

6.2.5 Take appropriate technical and organisational measures against any unauthorised or unlawful processing, and to evaluate at regular intervals the adequacy of such security measures, amending these measures where necessary; these security measures are described in Schedule 2.

6.2.6 Ensure that access, inspection, processing and provision of the personal data shall take place only in accordance with the need-to-know principle, i.e., information shall be provided only to those persons who require the personal data for their work in relation to the performance of the Services.

6.2.7 Promptly notify the Data Controller about (i) any legally binding request for disclosure of the personal data by a data subject, a judicial or regulatory authority unless otherwise prohibited, such as the obligation under criminal law to preserve the confidentiality of a judicial enquiry, and to assist the Data Controller therewith (ii) any accidental or unauthorized access, and more in general, any unlawful processing and to assist the Data Controller therewith;

6.2.8 Deal promptly and properly with all reasonable inquiries from the Data Controller relating to its processing of the personal data or in connection with the Agreement.

6.2.9 Make available to the Data Controller all information necessary to demonstrate compliance with the applicable data protection legislation and regulations.

6.2.10 At the request of and costs of the Data Controller, submit its data processing facilities for audit or control of the processing activities.

6.2.11 Refrain from engaging another data processor without the prior written consent of the Data Controller.

6.2.11 Assist the Data Controller, subject to reasonable additional compensation, with the Data Controller's obligation under a applicable data protection laws and regulations.

6.3 Personal data processed in the context of this Agreement may not be transferred to a country outside the European Economic Area without the prior written consent of the Data Controller. 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.

7. Confidentiality

7.1 Each party acknowledges that during this Agreement, a Party (the "receiving Party") may become privy to Confidential Information which is disclosed by the other Party (the "disclosing Party").

7.2 The receiving Party shall keep all Confidential Information confidential. The receiving Party shall not disclose Confidential Information to any third party and shall not use Confidential Information for any purposes other than for the purposes of this Agreement. The receiving Party shall safeguard the Confidential Information to the same extent that it safeguards its own confidential and proprietary information and in any event with no less than a reasonable degree of protection.

7.3 Each Party agrees that before any of its subcontractors and/or agents may be given access to Confidential Information, each such subcontractor and/or agent shall agree to be bound by a confidentiality undertaking comparable to the terms of this Agreement. Notwithstanding the return of any Confidential Information, each Party, and its subcontractors and/or agents will continue to hold in confidence all Confidential Information, which obligation shall survive any termination of this Agreement.

7.4 In the event the receiving party is requested or required to disclose, by court order or regulatory decision, any of the disclosing Party's Confidential Information, the receiving Party shall furnish only that portion of the Confidential Information which is legally required.

7.5 Within **10** business days following (i) the termination or expiry of this Agreement or (ii) the disclosing Party's reasonable earlier request at any time, the receiving Party shall destroy or return to the disclosing Party (at its option) any and all of the disclosing Party's Confidential Information and shall purge all copies and traces of the same from any storage location and/or media.

7.6 The confidentiality undertaking under this Article 7 shall not be applicable if the Confidential Information:

7.6.1 Has become publicly known prior to being divulged or thereafter, but without any breach of confidentiality undertaking; or

7.6.2 Had been legitimately obtained from a third party neither tied by an obligation of confidentiality nor professional secrecy; or

7.6.3 Was independently created by the receiving Party without use of any Confidential Information of the disclosing Party; or

7.6.4 Was already known or developed by the Receiving Party, as can be demonstrated by documentary evidence.

8. Intellectual Property Rights

8.1.1 The Data Processor is and shall remain the owner of any materials used or made available in the context of the delivery of the Services.

8.1.2 The Data Processor grants to the Data Controller a limited, personal, non-exclusive, non-transferable right to use any material provided in the context of the delivery of the Services. This license is coterminous with the Agreement.

9. Liability

9.1 Either Party's liability shall be limited, per contract year, to an amount to the value of the contract.

9.2 Neither party shall be liable for any indirect or consequential damages, such as (but not limited to) loss of revenue, loss of profit, loss of opportunity, loss of goodwill and third-party claims.

9.3 No limitation of liability shall apply in case of fraud, wilful intent, death and physical injury resulting from a Party's negligence.

10. Miscellaneous Provisions

10.1 This Agreement contains the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes and replaces all prior agreements or understandings, whether written or oral, with respect to the same subject matter that are still in force between the Parties.

10.2 Any amendments to this Agreement, as well as any additions or deletions, must be agreed in writing by both the Parties.

10.3 Whenever possible, the provisions of this Agreement shall be interpreted in such a manner as to be valid and enforceable under the applicable law. However, if one or more provisions of this Agreement are found to be invalid, illegal or unenforceable, in whole or in part, the remainder of that provision and of this Agreement shall remain in full force and effect as if invalid, illegal or unenforceable provision had never been contained herein. Moreover, in such an event, the Parties shall amend the invalid, illegal or unenforceable provision(s) or any part thereof and/or agree on a new provision in such a way as to reflect insofar as possible the purpose of the invalid, illegal or unenforceable provision(s).

10.4 Any failure or delay by a party in exercising any right under this Agreement, any single or partial exercise of any right under this Agreement or any partial reaction or absence of reaction by a party in the event of a violation by the other party of one or more provisions of this Agreement, shall not operate or be interpreted as a waiver (either express or implied, in whole or in part) of that party's rights under this Agreement or under the said provision(s), nor shall it preclude any further exercise of any such rights. Any waiver of a right must be expressed in writing. If there has been an express written waiver of a right following a specific failure by a party, this waiver cannot be invoked by the other party in favour of a new failure, similar to the prior one, or in favour of any other kind of failure.

11.   Applicable Law and Jurisdiction

11.1   The laws of Ireland shall apply to this Agreement.

11.2   The Courts of Ireland shall have exclusive jurisdiction with respect to all disputes arising out of or in connection with this Agreement. Attempts to solve disputes informally shall not prevent the Parties from submitting such disputes to the Courts.

Done in two original counterparts, one for each Party to this Agreement:

For the Data Controller,	For the Data Processor,
Date	Date
Signature	Signature
Manager (INSERT FRC HERE)	Company Director/Owner

List of Schedules:

- **Schedule 1: Service Description and Pricing**
- **Schedule 2: Data Processing and Security**

Schedule 1: Service Description and Pricing

The provision of: (INSERT DETAILS OF SERVICES TO BE PROVIDED & COST)

Schedule 2: Data Processing and Security

1. **Description of the data processing carried out on behalf of the Data Controller**

    The data processing performed by the Data Processor on behalf of the Data Controller **(INSERT DETAILS HERE)**.

    The data processing activity consists of **(TO BE COMPLETED BY DATA PROCESSOR)**.

    The categories of personal data involved is: **(INSERT DETAILS HERE)**.

2. **Description of security measures**

    (TO BE COMPLETED BY DATA PROCESSOR). The Data Processor has implemented the following security measures:
    Please detail what security measures are in place to prevent unauthorised access to, or unauthorised alteration, disclosure, or destruction of, the data, in particular where the processing involves the transmission of data over a network, and against all unlawful forms of processing.

3. **Appointed sub-processors (If Applicable)**
    The Data Processor has appointed the following sub-processors to **(INSERT DETAILS HERE)**.

Review

This policy will be reviewed every three years or sooner if required.

Signed: _____ (Chairperson)   Date: _18_ / _11_ / _24_

Signed: _____ (Director)   Date: _18_ / _11_ / _24_

Revision History

Revision No.	Approval Date	Document Reference & Changes Made	Name