

CONFIDENTIAL

TIER 1 DATA TRANSFER AGREEMENT

THIS AGREEMENT is made the 23rd of May 2018 by and between

The University of Manchester (acting in this instance through the Greater Manchester Connected Health City) with a business address at Oxford Road, Manchester, United Kingdom (“Receiving Organisation”)

And **Stockport NHS Foundation Trust** whose registered office is at Stepping Hill Hospital, Poplar Grove, Hazel Grove, Stockport SK2 7JE (“Providing Organisation”);

each a “Party” and collectively the “Parties”

WHEREAS Receiving Organisation is the base and the legal entity for the Greater Manchester Connected Health Cities Hub and holds anonymised data in the field of Healthcare; and

WHEREAS the Providing Organisation collects certain Data which shall be detailed in the Tier 2 Agreement in the form annexed hereto at Schedule 1.

WHEREAS The Parties agree that before each transfer of Data a Tier 2 Agreement shall be signed by the Parties and shall detail the type of Data required, the reason for the required Data/the project and the use of such Data.

WHEREAS the Parties wish to clarify their respective rights and obligations in respect of the Receiving Organisation’s use of the Data and each Party’s use of the results of such project through entry into this Tier 1 Agreement.

NOW THEREFORE in consideration of the mutual promises and covenants set forth herein, and intending to be legally bound, the Parties agree as follows:

1. Definitions

- 1.1 “**Data**” shall mean the data described in the Tier 2 Agreement together with any additional information made available relating thereto.
- 1.2 “**Purpose**” shall mean use by the Receiving Organisation for purposes in the specific project detailed in the Tier 1 Agreement and no other purpose.
- 1.3 “**Receiving Organisation’s representative**” shall mean the representative(s) of the Receiving Organisation named in Tier 2 Agreement responsible for the conduct of the Purpose.
- 1.4 “**Results**” shall mean the results arising Purpose performed by the Receiving Organisation using the Data including without limitation all analyses, calculations, algorithms and meta-data irrespective of format.

- 1.5 **“Tier 1 Agreement”** means this Agreement
- 1.6 **“Tier 2 Agreement”** means an agreement between the Parties on the template annexed hereto at Schedule 1 detailing the particular Data transfers which must be signed by both Parties before any Data is transferred.

2. Transfer of Data

- 1.1 Prior to each transfer of Data the Parties shall both sign a Tier 2 Agreement which shall set out the details of the transfer such as the type of Data required, the start and end date for the use of such Data and the purpose of the transfer. For the avoidance of doubt, no transfer of Data shall take place until such Tier 2 Agreement has been signed.
- 1.2 The Providing Organisation shall provide the Data described in the Tier 2 Agreement to the Receiving Organisation as soon as reasonably possible following execution of the particular Tier 2 Agreement. Data will be transferred to the Receiving Organisation’s representative by the Providing Organisation’s representative responsible for the care of the Data.
- 1.3 The transfer of the Data under a Tier 2 Agreement shall be governed by the terms and conditions of this Tier 1 Agreement.

3. Treatment of Data by the Receiving Organisation

- 3.1 The Receiving Organisation’s representative will be responsible for receipt of the Data and upholding any obligations on the Providing Organisation in respect of the Data. Notwithstanding the foregoing, the Receiving Organisation agrees to maintain Data disclosed or transferred to the Receiving Organisation by or on behalf of Providing Organisation as confidential data with the same degree of care it holds its own confidential data.
- 3.2 The Receiving Organisation will mark and store the Data in such a manner that it is at all times traceable as proprietary to the Providing Organisation. The Receiving Organisation will keep the Data secure using password protection as a minimum and preferably data encryption. The Receiving Organisation will not store the Data on a laptop, disc, external drive or any other temporary media.
- 3.3 The Receiving Organisation will not use the Data or cause the same to be used except for the Purpose. The Receiving Organisation will disclose such Data only to its directors, officers, employees, faculty, and researchers directly concerned with carrying out the Purpose subject to the Receiving Organisation having in place with such persons obligations no less strict than those set out herein and remaining fully liable for any breach by such persons. The Receiving Organisation will neither disclose the Data to any third party nor use such Data for any other purpose without the prior written consent of the Providing Organisation.
- 3.4 Each Party shall comply with the Data Protection Act 1998 ("the 1998 Act") and any other applicable data protection legislation or regulations. The Parties agree to use all reasonable efforts to assist each other to comply with the 1998 Act. For the avoidance of doubt, this includes providing the other with reasonable assistance in

complying with subject access requests served under Section 7 of the 1998 Act and consulting with the other prior to the disclosure of any personal data created in connection with the conduct or performance of the Purpose in relation to such requests.

4. Exceptions.

- 4.1 The Receiving Organisation's obligations of nondisclosure and the limitations upon its right to use the Data shall not apply to the extent that the Receiving Organisation can demonstrate that Data: (a) was in its possession prior to the time of disclosure without obligation to the Providing Organisation; or (b) is or becomes public knowledge through no fault or omission of the Receiving Organisation; or (c) is obtained by the Receiving Organisation from a third party under no obligation of confidentiality to the Providing Organisation; or (d) if the Receiving Organisation is requested or ordered to disclose Data in connection with a legal or administrative proceeding, the Receiving Organisation will give the Providing Organisation prompt notice of such request. The Providing Organisation may seek an appropriate protective order or other remedy or waive compliance with the provisions of this Agreement or both. If the Providing Organisation seeks a protective order or other remedy, the Receiving Organisation will cooperate with the Providing Organisation, at the Providing Organisation's expense. To the extent the Providing Organisation fails to obtain a protective order or waive compliance with the relevant provisions of this Agreement, the Receiving Organisation will disclose only that portion of the Data which its legal counsel determines the Receiving Organisation is required to disclose.

5. Ownership of Results and License.

- 5.1 Nothing shall affect the ownership of the Data which shall remain vested in the Providing Organisation. For the avoidance of doubt this extends to any of the Data which is included in the Results.
- 5.2 Results of the Purpose will be owned by the Receiving Organisation. The Receiving Organisation will keep the Providing Organisation reasonably updated with progress of each project and will supply all Results to the Providing Organisation in a timely manner.
- 5.1 The Providing Organisation will be entitled to receive all raw data contained in the Results. The Receiving Organisation grants to the Providing Organisation, without fee or payment of any kind, a perpetual, worldwide, non-exclusive, fully sublicensable, license to use the Results for internal teaching and non-commercial research.

6. Publication.

- 6.1 Notwithstanding the other provisions of this Tier 1 Agreement, it is the desire of both Parties for Results to be published as appropriate.
- 6.2 The Receiving Organisation may publish the Results, will detail the source(s) of data used, and to the extent that the Providing Organisation has made any significant contribution to the Results the Receiving Organisation will give due acknowledgement to the Providing Organisation which shall be agreed at the time of publication in accordance with accepted scientific publication practice.

6.3 The Providing Organisation shall have the right to review all proposed publications which refer in any manner to the Results or the Data. The Receiving Organisation will send relevant manuscripts and proposed publications to the Providing Organisation for review prior to publication. The Providing Organisation will have up to thirty (30) days to review each manuscript (“Review Period”) and will have the right to delete any Providing Organisation confidential information or Data from such manuscript. The Receiving Organisation will be free to publish at the end of the Review Period.

7. Retention of Rights in the Data.

7.1 All intellectual property rights in the Data shall remain the property of the Providing Organisation at all times. Nothing in this Agreement shall be construed as granting any license to the Data or the Providing Organisation’s other intellectual property rights unless otherwise expressly set out under this Tier 1 Agreement or the Tier 2 Agreement.

8. No Further Obligation.

8.1 Providing Organisation is disclosing Data to Receiving Organisation on the express understanding that neither Party will be obligated to enter into any further agreements relating to the subject matter hereof, and unless and until any final definitive agreement with respect to the above subject matter is agreed between the Parties, the Parties will not have any obligation to the other Party except under this Agreement or any other definitive written agreement already entered into with respect to the subject matter.

9. Limited Representations and Warranties.

9.1 The Providing Organisation represents that the Data has been derived and supplied in accordance with all applicable laws, rules and regulations.

9.2 Each Party represents to the other, to the extent that it supplies to the other Party, uses itself, or permits the other Party to use Data it has obtained from a third party to perform this Agreement that it has all required permissions, licenses and consents from such third party to do so.

9.3 The Receiving Organisation warrants it will conduct the permitted project using the Data and any third party data in accordance with all applicable laws, rules and regulations; and save for the express warranties set forth in this Tier 1 Agreement, no representations, undertakings or warranties, whether express or implied, are made or given by either Party including without limitation (i) as to the accuracy, completeness, or fitness for a particular purpose of the Data; or (ii) the Results or their freedom from infringement of any third party intellectual property rights.

10. Term and Termination.

10.1 This Tier 1 Agreement will terminate ten (10) years from the date of last signature.

10.2 Either Party may terminate this Agreement without cause on giving the other not less than thirty (30) days written notice. Those sections intending to survive expiry or earlier termination of this Agreement will survive.

10.3 For the avoidance of doubt, if the period of a Tier 2 Agreement extends beyond the termination date of this Tier 1 Agreement, the terms and conditions of this Tier 1 Agreement shall remain in force in relation to the data transfer under the Tier 2 Agreement until the expiry of the Tier 2 Agreement.

11. Return or destruction of Data.

11.1 Data shall be returned or destroyed as set out in the Tier 2 Agreement. Upon the written request of the Providing Organisation at any time or following expiry of the Tier 2 Agreement, the Receiving Organisation will promptly return or destroy (as set out in the Tier 2 Agreement) all Data in its possession or control and all copies of it, save that the Receiving Organisation will not be required to surrender or destroy any computer files stored securely by the Receiving Organisation, its business units and affiliates that are created during automatic system back-up or retained for legal purposes by the legal division of the Receiving Organisation. The Receiving Organisation will certify to the Providing Organisation that all electronic copies other than those required as above have been deleted, and that all paper copies have been destroyed.

12. General

11.1 **Headings.** Headings are provided for convenience only and do not affect the construction or interpretation of this Tier 1 Agreement and the Tier 2 Agreement.

11.2 **No Waiver.** No waiver shall be binding unless in writing and signed by the Party making such waiver. A waiver made on one occasion shall not be deemed a waiver on any other or subsequent occasion. All rights of the Parties are cumulative.

11.3 **Authority.** Each Party represents to the other that it has the full authority to enter into this Tier 1 Agreement and the Tier 2 Agreement. Each Party represents to the other that it is entering into this Agreement as principal not agent. Each signatory represents that they have the full authority to bind their respective company or organization to the terms of this Agreement.

11.4 **Entire Agreement.** This Tier 1 Agreement and the Tier 2 Agreement(s) sets forth the entire agreement between the Parties as to its subject matter and supersedes all prior discussions, understandings, or verbal agreements (if any) in relation thereto all of which are replaced in their entirety by the terms of this Agreement. Notwithstanding the foregoing, Tier 1 Agreement and any Tier 2 Agreement(s) shall not supersede or vary any other definitive written agreements already executed between the Parties. For the avoidance of doubt, in the event of conflict between this Tier 1 Agreement or any Tier 2 Agreement(s), the terms of the Tier 1 Agreement shall prevail.

11.5 **Variation.** None of the terms of this Tier 1 Agreement shall be amended except in a writing signed by each Party.

11.6 **Counterparts and Execution.** This Tier 1 Agreement and any Tier 2 Agreement(s) may be executed in two or more counterparts each of which is separate but when taken together shall constitute one and the same instrument.

- 11.7 **No Third Party Rights.** No third party, including without limitation any director, officer, employee, agent or consultant of either Party or their respective Affiliates or business units shall have or acquire any rights under this Tier 1 Agreement or any Tier 2 Agreement(s).
- 11.8 **Existence of Agreement.** The Receiving Organisation, its directors, officers, employees, agents and consultants will not disclose or publicly announce the existence of this Tier 1 Agreement or any Tier 2 Agreement(s), its terms, or any activities contemplated under it, without the prior written consent of the Providing Organisation. Notwithstanding the foregoing, such restriction will not act to prevent any disclosure by the Receiving Organisation as required by law or a regulatory authority, or to any potential lender or acquirer for the purpose of pursuing the specific transaction subject to obligations of confidentiality.
- 11.9 **Assignment.** Neither Party may assign this Tier 1 Agreement and any Tier 2 Agreement(s), in whole or in part, without the prior written consent of the other Party.
- 11.10 **Governing Law.** This Tier 1 Agreement and any Tier 2 Agreement(s) shall, in all respects, be construed and governed in accordance with the laws of England and Wales.



The University of Manchester



IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by the hands of their duly authorized representatives as of the day and date first written above.

The Providing Organisation

The Receiving Organisation

Signed:

Signed:

Print Name:

Print Name:

Position:

Position:

Schedule 1
Tier 2 Agreement

CONNECTED HEALTH CITIES:
DATA SHARING AGREEMENT

Document Management

Revision History

Version	Date	Summary of Changes
0.1	01/08/2016	First draft for internal review
1.0	20/03/2017	Incorporating minor changes following stakeholder review

Reviewers

This document must be reviewed by the following people:

Reviewer name	Title / Responsibility	Date	Version
CHC IG working Group			

Approved by

This document must be approved by the following people:

Name	Signature	Title	Date	Version
John Ainsworth			03/05/2017	1.0

1. Data Sharing Agreement

This Data Sharing Agreement is subject to the terms and conditions set out in the Tier 1 Agreement.

Each party must have signed up to these terms and conditions before any Data can be shared.

1. Title and Reference Code

CHC Project	GM CHC Stroke (Pathways Project): ABC-ICH App
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2. Parties to the Agreement

Agreement owner	The University of Manchester
Receiving Organisation (s)	The University of Manchester
Providing Organisation (s)	Stockport NHS Foundation Trust

3. Term of the Agreement

Start Date	23/05/2018
End Date	31/03/2020

4. Privacy Impact Assessment

Summary of Privacy Impact Assessment for Data Sharing	<p>Data entered into an App installed on Android tablets by clinical care team in HASU. Data containing no identifiable information to be sent encrypted to a secure server at the University. The server is maintained by ResearchIT and the App and associated software are maintained by the mHealth team. Risk assessments have been done by the University (see IG Checklist) and GM CHC (see PIA).</p> <p>The following approaches were highlighted:</p> <ul style="list-style-type: none"> • Risk assessment and information security review by university IT services including vulnerability scans and advise on technical standards for mHealth team to follow
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	<ul style="list-style-type: none">• Compliance with NHS standards and EU Direction for class I medical devices. Self-certified with MHRA.• Ongoing public outreach work to inform people about the GM CHC stroke pathway improvement work to ensure support and understanding. This includes leaflets distributed in HASU that are designed to be understandable for stroke patients.• The safeguards agreed at citizens' juries are one way we're building public trust.
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5. Data Details

Type of Data to be Shared Anonymised (inc. Pseudonymised/ De-identified) / Personal Confidential	Anonymised. Initials and date of onset distinguish patient records from one another.
Purpose for Sharing	Service improvement
Personnel to have access to the Data	<p>Principal investigator on the project (Adrian Parry-Jones) will be able to review data from all participating NHS trusts via the online dashboard</p> <p>Approved health professionals from participating NHS trusts approved by the principal investigator tick a disclaimer and get login access to summaries of data for their NHS trust only via the online dashboard</p> <p>mHealth team (<10 members) have access to server for system administration</p> <p>Any future analysis of the quality improvement data will be done by analyst(s) under the oversight of the PI. This analytical work will require HRA approval before going ahead.</p>
Details of the Data to be shared	Data relating to patients who are suspected of having an intracerebral haemorrhage for whom the clinical care team in the HASU follow the standard ABC care bundle and enter data into the app during this process. The data are captured in the first few hours of acute care in the HASU.
Details of how the Data will be shared	Transfer of encrypted data from tablet connected to wifi network across the internet to university server
Details of access / storage and destruction	<p>The data will be stored electronically on a virtual machine hosted in university data centre.</p> <p>The electronic data have a retention period of 10 years in line with clinical records. This can be modified if requested by the providing organisation (see Tier 1 contract).</p>

6. For Personal Confidential Data only

Details of Legal Basis for Sharing	Not applicable – de-identified
Data Controller Arrangements (describe who will be the Data Controller of the shared Data)	Not applicable
Receiving Organisations ICO Registration Reference	Not applicable

7. For Pseudonymised or De-Identified Data only

Details of Controls to be put in place to minimise the risk of re-identification of patients or service users	<p>Data for the project are stored on a dedicated server and isolated from other university datasets. The only dashboard users who can access the raw data are those requested by the PI who work at the NHS Trust that provided patient care.</p> <p>The storage of initials and year of birth has been determined as a reasonable solution that is not identifiable information, but enough to enable service evaluation in trusts by those with rightful access to full clinical records to also ensure patient safety.</p>
Patient Information made available by Data Provider	GM CHC stroke project patient leaflets are distributed in the HASU

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3. Signature Page

3.1 Data Sharing Agreement owner

Signed for and on behalf of	The University of Manchester
Name	Niels Peek
Role / Job Title	Head of GM CHC
Signature	
Date	

3.2 Parties to the Data Sharing Agreement

Signed for and on behalf of	Stockport NHS Foundation Trust
Name	Alison Lynch
Role / Job Title	Caldicott Guardian
Signature	
Date	