

# helloData

## Data Processing Agreement

(V1.1)

# DPA between the customer and Hello Data Ltd (the Service Provider)

This Data Processing Agreement ("**DPA**") is a legally enforceable contract entered into and made effective as of the date of signature ("**Effective Date**") by and between the customer and Hello Data Ltd (the Service Provider).

The Service Provider and Customer are sometimes referred to in this DPA individually as a "**Party**" and collectively as the "**Parties**".

This DPA is incorporated by reference into the main agreement (or Contract) between the Parties for the provision by the Service Provider to Customer of support and/or services (such support and/or services being the "Services" and such agreement being the "**Main Agreement**").

This DPA shall apply only to the extent that the Customer is established within the EEA (as defined below) or Switzerland or to the extent Service Provider Processes Personal Data of Data Subjects located in the EEA or Switzerland.

## 1 Data Processor and Data Controller

- 1.1** The Parties agree that, for the Protected Data, the Customer shall be the Data Controller and Service Provider shall be the Data Processor.
- 1.2** The Service Provider shall Process Protected Data in compliance with:
  - 1.2.1 the obligations of Data Processors under Data Protection Laws in respect of the performance of its obligations under this DPA; and
  - 1.2.2 the terms of this DPA.
- 1.3** The Customer shall comply with:
  - 1.3.1 all Data Protection Laws in connection with the Processing of Protected Data, the Services and the exercise and performance of its respective rights and obligations under this DPA, including maintaining all relevant regulatory registrations and notifications as required under Data Protection Laws; and
  - 1.3.2 the terms of this DPA.
- 1.4** The Service Provider warrants, represents and undertakes, that:
  - 1.4.1 all data received by the Service Provider for use in connection with the Services, prior to such data being provided to or accessed by Service Provider for the performance of the Services under this DPA, shall comply in all respects, including in terms of its collection, storage and Processing, with Data Protection Laws;
  - 1.4.2 all instructions given by the Service Provider in respect of Personal Data shall be in accordance with Data Protection Laws;

- 1.4.3 it has undertaken due diligence in relation to Service Provider 's Processing operations, and the service provider must demonstrate that:
  - (a) The Service Provider 's Processing operations are suitable for the purposes for which the Customer proposes to use the Services and engage Service Provider to Process the Protected Data; and
  - (b) The Service Provider has sufficient expertise, reliability and resources to implement technical and organisational measures that meet the requirements of Data Protection Laws;
- 1.5 The Service Provider shall not withhold, delay or condition its agreement to any change requested by Customer in order to ensure the Services and Service Provider (and each Sub-Processor) complies with Data Protection Laws.

## 2 Instructions and details of Processing

- 2.1 Insofar as the Service Provider Processes Protected Data on behalf of the Customer, the Service Provider:
  - 2.1.1 unless required to do otherwise by Applicable Law, shall process the Protected Data as agreed under the Main Agreement and in accordance with Service Provider's standard procedures and this DPA;
  - 2.1.2 if Applicable Law requires it to Process Protected Data other than in accordance with the Processing Instructions, shall inform the Customer of any such requirement before Processing the Protected Data (unless Applicable Law prohibits such information on important grounds of public interest); and
  - 2.1.3 shall inform the Customer if Service Provider becomes aware of a Processing Instruction that, in Service Provider 's opinion, infringes Data Protection Laws.

## 3 Using staff and other Processors

- 3.1 The Customer agrees that the Service Provider may engage Sub-Processors. The Service Provider will impose on such Sub-Processors data protection terms that protect the Protected Data to the same standard provided for by this DPA. Upon the Customer's request, the Service Provider will provide to the Customer a list of the current Sub Processors. The Service Provider remains fully liable for all relatable acts or omissions of any sub-processor pertaining to this agreement.
- 3.2 The Service Provider may, by giving no less than 30 days' prior notice to Customer, add or make changes to the Sub-Processors. Customer may object to the appointment of an additional Sub-Processor within 14 calendar days of such notice on reasonable grounds relating to the protection of the Protected Data, in which case Service Provider shall have the right to cure the objection through one of the following options (to be selected at Service Provider's sole discretion):
  - 3.2.1 Service Provider will cancel its plans to use the Sub-Processor with regard to Protected Data or will offer an alternative to provide the Services without such Sub-Processor; or

- 3.2.2 Service Provider will take the corrective steps requested by Customer in its objection (which remove Customer's objection) and proceed to use the Sub-Processor with regard to Protected Data; or
- 3.2.3 Service Provider may cease to provide, or Customer may agree not to use (temporarily or permanently) the particular aspect of the Services that would involve the use of such Sub-Processor with respect to Protected Data, subject to a mutual agreement of the Parties to adjust the remuneration for the Services.

If none of the above options are reasonably available and the objection has not been resolved to the mutual satisfaction of the Parties within 30 days after Service Provider's receipt of Customer's objection, either Party may terminate the Main Agreement within the terms of that contract.

- 3.3 The Service Provider may replace a Sub-Processor with advance notice to Customer if the reason for the change is beyond Service Provider's reasonable control, in which event Service Provider shall notify Customer of the replacement as soon as reasonably practicable and Customer shall retain the right to object to the replacement Sub-Processor pursuant to Section 3.2 above.
- 3.4 The Service Provider shall ensure that all Service Provider personnel authorised to Process Protected Data are subject to a binding written contractual obligation with Service Provider to keep the Protected Data confidential.

#### 4 Assistance with the Customer's compliance and Data Subject rights

- 4.1 The Service Provider shall provide commercially reasonable assistance, including by appropriate technical and organizational measures as reasonably practicable, to enable Customer to respond to any Data Subject Request, including rights of access, correction, restriction, objection, erasure, or data portability, as applicable. The Service Provider shall refer all Data Subject Requests it receives to the Customer within 3 Business Days of receipt of the request, provided that for unreasonably complex or numerous requests (as determined by Service Provider in its sole and reasonable discretion)
- 4.2 The Service Provider shall provide such reasonable assistance as the Customer reasonably requires (taking into account the nature of Processing and the information available to Service Provider) to the Customer in ensuring compliance with the Customer's obligations under Data Protection Laws with respect to:
  - 4.2.1 security of Processing;
  - 4.2.2 data protection impact assessments (as such term is defined in Data Protection Laws);
  - 4.2.3 prior consultation with a Supervisory Authority regarding high risk Processing; and
  - 4.2.4 notifications to the Supervisory Authority and/or communications to Data Subjects by the Customer in response to any Personal Data Breach,

## 5 International data transfers

- 5.1** Subject to the terms of the Main Agreement, the Customer agrees that Service Provider may transfer Protected Data to countries outside the European Economic Area (EEA) or to any international organisation(s), provided all transfers by Service Provider of Protected Data to an International Recipient shall (to the extent required under Data Protection Laws) be effected by way of Appropriate Safeguards and in accordance with Data Protection Laws. The Customer must be informed of any such arrangements.

## 6 Records, information and audit

- 6.1** The Service Provider shall maintain, in accordance with Data Protection Laws binding on Service Provider, written records of all categories of Processing activities carried out on behalf of the Customer.
- 6.2** The Service Provider shall, in accordance with Data Protection Laws, make available to the Customer such information as is reasonably necessary to demonstrate Service Provider's compliance with the obligations of Data Processors under Data Protection Laws.

## 7 Breach notification

- 7.1** In respect of any Personal Data Breach involving Protected Data, Service Provider shall, without undue delay after becoming aware of the Personal Data Breach:
- 7.1.1 notify the Customer of the Personal Data Breach within the required 72 hours or without undue delay; and
  - 7.1.2 provide the Customer with details of the Personal Data Breach.

## 8 Term

- 8.1** This DPA shall commence on the Effective Date and shall terminate on the earlier of: (1) the termination of the Main Agreement (Contract); or (2) the mutual written agreement of the Parties.

## 9 Deletion or return of Protected Data and copies

- 9.1** The Service Provider shall, at the Customer's written request, either delete or return all the Protected Data to the Customer in such form as the Customer reasonably requests within a reasonable time after the earlier of:
- 9.1.1 the end of the provision of the relevant Services related to Processing; or

- 9.1.2 once Processing by Service Provider of any Protected Data is no longer required for the purpose of Service Provider's performance of its relevant obligations under this DPA and delete existing copies (unless storage of any data is required by Applicable Law and, if so, Service Provider shall inform the Customer of any such requirement).

## 10 Liability, indemnities and compensation claims

- 10.1 If a Party receives a compensation claim from a person relating to Processing of Protected Data, it shall promptly provide the other Party with notice and full details of such claim. The Party with conduct of the action shall:
  - 10.1.1 make no admission of liability nor agree to any settlement or compromise of the relevant claim without the prior written consent of the other Party (which shall not be unreasonably withheld or delayed); and
  - 10.1.2 consult fully with the other Party in relation to any such action, but the terms of any settlement or compromise of the claim will be exclusively the decision of the Party that is responsible under this DPA for paying the compensation.

## 11 Miscellaneous

- 11.1 In case of any conflict between this DPA and the Main Agreement (Contract), the provisions of this DPA shall control the Processing of Protected Data unless expressly stated otherwise herein.
- 11.2 Any claims brought under or pursuant to this DPA or otherwise related hereto shall be subject to the terms and conditions of the Main Agreement (Contract), including, but not limited to, the exclusions to and limitations of liability set forth therein which shall apply to the liabilities and indemnities under and in connection with this DPA.

## Data Processing Agreement – Contact Information

Data sharing agreement details – **Controller (customer)**

Agreement details - Controller	
Controller name	
Controller address	
Address 2	
Address 3	
Post code	
Controller contact name	
Controller contact email address	
Controller contact phone number	
Controller DPO contact name	
Controller DPO email address	
Controller DPO phone number	

Data sharing agreement details – **Processor (service provider)**

Agreement details - Processor	
Processor name	Hello Data Ltd
Processor address	27 Woodgreen
Address 2	Witney
Address 3	Oxfordshire
Post code	OX28 1DG
Processor contact name	Kim Marczak
Processor contact email address	kim.marczak@hello-data.co.uk
Processor contact phone number	07875 912170
Processor DPO contact name	n/a
Processor DPO email address	n/a
Processor DPO phone number	n/a
ICO reference number	ZA433446

Information on processing and duration of contact.

Contract agreement processing information	
Contract start date	
Contract renewal date	
Purpose and nature of processing: Handling data entered into the school MIS for the purposes of producing analysis reports	
Description of processing activity:	

Hello Data Ltd provides a service of processing assessment and core pupil data to produce analysis reports.

Personal data type and categories of data subject used in processing by the Processor:

- Staff name
- Staff email
- Staff role
- Pupil name:
- Pupil DOB:
- Pupil Gender:
- Pupil FSM:
- Pupil Pupil Premium:
- Pupil Ever6 FSM:
- Pupil EAL:
- Pupil Ethnicity:
- Pupil Percentage Attendance:
- UPN:
- SEN:
- Pupil Registration Group/Class:
- Pupil Year Group:
- Pupil Looked After
- Pupil Service Indicator

Assessment Data:

- EYFS Statutory attainment scores
- KS1 Statutory attainment scores
- Reception & Nursery in-year attainment and progress scores
- Y1 to Y6 attainment in-year attainment and progress scores

## Contract agreement data retention information (end of contract)

Contract data retention information



Please state data retention information for duration of the contract if relevant and when the contract expires. Please also include any retention periods and data destruction\transfer methods at the end of the contract.

**Data is retained for the duration of the contract and for 60 days following the termination of the contract, in accordance with the terms and conditions. Unless previously agreed, contracts automatically renew on the 1<sup>st</sup> April of each year in accordance with the terms and conditions.**

### Processor responsibilities as part of this agreement\contract

Description of responsibility
Processor will only act on the written instructions of the controller.
Processor will co-operate with supervisory authorities (such as the ICO) in accordance with Article 31.
Processor will ensure the security of its processing in accordance with Article 32.
Processor will keep records of its processing activities in accordance with Article 30.2.
Processor will notify of any data breaches to the controller in accordance with Article 33.
Processor will employ a Data Protection Officer if required in accordance with Article 37 and;
Processor will appoint in writing a representative within the European Union if required in accordance with Article 27.
Processor will delete or return all personal data to the controller as requested at the end of the contract.
Processor will submit to audits and inspections, provide the controller with whatever information it needs to ensure that they are both meeting their Article 28 obligations, and tell the controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state.
Processor will assist the controller in obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments.
Processor must obtain a commitment of confidentiality from anyone it allows to process the data, unless they are already under such a duty of law.
Processor must inform the controller immediately if it thinks it has been given an instruction which does not comply with the GDPR, or related data protection law.

### A processor should also be aware that:

Description of responsibility
It may be subject to investigation and corrective powers of supervisory authorities such as the ICO) under Article 58 of the GDPR.
If the Processor fails to meet its obligations, it may be subject to an administrative fine under Article 83 of the GDPR.
If the processor fails to meet its GDPR obligations it may be subject to a penalty under Article 84 of the GDPR; and

If the processor fails to meet its GDPR obligations it may have to pay compensations under Article 82 of the GDPR.

Nothing within the contract relieves the processor of its own direct responsibilities and liabilities under the GDPR.

**Processor agreement sign off:**

I\We agree to the above processor agreement\contract details and responsibilities.

Sign off – Processor	
Name	
Job title	
Signature	
Date	