

MOMO

MIND OF MY OWN

Contract Agreement

For the use of an individual schools worker account

1. Introduction

This Agreement is entered into by you and Mind Of My Own Ltd. in relation to offering the use of the Individual Schools Worker Account (as more particularly described at <http://mindofmyown.org.uk/schools/>) to support your pupils for a period of 12 months as further set out below.

2. Duration and Scope of Services

This agreement shall commence on the day that your worker account is activated and shall continue, unless terminated earlier in accordance with the terms of this Agreement, for twelve months.

3. PROTECTION OF PERSONAL DATA AND SECURITY OF DATA

Both Parties shall duly observe all their obligations under the Data Protection Act 1998 (“DPA”) which arise in connection with the Agreement. From 28 May 2018 both parties shall be compliant with the General Data Protection Regulation.

Notwithstanding the general obligation in the preceding clause, where we (and references in this clause to ‘Mind Of My Own Ltd.’ or ‘we’ shall include each of its staff, agents, sub-contractors or advisers) are processing Personal Data (as defined in the DPA) for you as a Data Processor (as defined by the DPA) we shall:

- Ensure that we have in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA.
- Ensure that any Personal Data we process for any purpose under this Agreement

shall not be kept for longer than is necessary for that purpose, as required under the Fifth Data Protection Principle in Schedule 1 to the DPA.

- Provide you with such information as you may reasonably request to satisfy yourself that we are complying with its obligations under the DPA.
- Notify you promptly of any breach of our DPA obligations under this Agreement; and any request for personal data.
- Ensure that we do not knowingly or negligently do or omit to do anything which places you in breach of your obligations under the DPA.
- Not access, process or arrange access or the processing of personal data by any sub-contractor or third party or otherwise transfer or store personal data outside the European Economic Area or any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC without the prior written consent of you and then only in accordance with any corresponding requirements of the school that employs you or Data Protection Legislation.

In this clause 'data processor', 'personal data', and 'process' or 'processing' shall have the meanings given to them in the DPA.

4. SCOPE OF THE AGREEMENT

This Agreement will operate within the following parameters:

- Individual Schools Worker Account shall only be used by you, the named worker– it will not be shared with any other third parties.
- The Individual Schools Worker Account will last 12 months.
- Mind Of My Own Ltd. will have access to data reports on MOMO's use by your worker account.
- The cost of providing this service within the defined scope and duration of this Agreement will be £399 + VAT.

4.1 Service Availability

Coverage parameters specific to the service(s) covered in this Agreement are as follows:

- Telephone support: 9:00 am. to 5:00 pm Monday – Friday.
- Calls received out of office hours will be forwarded to a mobile phone and best efforts will be made to answer/action the call. There will be a voicemail service.
- Email support: Monitored 9:00 am to 5:00 pm Monday – Friday.
- Emails received outside of office hours will be collected; no action can be guaranteed until the next working day.

4.2 Service Requests

In support of services outlined in this Agreement, Mind Of My Own Ltd will respond to service related incidents and/or requests submitted by the Customer within the following time frames:

- 0-8 hours (during business hours) for issues classified as High priority by the

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Customer acting reasonably.

- Within 48 hours for issues classified as Medium priority by the Customer acting reasonably.
- Within 5 working days for issues classified as Low priority by the Customer acting reasonably.
- Remote assistance will be provided in line with the above timescales dependent on the priority of the support request.

5. OWNERSHIP, USE, AND CONFIDENTIALITY

5.1 Intellectual property

Individual Schools Worker Account, MOMO One and MOMO Express and their intellectual property (IP) are wholly owned by Mind Of My Own Ltd. This Agreement provides you with access to the use of this IP within the parameters of the agreement. Mind Of My Own Ltd. provides a warranty that this use will not, in any way, constitute an infringement or other violation of any Intellectual Property Right of any third party.

This Agreement does NOT convey to you any exclusive rights or privileged access to Mind Of My Own Ltd.; its personnel, data, information or business knowledge. Mind Of My Own Ltd., in accordance with its legal obligations, is therefore free to make available its personnel, data, information or business knowledge to other agencies and other such organisations as it deems necessary to fulfil its legal obligations.

5.2 Confidentiality

Except as permitted by this Agreement, each party shall maintain the confidentiality of the information belonging to or relating to the other party, its finances, or business affairs which is not in the public domain and which:

- either party has marked as confidential; or
- either party has advised the other party its confidential nature, in writing or orally; or
- due to its character or nature a reasonable person would treat it as confidential (“Confidential Information”).

Each party may disclose the other party's Confidential Information:

- to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with the terms of this Agreement; and
- as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

Each party shall give immediate notice to the other of any unauthorised misuse, disclosure, theft or loss of the other party's Confidential Information.

Either party may request the return of their Confidential Information from the other party at any time and upon reasonable notice. The other party must certify in writing that they no longer hold any Confidential Information belonging to the other party.

6. INDEMNIFICATION

6.1 Liability

Each party shall indemnify the other party against all liabilities, expenses, costs, damages, direct losses and all reasonable professional costs and expenses suffered or incurred by the other party arising directly out of the first party's breach or negligent performance of this Agreement, where that breach or negligence does not arise as a result of instructions or advice given by the other party or events outside of the first party's reasonable control. Nothing in this clause shall restrict or limit each party's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

Both parties shall, for the duration of this agreement and for a further period of one year following termination, maintain appropriate levels of insurance commensurate with the level of potential liabilities that may be incurred (for example, breaches of the Data Protection Act 1998).

6.2 Limitations On Liability

Subject to the next clause, our liability is limited to a maximum of £5,000,000.

Nothing in this agreement shall operate to exclude or limit either party's liability for:

- death or personal injury caused by its negligence;
- fraud;
- any other liability which cannot be excluded or limited under applicable law.

7. TERMINATION AND DISPUTE RESOLUTION

Without affecting any other right or remedy available to it, (Organisation Name) may terminate this agreement with immediate effect by giving written notice to Mind Of My Own Ltd. if:

- Mind Of My Own Ltd. commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 15 days after being notified in writing to do so;
- Mind Of My Own Ltd. repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- Mind Of My Own Ltd. suspends, or threatens to suspend, payment of its debts or is

unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act; or

- Mind Of My Own Ltd. suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

If you terminate the Agreement for any of the four stated reasons above, you shall be entitled to a refund of the fees paid to Mind Of My Own Ltd. on a pro rata basis to be calculated based on the date the Agreement was terminated as compared against the date the Agreement would have expired had the Agreement not been terminated for cause.

You shall be permitted to cancel this Agreement by providing one week's notice in writing at any time for any reason; however should exercise this right, it shall not be entitled to a refund of any fees paid.

Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

Where there is any dispute relating to the contract, both parties will attempt to seek to resolve the dispute with the senior management of each party before any recourse to legal dispute (unless a party reasonably believes that issuing protective proceedings is necessary).

Unless otherwise agreed in writing, on or before the date this Agreement terminates, Mind Of My Own Ltd. shall ensure that any Confidential Information or data belonging to you shall be delivered to you forthwith or, if requested, destroyed, and Mind Of My Own Ltd. shall certify full compliance with this clause.

8. OPTION TO RENEW

You will be offered the option to renew this agreement, by way of contract extension, at three months prior to this Contract's expiry date.

Signature on behalf of Mind Of My Own Ltd.:



Yvonne Anderson, Director

With effect from date: 2 January 2018