



Data Handling Agreement | Australia

Updated: November 2019

This agreement records the terms upon which Wonde will process the School Data for the purpose of transferring the School Data to one or more third party providers of services to the School.

Wonde means Wonde Pty Ltd, a company registered in Australia under Australian Business Number (ABN) 78631042307 whose registered office is at Level 14, 5 Martin Place, Sydney, NSW, 2000 (Wonde).

BY CONTINUING TO USE THE APPLICATION AND BY GRANTING ACCESS TO WONDE AND THE APPLICATION TO SOME OR ALL OF THE SCHOOL DATA, THE SCHOOL AGREES TO THE TERMS OF THIS DATA HANDLING AGREEMENT.

TERMS AND CONDITIONS

1. Definitions

1.1. In this Agreement the following definitions shall apply

“Agreement”	means this Data Handling Agreement
“Application”	means the software application which extracts and writes back school data supplied (directly or indirectly) by Wonde and used by the School;
“Confidential Information”	means all confidential information (however recorded or preserved) disclosed by the School to Wonde in connection with this Agreement which is either labelled as such or else which could be reasonably considered confidential because of its nature and the manner of its disclosure;
“Data”	has the meaning given in the PA as amended or replaced from time-to-time;
“Data Controller”	has the meaning given in the PA as amended or replaced from time-to-time;

“Data Processor”	has the meaning given in the PA as amended or replaced from time-to-time;
“Data Protection Laws”	means the PA, and all applicable laws and regulations relating to the processing of Personal Information and privacy applicable in Australia from time-to-time.
“PA”	means the Privacy Act 1988;
“Good Industry Practice”	means using standards practices methods and procedures conforming to the law and exercising that degree of skill and care diligence prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances;
“Student Information System” or “SIS”	means the School’s database which holds the School Data
“Personal Information”	has the meaning given in the PA as amended or replaced from time-to-time.
“Personal Information Data Breach”	means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Personal Information transmitted, stored or otherwise processed
“processed” or “processing”	has the meaning given in the PA as amended or replaced from time-to-time;

“Services”	Means the services performed by Wonde: a) for the benefit of the School and School Suppliers, utilising the Application, of transferring selected School Data from the School or its SIS to selected School Suppliers; and b) to allow students, parents and guardians, and staff at the School to access selected data from the SIS and/or School Suppliers using a single account within the Application.
“School”	means the school or establishment using the Application.
“School Data”	means Personal Information relating to students, parents and guardians, and staff at the School, and other data regarding the school, including timetable, call and year group information;
“School Suppliers”	means third party providers of services to the School to which the School wishes to transfer certain categories of the School Data.

1.2. A reference to **writing** or **written** includes faxes, emails and writing in any electronic form.

2. General Provisions

2.1. By continuing to use the Application, and by granting access to Wonde and the Application to some or all of the School Data, the School agrees to the terms of this Agreement.

2.2. Wonde shall comply with all applicable Data Protection Laws in respect of the processing of the School Data.

2.3. Wonde shall not process any School Data other than on the instructions of the School (unless such processing shall be required by any law to which Wonde is subject).

2.4. The School hereby instructs and authorises Wonde to process School Data for the purpose of transferring certain School Data from the School to School Suppliers, to allow students, parents and guardians, and staff of the School to access certain School Data using the Application, and as otherwise reasonably necessary for the provision of the Services by Wonde to the School.

2.5. The School warrants and represents that the transfer by the School of the School Data to Wonde for the purpose of Wonde processing the School Data as set out in this clause 2, is lawful under, and in full compliance with, Data Protection Laws. The School shall indemnify Wonde against all costs, claims, damages, expenses, losses and liabilities incurred by Wonde arising out of or in connection with any breach of the foregoing warranty and representation.

2.6. The School and Wonde confirm that:

2.6.1. the processing of School Data by Wonde will comprise the collection or extraction of School Data from the SIS, the organisation and re-categorisation of that School Data, the transfer of the School Data to School Suppliers notified to Wonde by the School, and the transfer of the School Data to parents and guardians, students and staff of the School who are permitted to access the Application;

2.6.2. the purpose of the processing of School Data by Wonde is to enable Wonde to provide the Services; and

2.6.3. the data that will be processed by Wonde will be School Data, and the data subjects will be students of the School, their parents and guardians, and staff of the School.

3. Term of the Agreement

3.1. This Agreement shall commence on the date that the School first approves the transfer of School Data by Wonde to a School Supplier, and shall continue in full force unless and until the School removes the Application from the School's computer network or SIS, at which point this Agreement shall automatically terminate.

3.2. Upon termination of this Agreement, clauses 2.5, 5 and 9 shall continue to apply.

4. Transfer of School Data

4.1. The School hereby consents to the Application accessing School Data held on the Student Information System, for the purpose of extracting and transferring such School Data to Wonde and to School Suppliers.

4.2. Prior to leaving the School premises by electronic means (via HTTPS) the School Data will be encrypted by the Application.

4.3. Wonde shall ensure that the School has access to an online portal whereby the School has visibility and control over the categories of School Data they are sharing with each Application; subject to any terms and conditions of use for the online portal.

5. Ownership of the School Data and Confidential Information

- 5.1.** The School Data shall always remain the property of the School.
- 5.2.** Wonde shall have no responsibility to maintain the security of any School Data held or controlled by the School.
- 5.3.** Wonde shall keep all Confidential Information and School Data confidential and shall not:-
 - 5.3.1.1.** use any Confidential Information or School Data except for the purpose of performing the services it provides to the School; or
 - 5.3.1.2.** disclose any Confidential Information in whole or in part to any third party, except as expressly permitted by this Agreement, or as required for the purpose of any services provided by Wonde to the School, or to the extent required by law.
- 5.4.** Wonde shall ensure that all persons authorised by Wonde to process the Personal Information have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

6. Security of the Data

- 6.1.** Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing to be carried out by Wonde, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Wonde shall in relation to the School Data implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk.
- 6.2.** In assessing the appropriate level of security, Wonde shall take account in particular of the risks that are presented by processing of the School Data, in particular from a Personal Information Breach.

7. Permission to use Sub-contractor

- 7.1.** Wonde may appoint a sub-contractor to carry out any or all of its processing activities in accordance with the terms of this clause 7.
- 7.2.** The School hereby authorises Wonde to appoint third parties to provide electronic data storage and transmission services to Wonde in connection with the processing of the School Data. Wonde shall notify the School of any changes to the identity of such third parties from time-to-time.
- 7.3.** Save as permitted by clause 7.2, Wonde shall not appoint any sub-contractor in connection with the processing of the School Data without the prior written

permission of the School.

- 7.4.** Where Wonde appoints a sub-contractor pursuant to this clause 7, it shall ensure that the arrangement between it and the sub-contractor is governed by a written contract including terms which offer at least the same level of protection for the School Data as those set out in this Agreement, and meet the requirements of Data Protection Laws.
- 7.5.** Wonde shall ensure that each sub-contractor appointed by it performs the obligations under clauses 2.3, 6.1, 10, 11 as they apply to processing of the School Data carried out by that sub-contractor, as if they were a party to this Agreement in place of Wonde. Wonde shall remain liable for the acts and omissions of any sub-contractor in respect of the processing of the School Data.

8. Insurance

Wonde maintains a policy of insurance in respect of public liability in respect of the services provided by Wonde and the processing of the School Data, and shall produce a copy of such policy to the School if requested to do so.

9. Deletion or return of School Data

- 9.1.** Wonde shall within a reasonable period of either a written request from the School, or the termination of this Agreement, delete and procure the deletion of all copies of the School Data.
- 9.2.** Subject to clause 9.3, the School may in its absolute discretion by written notice to Wonde at any time require Wonde to:
- 9.2.1. return a complete copy of all School Data by secure file transfer in such format as is reasonably notified by the School to Wonde; and
- 9.2.2. delete and use all reasonable endeavours to procure the deletion of all other copies of School Data processed by Wonde or any of its sub-contractors.

Wonde shall use all its reasonable endeavours to comply with any such written request within 14 days of receiving such request.

- 9.3.** Wonde and its sub-contractors may retain School Data to the extent required by any applicable law, provided that Wonde and its sub-contractors shall ensure the confidentiality of all such School Data retained, and shall ensure that such School Data is only processed as necessary for the purpose(s) specified by the applicable laws requiring its storage and for no other purpose.
- 9.4.** Wonde shall, within 7 days of request from the School, provide written certification to the School that it has fully complied with this clause 9.

10. Audit and Information Rights

- 10.1.** Subject to clauses 10.2, 10.3 and 10.4, Wonde shall:
- 10.1.1. make available to the School on request all information necessary to demonstrate Wonde's compliance with this Agreement; and
 - 10.1.2. allow for and contribute to audits, including inspections, by the School or any auditor nominated by the School in relation to the processing of the School Data by Wonde and its sub-contractors.
- 10.2.** The information and audit rights of the School under clause 10.1 shall apply only to the extent required by Data Protection Laws.
- 10.3.** The School shall give Wonde reasonable notice of any audit or inspection that it wishes to conduct under this clause 10.1, and shall (and ensure that any nominated auditor shall) avoid causing (or, if it cannot avoid, minimise) any damage, injury or disruption to Wonde's or its sub-contractors' premises, equipment, personnel and business.
- 10.4.** Without prejudice to clause 10.3, Wonde or its sub-contractors are not required to give access to their premises for the purposes of an audit or inspection:
- 10.4.1. to any individual unless he or she produces reasonable evidence of identity and authority;
 - 10.4.2. outside normal business hours at those premises,
 - 10.4.3. for the purposes of more than one audit or inspection in any calendar year.

11. Data Subject Rights and Associated Matters

- 11.1.** Taking into account the nature of the processing conducted by Wonde, Wonde shall (and shall use all reasonable endeavours to procure that its subcontractors shall) assist the School by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the School's obligations, Wonde, to respond to requests to exercise data subject rights under the Data Protection Laws.
- 11.2.** Wonde shall:
- 11.2.1. promptly notify the School if it or any sub-contractor receives a request from a data subject under any Data Protection Law in respect of School Data; and
 - 11.2.2. not, and shall use all reasonable endeavours to ensure that the sub-contractor does not, respond to that request except on the written instructions of the School or as required by any applicable

laws to which Wonde or the sub-contractor is subject.

- 11.3.** Wonde shall notify the School without undue delay upon Wonde becoming aware of a Personal Information Breach in respect of any School Data processed by Wonde, providing the School with sufficient information to allow the School to meet any obligations to report, or inform the individuals to which the Personal Information related, of such Personal Information Breach under Data Protection Laws.
- 11.4.** Wonde shall co-operate with the School and take such reasonable commercial steps as are directed by the School to assist in the investigation, mitigation and remediation of each such Personal Information Breach referred to in clause 11.3.
- 11.5.** Wonde shall provide reasonable assistance to the School with any data protection impact assessments, and prior consultations with competent data privacy authorities, which the School reasonably considers to be required under any Data Protection Laws, in each case solely in relation to processing of Personal Information comprised in the School Data, by and taking into account the nature of the processing and information available to Wonde.
- 11.6.** Wonde will not transfer Personal Information outside of Australia unless the prior written consent of the School has been obtained.

12. Liability

- 12.1.** Wonde shall have no liability to the School, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise, for or in connection with:
 - 12.1.1. loss, interception or corruption of any data; other than to the extent such loss is caused by the negligence or fault of Wonde.
 - 12.1.2. loss, interception or corruption of any data resulting from any negligence or default by any provider of telecommunications services to Wonde, the School or any School Supplier;
 - 12.1.3. any loss arising from the default or negligence of any School Supplier;
 - 12.1.4. damage to reputation or goodwill;
 - 12.1.5. any indirect or consequential loss.
- 12.2.** In all other circumstances, Wonde's maximum liability to the School, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise, in connection with the Services shall be limited to AU\$2 million.
- 12.3.** Nothing in this clause shall limit the liability of Wonde for any death or personal injury caused by its negligence, fraud or fraudulent misrepresentation, or any other matter for which liability cannot be limited or excluded as a matter of law.

13. Rights of Third Parties

No person who is not a party of this Agreement shall have any rights under this Agreement, whether pursuant to The Privity Contract Law or otherwise.

14. Entire Agreement

Save for any statement, licence, representations or assurances as to the method or location of storage this Agreement and the schedules to it constitutes the entire agreement and understanding between the parties and with respect to all matters which are referred to and shall supersede any previous agreements between the parties in relation to the matters referred to in this Agreement.

15. Variation

Any variation to the terms of this Agreement shall be made in writing between Wonde and the School.

16. Governing Law

- 16.1.** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual dispute or claims) shall be governed by and construed in accordance with the laws of Australia.
- 16.2.** The parties irrevocably agree that the courts of Australia shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual dispute or claims).