

# Data Processing Agreement

Last updated: July 13, 2018

This Data Processing Agreement (hereinafter “the Agreement”) entered into as of DEC. 2, 2019 (“Effective Date”) by <sup>Lehrerfortbildung Bezirksregie Arnberg</sup> (Customer”) and Wallwisher, Inc DBA Padlet (“Padlet”) governs the processing of personal data that the Customer collects, submits, posts, uploads, shares, or otherwise provides Padlet in connection with the Services and the processing of any personal information that Padlet uploads or otherwise provides to Customer in connection with the Services.

This DPA is incorporated into the relevant Padlet services agreement or by reference into our Terms and Conditions consented by the Customer.

## 1. Definitions

For the purposes of this Agreement, the following words shall have the following meanings:

“**Company**”, “**We**”, “**our**”, or “**us**” shall mean ourselves, Wallwisher, Inc.

“**Customer**” means user who uses Padlet Services to process personal data and includes schools and institutions.

“**Customer Personal Data**” as used in this Agreement means personal data that (i) Customer uploads, submits or posts or otherwise provide in connection with use of the Padlet Services or (ii) data which the Customer processes in connection with its use of the Padlet Services and for which Customer is Data Controller.

“**Data Controller**” refers to Customer.

“**Processing**” means the collection, storage, retention, use, deletion, erasure, disclosure and/or transfer of personal data.

“**Data Processor**” means Padlet.

“**Data Protection Requirements**” means the Directive, the General Data Protection Regulation, Local Data Protection Laws, any subordinate legislation and regulation implementing the General Data Protection Regulation, and all relevant Privacy Laws.

**“Directive”** means the EU Data Protection Directive 95/46/EC (as amended).

**“EU Personal Data”** means Personal Data the sharing of which pursuant to this Agreement is regulated by the Directive, the General Data Protection Regulation, and Local Data Protection Laws.

**“General Data Protection Regulation”** refers to the European Union Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

**“Local Data Protection Laws”** means any subordinate legislation and regulation implementing the Directive or the General Data Protection Regulation which may apply to the Agreement.

**“Personal Data”** means information about an individual that (a) can be used to identify, contact or locate a specific individual; (b) can be combined with other information that can be used to identify, contact, or locate a particular individual; or (c) is defined as “personal data” or “personal information” by relevant laws or regulations relating to the collection, use, storage or disclosure of information about an identifiable individual.

**“Personal Data Breach”** means any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Personal Data.

**“Privacy Laws”** means all applicable laws, regulations, and other legal requirements relating to (a) privacy, data security, consumer protection, marketing, promotion, and text messaging, email, and other communications; and (b) the use, collection, retention, storage, security, disclosure, transfer, disposal, and other processing of any Personal Data.

**“Process”** mean any operation or set of operations which is performed on Personal Data or on categories of Personal Data, whether or not by automated means, such as collection, recording, organizing, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**“Subprocessor”** means any entity which provides processing services to Padlet in furtherance of Padlet’s processing on behalf of the Customer.

**“Supervisory Authority”** means an autonomous public authority which is established by a European Union member state pursuant to Article 51 of the General Data Protection Regulation.

## **2. Purpose of processing**

Parties agree to process Personal Data collected or received under this Agreement only for purposes stated in this Agreement. Parties must only process personal data for purposes which are necessary to fulfil the Data Processor's obligations and in doing so providing the services described in the Terms and Conditions or other relevant agreement between the parties.

## **3. Compliance with the laws**

Each party shall comply with all Data Protection Requirements.

## **4. Obligations of the Customer**

Customer agrees to:

- a. Provide instructions to Padlet and specify the purposes and general means of Padlet's processing of Customer Personal Data in accordance with the Agreement; and,
- b. Comply with its protection, security and other obligations with respect to Customer Personal Data prescribed by Data Protection Requirements for data controllers by:
  - i. establishing and maintaining a procedure for the exercise of the rights of the individuals whose Customer Personal Data are processed on behalf of Customer;
  - ii. processing only data that has been lawfully and validly collected and ensuring that such data will be relevant and proportionate to the respective uses; and
  - iii. ensuring compliance with the terms of this Agreement by its staff, personnel, or by any third-party accessing or using Customer Personal Data on its behalf.

## **5. Obligations of the Company**

### **Adhere to the following Protection Requirements:**

- a. Process Customer Personal Data (i) for legitimate and objective purposes including the development, performance and improvement of Padlet Services, (ii) in accordance with instructions received from Customer.

- b. Ensure that a valid legal basis for data processing exists at the time of transferring the personal data to any data processor. Use appropriate technical and organizational measures to enhance the security of Customer Personal Data.
- c. Inform Customer as soon as practicable if Customer's instructions contravene the relevant protection requirements.
- d. Take adequate measures to ensure that persons employed by Padlet and other parties contracted to provide services on Padlet's behalf comply with the terms of this Agreement.
- e. Ensure that current and former employees, partners, contractors, service providers, and any data subprocessors comply with and respect the confidentiality of Customer Personal Data.
- f. If it intends to engage subprocessors to assist in compliance with its obligations under this Agreement, (i) assume liability to Customer for the conduct of subprocessors in connection with data protection where subprocessors act upon Padlet instructions; and (ii) enter into data processing agreement with such subprocessors requiring them to provide level of data protection and security equivalent to that provided under Agreement.
- g. On demand, supply Customer with an outline of Padlet's privacy and security policies.

**Provide Notice to Customer upon:**

- a. Any violation by Padlet or its employees of the Data Protection Requirements relating to the protection of Customer Personal Data processed under this Agreement;
- b. Any legal request for disclosure of Customer Personal Data by a law enforcement authority, unless Padlet is otherwise prohibited by law to notify Customer, for example to preserve the confidentiality of an investigation by law enforcement authorities;
- c. Any notice, inquiry or investigation by a Supervisory Authority with respect to Customer Personal Data; or
- d. Any complaint or request (in particular, requests for access to, rectification or restriction of Customer Personal Data) received directly from data subjects of Customer. Padlet will not deal with any such request without Customer's prior written approval.

**Provide necessary assistance to Customer regarding:**

- a. Any requests from Customer data subjects for access to or the rectification, erasure, restriction, portability, blocking or deletion of Customer Personal Data that Padlet processes for the

Customer. In the event that a data subject submits such a request directly to Padlet, Padlet will as soon as practicable send such request to Customer;

- b. The investigation of Personal Data Breaches and the notification to the Supervisory Authority and Customer's data subjects regarding such Personal Data Breaches; and
- c. Where appropriate, the preparation of data protection impact assessments and, where necessary, carrying out consultations with any Supervisory Authority.

**Enhance data security by:**

- a. Maintaining appropriate organizational and technical security measures to protect against unauthorized or accidental access, loss, alteration, disclosure or destruction of Customer Personal Data;
- b. Being accountable for the adequacy of the security, privacy, and confidentiality protections of all Padlet personnel with respect to Customer Personal Data and liable for any failure by such Padlet personnel to meet the terms of this Agreement;
- c. Taking reasonable measures to confirm that all Padlet workers are protecting the security, privacy and confidentiality and nondisclosure of Customer Personal Data consistent with the requirements of this Agreement;
- d. Inform Customer of any Personal Data Breach by Padlet, its Subprocessors, or any other third parties acting on Padlet's behalf as quickly as possible and in any event within 48 hours of becoming aware of a Personal Data Breach.

## **6. Audit**

**Supervisory Authority Audit:** If a Supervisory Authority requires an audit of the data processing facilities from which Padlet processes Customer Personal Data in order to ascertain or review Customer's compliance with Data Protection Requirements, Padlet will cooperate with such an audit. Customer is responsible for all costs and fees related to such audit, including all reasonable costs and fees for any and all time Padlet expends for any such audit, in addition to the rates for services performed by Padlet.

## **7. Transfer of data to third parties**

- a. For EU Personal Data, Padlet will comply with the conditions laid down in article 28, paragraph 2 and 4 of the General Data Protection Regulation if it transfers personal data to third parties (data

processors). Third parties must not transfer or disseminate personal data without prior specific or general written approval from the Company.

- b. Padlet will notify the Customer and, where applicable, require consent for transfer of Customer Personal Data to third parties. Customer can make reasonable and relevant objections against such transfer.
- c. Padlet shall ensure that third parties who process personal data on its behalf provide sufficient guarantees to ensure protection and confidentiality obligations in respect of personal data as set out in this Agreement. Where a third party fails to fulfil its data protection requirements, the said third party remains liable to Padlet for the performance of its obligations.

## **8. Customer Data Retention**

- a. The Company shall retain personal data in accordance with this Agreement, Padlet's Terms of Service and applicable laws. Parties hereby agree that on the termination of the data processing services or upon Customer's practical request, Padlet shall, and shall cause any Subprocessors to, at the choice of Customer, return all the Customer Personal Data and copies of such data to Customer or securely destroy them and certify to the satisfaction of Customer that it has taken such measures, except where Data Protection Requirements prevent Padlet from returning or destroying all or part of the Customer Personal Data disclosed.
- b. Padlet may retain data for a longer period when there is a legal requirement for the Company to do so.

## **9. Third Party Processors**

- a. Customer acknowledges that in the provision of some services, Padlet, upon receipt of instructions from Customer, may transfer Customer Personal Data to and otherwise interact with third party data processors.
- b. Customer agrees that if, and to the extent such transfers occur, Customer is responsible for entering into separate contractual arrangements with such third party data processors binding them to comply with obligations in accordance with Data Protection Requirements. For avoidance of doubt, such third party data processors are not Subprocessors as defined in this Agreement.

## 10. Term and Termination

- a. This Agreement becomes effective as of the Effective Date and shall remain in full force and effect unless and until varied or terminated by written agreement between the parties.
- b. In the event of termination of the this Agreement, Padlet remains subject to the obligations stipulated in this Agreement, as long as it processes personal data of the Customer.
- c. Upon termination of the processing services, Padlet is obliged to, upon request of the Customer, delete or return all personal data to the Customer, as well as to delete existing copies, unless retention of the personal data is prescribed by EU or national law.

Parties have agreed and understood the terms and conditions of this Data Processing Agreement and have hereby affixed their signatures hereto on \_\_\_\_\_.

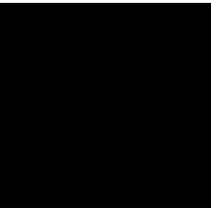
Signed, sealed and delivered by:

Customer

Wallwisher, Inc.



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Name



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Name

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Title

*CEO*

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Title

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Date

December 2nd, 2019

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Date