PADLET DATA PRIVACY AGREEMENT

This Data Privacy Agreement ("DPA") is entered into by and between *Medienzentrum Heidelberg* (hereinafter referred to as "LEA") and Wallwisher Inc. (d/b/a Padlet) (hereinafter referred to as "Provider") on Wallwisher Inc. . The Parties agree to the terms as stated herein.

RECITALS

WHEREAS, the Provider has agreed to provide the Local Education Agency ("LEA") with certain digital educational services ("Services") pursuant to an existing _____ Agreement dated *30.8.2020* ("Service Agreement"); and

WHEREAS, in order to provide the Services described in the Service Agreement, the Provider may receive and the LEA may provide documents or data that are covered by several federal statutes, among them, the Family Educational Rights and Privacy Act ("FERPA") at 20 U.S.C. 1232g, Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. 6501-6502; Protection of Pupil Rights Amendment ("PPRA") 20 U.S.C. 1232 h; and

WHEREAS, the documents and data transferred from LEA is also subject to State privacy laws, including New York Education Law Sec 2(d) and the California Student Online Personal Information Protection Act, for those residents of the European Union (EU), the EU General Data Protection Regulation (GDPR); and

WHEREAS, for purposes of Article 14(2) of the GDPR, Provider relies on the following lawful basis for processing Personal Data: consent, compliance with law and legitimate interest.

WHEREAS, the Parties wish to enter into this DPA to ensure that the Service Agreement conforms to the requirements of the privacy laws referred to above and to establish implementing procedures and duties.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

ARTICLE I: PURPOSE AND SCOPE

1. Purpose of DPA. The purpose of this DPA is to describe the duties and responsibilities to protect student data transmitted to Provider from the LEA pursuant to the Service Agreement, including compliance with all applicable privacy statutes, including the FERPA, PPRA, COPPA, GDPR, CCPA and other state privacy laws. In performing these services, the Provider shall be

considered a School Official with a legitimate educational interest, and performing services otherwise provided by the LEA. Provider shall be under the direct control and supervision of the LEA. Control duties are set forth below.

2. Nature of Services Provided. The Provider has agreed to provide the following digital educational services: a proprietary software (platform-as-a-service) to allow students and teachers to collaborate, reflect, share links and pictures (the "Platform").

3. Student Data to Be Provided. In order to perform the Services described in the Service Agreement, LEA shall provide the student data outlined in Exhibit "B". The parties can mutually agree to modify or extend this list (including via electronic mail or similar communication) as needed to accomplish the goals of the project.

4. DPA Definitions. The definition of terms used in this DPA is found in Exhibit "A". In the event of a conflict, definitions used in this DPA shall prevail over term used in the Service Agreement. Under GDPR, Provider shall be deemed a Data Processor and LEA shall be deemed a Data Controller. If requested by the LEA, the Parties will execute the Standard Contractual Clauses set forth on Exhibit D.

ARTICLE II: DATA OWNERSHIP AND AUTHORIZED ACCESS

1. Student Data Property of LEA. All Student Data or any other Pupil Records transmitted to the Provider pursuant to the Service Agreement is and will continue to be the property of and under the control of the LEA. The Parties agree that as between them all rights, including all intellectual property rights in and to Student Data or any other Pupil Records contemplated per the Service Agreement shall remain the exclusive property of the LEA or the student provided Provider may aggregate and anonymize Student Data, in accordance with applicable law, and use such resulting data set for its purposes. For the purposes of FERPA, the Provider shall be considered a School Official, under the control and direction of the LEAs as it pertains to the use of Student Data notwithstanding the above. Provider may transfer pupil-generated content to a separate account, under item 3 below.

2. Parent Access. LEA shall establish reasonable procedures by which a parent, legal guardian, or eligible student may review personally identifiable information on the pupil's records, correct erroneous information, and procedures for the transfer of pupil-generated content to a personal account, consistent with the functionality of the services. Provider shall respond in a reasonably timely manner to the LEA's request for personally identifiable information in a pupil's records held by the Provider to view or correct as necessary. In the event that a parent of a pupil or other individual contacts the Provider to review any of the Pupil Records of Student Data accessed pursuant to the Services, the Provider shall refer the parent or individual to the LEA, who will follow the necessary and proper procedures regarding the requested information.

3. Separate Account. Provider shall, at the request of the LEA or Student (or their legal guardian), transfer Student generated content to a separate student account.

4. Third Party Request. Should a Third Party, including law enforcement and government entities, contact Provider with a request for data held by the Provider pursuant to the Services, the Provider shall redirect the Third Party to request the data directly from the LEA. Provider shall notify the LEA in advance of a compelled disclosure to a Third Party unless legally prohibited.

5. No Unauthorized Use. Provider shall not use Student Data or information in a Pupil Record for any purpose other than as explicitly specified in the Service Agreement.

6. Subprocessors. Provider shall enter into written agreements with all Subprocessors performing material functions pursuant to the Service Agreement, whereby the Subprocessors agree to protect Student Data in a manner consistent with the terms of this DPA and all addendums thereto. LEA provides Provider a general authorization to engage Subprocessors, in accordance with GDPR Art 28(2). Provider shall remain fully liable to the controller for the performance of other processors obligations.

ARTICLE III: DUTIES OF LEA

1. Provide Data In Compliance With FERPA. LEA shall provide data for the purposes of the Service Agreement in compliance with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. section 1232(g), and the other privacy statutes quoted in this DPA.

2. Reasonable Precautions. LEA shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the services and hosted data.

3. Unauthorized Access Notification. LEA shall notify Provider promptly of any known or suspected unauthorized access. LEA will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

4. District Representative. At request of Provider, LEA shall designate an employee or agent of the District as the District representative for the coordination and fulfillment of the duties of this DPA.

ARTICLE IV: DUTIES OF PROVIDER

1. Privacy Compliance. The Provider shall comply with all State and Federal laws and regulations pertaining to data privacy and security, including FERPA, COPPA, and PPRA. Padlet shall maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of Student Data in its custody. For purposes of Article 14(2) of the GDPR, Provider relies on the following lawful basis for processing Personal Data: consent, compliance with law and legitimate interests. If requested by the LEA, Provider shall execute the Standard Contractual Clauses attached hereto as Exhibit B. In the event, Provider believes that the LEA's instructions conflict with the requirements of the GDPR or other EU or Member State laws, Provider shall inform the controller.

2. Authorized Use. The data shared pursuant to the Service Agreement, including persistent unique identifiers, shall be used for no purpose other than the Services stated in the Service Agreement and/or otherwise authorized under the statutes referred to in subsection (1), above.

3. Employee Obligation. Provider shall require all employees and agents who have access to Student Data to comply with all applicable provisions of FERPA laws with respect to the data shared under the Service Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to Student Data pursuant to the Service Agreement.

4. No Disclosure. Provider shall not disclose any data obtained under the Service Agreement in a manner that could identify an individual student to any other entity in published results of studies as authorized by the Service Agreement. De-identified information may be used by the vendor for the purposes of development and improvement of educational sites, services, or applications.

5. Disposition of Data. Provider shall dispose or delete all personally identifiable data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained and transfer said data to LEA or LEA's designee within 60 days of the date of termination and according to a schedule and procedure as the Parties may reasonably agree. Nothing in the Service Agreement authorizes Provider to maintain personally identifiable data obtained under the Service Agreement beyond the time period reasonably needed to complete the disposition. Disposition shall include (1) the shredding of any hard copies of any Pupil Records; (2) Erasing; or (3) Otherwise modifying the personal information in those records to make it unreadable or indecipherable. Provider shall provide written notification to LEA when the Data

has been disposed. The duty to dispose of Student Data shall not extend to data that has been de-identified or placed in a separate Student account, pursuant to the other terms of the DPA. Nothing in the Service Agreement authorizes Provider to maintain personally identifiable data beyond the time period reasonably needed to complete the disposition.

6. Advertising Prohibition. Provider is prohibited from using Student Data to conduct or assist targeted advertising directed at students or their families/guardians. This prohibition includes the development of a profile of a student, or their families/guardians or group, for any commercial purpose other than providing the Service. This shall not prohibit Providers from using data to make product or service improvements.

ARTICLE V: DATA PROVISIONS

1. Data Security. The Provider agrees to abide by and maintain data security measures designed to protect Student Data from unauthorized disclosure or acquisition by an unauthorized person. The general security duties of Provider are set forth below. These measures shall include, but are not limited to:

a. Passwords and Employee Access. Provider shall use commercially reasonable efforts to secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, at a level suggested by Article 4.3 of NIST 800-63-3. Provider shall only provide access to Student Data to employees or contractors that are performing the Services. As stated elsewhere in this DPA, employees with access to Student Data shall have signed confidentiality agreements regarding said Student Data. All employees with access to Student Records shall pass criminal background checks.

b. Destruction of Data. Provider shall destroy all personally identifiable data obtained under the Service Agreement when it is no longer needed for the purpose for which it was obtained or transfer said data to LEA or LEA's designee, according to a schedule and procedure as the parties may reasonably agree. Nothing in the Service Agreement authorizes Provider to maintain personally identifiable data beyond the time period reasonably needed to complete the disposition.

c. Security Protocols. Both parties agree to maintain security protocols for the transfer and transmission of any data in a manner designed to provide that data may only be viewed or accessed by parties legally allowed to do so. Provider shall maintain all data obtained or generated pursuant to the Service Agreement in a secure computer environment and not copy, reproduce, or transmit data obtained pursuant to the Service Agreement, except as necessary to fulfill the purpose of data requests by LEA.

d. Employee Training. The Provider shall provide periodic data privacy and data security training to those of its employees who operate or have access to Student Data which training shall include the federal and state laws governing confidentiality of such data prior to receiving access. Further, Provider shall provide LEA with contact information of an employee who LEA may contact if there are any security concerns or questions.

e. Security Technology. When the service is accessed using a supported web browser, Transport Layer Security ("TLS"), or equivalent technology that protects information using both server authentication and data encryption shall be employed to protect Student Data from unauthorized access. Provider shall host data pursuant to the Service Agreement in an environment using a firewall that is periodically updated according to industry standards.

f. Security Coordinator. Provider shall provide the name and contact information of Provider's security coordinator for the Student Data received pursuant to the Service Agreement.

g. Subprocessors Bound. Provider shall enter into written agreements whereby Subprocessors agree to secure and protect Student Data in a manner consistent with the terms of this Article V. Provider shall periodically conduct or review compliance monitoring and assessments of Subprocessors to determine their compliance with this Article.

2. Data Breach. In the event that Student Data is accessed or obtained by an unauthorized individual, Provider shall provide notification to LEA within a reasonable amount of time of the incident.

a. Provider shall provide the following information:

i. The name and contact information of the reporting LEA subject to this section.

ii. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

iii. If the information is possible to determine at the time the notice is provided, then either (1) the date of the breach, (2) the estimated date of the breach, or (3) the date range within which the breach occurred. The notification shall also include the date of the notice.

iv. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

v. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

b. At LEA's discretion, the security breach notification may also include any of the following:

i. Information about what the LEA has done to protect individuals whose information has been breached.

ii. Advice on steps that the person whose information has been breached may take to protect himself or herself.

c. As a result of a breach of the security system, Provider shall assist LEA with any official notifications required by State agencies.

d. At the request and with the assistance of the District, Provider shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access, which shall include the information listed in subsections (b) and (c), above.

ARTICLE VI: MISCELLANEOUS

1. Term. The Provider shall be bound by this DPA for the duration of the Service Agreement or so long as the Provider maintains any Student Data. Notwithstanding the foregoing, Provider agrees to be bound by the terms and obligations of this DPA for no less than three (3) years.

2. Termination. In the event that either party seeks to terminate this DPA, they may do so by mutual written consent so long as the Service Agreement has lapsed or has been terminated.

3. Effect of Termination Survival. If the Service Agreement is terminated, the Provider shall destroy all of LEA's data pursuant to Article V, section 1(b).

4. Priority of Agreements. This DPA shall govern the treatment of student records in order to comply with the privacy protections, including those found in FERPA. In the event there is conflict between the terms of the DPA and the Service Agreement, or with any other bid/RFP, license agreement, or writing, the terms of this DPA shall apply and take precedence. Except as described in this paragraph herein, all other provisions of the Service Agreement shall remain in effect.

5. Notice. All notices or other communication required or permitted to be given hereunder must be in writing and given by personal delivery, facsimile or e-mail transmission (if contact information is provided for the specific mode of delivery), or first class mail, postage prepaid, sent to the addresses set forth herein.

6. Entire Agreement. This DPA and all addendums hereto along with the Service Agreement, constitutes the entire agreement of the parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the parties relating thereto. This DPA may be amended and the observance of any provision of this DPA may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the signed written consent of both parties. Neither failure nor delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege.

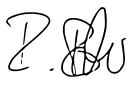
7. Severability. Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it shall, as to such jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.

8. Governing Law; Venue and Jurisdiction. THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF SAN FRANCISCO, CALIFORNIA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties have executed this Student Data Privacy Agreement as of the last day noted below.

FOR _____:



_____

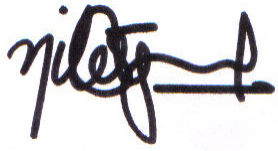
(Signature)

___Robert Bittner_____
(Full Name)

___Leitung_____
(Title/Position)

___30.8.2020_____
(Date)

FOR Wallwisher Inc. (d/b/a Padlet)



(Signature)

Nitesh Goel
(Full Name)

CEO
(Title/Position)

August 27, 2020
(Date)

EXHIBIT "A"

DEFINITIONS

De-Identifiable Information (DII): De-Identification refers to the process by which the Vendor removes or obscures any Personally Identifiable Information ("PII") from student records in a way that removes or minimizes the risk of disclosure of the identity of the individual and information about them.

NIST 800-63-3: Draft National Institute of Standards and Technology ("NIST") Special Publication 800-63-3 Digital Authentication Guideline.

Operator: Some State privacy laws refer to the term "operator" to mean the operator of an Internet Website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for K–12 school purposes and was designed and marketed for K–12 school purposes. For the purpose of the Service Agreement, the term "Operator" is replaced by the term "Provider."

Personally Identifiable Information (PII): The terms "Personally Identifiable Information" or "PII" shall include, but are not limited to, student data and user or pupil-generated content obtained by reason of the use of Provider's software, website, service, or app, including mobile apps, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians. PII includes, without limitation, at least the following: First and Last Name, Home Address, Email Address, Telephone Number, Social Security Number, Test Results, Discipline Records, Special Education Data, Grades, Evaluations, Criminal Records, Juvenile Dependency Records, Health Records, Medical Records, Disabilities, Food Purchases, Biometric Information, Socioeconomic Information, Religious Information, Political Affiliations, Text Messages, Student Identifiers, Documents, Search Activity, Photos, Videos, Voice Recordings.

Provider: For purposes of the Service Agreement, the term "Provider" means provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records. Within the Service Agreement the term "Provider" replaces the term "Third Party" and "Operator" as defined in some State laws.

Pupil Generated Content: The term "pupil-generated content" means materials or content created by a pupil during and for the purpose of education including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, videos, and account information that enables ongoing ownership of pupil content.

Pupil Records: Means both of the following: (1) Any information that directly relates to a pupil that is maintained by LEA and (2) any information acquired directly from the pupil through the

use of instructional software or applications assigned to the pupil by a teacher or other local educational LEA employee.

Service Agreement: Refers to the Contract or Purchase Order to which this DPA supplements and modifies.

School Official: For the purposes of this Agreement and pursuant to CFR 99.31 (B), a School Official is a contractor that: (1) Performs an institutional service or function for which the agency or institution would otherwise use employees; (2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and (3) Is subject to CFR 99.33(a) governing the use and re-disclosure of personally identifiable information from student records.

Student Data: Student Data includes any data, whether gathered by Provider or provided by LEA or its users, students, or students' parents/guardians, that is descriptive of the student including, but not limited to, information in the student's educational record or email, first and last name, home address, telephone number, email address, or other information allowing online contact, discipline records, videos, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security numbers, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information text messages, documents, student identifies, search activity, photos, voice recordings or geolocation information. Student Data shall constitute Pupil Records for the purposes of this Agreement, and for the purposes of State and Federal laws and regulations. Student Data as specified in Section 1.3 is confirmed to be collected or processed by the Provider pursuant to the Services. Student Data shall not constitute that information that has been anonymized or de-identified, or anonymous usage data regarding a student's use of Provider's services.

Subscribing LEA: An LEA that was not party to the original Services Agreement and who accepts the Provider's General Offer of Privacy Terms.

Subprocessor: For the purposes of this Agreement, the term "Subprocessor" (sometimes referred to as the "Subcontractor") means a party other than LEA or Provider, who Provider uses for data collection, analytics, storage, or other service to operate and/or improve its software, and who has access to PII. This term may also refer to the term "Service Provider," as defined in some State laws.

Targeted Advertising: Targeted advertising means presenting an advertisement to a student where the selection of the advertisement is based on student information, student records or student generated content or inferred over time from the usage of the Provider's website, online service or mobile application by such student or the retention of such student's online activities or requests over time.

Third Party: The term "Third Party" used in some State laws means a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records. However, for the purpose of this Agreement, the term "Third Party" when used to indicate the provider of digital educational software or services is replaced by the term "Provider."

Audits. Provider shall permit LEA or its authorized representatives to carry out security or audit checks pertaining to security and usage of Student Data (provided access to Provider's third party data center shall be subject to their separate approval). LEA may request at any time an audit of student data that is in the possession of Provider and Provider shall cooperate with LEA. LEA or its authorized representative shall have access at all reasonable times on working days during working hours at business premises to employees, together with records, books and correspondence and other papers and documentation or media of every kind and employees pertaining to the Services Agreement that are necessary to carry out such security and audit checks provided that access to Provider's third party data centers is subject to their separate approval. LEA or its authorized representatives shall have the right to reproduce and/or retain copies at its expense of any of the aforementioned information and documents.

EXHIBIT "B"

STUDENT DATA

In order to perform the Services described in the Service Agreement, LEA shall provide the data outlined in Exhibit "B" to the Provider. This includes:

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Category of Data	Elements	Check if used by your system
Application Technology Meta Data	IP Addresses of users, Use of cookies etc.	X
	Other application technology meta data-Please specify:	
Application Use Statistics	Meta data on user interaction with application	X
Assessment	Standardized test scores	
	Observation data	
	Other assessment data-Please specify:	
Attendance	Student school (daily) attendance data	
	Student class attendance data	
Communications	Online communications that are captured (emails, blog entries)	
Conduct	Conduct or behavioral data	
Demographics	Date of Birth	
	Place of Birth	
	Gender	
	Ethnicity or race	

Category of Data	Elements	Check if used by your system
	Language information (native, preferred or primary language spoken by student)	X
	Other demographic information-Please specify:	
Enrollment	Student school enrollment	
	Student grade level	
	Homeroom	
	Guidance counselor	
	Specific curriculum programs	
	Year of graduation	
	Other enrollment information-Please specify:	
Parent/Guardian Contact Information	Address	
	Email	
	Phone	
Parent/Guardian ID	Parent ID number (created to link parents to students)	
Parent/Guardian Name	First and/or Last	
Schedule	Student scheduled courses	
	Teacher names	

Category of Data	Elements	Check if used by your system
Special Indicator	English language learner information	
	Low income status	
	Medical alerts /health data	
	Student disability information	
	Specialized education services (IEP or 504)	
	Living situations (homeless/foster care)	
	Other indicator information-Please specify:	
Category of Data	**Elements**	**Check if used by your system**
Student Contact Information	Address	
	Email	X (Optional)
	Phone	
Student Identifiers	Local (School district) ID number	
	State ID number	
	Vendor/App assigned student ID number	
	Student app username	X
	Student app passwords	X
Student Name	First and/or Last	X

Category of Data	Elements	Check if used by your system
Student In App Performance	Program/application performance (typing program-student types 60 wpm, reading program-student reads below grade level)	
Student Program Membership	Academic or extracurricular activities a student may belong to or participate in	.
Student Survey Responses	Student responses to surveys or questionnaires	
Student work	Student generated content; writing, pictures etc.	X
	Other student work data -Please specify:	
Transcript	Student course grades	
	Student course data	
	Student course grades/performance scores	
	Other transcript data -Please specify:	
Transportation	Student bus assignment	
	Student pick up and/or drop off location	

Category of Data	Elements	Check if used by your system
	Student bus card ID number	
	Other transportation data -Please specify:	
Other	Please list each additional data element used, stored or collected by your application	Photo (Optional), Bio (Optional)

The parties can mutually agree to modify or extend this list (including via electronic mail or similar communication) as needed to accomplish the goals of the project.

EXHIBIT C - Parents Bill of Rights

PADLET PARENT BILL OF RIGHTS – STUDENT DATA

Padlet agrees that any parent or legal guardian of a Padlet user under the age of 18 has the following rights:

1. Your child's personally identifiable information cannot be sold or released for any commercial purposes. Padlet will not use your child's personally identifiable information to advertise or market to them.

2. You have the right to inspect and review the complete contents of your child's education records.

3. Padlet technical and administrative protections (including encryption, firewalls and password protection) to protect your child's personally identifiable data when it is stored or transferred.

4. You have the right to request that we correct records which you believe to be inaccurate or misleading.

5. Padlet will only collect, use, and disclose student information in ways that are compatible with the context in which students provide data.

6. You have the right to be notified and make complaints about possible breaches of student data and to have such complaints addressed in a prompt and efficient manner.

Exhibit D - Standard Contractual Clauses

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

Name of the data exporting organisation:...Medienzentrum Heidelberg

Address:.....Kurfürstenanlage 38-40, 69115 Heidelberg

Tel:....+49 6221 5221574.; Fax:… 06221 522-1477; E-mail…leitung@mzhd.de

(the data **exporter**)

And
Name of the data importing organisation: Wallwisher Inc dba Padlet

Address: 981 Mission St, San Francisco, California 94103, United States

Tel.:+1 844-472-3538

(the data **importer**)
each a "party"; together "the parties",

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1

Definitions

For the purposes of the Clauses:

(a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject'* and *'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[1];

(b) '*the data exporter'* means the controller who transfers the personal data;

(c) *'the data importer'* means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third

country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) *'the subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) '*the applicable data protection law'* means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) *'technical and organisational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2

Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3

Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal

obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well

as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer [2]

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,

(ii) any accidental or unauthorised access, and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6

Liability

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim

against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7

Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8

Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9

Governing Law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10

Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11

Subprocessing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses[3]. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12

Obligation after the termination of personal data processing services

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

Clause 13

Counterparts and Electronic Signatures

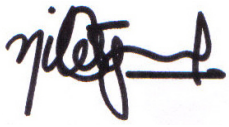
The Clauses may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Each party may execute the Clauses by facsimile transmission or in Portable Document Format sent by electronic means. Signatures of authorized signatories of the parties transmitted by facsimile or sent by electronic means in Portable Document Format shall be deemed to be original signatures, shall be valid and binding, and, upon delivery, shall constitute due execution of the Clauses hereunder.

On behalf of the data exporter:
Name:
Position:
Address:

Signature……. Date…30.8.2020

On behalf of the data importer:

Name: Nitesh Goel
Position: CEO
Address: 981 Mission St, San Francisco, California 94103, United States

Signature.  Date August 24, 2020

APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties.

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

Data exporter
The data exporter is (please specify briefly your activities relevant to the transfer):

An educational institution (school, University or school district), established to undertake learning, teaching and research in the public interest, conduct examinations and confer awards .

Data importer
The data importer is (please specify briefly activities relevant to the transfer):

A provider of an online data hosting and collaboration platform for institutional and personal use.

Data subjects
The personal data transferred concern the following categories of data subjects (please specify):

Date Exporter staff administering the service, academic staff using the service to engage with students in the course of learning and teaching activities, students using the service to make contributions to the learning and teaching activities

Categories of data
The personal data transferred concern the following categories of data (please specify):

- Name
- username
- email address
- User uploaded content which may include text, images, videos, audio, documents, files, links from the web, drawings, and maps, comments, feedback and opinions expressed by the user; precise location ONLY if user chooses to add this to a map that they post
- Profile avatar
- Profile bio
- Site usage metadata including device info used to access the service
- IP address

Special categories of data (if appropriate)
The personal data transferred concern the following special categories of data (please specify):

Processing operations
The personal data transferred will be subject to the following basic processing activities (please specify):

Processing required to provide and optimise delivery of the service to the Data Controller including maintenance of institutional accounts, storage, hosting of content uploaded by users, providing access to content for cohorts of users; maintaining access controls and the privacy status of content and application of records retention and destruction policies in accordance with the Data Controller's instructions .

APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

This Appendix forms part of the Clauses and must be completed and signed by the parties.
Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

The security of your personal information is important to us. We maintain administrative, technical and physical safeguards to protect against loss, theft, unauthorized use, disclosure, or retrieval of personal information. In particular:

- We perform application security testing; penetration testing; conduct risk assessments; and monitor compliance with security policies
- We periodically review our information collection, storage and processing practices, including physical security measures, to guard against unauthorized access to systems
- We continually develop and implement features to keep your personal information safe
- When you enter any information anywhere on the Service, we encrypt the transmission of that information using secure socket layer technology (SSL/TLS) by default
- We ensure passwords are stored and transferred securely using encryption and salted hashing
- The Service is hosted on servers at a third-party facility, with whom we have a contract providing for enhanced security measures. For example, personal information is stored on a server equipped with industry standard firewalls. In addition, the hosting facility provides a 24x7 security system, video surveillance, intrusion detection systems and locked cage areas
- We operate a 'bug bounty' security program to encourage an active community of third-party security researchers to report any security bugs to us
- We restrict access to personal information to authorized Padlet employees, agents or independent contractors who need to know that information in order to process it for us, and who are subject to strict confidentiality obligations and may be disciplined or terminated if they fail to meet these obligations.
- We require sub-processors to comply with security requirements via separate data processing agreements
- We use a Password Manager to secure usernames, passwords, and any other means of gaining access to the Services or to Student Data, at a level suggested by Article 4.3 of NIST 800-63-3. We require 2FA authentication to be enabled for all services where applicable.

On behalf of the data exporter:
Name: Robert Bittner
Position: Leitung
Address: Kurfüstenanlage 38 – 40, D-69115 Heidelberg

Signature……. Date……30.8.2020

On behalf of the data importer:

By:

Name: Nitesh Goel
Position: CEO
Address: 981 Mission St, San Francisco, California 94103, United States

Signature.  Date August 24, 2020

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[1] Parties may reproduce definitions and meanings contained in Directive 95/46/EC within this Clause if they considered it better for the contract to stand alone.

[2] Mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society on the basis of one of the interests listed in Article 13(1) of Directive 95/46/EC, that is, if they constitute a necessary measure to safeguard national security, defence, public security, the prevention, investigation, detection and prosecution of criminal offences or of breaches of ethics for the regulated professions, an important economic or financial interest of the State or the protection of the data subject or the rights and freedoms of others, are not in contradiction with the standard contractual clauses. Some examples of such mandatory requirements which do not go beyond what is necessary in a democratic society are, *inter alia,* internationally recognised sanctions, tax-reporting requirements or anti-money-laundering reporting requirements.

[3] This requirement may be satisfied by the subprocessor co-signing the contract entered into between the data exporter and the data importer under this Decision.