

## **Annex: Data Processing Agreement Talkpad**

Version 1- 21 February 2024

### **The Parties:**

Talkpad Ltd a limited company registered at 86-90 Paul Street, London, England, United Kingdom, EC2A 4NE, having its principal place of business at 86-90 Paul Street, London, England, United Kingdom, EC2A 4NE and registered number 15043184, is hereinafter referred to as "the Processor".

And *(applicable for all customers of Talkpad)*

[Name of Client], having its principal place of business at [location and registered number [registration number], shall hereinafter be referred to as "Client" or "Controller".

### **Definitions**

The following definitions shall apply in this Agreement:

‘controller’ means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data

‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

‘third party’ means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data.

‘Subprocessor’ Any entity appointed by or on behalf of the Processor for the processing of personal data on behalf of the Controller under this Data Processing Agreement.

‘EEA’ the European Economic Area including, for the purposes of this Agreement, the UK.

‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

‘UK GDPR’ means the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679) by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419)

The term "the Parties" refers collectively to both the Processor and the Controller, while each entity is individually referred to as "the Party".

Considering the following:

- The Parties have entered into a Services Agreement (the "Services Agreement") on [date], the main purpose of which is to provide the Client with the agreed services.
- Under this Services Agreement, the Processor is entrusted with the processing and collection of certain personal data in accordance with the Controller's instructions.
- The Controller has defined both the purpose and the methods of processing and collecting personal data and has set specific conditions for these activities.
- In light of the provisions of Article 28(3) of the UK GDPR, the parties intend to formalise their respective rights and obligations by entering into this Processor Agreement. This Agreement forms an integral part of the overarching Services Agreement.

**The Parties have agreed as follows:**

### **Article 1 - Processing Objectives**

Within the framework of this Data Processing Agreement

- The Processor undertakes to process Personal Data on behalf of the Controller.
- The specific personal data processed by the Processor on behalf of the Controller is set out in Schedule 1, which also sets out the relevant data subjects, the purpose of the processing, duration of processing and the relevant contact details.
- The processing of Personal Data by the Processor shall be carried out only on the basis of written instructions from the Controller, unless otherwise required by law.
- Any changes to the processing of Personal Data or to the types of Personal Data processed will only be implemented following prior written instructions from the Controller. Such instructions must be officially confirmed in writing by the Controller.
- The Personal Data processed under the Controller's instructions shall remain the property of the Data Subjects.
- The Processor assures that the handling of Personal Data will consistently align with the UK General Data Protection Regulation ("UK GDPR").
- The Processor will endeavor to assist the Controller in meeting its legal obligations related to data protection impact assessments.
- The Controller guarantees compliance with the UK GDPR and other applicable data protection laws and regulations, ensuring that the nature, use and processing of Personal Data are lawful and do not infringe the rights of third parties.
- Administrative fines imposed on the Controller by a relevant data protection authority are not recoverable from the Data Processor, unless such fines result from a breach of the Data Processor's obligations under this Data Processing Agreement that causes the Controller to be unable to fulfil its obligations under the GDPR.

### **Article 2- Duration and Termination**

2.1 This Data Processing Agreement shall remain in force for the duration of the Services Agreement. In the event of termination of the Agreement, this Data Processing Agreement shall terminate automatically without any further legal action being required.

2.2 Upon termination of the Data Processing Agreement, the Processor shall delete all Personal Data currently in its possession and acquired from the Controller. This deletion process is subject to any legal restrictions that may prevent the complete or partial deletion of Personal Data, which may be imposed by law.

### **Article 3 -Provision of data to third parties**

3.1. The Processor may disclose Personal Data to third parties in the following cases: (i) upon written request of the Controller; (ii) when required by law or court order; (iii) to protect and defend the rights of the Processor or the parties involved in the execution of the Services Agreement; and (iv) with the express consent of the Data Subject.

3.2. Data Processor processes the Personal Data exclusively within the UK and/or EEA, unless Controller agreed to transfer to countries outside the EEA and one of the measures has been taken to ensure an adequate level of protection for these Personal Data.

3.3 The Processor reserves the right to share with third parties, for any purpose whatsoever, aggregated information (excluding personal data) obtained during the provision of services to the Client.

### **Article 4- Sub-Processors**

4.1 The Controller hereby authorises the Processor to appoint the Sub-processors listed in Schedule 1.

4.2 In respect of any sub-processor designated by the Processor, the Processor shall: (i) carry out thorough due diligence before allowing the sub-processor to process personal data to ensure that it can maintain the level of protection of personal data required by the terms and conditions set out in this Data Processing Agreement, (ii) enter into a written agreement with the Sub-processor that contains terms that are substantially similar to, and no less stringent than, those set out in this Agreement, and that meets the requirements set out in Article 28(3) of the UK GDPR.

4.2 Should the Processor propose any changes involving the addition or substitution of an approved sub-processor, it is incumbent upon the Processor to notify the Controller in advance of its intention to engage an external sub-processor. Such notification shall give the Controller the right to object to any sub-processor engaged by the Processor.

### **Article 5- Data breach**

5.1 In the event of a data breach, the Processor shall promptly notify the Data Protection Officer of the Controller and shall ensure that the notification is made without delay and no later than within 24 hours. The Processor undertakes to provide complete, correct, and accurate information in the notification, regardless of the severity of the breach.

5.2 If required by applicable laws and/or regulations, the Processor will cooperate in notifying relevant authorities and/or data subjects. Each party shall bear its own associated costs.

5.3 The Data Processor shall jointly determine with the Controller whether it is necessary to report a data breach to a data protection authority and/or to the affected data subjects.

### **Article 6 -Security**

6.1 The Processor is committed to diligently adopting and implementing technical and organizational measures, aligned with the prevailing state of technology. These measures are deemed necessary to safeguard the Personal Data entrusted to the Processor, preventing accidental or unlawful destruction, inadvertent loss, unintended modification, unauthorized disclosure, or any other form of unlawful processing

6.2 The Data Processor shall have the right to modify the technical and organisational security measures it has implemented if, in its sole discretion, such modifications are deemed necessary to maintain an adequate level of security on an ongoing basis.

#### **Article 7 -Audit**

7.1 In order to ensure compliance with all obligations set forth in this Data Processing Agreement and related matters, the Controller shall have the authority to conduct audits or to engage an independent third party for this purpose, subject to confidentiality obligations. The audit date shall be mutually agreed by the parties.

7.2 The Processor shall actively cooperate with audits by providing timely access to all relevant personnel and information, including supporting data such as system logs.

7.3 Audit findings shall be jointly assessed by the Parties through mutual consultation and decisions on their implementation shall be jointly taken.

7.4 Reasonable costs associated with the audit shall be borne by the party incurring them. However, if a third party is engaged, the Controller will bear the costs associated with their services.

#### **Article 8 -Data Protection Impact Assessments and Prior Consultation**

8.1 The Processor is obliged to assist the Controller by providing reasonable assistance in carrying out data protection (or privacy) impact assessments and prior consultation with any supervisory authority or other competent authorities, as deemed necessary by the Controller in accordance with Articles 35 and 36 of the GDPR. The Processor's involvement in these processes shall be limited to the processing of personal data specifically related to this Data Processing Agreement.

#### **Article 9- Confidentiality**

9.1 The Processor is obliged to keep all Personal Data received from the Controller and collected within the scope of the Services Agreement confidential from third parties.

9.2 However, this confidentiality obligation does not apply when data is disclosed to third parties in accordance with Article 3 of this Data Processing Agreement. In cases where the Processor is required by law or court order to disclose data to third parties, the Processor shall promptly inform the Controller, preferably before the data is disclosed.

#### **Article 10 -Data Subjects Requests**

10.1 If a Data Subject wishes to exercise his/her legal rights and submits a request to the Processor, the Processor shall forward the request to the Controller without undue delay. The Controller shall then process the request and the Processor may notify the Data Subject accordingly.

10.2 If a Data Subject submits a request directly to the Controller in order to exercise one of his or her legal rights, the Processor shall, at the request of the Controller, cooperate to the extent possible and reasonable.

10.3 The Processor shall be entitled to charge the Controller for reasonable costs incurred in connection with the processing of requests from Data Subjects.

#### **Article 11- Governing Law**

11.1 The terms of this Data Processing Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law.

11.2 This Data Processing Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation shall be governed by and construed in accordance with the laws of England. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

## **Article 12 -Final provisions**

12.1 If the Processor is unable to perform its obligations under this Data Processing Agreement due to force majeure, the Processor shall immediately notify the Controller of such circumstances.

12.2 Any amendments or modifications to this Data Processing Agreement shall only be valid if made in writing and duly signed by both parties.

12.3 The parties may not transfer the rights and/or obligations under this Data Processing Agreement to a third party without the prior written consent of the other party.

12.4 The invalidity of any provision of this Data Processing Agreement shall not affect the validity of the other provisions.

12.5 Provisions of this Data Processing Agreement which by their nature are intended to be continued shall remain in force after termination.

12.6 In the event of a conflict between the provisions of this Data Processing Agreement and the Services Agreement concluded with the Client, the provisions of this Data Processing Agreement shall prevail, unless expressly agreed otherwise.

**Schedule 1:**

Personal data processed by the Processor on behalf of the Controller - including Subprocessor list.

*Talkpad is collection transcripts of meetings, collected from telephone or online platform meetings. Transcripts are stored in a database. Via the Talkpad platform customers can ask questions about the content of the meeting, these questions are translated into prompts and processed by large language scale models (LLM) that will response with an answer on the Talkpad platform for the customer.*

Data sources:	Type of data:	Purpose:	Subprocessors involved	Retention Time
Account Data	(company) name and email address	Setup an account on the Talkpad Platform.	Bubble (& AWS)	subject to contract
Transcript Data	Time of meeting, Duration of Meeting, Attendees (displayed name) and the transcript of the meeting/conversation	Collect the content of conversations.	Recall, Supabase, WithMartian*	subject to contract
Telephony Data	Audio file, virtual phone number, date/time meeting and transcript of the conversation	Collect the content of conversations.	Telnyx, Supabase, WithMartian*	subject to contract
User Prompt Data	Question of Customer, data/time meeting, attendees and answer to the questions	Search in content for answers.	Supabase, WithMartian	this conversation is not being stored after the session. Customer can copy+paste the content to own environment if needed.
*WithMartian only has access to the requested transcripts and does not store any information after the session. WithMartian will select the best LLM for the questions. At the moment they only make use of Open AI.				