

## **DATA PROCESSING AGREEMENT**

The Customer and Colossyan have entered into an Enterprise Customer Agreement and Service Order Form in relation to the provision of the Colossyan Services (the "Agreement"). To ensure that personal data processing is carried out in accordance with applicable data protection laws, this data processing agreement ("DPA") supplements the Agreement, as updated from time to time between Customer and Colossyan. This DPA is a legally binding agreement between Customer and Colossyan ("Processor") (together: the "Parties").

### **1 DEFINITIONS**

1.1 For the purposes of this DPA, the following terms will have the following meaning:

**Applicable Data Protection Laws** means the GDPR, the UK Data Protection Act (2018) and other applicable data protection laws as applicable to Processor in connection with its processing of personal data under the Agreement as processor.

**Customer Data** means the personal data processed in connection with the Agreement as specified in Schedule 1 of this DPA.

**Data Breach** means a confirmed or reasonably suspected breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed.

**Sub-processor** means a person or entity subcontracted by the Processor which processes Customer Data on behalf of the Processor in order to provide the Services to the Customer, as defined under Article 28 of the GDPR (or similar data protection obligations under the UK GDPR).

**GDPR** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).

**2021 Standard Contractual Clauses** means the Annex to the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council.

**UK Data Transfer Agreement** means the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses issued by the UK Information Commissioner, Version B1.0, in force 21 March 2022.

Unless otherwise defined in the DPA, all capitalized terms shall have the same meaning as in the Agreement. If not defined otherwise, the definitions set out in the GDPR, or any EU directive or regulation replacing it, applies.

### **2 RELATIONSHIP**

2.1 **Role of the Parties:** Regarding the processing of Customer Data, the Parties acknowledge that Customer is the controller and Processor is the processor of such data, except when Customer acts as a processor of Customer Data, in which case Processor is a sub-processor.

2.2 **Instructions:** Processor will process Customer Data in accordance with the Customer's documented instructions as set out in the Agreement and this DPA. However, Processor may disclose or provide access to Customer Data if the applicable laws so require. In the event that Processor receives a request to disclose or otherwise process Customer Data, in order to comply with any applicable law to which Processor is subject, Processor shall, to the extent permitted by applicable law, inform the Customer.

2.3 **Compliance:** Under this DPA, the Customer is solely responsible for compliance with the applicable statutory provisions including but not limited to the lawfulness of the disclosures

made to Processor and the lawfulness of data processing. For the avoidance of doubt, the Customer's instructions for the processing of Customer Data shall comply with applicable data protection laws and Processor is entitled to refuse processing of Customer Data that it believes to be in violation of any law or regulation.

- 2. 4 **Scope of data processing:** The Parties agree that the subject matter of the data processing performed under this DPA, including the nature and purpose of processing, the type of personal data and the types of data subjects shall be specified in Schedule 1 to this DPA.
- 2. 5 **Restricted Data:** Customer shall not provide or otherwise make available to Colossyan any Customer Data that contains any (a) Social Security numbers or other government-issued identification numbers; (b) protected health information subject to the Health Insurance Portability and Accountability Act (HIPAA) or other information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; (c) health insurance information; (d) passwords to any online accounts; (e) credentials to any financial accounts; (f) tax return data; (g) any payment card information subject to the Payment Card Industry Data Security Standard; (h) personal data of children under 16 years of age; or (i) any other information that falls within any special categories of personal data (as set out in Article 9(1) of the GDPR); 'sensitive personal information' or 'sensitive personal data' as defined in the CCPA and the other United States state privacy laws, respectively; and/or data relating to criminal convictions and offences or related security measures (together, "Restricted Data").

### 3 OBLIGATIONS OF THE SUPPLIER

- 3. 1 **Security:** Processor undertakes to implement and maintain appropriate technical and organizational measures to protect Customer Data against any accidental or unlawful destruction or accidental loss, alternation, unauthorized disclosure or access. Such measures shall include at least those measures described in Schedule 2.
- 3. 2 **Confidentiality:** Processor will take reasonable steps to ensure that all personnel who have access to Customer Data has adequate knowledge and expertise. In addition, Processor will ensure that its personnel authorized to access the Customer Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 3. 3 **Data breach notification:** Processor will notify the Customer without undue delay in the case of a Data Breach relating to any Customer Data processed. In such a case, Processor will take reasonable steps to mitigate the consequences of the Data Breach. Upon request from the Customer, Processor will provide Customer with reasonable co-operation, information and assistance.
- 3. 4 **Audit:** Subject to reasonable and appropriate confidentiality undertakings, Processor shall make available to Customer on request all information reasonably necessary to demonstrate compliance with this DPA. To the extent Customer cannot reasonably satisfy itself of Processor's material compliance with this DPA on the basis of such information, where required by the Standard Contractual Clauses or the UK Data Transfer Addendum (as applicable), Customer and its authorized representatives may conduct audits with the reasonable assistance of Processor, provided that such audit will be carried out (i) up to one time per year, with at least thirty days' prior notice, (ii) during the normal business hours of the Processor and (iii) to the extent possible, remotely by electronic means. Any time spent by Processor for such audit must be reimbursed by the Customer at the applicable professional service rates of the Processor. Before the audit commences, the Parties will agree on the timing, scope and duration of the audit as well as the applicable rates of the Processor.

### 4 SUB-PROCESSORS

4. 1 **Authorization:** Customer hereby confirms its general written authorization for the Processor's use of Colossyan Affiliates and third parties, as Sub-processors in accordance with Article 28 of the GDPR (or similar data protection obligations under the UK GDPR) to assist the Processor in providing the Services and processing Customer Data. Processor may continue to use those Sub-processors already engaged by Processor as at the date of this DPA. Customer acknowledges and authorizes that the Processor and Sub-processors may process Customer Data in countries that are outside of the EEA.
4. 2 **Sub-processor terms:** The Processor shall enter into a written agreement with each Sub-processor containing data protection obligations that complies with applicable data protection laws with respect to the protection of Customer Data to the extent applicable to the nature of the Services provided by such Sub-processor.
4. 3 **Appointment:** The Processor will inform the Customer of any new Sub-processor to be appointed before the date when the new Sub-processor is implemented. Within 8 days of that notice ("Sub-processor Change Notice"), the Customer may notify the Processor in writing of any reasonable objections to the proposed appointment. Upon receipt of such notice, Customer and Processor will work together in good faith to address the Customer's objection. If the parties cannot reach a solution and Processor chooses to retain the Sub-processor for the provision of the Services, either party may terminate the Agreement by written notice to the other party. If no objection has been raised within 8 days of the Sub-processor Change Notice, the Processor will deem Customer to have authorized the new Sub-processor. The Customer hereby acknowledges that, as a result of the nature of cloud services provided by the Processor, the termination right set out in this clause 4.3 is the Customer's sole and exclusive remedy if the Customer objects to the appointment of any new Sub-processor.

## 5 INTERNATIONAL TRANSFERS

5. 1. **EEA Data Transfer Mechanism:** To the extent Customer's use of the Services requires a transfer mechanism to lawfully transfer personal data from the European Economic Area via the Services, the terms Module 2 of the 2021 Standard Contractual Clauses are incorporated to this DPA by reference, and completed as follows:
- a) in Clause 7, the optional docking clause will not apply;
  - b) in Clause 9, Option 2 will apply and the time period for prior written notice of sub-processor changes will be as set forth in clause 4.3;
  - c) in Clause 11, the optional language will not apply;
  - d) in Clause 17 (Option 1), the 2021 Standard Contractual Clauses will be governed by Irish law;
  - e) in Clause 18 (b), disputes will be resolved by the Courts of the Ireland;
  - f) Schedule 4 (List of Parties) of this DPA serves as Annex I of the 2021 Standard Contractual Clauses;
  - g) Schedule 1 (Description of the Processing) of this DPA serves as Annex II of the 2021 Standard Contractual Clauses;
  - h) Schedule 2 (Technical and Organizational Security Measures) of this DPA serves as Annex III of the 2021 Standard Contractual Clauses;
  - i) Schedule 3 (List of Sub-processors) of this DPA serves as Annex IV of the 2021 Standard Contractual Clauses.
5. 2. **UK Data Transfer Mechanism:** To the extent Customer's use of the Services requires a transfer mechanism to lawfully transfer personal data from the United Kingdom via the Services, the Parties agree that the UK Data Transfer Agreement will apply. The UK Data Transfer Agreement

will be deemed entered into, and incorporated to this DPA by reference, and completed as follows:

- a) The Parties and their contact information (Table 1 of the UK Data Transfer Agreement), are specified in Schedule 4 (List of Parties) of this DPA;
  - b) Information about the version of the Approved EU SCCs, modules, and selected clauses, which the UK Data Transfer Agreement is appended to (Table 2 of the UK Data Transfer Agreement) are set forth in clause 5.1 (EEA Data Transfer Mechanism) of this DPA;
  - c) Schedule 4 (List of Parties) of this DPA serves as Annex 1A in Table 3 of the UK Data Transfer Agreement;
  - d) Schedule 1 (Details of the Processing) of this DPA serves as Annex 1B in Table 3 of the UK Data Transfer Agreement;
  - e) Schedule 2 (Technical and Organizational Security Measures) serves as Annex II in Table 3 of the UK Data Transfer Agreement;
  - f) Schedule 3 (Sub-processors) serves as Annex III in Table 3 of the UK Data Transfer Agreement; and
  - g) In Table 4 of the UK Data Transfer Agreement, both the importer and the exporter may end the UK Data Transfer Agreement in accordance with the terms of the UK International Data Transfer Agreement.
5. 3. The Parties agree that in addition to the 2021 Standard Contractual Clauses and the UK Data Transfer Agreement (as applicable), they agree on the supplementary clauses as set out in this agreement. To the extent there is any conflict or inconsistency between the EU Standard Contractual Clauses or UK International Data Transfer Agreement and any other terms in this DPA, the provisions of the EU Standard Contractual Clauses or UK Data Transfer Agreement, as applicable, will prevail.

## **6 COOPERATION BETWEEN THE PARTIES**

6. 1 **Data subject rights:** If the Processor receives a request for exercising the data subject's rights from a data subject within the scope of this DPA, Processor will forward the request to Customer. If the Customer so requests, Processor will use reasonable endeavors to assist the Customer in responding to the request and/or objection.
6. 2 **DPIA:** If Customer is required to carry out an impact assessment on the processing and protection of Customer Data, Processor will provide Customer with reasonable assistance and information required by Customer to comply with such obligation, taking into account the nature of processing and the information available to Processor.

## **7 RETURN AND DELETION OF PERSONAL DATA**

7. 1 Upon the expiration or termination of the Agreement, and subject to the prior written request by the Customer, Processor will take reasonable steps to delete any Customer Data, to the extent allowed by applicable law. In the event that applicable law prevents or precludes the return, deletion or destruction of any Customer Data upon the Customer's request, Processor will notify the Customer in writing, in reasonable detail, of the reasons for not returning, deleting or destroying such Customer Data.

## **8 LIMITATION OF LIABILITY**

Processor's and its Affiliates liability, taken together in the aggregate, arising out of or related to this DPA, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Agreement, and any reference in such section to the

liability of the Processor means the aggregate liability of the Processor and all of its Affiliates under the Agreement and this DPA together.

## **9 TERM AND TERMINATION**

This DPA enters into force on the date of the signature by the Customer. If the Agreement terminates between the Parties, this DPA also terminates with that the provisions of this DPA shall apply as long as Processor processes Customer Data on behalf of the Customer.

## **10 MISCELLANEOUS**

10. 1. **Entire agreement:** This DPA supersedes all prior discussions and agreements and constitutes the entire agreement between the Parties with respect to its subject matter and neither Party has relied on any statement or representation of any person in entering into this DPA.
10. 2. **Amendments:** Any amendments to this DPA must be agreed in writing. In the event that changes in law or regulation render performance of this agreement impossible or commercially unreasonable, the Parties may renegotiate this agreement in good faith.
10. 3. **Assignment:** Neither Party can assign this DPA to anyone else without the other Party's consent.
10. 4. **Waiver:** If a Party fails to enforce a right under this DPA, that is not a waiver of that right at any time.
10. 5. **Order of precedence:** In the case of any conflict or inconsistency between the following documents, the order of precedence will be: (i) the 2021 Standard Contractual Clauses or the UK Data Transfer Addendum (as applicable); (ii) the terms of this DPA; (iii) the Agreement; and (iv) the Privacy Policy. Any claims brought in connection with this DPA will be subject to the terms and conditions set forth in the Agreement, including, but not limited to, the exclusions and limitations.
10. 6. **Governing law, jurisdiction:** This DPA shall be governed by Irish law. Any disputes arising out of or in connection with this agreement shall be decided by the courts of Ireland.
10. 7. **Execution:** This DPA is executed on the date that the Customer accepts the Service Order Form and forms an integral part of the Agreement.

## Schedule 1

### Description of the processing

#### **Categories of data subjects whose personal data is processed**

A real-life persons selected by the Customer who consented to the creation of a synthetic avatar based on their voice and visual representation.

Users who interact with Conversational Avatars

#### **Categories of personal data processed**

Personal data provided in connection with the provision of the Services, by or on behalf of the Customer, through the Customer's or Users' use of the Colossyan Services, in particular the voice and visual representation of data subjects, and free text containing personal data (if any).

**Sensitive data processed (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.**

N/A – Customer confirms that no sensitive data or Restricted Data will be transferred to the Processor.

#### **Nature and purpose of the processing**

Provision of the Colossyan Services, in accordance with the features requested by Customer, in particular development of Content requested by the Customer, such as Custom Created Avatars, Conversational Avatar Files and Customer Created Videos.

#### **Duration of the processing**

For the provision of the Services

## Schedule 2

### Security Measures

Colossyan Services are **hosted on Amazon Web Services ("AWS")** servers in Germany and the United Kingdom and protected by the security and environmental controls of Amazon. The production environment within AWS where Colossyan Services and Customer Data are hosted are logically isolated in a Virtual Private Cloud (VPC). Customer Data stored within AWS is encrypted at all times. AWS does not have access to unencrypted Customer Data. More information about AWS security is available at <https://aws.amazon.com/security/> and <https://aws.amazon.com/compliance/shared-responsibility-model/>.

For AWS SOC Reports, please see: <https://aws.amazon.com/compliance/soc-faqs/>.

Our 3<sup>rd</sup> Party **authentication provider is auth0**, for access control, authorization we completely rely on their expertise.

For auth0 SOC Reports, please see: <https://auth0.com/docs/secure/data-privacy-and-compliance>

Processor will:

1. Take all reasonable measures to prevent unauthorised access to the Customer Data through the use of appropriate physical and logical (passwords) entry controls, security areas for data processing, and implementing procedures for monitoring the use of data processing facilities,
2. Use secure passwords, network intrusion detection technology, encryption and authentication technology, secure logon procedures and virus protection,
3. Consider risks relating to processing, for example from accidental or unlawful destruction, loss, or alteration, unauthorised or unlawful storage, processing, access or disclosure of Customer Data,
4. Ensure pseudonymization and/or encryption of Customer Data, where appropriate,
5. Maintain the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services,
6. Maintain the ability to restore the availability and access to Customer Data in a timely manner in the event of a technical or physical incident,
7. Monitor compliance on an ongoing basis,
8. Implement measures to identify the vulnerabilities with regard to the processing of Customer Data in systems used to provide services to the Controller,
9. Provide employee and contractor training to ensure ongoing capabilities to carry out the security measures established in policy.

Schedule 3  
Sub-processors

Third party Sub-processor	Address	Purpose
<b>Amazon Web Services Inc.</b>	410 Terry Ave N Seattle, WA, 98109-5210 US	Data hosting (Custom Created Avatars)
<b>Eleven Labs Inc.</b>	51 Little Falls Drive, Wilmington 19808 US	Voice cloning (Custom Created Avatars) and audio as a service (text)
<b>Wellsaid Labs Inc.</b>	113 Cherry St., Ste 52562 Seattle, Washington 98104- 2205 US	Audio-as-a-service (text)
<b>Microsoft Inc. (Microsoft Azure)</b>	One Microsoft Way, Redmond, Washington, 98052-6399, United States	Audio-as-a-service (text)
<b>OpenAI L.L.C.</b>	3180 18th Street, San Francisco, CA 94110, US	Script writing AI Assistant (text), document to video feature (text), and AI image generator (text)
<b>DeepL</b>	Maarweg 165, 50825 Cologne, Germany	Translation services (text)
<b>Tavus Inc.</b>	2101 CityWest Blvd, 1st Floor, Houston, TX 77042	Conversational Avatars

Colossyan Affiliates: Colossyan Kft. (Hungary), Colossyan Ltd. (UK)



Schedule 4  
List of Parties

Controller(s):

1. Name: Customer

Address: Customer's billing address

Contact person's name, position and contact details: The email address(es) designated by Customer in Customer's account via its notification preferences.

Signature and accession date: Please see the signature page of this DPA

Processor(s):

1. Name: Colossyan Inc.

Address: 1209 Orange Street, City of Wilmington, County of New Castle, Delaware 19801, USA

Contact person's name, position and contact details: Sarah Murphy; [legal@colossyan.com](mailto:legal@colossyan.com)

Signature and accession date: Please see the signature page of this DPA