DATA PROCESSING AGREEMENT

between

……………………………………………………………….
Company

……………………………………………………………….
Address

("Client")

and

Onebooth

Mintano UG (haftungsbeschränkt)

Erkrather Str. 401, 40231 Düsseldorf, Germany

("Contractor" or "Onebooth")

PREAMBLE

The parties have agreed to the Terms of Service posted at https://onebooth.com/terms ("**Main Contract**") according to which Onebooth has agreed to provide certain services to the Client (**"Services"**). The DPA is an attachment of the main contract.

1. SUBJECT OF CONTRACT

1.1 General scope

The provisions of this contract shall apply to the extent that the Contractor receives access to the personal data of the Client, his employees, customers or business partners specified in **Annex 1** and/or processes them on behalf of the Client within the context of the execution of the main contract.

1.2 Details

Details on the scope, nature and purpose of the intended collection and processing of personal data as well as on the types of personal data and categories of data subjects are specified in the main contract and **Annex 1** of this DPA.

2. DURATION OF THE DPA

2.1 Duration

This DPA commences with the entry into force of the main contract and is valid until the main contract is terminated.

2.2 Termination for good cause

The DPA can be terminated by either party for good cause and without notice. A good cause is considered to be given if it cannot be reasonably expected of the terminating party to continue the contractual relationship until the agreed termination date or until the end of a notice period, taking into account all circumstances of the individual case and weighing both parties' interests. In addition, the provision of sec. 314 BGB (German Civil Code) shall apply.

3. **OBLIGATIONS OF THE CONTRACTOR**

3.1 Obligation to follow instructions

The Contractor shall process personal data in accordance with the scope of the services as set out in the main contract only on behalf and in accordance with the documented instructions of the Client, for the purpose and scope specified in **Annex 1** and in accordance with the provisions of this DPA.

3.2 Unlawful instructions

If the Contractor is of the opinion that an instruction of the Client violates the data protection regulations of the EU or the member states, the Contractor shall inform the Client without undue delay.

3.3 Exemptions from the obligation to follow instructions

In the event of statutory exceptions to the contractor's obligation to follow instructions in accordance with Art. 28 para. 3 sentence 2 lit. a) GDPR, the Contractor shall inform the Client about these legal requirements prior to any data processing, unless the legal provision prohibits the Contractor to notify the Client.

3.4 Cooperation

(a)   The Contractor shall assist the Client by appropriate technical and organisational measures, in so far as possible, for the fulfilment of the Client's obligation to respond to requests for exercising the data subject's rights.

(b)   Taking into account the nature of the processing services and the information available, the Contractor undertakes to inform the Client of the measures to be taken with regard to data security in accordance with Art. 32 GDPR and to assist in the case of communication of a personal data breach to the data subject (Art 34 GDPR), reports to the supervisory authority (Art. 33 GDPR), in the performance of data protection impact assessments (Art. 35 GDPR) and in the coordination with supervisory authorities (Art. 36 GDPR).

3.5 Information

(a)   The Contractor shall provide the Client with all information necessary to document and prove compliance of the Contractor with the obligations according to this DPA.

(b)   The Contractor shall without undue delay inform the Client of any violation of the protection of personal data that has become aware of.

3.6 Confidentiality

(a)   All persons authorised to process data shall be bound by the contractor to confidentiality and secrecy, unless they are under an appropriate statutory obligation of confidentiality.

(b)   Personal data may only be made available by the contractor to those persons who have access to or require this personal data in order to fulfil the data management or the main contract. The Contractor ensures that only these individuals have access to the personal data.

3.7   Data export

Any transfer of personal data to a country outside the European Union or the European Economic Area ("**third country**") may take place provided that the special conditions for data exports to third countries (Art. 44 to 50 GDPR) are fulfilled.

4.   TECHNICAL AND ORGANISATIONAL PROTECTION MEASURES

4.1   Protection measures

The contractor takes appropriate technical and organizational measures to ensure the appropriate protection of personal data that meet the requirements of the General Data Protection Regulation, in particular Art. 32 GDPR. For this purpose, the contractor shall

(a)   ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

(b)   ensure the ability to restore the availability of and access to personal data in a timely manner in the event of a physical or technical incident;

(c)   take the measures set out in **Annex 2**. **Annex 2** forms an integral part of this DPA.

4.2   Checks

The Contractor shall maintain a procedure for regular testing, assessment and evaluation of the effectiveness of the technical and organisational measures for ensuring the security of the processing.

4.3   Alternative adequate measures

The necessary technical and organisational measures are subject to technological progress and further development. Insofar, the Contractor is permitted to implement alternative adequate measures. These measures may not fall below the safety level of the agreed measures. Major changes must be documented and communicated to the Client.

4.4   Adequate level of protection

The Client is aware of the technical and organisational measures taken by the Contractor. The Client is responsible to ensure that these provide for an adequate level of protection in meeting the risks of the processing.

5.   RIGHTS AND OBLIGATIONS OF THE CLIENT

5.1   Compliance with data protection regulations

Within the scope of this DPA, the Client is responsible for compliance with the provisions of the GDPR and other relevant data protection provisions and for ensuring that the legal claims of data subjects with regard to their personal data are preserved.

5.2   Right to instruct

The Client is entitled to issue instructions insofar as this is necessary for compliance with the statutory data protection requirements. Oral instructions must be confirmed in writing by the Client.

6. CONDUCTING INSPECTIONS

6.1 Inspection

Prior to commencement of order processing and regularly during the term of this DPA, the Client shall be entitled to inspect the technical and organisational measures taken by the Contractor and as out in **Annex 2** as well as the other data protection measures to be taken in accordance with this DPA or to have them examined by an authorised third party which (i) has been accepted in writing by the Contractor, (ii) is not in a competitive relationship with the Contractor and (iii) has concluded a confidentiality agreement with the contractor.

6.2 Procedure

The inspection is carried out after previous announcement by the Client at the Contractor's premises during normal business hours and no more than once a year unless the Client can prove that a higher frequency is required for data protection reasons. The examination must be carried out, as far as possible, without disrupting the business process.

6.3 Cooperation obligations of the contractor

The Contractor assists the Client or the third party entrusted with the inspection in conducting these inspections.

7. SUBCONTRACTOR

7.1 General approval

The Contractor may assign further subcontractors to process the Client's data without prior separate approval of the Client.

7.2 Obligation to provide information

The Contractor shall inform the Client within a reasonable period of time before any planned commissioning of further subcontractors.

7.3 Content of the information

The Contractor shall inform the Client of the name and address of the subcontractor and of the content of the planned subcontract.

7.4 Objection against other contractors

The Client may object to the subcontracting in writing until the subcontractor has been commissioned. If no objection is raised within 10 days of receipt of the information in accordance with Section 7.2, the approval shall be deemed granted. In the event of an objection, the Contractor shall endeavour to provide the services with the help of another subcontractor. If such a possibility does not exist or causes unreasonable expenditure, the Contractor is entitled to terminate the services provided with the assistance of the unauthorised subcontractor. Only in the event that the Client has no interest in the provision of the entire service and it is unreasonable to expect him to continue to adhere to the main contract, the Client entitled to terminate the whole contract.

7.5 **Subcontracting agreement**

If the Contractor uses the services of a subcontractor, the subcontractor shall be obliged by the same obligations as specified in this DPA by means of a contract or other legal act according to Union law or the law of the respective EU member state.

7.6 **Existing subcontractors**

The current subcontractors are specified on the following website and engaged in the processing of personal data: https://onebooth.com/sub-contractors. The Client agrees to their assignment.

8. STORAGE, RETURN AND DELETION

8.1 **Duration of storage**

The Contractor will only store personal data for the duration as specified by the Client. In the absence of specific instructions, personal data will only be stored for as long as necessary for the order data processing according to this DPA.

8.2 **Obligations to return and delete**

Upon request of the Client and after the termination of this DPA, the Contractor will – at the Client's option and in compliance with the relevant data protection provisions and provided there is no legal obligation to retain the data – return to him or delete any personal data, data carries handed to the Contractor, documents connected to the order processing that contain personal data of the Client and any copies immediately, but at the latest 14 days after the Client's request and instruction or termination of the order data processing.

8.3 **Storage of documentation**

Documentation that serves as proof for the order data processing or compliant processing has to be stored by the Contractor in accordance with statutory or contractual storage periods even after the termination of the contract. He may release the data to the Client for his own relief.

8.4 **Test and excluded material**

Test and excluded material can be deleted by the Contractor; only in cases that are specifically identified by the Client, the data will be stored or returned.

9. CONFIDENTIALITY

During and for an infinite time after the contract period, the parties undertake to confidentially handle all mutually communicated personal data, and not to make it available to unauthorised third parties.

10. APPLICABLE LAW AND JURISDICTION

This DPA is subject to the laws of the Federal Republic of Germany. The exclusive place of jurisdiction for all disputes arising from or in connection with this DPA is Düsseldorf.

11. OTHER PROVISIONS

11.1 Requirements of the Commission or supervisory authority

If the EU Commission or the competent supervisory authority establishes standard clauses for order processing contracts, the parties will agree on a possible adaptation of this DPA to the standard clauses to the necessary extent.

11.2 Costs

Costs arising from additional instructions, inspections and support actions on behalf of the Client shall be borne by the Client.

11.3 Rules for collision

In the event of a contradiction between the main contract and this DPA, this DPA shall take precedence in so far as the regulations of this DPA concern the processing of personal data. Should individual parts of this contract be ineffective, this shall not affect the effectiveness of the remaining provisions of the DPA or the main contract.

11.4 Legal obligations and orders

The obligations of the Contractor due to statutory provisions or administrative or court orders remain unaffected by this DPA.

11.5 Requirement for written form

Amendments, additions or revocation of this DPA must be made in writing. This shall also apply to any provision with which this written form clause is waived. The electronic form and the text form do not satisfy the written form requirement in this respect.

Client

....
Name

....
Position (Managing Director, Rep.)

....
Place, Date

....
Signature

Contractor (Onebooth)

Alexander Mihailovski..................
Name

Managing Director........................
Position

Düsseldorf, May 23rd , 2018...........
Place, Date

....
Signature

ANNEX 1
Details of data processing

1.   **OBJECT AND DURATION OF PROCESSING**

The Contractor is providing a photo booth platform as a Software as a Service (SaaS) which allows the Client to generate photos and videos and other user data (e.g. email address, phone number, address). Detailed object and duration are specified in the Main Contract.

2.   **TYPE AND PURPOSE OF PROCESSING**

The purpose of the data processing is defined by the respective photo booth campaign setup which is made by the Client. It may include acquisition, collection, organisation, filing, storage, adaptation or alteration, retrieval, use, disclosure by transmission, release or any other form of provision, synchronisation or linkage, limitation, deletion or destruction.

3.   **TYPE OF PERSONAL DATA**

Photographs (especially the by the end user generated photos, GIFs, Boomerangs and videos), contact details (e.g. name, email, address, phone number), financial and billing information.

4.   **CATEGORIES OF AFFECTED PERSONS**

Users of the photo booth software at events ("**End Users**"), employees and former employees of the company, customers of the company.

Technical and organisational data protection measures

The technical and organizational measures to be complied with by the Contractor include in particular:

1.   **Entrance control**

Measures must be taken to prevent unauthorised persons from gaining access to the data processing systems used to process personal data.

The Contractor has taken the following measures:

- Safety locks with key control
- Locked doors in absence
- Access control system (e.g. chip card, controlled key allocation)
- Access regulations for external persons
- Registration of guests
- Reception
- Monitoring devices (video monitor)
- Security Awareness Training

2.   **Admission control**

Measures must be taken to prevent unauthorised persons to use the data processing systems and methods.

The Contractor has taken the following measures:

- Authentication by username and password
- Identification and authentication including password assignment procedures (minimum length, special characters, regular change of password, non-approval of use of the same password)
- Screen darkening with password protection in case of inactivity
- Re-entering of password after inactivity
- State of the rat encryption procedures
- Firewall

3.   **Access control**

Measures must be taken to ensure that those authorised to use the data processing procedures can only access personal data subject to their access authorisation.

The Contractor has taken the following measures for the demand-oriented design of the authorisation concept and access rights as well as their monitoring and logging:

- Role-based authorisation concept with differentiated authorisations
- Constant updating of the role-based authorisation concept
- Access only on a need-to-know basis
- General access rights only for a small number of admins
- Logging of access to personal data when copying, modifying and deleting this data

- Identification and authentication
- State of the art encryption procedures

4. **Transfer control**

Measures must be taken to ensure that personal data cannot be read, copied, altered or removed without authorisation during electronic transfer or during transport or storage on data carriers, and that it is possible to check and establish where personal data is to be transmitted by data transmission facilities.

The Contractor has taken the following measures:

- Encryption of data on data carriers on electronic transmission according to the state of the art
- Determination of the persons entitled to supply data carriers or electronic transmissions
- Determination of the recipient group of data
- Regulations for the transport of data carriers
- Encryption of the transmitted data

5. **Input control**

Measures must be taken to ensure that it can subsequently be verified and established whether and by whom personal have been entered, modified or removed from data processing systems.

The Contractor has taken the following measures:

- Logging and log analysis system with regard to all system activities, in particular the input, modification and deletion of data; data protection-compliant storage of the logs by the contractor for a defined period of time
- Individual allocation of rights of use for the purpose of entering, modifying and deleting data based on a role-based authorisation concept

6. **Order control**

Measures must be taken to guarantee the order data processing in accordance with instructions.

The Contractor has taken the following measures:

- Careful selection of service providers (especially with regard to IT security)
- Conclusion of an order data processing agreement
- Return and deletion of processed data after termination of the contractual relationship
- Service providers committed his employees to confidentiality
- Regular internal control and documentation of the contractor to ensure that instructions and regulations for order execution are observed

7.   **Availability and capacity control**

Physical and logical measures must be taken to ensure that personal data is protected against accidental destruction or loss and to ensure that the IT systems can compensate for disruptions or other changes.

The Contractor has taken the following measures:

- Backup procedure (with definition of the frequency, medium, time and location of storage)
- Mirroring of hard disks (e.g. RAID method)
- Fire detectors
- Firewall

8.   **Separation control**

Measures must be taken to ensure that data collected for different purposes is collected separately.

The Contractor has taken the following measures:

- Separation of test and production
- Logical separation of clients
- Determination and addition of the processing purposes of the data sets
- Development of a role-based authorization concept