

DATA PROCESSING ADDENDUM

This GDPR Data Processing Addendum (“DPA”) is entered into by and between the undersigned user of BoomTech LLC hereinafter referred to as “Customer”, and BoomTech LLC hereinafter referred to as “Provider”, (individually, a “Party” and collectively, the “Parties”) for certain data collection, encryption, management services (collectively, the “Services”) provided by Provider.

The purpose of this DPA is to reflect the Parties’ agreement with regard to the Processing of Personal Data.

This DPA amends and supplements Provider’s Terms of Services available at / <https://boomte.ch/terms.html> / or other written or electronic agreement (if any) between Parties (together “Agreement”). In the event of any inconsistency between the provisions of this DPA and any provision of the Agreement, the terms and provisions of this DPA shall govern and control.

INSTRUCTIONS ON HOW TO EXECUTE THIS DPA

1. To complete this DPA, Customer must complete the information in the signature box and sign on Page 4.
2. Customer must send the completed and signed DPA to Provider to support@boomte.ch.
3. Provider will sign the DPA and will send it back to the Customer.

Upon receipt of the validly completed DPA by Customer, this DPA shall come into effect and legally bind the Parties.

1. DEFINITIONS

1.1 The following definitions are used in this DPA:

- a) “Customer” means you or the entity you represent;
- b) “EU Data Protection Laws” means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;
- c) “GDPR” means the General Data Protection Regulation (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);
- d) “Personal Data” means all data which is defined as ‘personal data’ under EU Data Protection Laws and to which EU Data Protection Laws apply and which is provided by the Customer to Provider, and accessed, stored or otherwise processed by Provider as a data processor as part of its provision of the Services to Customer;
- e) “EEA” means the European Economic Area;
- f) “Breach” has the meaning given in Section 4 of this DPA;
- g) “Sub-Processor” means any data processor engaged by the Provider.
- h) “Processing”, “Data Controller”, “Data Subject” and “Data Processor” shall have the meanings ascribed to them in EU Data Protection Laws.

2. DATA PROCESSING TERMS

- 2.1 The Parties agree that in the course of providing the Services, Customer is the sole Data Controller of Personal Data and Provider is the Data Processor.
- 2.2 If there are other Data Controllers, Customer will identify and inform Provider of any such other data controllers prior to providing their Personal Data.

- 2.3 The duration of the Processing corresponds to the duration of the Services. The nature, purpose and subject matter of the Processing is the provision of the Services to the Customer.
- 2.4 Each party warrants in relation to Personal Data that it will comply (and will procure that any of its personnel comply and use commercially reasonable efforts to procure that its Sub-Processors comply), with EU Data Protection Laws.
- 2.5 Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which the Customer acquired Personal Data.
- 2.6 Users, employees, business partners of the Customer and authorized persons by the Customer, who are all natural persons, are Data Subjects.
- 2.7 Provider shall only process Personal Data in order to provide the Services and will not disclose Customer's Personal Data to any third party, unless authorized by the Customer or required by law.
- 2.8 When processing Personal Data, Provider shall act in accordance with this DPA, the Customer's written instructions and as required by applicable laws. If Provider is required to process the Personal Data for any other purpose provided by applicable law to which it is subject, Provider will inform Customer of such requirement prior to the Processing unless that law prohibits this on important grounds of public interest.
- 2.9 Provider shall immediately inform Customer regarding any changes to the performance of Provider's Services, so that Customer may monitor compliance between new arrangements and EU Data Protection Laws.

3. SECURITY

- 3.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Customer and Provider shall implement appropriate technical and organizational measures designed to protect the Personal Data against unauthorized or unlawful Processing and against accidental loss, destruction, damage, theft, alteration or disclosure.
- 3.2 Provider shall ensure that all personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations sets out in this clause.
- 3.3 At the Customer's request and cost (and insofar as is possible), Provider shall assist the Customer by implementing appropriate and reasonable technical and organizational measures to assist with the Customer's obligation to comply with the rights of Data Subjects under Data Protection. Such assistance will be provided upon Customer's reasonable request and to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Provider.

4. DATA BREACHES

- 4.1 If Provider becomes aware of any accidental, unauthorized or unlawful destruction, loss, alteration, or disclosure of, or access to the Personal Data that is processed by Provider in the course of providing the Services (an "Incident") it shall without undue delay notify Customer and provide Customer (as soon as possible) with a description of the Incident as well as periodic updates to information about the Incident, including its impact on Personal Data.
- 4.2 Provider shall additionally take action to investigate the Incident and reasonably prevent or mitigate the effects of the Incident.
- 4.3 Notification(s) of Data Breaches, if any, will be delivered to one or more of Customer's business, technical or administrative emails. It is Customer's sole responsibility to ensure it maintains accurate contact information on Provider's support systems at all times.

5. RETURN AND DELETION OF PERSONAL DATA

- 5.1 Subject to any surviving rights and obligations, this DPA will automatically terminate upon termination of the Services.
- 5.2 At the end of the applicable term of the Services, upon Customer's request, Provider shall securely destroy or return Personal Data to Customer, unless otherwise required by applicable law.

6. SUB-PROCESSING

- 6.1 The Customer acknowledges and accepts that the Provider may engage or replace Sub-Processors, directly under the terms of this DPA, to perform parts of the Services. Any such Sub-Processors will be permitted to obtain Personal Data only to deliver the Services Provider has retained them to provide.
- 6.2 Provider may continue to use the Sub-Processors already engaged according to this DPA. Provider has two Sub-Processors (a) server provider: OVH France, (b) DNS server: Cloudflare USA.
- 6.3 Provider will give Customer prior written notice of the appointment of any new Sub-Processor, including full details of the Processing to be undertaken by the Sub-Processors. Customer may object to Provider's use of a new Sub-Processors by notifying Provider promptly in writing within ten (10) business days after any updates are made by Provider to the Sub-Processors list. In the event of such objection by Customer, Provider will take commercially reasonable steps to address the objections raised by Customer and provide Customer with reasonable written explanation of the steps taken to address such objection.

7. DATA TRANSFER

- 7.1 Customer acknowledges and accepts that the necessity to perform the Services may require the Processing of Personal Data by Sub-Processors in countries outside the EEA.
- 7.2 Provider will transfer any Personal Data to a Sub-Processor located outside of the EEA only under the condition that the Sub-Processors will provide sufficient guarantees in relation to the required level of data protection, e.g. through a Privacy Shield certification according to the EU Commission Decision 2016/1250, or a subcontracting agreement based on the standard contractual clauses launched by virtue of the EU Commission Decision on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC or GDPR (the "Model Contract Clauses"), or based on other applicable transborder data transfer mechanisms.

8. DATA SUBJECT RIGHTS

- 8.1 Provider shall notify Customer via e-mail if he receives a request from a Data Subject under any EU Data Protection Laws in respect of Personal Data, including any request to exercise the Data Subject's right of access to, correction, amendment, deletion of or objection to the Processing of that Data Subject's Personal Data. Provider shall not respond to any such Data Subject request without Customer's prior written consent, except in order to confirm that the request relates to the Customer.
- 8.2 Provider shall upon Customer's request provide commercially reasonable efforts to assist Customer in responding to such Data Subject request, to the extent Provider is legally permitted to do so and provided that such Data Subject request is required under applicable EU Data Protection Laws. Any costs arising from such provision of assistance shall be the responsibility of Customer, to the extent legally permitted.

9. AUDIT

9.1 Provider shall allow for and contribute to audits conducted by the Customer or Customer's authorized auditor providing (a) the most recent audit reports which demonstrate the effectiveness of Provider's technical and organizational measures, (b) available additional information concerning the Processing of Personal Data carried out by Provider under this DPA.

9.2 Upon Customer's written request Provider will cooperate with the Customer or another auditor authorized by the Customer to exercise their right of audit under EU Data Protection Laws in relation to Personal Data and Provider's technical and organizational measures.

[Customer's legal name]:		BoomTech LLC:	
Signature		Signature	
Name		Name	
Title		Title	
Address		Address	
Email		Email	
Date		Date	