

Data Protection Information for Contracting Companies

Information according to Art 13 and Art 14 GDPR

The following information provides an overview of the processing of your personal data by us and the claims and rights to which you are entitled under EU General Data Protection Regulation (GDPR) in force since 25 May 2018.

Which information is processed in detail and how it is used depends largely on the services requested or agreed.

The data processing controller is:

hobex AG
Data Protection
Josef-Brandstätter-Straße 2b 5020 Salzburg
Phone: +43 662 2255 – 0
Email: datenschutz@hobex.at

For centralized processing activities of personal data, the subsidiaries of hobex AG (hobex GmbH and hobex s.r.l.) act as joint controllers pursuant to Art. 26 GDPR.

1. Data subject category:

Contact persons of contracting companies (VU) or individual companies who conclude or are considering concluding an agreement with hobex for the use of the payment services offered.

2. What data is processed and what are the sources of this data?

We process personal data (art. 4.1 GDPR) that we receive from our contracting companies as part of our business relationship. If so required for the provision of our services, we also process the data that we legitimately receive from credit agencies, debtors' directories (e.g.: CRIF GmbH, SCHUFA Holding AG, KSV 1870 Holding AG) and from publicly accessible sources (e.g.: companies register, registry of associations, edicts archive, websites, media).

Personal data includes the personal details of the persons authorised to represent the contracting company (name, address, contact data, date and place of birth, sex, citizenship, etc.) and identification data (e.g.: ID data).

Furthermore, data may also originate from the fulfilment of our contractual obligations, including (e.g.: card and sales data in payment processing), information about your financial status (e.g.: credit rating data), registry data, image and sound data (e.g.: video and phone recordings), information from your electronic transactions with hobex AG (e.g.: apps, cookies), processing results that hobex AG generates itself, data to fulfil legal and regulatory requirements and other data comparable to the categories mentioned.

3. What are the purposes and legal basis of the data processing?

We process personal data in accordance with data protection regulations:

a. To fulfil contractual obligations (Art. 6 clause 1 (b) GDPR):

Personal data is processed for the provision and brokerage of financial services, in particular for the execution of our contracts with you and the execution of your orders as well as for all activities necessary for the operation and administration of a payment institution. The purposes of data processing depend primarily on the specific product and may include, among other things, needs analyses, consulting and the execution of transactions. The specific details on the purpose of data processing can be found in the respective contract documents and terms of business.

b. To fulfill legal obligations (art. 6 clause 1 (c) GDPR):

Personal data processing may be necessary for the purpose of fulfilling various legal obligations (e.g.: under Payment Service Act of 2018, Financial Market Money Laundering Act, Banking Act) and regulatory requirements (e.g.: of the European Central Bank, European Banking Supervisory Authority, Austrian Financial Market Supervisory Authority) to which hobex AG is subject as an Austrian payment institution. Examples of such cases are:

- Checks according to Money Laundering Act and reports to the Money Laundering Reporting Office in certain suspicious cases (§16 FM-GwG);
- Provision of information to FMA according to Payment Service Act of 2018 (ZaDiG);

- Provision of information to financial crime authorities in the context of financial criminal proceedings due to an intentional financial offense;
- Provision of information to federal tax authorities

As a payment institution, hobex AG is obliged under §21 of the Financial Market Money Laundering Act (FM-GwG), as part of its due diligence obligations to prevent money laundering and terrorist financing, to retain the transaction documents and records required to identify transactions. FM-GwG grants the payment institution the statutory authorisation within the meaning of the Data Protection Act to use the aforementioned data in the context of exercising due diligence to prevent money laundering and terrorist financing, which the institution is legally obliged to carry out and which serves the public interest. The data processing within the scope of the described due diligence obligations is based on a legal obligation of the payment institution.

Any objection by the data subject to this data processing may therefore be disregarded by the payment institution.

c. In the context of your consent (Art. 6 clause 1 (a) GDPR):

If you have given us a consent to process personal data for specific purposes (e.g.: newsletter subscription), this data processing is lawful on the basis of your consent. Once granted, consent may be revoked at any time. The withdrawal of consent does not affect the lawfulness of processing up to the time of withdrawal.

d. Within the scope of the legitimate interest (balance of interests) (Art. 6 clause 1 (f) GDPR):

If necessary, we process your data beyond the actual fulfilment of the contract to protect our legitimate interests or those of third parties.

Examples:

- Consultation of and data exchange with credit agencies and your account-holding bank to determine creditworthiness or default risks;
- Phone recordings (e.g.: in complaint cases);
- Measures for business management and further development of processes, services and products;
- Detection and prevention of violations of guidelines and regulations or provisions of hobex;
- Measures to protect employees, partners of hobex and other contracting companies, as well as property of hobex AG;
- Protection of own IT infrastructure, detection and tracking of cyber-attacks, and improvement of service;
- Measures to prevent and combat fraud (fraud transaction monitoring);
- In the context of legal action (e.g.: debt collection; fraud)

e. In the context of marketing activities (Art. 6 clause 1 (a) and (f) GDPR):

We also process your data to promote our own products and those of our cooperation partners as well as for market surveys and opinion polling, and for customer win-back. We link and analyse the data relevant for our marketing purposes in order to better tailor advertising or offers to your customer needs. Our interest lies in offering existing or potential contracting companies products tailored to their needs.

You have the right to object to the processing of your personal data for the purposes of direct marketing.

4. Who receives your data?

Within hobex AG, your data is received by those departments or employees which require it for the fulfilment of their contractual, legal, and regulatory obligations as well as for the balancing of interests.

In addition, processors commissioned by us (e.g.: IT and back office service providers, payment service providers) will receive your data if they require it to perform their respective services. All processors are correspondingly contractually obligated to treat your data confidentially and to process the data only in the context of providing the services.

If processors operate outside the EU, suitable standard contractual clauses or an adequacy decision are in place. The security of your data is important to all our processors and they use technical and organizational security measures that comply with current standards, such as those of the Payment Card Industry Security Standard Council (PCI) or the International Organization for Standardization (ISO), and are monitored by hobex AG.

Recipients of your personal data through forwarding or shared system access may also be the subsidiaries of hobex AG (hobex GmbH and hobex s.r.l.).

Other recipients are payment service providers, first of all the credit card organizations (e.g.: Visa, Mastercard, Diners, American Express) or payment solutions (e.g.: Bluecode, GooglePay, AliPay, PayPal, ApplePay), as well as providers of eCommerce services (payment solutions in online stores). These are all responsible parties under data protection law. As an acceptor of these payment solutions, you already have an agreement with these providers. You can find further information on the goals and extent of data compilation and data processing by these third parties in their respective data privacy statements. There you will also find further information on your relevant rights and setting options for protecting your privacy.

If there is a legal or regulatory obligation, public bodies and institutions (e.g.: European Banking Supervisory Authority, European Central Bank, Austrian Financial Supervisory Authority, tax authorities, law enforcement authorities, etc.) may be recipients of your personal data.

Where consent has been given or for legitimate interest (e.g.: in the context of legal action), credit agencies and debtors' directories (e.g.: CRIF GmbH, SCHUFA Holding AG, KSV 1870 Holding AG) may be recipients of your personal data.

With regard to the transfer of data to other third parties, we would like to point out that hobex AG, as an Austrian payment institution, has a duty of confidentiality according to §20 clause 5 of ZaDiG 2018 with respect to customer-related information and facts that have been entrusted to us or made accessible to us in the context of the business relationship. We may therefore only pass on your data if you have explicitly released us from the duty of confidentiality in writing in advance or if we are obligated or authorised to do so by law, by regulatory law or on the basis of legitimate interests. Recipients of personal data in this context may be credit, financial or comparable institutions to which we transmit the data in order to conduct the business relationship with you (depending on the contract these can be e.g.: banks, credit agencies).

5. Is data transmitted to countries outside the EU (non-EU member states)?

Data transmission to locations in non-EU member states occurs if

- card data in payment processing is sent to the headquarters of card schemes in Japan, China, USA) and service providers from third countries are involved in the course of processing
- it is required by law (e.g.: tax reporting obligations) or
- you have provided us with your consent.

Hobex may also involve other service providers (e.g.: tracking service providers; risk monitoring systems, clearing and settlement service providers) located outside the EU to perform the services. The purpose of the data transfer is the processing of payment transactions, risk management; provision of corporate IT; cyber security solutions).

To ensure an adequate level of data protection in the non-EU member states, there is either an adequacy decision by the EU Commission or appropriate and suitable guarantees in the form of EU standard contractual clauses and the agreement of additional data protection agreements between hobex and the service provider, or there is a legal exception (art. 49 GDPR) that justifies data transfer even without an adequacy decision or suitable guarantees.

6. How long will your data be stored?

Where necessary, we store your personal data for the duration of the entire business relationship (from contract initiation and processing to its termination) and beyond in accordance with the statutory retention and documentation obligations, including those under the Commercial Code (§212 UGB: 7 years), Federal Fiscal Code (§132 BAO: 7 years), Payment Service Act (§24 ZaDiG: min 5 years) and Financial Market Money Laundering Act (§ 21 FM-GwG: 10 years).

Your data will therefore be stored for up to 10 years after termination of the business relationship.

In cases of preservation of evidence (e.g.: in case of debt collection, fraud or money laundering) the retention period lasts until the legal case has been settled or the applicable statutory limitation periods expired, which can be up to 30 years in certain cases (e.g.: enforcement order) e.g. according to the General Civil Code (ABGB).

7. Are you obligated to provide data?

As part of the business relationship, you must provide personal data that is necessary for the establishment and execution of the business relationship and that we are legally obligated to collect. If you do not provide us with this data, we will generally have to refuse to conclude the contract or execute the order or will no longer be able to execute an existing contract and will therefore have to terminate it. However, you are not obligated to give your consent to data processing with regard to data that is not relevant for the fulfilment of the contract and/or not required by law or regulation.

8. Is there any automated decision-making including profiling?

We do not use automated decision-making according to art. 22 GDPR to take a decision on the establishment and performance of the business relationship that produces legal effects on the data subject or significantly affects them in a similar way. However, hobex uses scoring for risk assessment and evaluation of creditworthiness using the services of specialized service providers (e.g.: KSV; CRIF; Creditreform). These credit agencies process the transmitted data under their own responsibility, so corresponding requests for information are to be addressed directly to them.

9. What data protection rights do you have?

As a data subject, you have a right to information, rectification, deletion or restriction of the processing of your stored data, a right to object to the processing and a right to data portability in accordance with the requirements of data protection law.

Data subjects can exercise all rights via an email to datenschutz@hobex.at or via a declaration by postal mail. You must identify yourself and contribute to the identification process to ensure that the reply is actually addressed to the data subject.

Furthermore, you have the right to appeal with the Austrian Data Protection Agency as the supervisory body, if you believe that the processing of your personal data is not lawful (www.dsb.gv.at). Austrian Data Protection Agency; Barichgasse 40-42; 1030 Vienna; Telephone: +43 1 52 152-0; email: dsb@dsb.gv.at.

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