

Data Protection Information for Payers

Information according to Art 13 and Art 14 GDPR

The following information provides an overview of the processing of your personal data by our payment solution, the associated devices, websites, functions or content and external services – hereinafter jointly referred to as the „Payment Solution“, as well as the claims and rights to which you are entitled under EU General Data Protection Regulation (GDPR).

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 categories

Visitors and users of our payment solutions, hereinafter referred to as „Users“.

2. Types of processed data

Data provided or entered by the user:

- Master data (e.g.: names, addresses)
- Contact data (e.g.: email, telephone number)
- Payment data (e.g.: IBAN, card number, reference numbers, amount)

Data transmitted via the user:

- Metadata/communication data (e.g.: device information, IP addresses)
- Website usage data (e.g.: log data, tracking, cookies)

The type of data processed depends on the payment solution selected – POS or eCommerce.

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

We process personal data in accordance with data protection regulations.

The purpose of the data processing is primarily to handle cashless payments.

a. Subject to your (implicit) consent (Art. 6 clause 1 (a) GDPR)

By using a cashless method (Mastercard, credit card, alternative payment method, eDD), you implicitly consent to the processing of the data related to the processing and execution of the payment.

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

Payment processing including connected services like risk analysis for a contracting company.

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

Implementation of accompanying security measures for payment processing and the settlement of claims on the basis of the Payment Services Act of 2018, the Financial Markets Money Laundering Act, the Banking Act and the General Civil Code.

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.

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

Processing and settlement of payment transactions in accordance with the provisions of the credit card companies; improvement of payment solutions by evaluating user behaviour; measures to prevent and combat fraud (e.g.: transaction monitoring) and in the context of legal prosecution (e.g.: debt collection).

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.

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.

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) may be recipients of your personal data.

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 a user 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.

5. Online payment solutions: Integration of Third-Party Technologies

Publicly provided third-party services and libraries, such as those by jQuery, are integrated into our online payment solutions. jQuery is used locally to improve the website loading speed and is therefore in our legitimate interest.

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

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

- it is required for the execution of your orders (e.g. 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.

For the performance of services, hobex may also involve other service providers (e.g.: tracking service providers; risk monitoring system, clearing and settlement service providers) located outside the EU. 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.

7. How long will your data be stored?

Where necessary, we store your personal data 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 after termination of the business relationship with the contracting company)

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

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).

8. Are you obligated to provide data?

In the context of contract implementation, you must provide the personal data required for the establishment and execution of the business relationship. If this data is not provided, the contract cannot be concluded/ payment cannot be processed.

9. 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.

10. 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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