



Data Protection Annex to Agreement

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1 Preamble

This Data Protection Annex ("**annex**") applies to all activities in connection with the agreement in which employees of SIX Paynet or a third party process personal data on behalf of the merchant as an invoice issuer or invoice recipient on behalf of SIX Paynet (order processing).

2 Definitions

Unless agreed otherwise, the terms used in this annex have the same definition as in SIX Paynet's General Terms and Conditions. Furthermore, the terms listed below have the meaning described:

The "**controller**" responsible for data processing is the merchant/invoice issuer/invoice recipient in the Paynet system that engages SIX Paynet to process personal data in the Paynet system.

The "**processor**" is SIX Paynet, which processes personal data on behalf of the controller.

"**Data protection provisions**" means the following legal provisions if effective and applicable to the relevant agreement: the European General Data Protection Regulation (EU GDPR), the *Schweizerisches Bundesgesetz über den Datenschutz* (DSG – Swiss Federal Data Protection Act) and all other Swiss or EU laws, provisions, regulations, policies or standards relating to data protection.

"**Data subject**" means identified or identifiable natural person about whom data are processed.

"**Personal data**" means any information relating to a **data subject**, such as data on former, present or potential employees, customers, consultants, contractors, service providers or suppliers of the merchant or invoice issuer/recipient, regardless of the form in which they are stored, and that SIX Paynet or a third party engaged by SIX Paynet (referred to below as a "**subcontracted order processor**") processes in connection with the implementation of the agreement.

"**Processing**" means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as receiving, collection, saving, organization, storage, adaptation or alteration, retrieval, use, analysis, disclosure by transmission, dissemination or otherwise making available, combination, blocking, erasure or destruction.

Unless terms are defined otherwise in this annex or the agreement, they must be interpreted as having the same meaning as in the EU GDPR.

3 Scope, Subject and Purpose of Order Processing

- 3.1 This annex specifies the parties' obligations in the field of data protection arising from the activities transferred to SIX Paynet described in the agreement.
- 3.2 The parties to the agreement undertake, on their own behalf and that of their employees, other agents and third parties engaged, to comply with the Swiss Federal Data Protection Act, the European General Data Protection Regulation, if applicable, and all other applicable data protection laws. The merchant, if not itself the invoice issuer/recipient, undertakes to inform its partner (controller or invoice issuer/recipient) of the rights and obligations of this annex and to transfer said rights and obligations to them.
- 3.3 The specific scope, subject and purpose of order processing are governed by the service description for the agreement. SIX Paynet keeps a record of processing as referred to in Article 30(2) EU GDPR for individual order processing.
- 3.4 SIX Paynet processes the following data categories for the following categories of person (data subjects) in the context of order processing:

Data category	Data subjects
– Name, address, phone, e-mail	– Contact persons for the controller
– Business case data	– Employees of the controller
– Annexes to business cases that could contain personal data meriting special protection (salary data, healthcare data, etc.)	– Customers of the controller
	– End customers of the controller
– Employee data	– Suppliers of the controller

4 Duration

- 4.1 The duration of this provision is determined by SIX Paynet's performance obligations in the context of the agreement and ends with the ending of the agreement, unless agreed otherwise. However, the provisions continue to apply for as long as SIX Paynet is still in possession of the controller's personal data as an order processor.

5 Duties of SIX Paynet

- 5.1 SIX Paynet undertakes to perform the order processing in the context of the agreement exclusively in accordance with the SIX Paynet's service description stipulated in the agreement and in accordance with the intended purpose. SIX Paynet processes personal data exclusively based on existing and documented instructions of the merchant.
- 5.2 If SIX Paynet intends to process personal data within the meaning of this annex for its own purposes, it will inform the controller in advance and refrain from processing for its own purposes until it has received the controller's written or otherwise express and verifiable consent.
- 5.3 SIX Paynet undertakes to bindingly commit all persons entrusted with order processing within the meaning of this annex to confidentiality to the extent that they are not already subject to a comprehensive confidentiality obligation on a statutory basis (e.g. professional secrecy). The confidentiality obligation of persons entrusted with order processing also applies in the event of the person in question no longer works for SIX Paynet.
- 5.4 SIX Paynet undertakes to implement the protection measures (technical or organizational measures) required in accordance with Article 32 EU GDPR in the context of order processing. In particular, SIX Paynet takes into consideration the state of technological knowledge, the cost of implementation, the nature, context, scope and purposes of order processing and the likelihood and severity of risks to data subjects' rights and freedoms.
- 5.5 Furthermore, SIX Paynet assists the controller in its compliance with its own duties under Articles 32 to 36 EU GDPR, taking into consideration the nature of processing and the information available to SIX Paynet.
- 5.6 In particular, SIX Paynet must ensure the technical and organizational measures to enable the merchant/controller to fulfill its data breach notification duty in accordance with Article 33 EU GDPR to the extent and within the timeframe required by law. SIX Paynet will inform the merchant without delay of any breaches of personal data protection arising within its area of responsibility. **The merchant must advise SIX Paynet of the contact person responsible for this purpose.**
- 5.7 In the event of a breach of personal data protection in SIX Paynet's area of responsibility, SIX Paynet will take suitable measures to protect personal data and to minimize the risk of further negative consequences for the data subject. SIX Paynet will coordinate this with the merchant as quickly as possible.
- 5.8 SIX Paynet will inform the merchant of relevant, actual access events involving personal data transferred to SIX Paynet by the controller, provided that such notification is not prevented by statutory provisions.
- 5.9 SIX Paynet has appointed a data protection officer. The data protection officer's contact details are published on SIX Paynet's website under "Data protection declaration".

- 5.10 If legal or constructive circumstances render impossible or prevent order processing by SIX Paynet, SIX Paynet will inform the controller of this within a time period appropriate to the circumstances.

6 Duties of the Merchant/Controller

The controller undertakes:

- to process personal data lawfully (in compliance with all applicable data protection laws);
- in particular, to always have the necessary consent of the data subject or other legal justifications for the processing of personal data by SIX Paynet in the performance of its duties;
- to inform the data subject correctly of the processing of its personal data in connection with the processing of the agreement;
- to respond to inquiries and demands concerning personal data received from the data subject, data protection authorities and other persons correctly;
- to issue all notifications and carry out all registrations required by law; and
- to ensure the proper transmission of personal data into SIX Paynet's domains.

The merchant undertakes to inform the controller/invoice issuer or invoice recipient correctly of the above obligations and to transfer said obligations to them, to the extent that the merchant itself is not a controller/invoice issuer or invoice recipient in the Paynet infrastructure.

7 Place of Order Processing

SIX processes personal data within Swiss territory. In individual cases and when maintenance and support activities are processed by the subcontracted order processor, processing can be carried out in the EU or a third country under certain conditions. SIX Paynet has undertaken to only make personal data available to a third country if suitable safeguards are in place in accordance with Article 46(2) c EU GDPR that grant the data subject enforceable rights and effective legal remedies.

8 Subcontracted Order Processing

- 8.1 Under the conditions set out in this section, SIX Paynet is authorized to engage SIX Group companies or third parties (“subcontracted order processors”) to perform its obligations under this annex. All subcontracted order processors that currently work for SIX Paynet are listed in Appendix 1.
- 8.2 Subcontracted order processing is currently limited to maintenance and support activities that, under certain circumstances, are performed within the territory of the European Union and the Republic of Moldova.
- 8.3 If SIX Paynet intends to engage other subcontracted order processors to process personal data for the merchant/controller, SIX Paynet will notify the merchant of this in writing or some other verifiable form (e.g. by e-mail) at least 30 days in advance. If the merchant does not indicate to SIX Paynet within 15 days that it has objections to the subcontracted order processor announced in this way and if the controller does not issue a written, justified rejection within the 30-day period, the new subcontracted order processor will be deemed to have been accepted by the controller.
- 8.4 If the merchant rejects a subcontracted order processor announced in accordance with section 8.3, SIX Paynet has the right to cancel the agreement with the merchant observing the ordinary notice period.
- 8.5 SIX Paynet contractually requires each subcontracted order processor (whether a SIX Group company or a third party) to comply with the same data protection requirements (including in particular the EU General Data Protection Regulation) that SIX Paynet is also required to comply with based on this annex. The contractual agreement in question must satisfy the specifications of Article 28 (2) to (4) EU GDPR.

9 Rights of the Merchant to Issue Instructions and Conduct Inspections

- 9.1 The merchant can issue SIX Paynet instructions on order processing within the scope of the agreement.
- 9.2 SIX Paynet undertakes not to alter or erase personal data without prior instruction from the merchant and not to restrict its order processing without prior consultation with the merchant.
- 9.3 If an instruction from the merchant is suspected of being in breach of provisions of the EU General Data Protection Regulation or other provisions of data protection law applicable to personal data, SIX Paynet must inform the merchant of this circumstance without delay. In such event, SIX Paynet is authorized to suspend compliance with the instruction suspected of being unlawful until the merchant sufficiently substantiates the lawfulness of the instruction.

- 9.4 The merchant or a third party engaged by it for this purpose is authorized, following prior consultation with SIX Paynet, to inspect all data processing by SIX Paynet occurring in the context of this annex and to monitor and check its compliance with this annex.
- 9.5 SIX Paynet undertakes to provide the controller or a third party engaged by it for this purpose with all information and to release the information necessary to monitor compliance with this annex. At the controller's request, SIX Paynet must provide evidence of the implementation of technical and organizational measures. In particular, this evidence can take the form of compliance with approved rules of conduct in accordance with Article 40 EU GDPR, certification in accordance with Article 42 EU GDPR or current reports from bodies independent of SIX Paynet (e.g. internal or external auditing, the data protection officer, IT security, etc.).
- 9.6 In exercising its rights to inspection and information, the controller must consider SIX Paynet's legitimate interests and keep its inspections in proportion to risk. SIX Paynet reserves the right to charge the controller for its support expenses in accordance with the regulations in the agreement (if any, otherwise at fair market conditions).

10 Copies, Erasure and Return of Personal Data

- 10.1 SIX Paynet will not produce copies of the data provided by the controller, unless such copies:
- i. are required to guarantee the contractually agreed, proper order processing of personal data; or
 - ii. are required for compliance with statutory storage requirements; or
 - iii. are expressly authorized by the controller.
- 10.2 After the ending of order processing, SIX Paynet will return or migrate to the controller all personal data, processing results, documents containing personal data received or produced in the context of order processing, and copies thereof, provided that it has no statutory obligation to store the personal data for a certain period. The parties will agree the format and the point in time.
- 10.3 Alternatively, the controller can engage SIX Paynet in writing in advance to erase the personal data to be returned or migrated in accordance with section **Fehler! Verweisquelle konnte nicht gefunden werden.** or to destroy the corresponding data carriers, provided that there are no statutory provisions preventing their erasure/destruction.
- 10.4 After completion of this process, SIX Paynet will confirm to the controller in writing the completeness of the return/migration or erasure/destruction of the personal data and any data carriers.

11 Direct Inquiries from Data Subjects to SIX Paynet

- 11.1 If SIX is directly requested by a data subject to alter, erase or otherwise manipulate that data subject's processed personal data, SIX Paynet will inform the merchant of the contact by the data subject and forward the data subject's request to the controller on demand. SIX Paynet will assist the controller in the further processing of such inquiries as far as it is able. **The merchant/controller must advise SIX Paynet of the contact person responsible for this purpose.**
- 11.2 SIX Paynet takes appropriate technical and organizational measures to be able to assist the controller with requests from data subjects to exercise their rights, including in particular with regard to the right to the disclosure, correction, erasure and transfer of the data subject's personal data.

12 General Provisions

- 12.1 SIX Paynet must be compensated by the merchant/controller in accordance with the regulations in the agreement (if any, otherwise at fair market conditions) for services performed by SIX Paynet under this annex at the controller's instruction not relating to misconduct by SIX Paynet and not covered by the service agreement.
- 12.2 Moreover, this annex is subject to the provisions of the respective agreement regarding all General Terms and Conditions and general conditions. This applies in particular to matters of liability, applicable law and the court of jurisdiction.

APPENDIX 1 – List of subcontracted order processors at the effective date of this annex

The subcontracted order processors (in accordance with section 8 of this annex) listed below process personal data on behalf of SIX Paynet:

Crossinx GmbH
Hanauer Landstrasse 291a
60314 Frankfurt
Germany

