

GENERAL TERMS AND CONDITIONS FOR CUSTOMER SERVICE OF TOTO EUROPE GMBH

1. SCOPE

- 1.1 We are TOTO Europe GmbH registered in the commercial register of the Düsseldorf District Court under HRB number HRB 24827, VAT ID number DE258501442, with registered address , Zolotov 2, 40221 Düsseldorf, Germany ("**TOTO**").
- 1.2 These customer service terms and conditions ("**terms**") apply to any after-sales services provided by TOTO (also referred to as "**we**" "**us**" or "**our**") to any person receiving such services in the United Kingdom (the "**Customer**", "**you**" or "**your**"). These terms apply to our customer after-sales services to the exclusion of any other terms you seek to impose (whether we know about your conflicting terms or not).
- 1.3 For the purposes of these terms, you are a "**consumer**" if you are receiving services as an individual for purposes wholly or mainly outside of your trade, business, craft or profession. You are a "**business customer**" if you are receiving services for purposes relating to your trade, business, craft or profession. Some terms only apply to if you are a consumer and other terms only apply if you are a business customer, so please make sure you read these terms carefully.
- 1.4 We may make changes to these terms at any time so please do ensure that you check your emails and our website for any updates made from time to time.
- 1.5 Please print out or save a copy of these terms and any emails from us for your records, as we will not save or file a copy for you. These terms are only available in English.

2. CONTRACT

- 2.1 If you require after-sales services for a TOTO product, you may contact TOTO's customer service team via our customer service hotline and/or via the online form on the TOTO website at <https://eu.toto.com/en/service/contact>, by e-mail to teu.claimsupport@toto.com or by phone at +44 (0)207 831 7544 ("**TOTO Customer Service**"). The after-sales service process will be different depending on whether or not the repair or other service required to be performed on the TOTO product is within the scope of the manufacturer's warranty:
 - 2.1.1 see paragraph 4 below where the repair or other service required to be performed is within the scope of the product's its manufacturer's warranty; and
 - 2.1.2 see paragraph 5 below where the repair or other service required to be performed is outside of the scope of the product's its manufacturer's warranty.
- 2.2 After discussing your request, TOTO Customer Service will provide you with a quotation for the provision of the after-sales services (which may be free of charge if within the scope of a TOTO manufacturer's warranty). TOTO is not obligated to accept any request for services where outside of the scope of TOTO's manufacturer's warranty and TOTO cannot guarantee that any service will be available at any given time.
- 2.3 Any quotation sent by TOTO for the provision of an after-sales service will constitute an invitation to treat and not an offer to contract. You may within 14 days of receiving a quotation notify TOTO that you wish to conclude a customer service contract on the basis of the quotation. This notification shall constitute an offer to contract on the terms of TOTO's quotation.
- 2.4 TOTO may accept this offer to contract on the terms of the quotation within 14 days of receipt, either by means of an order confirmation, by making an appointment with you for after-sales service or by commencing the service. Once TOTO has accepted your offer to contract, a legally binding contract is formed between you and TOTO incorporating both the terms of the quotation and these terms (the "**Contract**").

3. PROVIDING SERVICES

- 3.1 We will aim to provide our services at the time(s) and on the date(s) agreed with you. However, unless we have agreed to binding performance deadlines with you in writing, any times and dates are estimates only.
- 3.2 We will do all that we reasonably can to provide the services at the time(s) and date(s) or within the period agreed with you. If there might be a delay to starting or providing the services, we will let you know as soon as reasonably possible. However, we are not liable to you for any losses you incur as a result of any delay caused by circumstances beyond our reasonable control (for example, severe weather, accidents or unpredictable traffic delays).
- 3.3 The services will be provided at the address specified by you. You must ensure that TOTO has unhindered access to the address, the TOTO product in question and the connections associated with the TOTO product, in particular to your water and electricity connections, as well as fuses and shut-off valves. We may charge you additional sums if you don't give us the information or access we've requested to enable us to provide the services.
- 3.4 Our services are provided by TOTO through TOTO Customer Service. However, we are entitled to use subcontractors to provide any or all of our services.

4. AFTER-SALES SERVICES WITHIN THE SCOPE OF TOTO'S MANUFACTURER'S WARRANTY

- 4.1 After-sales services under the manufacturer's warranty are provided solely in accordance with the terms and conditions of the warranty for the product in question.
- 4.2 You will not be charged for the provision of after-sales services that are within the scope of the TOTO manufacturer's warranty unless expressly stated otherwise within these terms (for example in accordance with paragraph 3.3 above).
- 4.3 Unless otherwise stipulated in the terms and conditions of the warranty for the product in question, you must prove to TOTO that the warranty period for the product in question has not expired by means of a proof of purchase, an installation invoice or equivalent proof. If no proof can be provided, TOTO may refuse to provide the after-sales service unless you agree to pay for the actual costs incurred (material, labour, travel).
- 4.4 Warranty periods will not be renewed or extended by after-sales services within the warranty period, in particular by replacement, repair or spare parts.

5. AFTER-SALES SERVICES OUTSIDE THE TOTO MANUFACTURER'S WARRANTY

- 5.1 You are encouraged to also make use of TOTO's after-sales service outside of the scope of the manufacturer's warranty.
- 5.2 This is an additional service that TOTO may provide at its discretion and does not affect your statutory or other rights as against the trader or business from whom you purchased the relevant TOTO product.
- 5.3 Prices for our services, applicable VAT and payment terms are set out in the Contract.
- 5.4 You can only offset against undisputed amounts or legally binding counterclaims. You may only assert a right of retention over a TOTO product where such right is based on claims arising from the same contractual relationship.

6. CONSUMER CANCELLATION RIGHTS

This paragraph 6 only applies to you if you are a consumer.

- 6.1 You have 14 days from the date upon which the Contract came into force to change your mind and cancel the Contract.

- 6.2 If you request for us to start providing services during the 14-day cancellation period and we agree to do so, this will impact your cancellation rights as follows:
- 6.2.1 you lose your right to cancel once the services are fully performed (and where payment was required), you will not be entitled to a refund even if the cancellation period has not expired; and
 - 6.2.2 if the services have not been fully performed (and where payment is required), you will be required to pay for the services we provided up to the time that you told us that you want to cancel.
- 6.3 To cancel your Contract, you must contact TOTO at the address set out below by a letter sent by post, fax or e-mail. You can use the Model Cancellation Form at Appendix 1 for this, but it is not mandatory.

TOTO Europe GmbH, Zollhof 2, 40221 Düsseldorf

Telephone: +49 (0) 21127308-200

Fax: +49 (0)211 27308-202

Email: teu.information@toto.com

- 6.4 If you cancel this Contract (where payment was required), we will provide you with a refund as soon as possible and no later than 14 days after the day on which you told us that you want to cancel. If services have been provided during the cancellation period at your request, we will make deductions from any refund due to you as explained in paragraph 6.2 above. We will issue any refund to the same payment method you used for the original transaction unless otherwise expressly agreed with you.

7. **FAULTY SERVICES — CONSUMERS**

This paragraph 7 only applies to you if you are a consumer.

- 7.1 We must provide the services to you with reasonable care and skill.
- 7.2 If a service is not carried out with reasonable care and skill, you can ask us to repeat the service or to fix it, or (where payment was required) get some money back if we cannot fix it.
- 7.3 This is a summary of some of your key rights. They are in addition to your cancellation rights set out in paragraph 7 above. For more detailed information on your rights, visit the Citizens Advice website at www.citizensadvice.org.uk or call 0808 223 1133.
- 7.4 If there is a problem with a service we have provided to you, please contact us as soon as possible.

8. **FAULTY SERVICES — BUSINESS CUSTOMERS**

This paragraph 8 only applies to you if you are a business customer.

- 8.1 We warrant that the services will be:
- 8.1.1 performed with reasonable care and skill within the meaning of section 13 of the Sale of Goods and Services Act 1982; and
 - 8.1.2 free from material defects at the time the services are completed.

8.2 As your sole and exclusive remedy, we will (at our option) remedy, re-perform or refund any services that do not comply with paragraph 8.1, provided that:

8.2.1 you notify us by email to teu.information@toto.com within 7 calendar days from the date that the services are completed; and

8.2.2 you provide us with sufficient information as to the nature and extent of the defects.

8.3 Except as set out in this paragraph 8, we give no warranties and make no representations in relation to the services, and all warranties and conditions (including the conditions implied by sections 12–16 of the Supply of Goods and Services Act 1982 and any implied terms relating to the ability to achieve a particular result), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

9. **EVENTS BEYOND OUR CONTROL**

We are not liable to you if we fail to comply with these terms because of circumstances beyond our reasonable control. For example, this could include acts of terrorism, war, civil unrest, forces of nature, accidents, pandemics, epidemics, strikes, lockouts, other operational disruptions and/or delays in the supply of essential parts or materials from our suppliers, upstream suppliers or subcontractors.

10. **OUR LIABILITY TO CONSUMERS**

This paragraph 10 only applies to you if you are a consumer.

10.1 If we breach these terms or are negligent, we are liable to you for foreseeable loss or damage that you suffer as a result. By 'foreseeable' we mean that, at the time the contract was made, it was either clear that such loss or damage would occur or you and we both knew that it might reasonably occur, as a result of something we did (or failed to do).

10.2 We are not liable to you for any loss or damage that was not foreseeable, any loss or damage not caused by our breach or negligence, or any business loss or damage.

10.3 Nothing in these terms excludes or limits our liability for any death or personal injury caused by our negligence, liability for fraud or fraudulent misrepresentation, or any other liability that the law does not allow us to exclude or limit.

11. **OUR LIABILITY TO BUSINESS CUSTOMERS**

This paragraph 11 only applies to you if you are a business customer.

11.1 Subject to the below, our liability under or in connection with these terms (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) will not exceed the value of the Contract, or where the services are covered by the manufacturer's warranty the cost of TOTO performing the relevant services had they not been covered by the manufacturer's warranty.

11.2 We will not be liable to you under or in connection with these terms (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) for:

11.2.1 consequential, indirect or special losses; or

11.2.2 any of the following (whether direct or indirect):

(a) loss of profit;

(b) loss of opportunity;

- (c) loss of savings, discount or rebate (whether actual or anticipated);
- (d) loss of or damage/corruption of data; or
- (e) harm to reputation or loss of goodwill.

11.3 Nothing in these terms will limit or exclude our liability for:

11.3.1 death or personal injury caused by negligence;

11.3.2 fraud or fraudulent misrepresentation; or

11.3.3 any other losses which cannot be excluded or limited by law.

12. **PROCESSING OF PERSONAL DATA**

12.1 TOTO processes the Customer's personal data on the basis of the UK General Data Protection Regulation (UK-GDPR) and the Data Protection Act 2018 (DPA 2018) for the provision of customer service and the processing of the manufacturer's warranty (Article 6(1)(b) UK-GDPR), unless other data processing is required by law (Article 6(1)(c) UK-GDPR) or the Customer has expressly consented in advance (Article 4 no. 11 UK-GDPR in conjunction with Article 7 UK-GDPR).

12.2 Insofar as TOTO uses third-party services to provide customer service and process the manufacturer's warranty, the provisions of the UK-GDPR and DPA 2018 are complied with. TOTO will only pass on customer data to the service provider and/or carrier responsible for carrying out the after-sales service and processing the manufacturer's warranty insofar as this is necessary for carrying out the after-sales service and processing the manufacturer's warranty.

12.3 In order to process orders for paid services, TOTO will transmit the Customer's payment data to the credit institution responsible for payment. The legal basis for this is Article 6(1)(b) of the UK-GDPR.

12.4 Personal data will only be kept for as long as necessary for the purposes for which it is processed (Article 5(1)(e) UK-GDPR). Insofar as the retention periods stipulated by commercial and tax law must be complied with, the retention period for certain data may be up to 10 years.

12.5 Customers have the right to information (Article 15 UK-GDPR), the right to rectification (Article 16 UK-GDPR), the right to erasure (Article 17 UK-GDPR), the right to restriction of processing (Article 18 UK-GDPR), the right to object (Article 21 UK-GDPR) and the right to data portability (Article 20 UK-GDPR). In addition, you have the right to lodge a complaint with the competent data protection supervisory authority (Article 77 UK-GDPR). For any questions concerning the processing of the Customer's personal data or the assertion of the data subject's rights, the Customer may contact TOTO.

12.6 Details of TOTO's processing of personal data are set out in a separate privacy policy, which can be viewed at [<LINK EINFÜGEN>](#)

13. **COMPLAINTS**

13.1 If you are unhappy with us or the services we have provided to you, please contact us at teu.claimsupport@toto.com.

14. **GOVERNING LAW AND JURISDICTION**

14.1 If you are a consumer, the laws of England and Wales apply to these terms, although if you are resident elsewhere you will retain the benefit of any mandatory protections given to you by the laws of that country. Any disputes will be subject to the non-exclusive jurisdiction of the courts of England

and Wales. This means that you can choose whether to bring a claim in the courts of England and Wales or in the courts of another part of the UK in which you live.

14.2 If you are a business customer, these terms and any dispute or claim arising out of, or in connection with, the terms, their subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed in accordance with, the laws of England and Wales. You and us both irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, these terms, their subject matter or formation (including non-contractual disputes or claims).

15. **GENERAL TERMS**

15.1 No one other than us or you have any right to enforce any of these terms.

15.2 You are not allowed to transfer your rights under these terms to anyone without our prior written consent. We may transfer our rights under these terms to another business without your consent, but we will notify you of the transfer and make sure that your rights are not adversely affected as a result.

15.3 If any provision of these terms (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of these terms will not be affected.

15.4 If you breach these terms and we take no action, we will still be entitled to use our rights and remedies in any other situation where you breach these terms.

15.5 If you are a business customer, you and we both agree that these terms constitute the entire agreement between you and us in relation to the Contract. You acknowledge that you have not entered into these terms in reliance on any representation or warranty that is not expressly set out in these terms and that you will have no claim for innocent or negligent misrepresentation on the basis of any statement in these terms.

APPENDIX 1

MODEL CANCELLATION FORM

(Complete and return this form only if you wish to withdraw from the contract)

To: TOTO Europe GmbH

Address: Zollhof 2, 40221 Düsseldorf

Telephone: +49 (0) 21127308-200

Fax: +49 (0)211 27308-202

Email: teu.information@toto.com

I hereby give notice that I cancel my contract for the provision of after-sales services by TOTO Europe GmbH.

Ordered on [insert]/received on [insert],

Name of Customer(s),

Address of Customer (s),

Signature of Customer (s) (only if this form is notified on paper),

Date