

# **Privacy Notice for Business Partners and Their Employees**

**TOTO Europe GmbH  
Kesselstraße 5-7  
40221 Düsseldorf  
Germany**

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### **1. Name and address of the controller**

TOTO Europe GmbH  
Kesselstraße 5-7  
40221 Düsseldorf  
Germany

Register court: Düsseldorf Local Court (Amtsgericht Düsseldorf)  
Commercial register number: HRB 24827  
VAT identification number: DE 258501442

### **2. Contact details of the controller**

Tel.: 0211 - 27308-200  
Fax: 0211 - 27308-202  
Email: teu.information(at)toto.com

### **3. Data Protection Officer**

The following external Data Protection Officer has been appointed:

Mr Stefan Kleinermann  
c/o Kleinermann & Sohn GmbH  
Max-Planck-Str. 9  
52499 Baesweiler  
Germany  
Email: dsb@das-datenschutz-team.de

### **4. Supervisory authority responsible for monitoring compliance with data protection law**

State Commissioner for Data Protection of North Rhine-Westphalia  
Kavalleriestraße 2-4  
40213 Düsseldorf  
Germany

### **5. Purposes for which personal data are collected, processed or used**

We process personal data to enter into, perform and, where applicable, terminate contracts with you, and to take steps in connection with prospective contracts. This includes processing necessary to fulfil our contractual obligations, exercise our contractual rights and provide the services associated with our business relationship with you.

In particular, we collect and process your personal data for the following purposes:

- preparing quotations and sharing the information necessary to prepare a complete quotation;
- entering into and performing contracts and providing customer support;
- checking creditworthiness before entering into a contractual relationship with a customer;
- providing information about our products and services;

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- managing our business and developing our services and products;
- conducting statistical analyses or market analysis;
- maintaining records of orders and other agreements and carrying out quality control;
- carrying out quality control and reviewing and improving procedures for assessing requirements and communicating with you;
- complying with legal obligations or requirements imposed by public authorities;
- facilitating co-operation between our company's locations and with our parent company in Japan for internal administrative purposes and to co-ordinate and manage our business relationships.

### **6. Legal bases for processing personal data**

Where you are a party to a contract with us in your own right, we process your personal data to enter into, perform and terminate that contract and to take steps at your request before entering into a contract. The legal basis is Article 6(1)(b) of the General Data Protection Regulation (GDPR).

We process the personal data of our business partners' employees, representatives and business contacts on the basis of Article 6(1)(f) GDPR, insofar as this is necessary to establish, manage and document the business relationship and to conduct business communications. Our legitimate interests are the efficient management of our business relationships and the provision of support to our business partners.

Where necessary, personal data are transferred within the group to our parent company in Japan on the basis of Article 6(1)(f) GDPR. Our legitimate interest is efficient intra-group administration and the co-ordinated management of our business relationships.

Where necessary, we also process personal data on the basis of Article 6(1)(f) GDPR to manage financial risks by carrying out credit checks, to manage our business, to develop our products and services, to conduct market analysis and quality assurance, and to establish, exercise or defend legal claims. We only process personal data for these purposes where our legitimate interests are not overridden by your interests or fundamental rights and freedoms.

Where we process personal data to comply with legal obligations, in particular retention obligations under commercial and tax law, processing is based on Article 6(1)(c) GDPR in conjunction with the applicable statutory provisions.

Where we use personal data for direct marketing permitted by law, processing is based on Article 6(1)(f) GDPR. Our legitimate interest is to provide information about our products and services and to maintain our business relationships. Where consent is required, processing is based on Article 6(1)(a) GDPR.

Where you give us your consent for other purposes, we process your personal data on the basis of Article 6(1)(a) GDPR.

We take appropriate measures to protect your personal data when processing them, whether electronically or on paper. We maintain security standards designed to protect your privacy and prevent unauthorised access to your data. We have implemented extensive technical and organisational measures to protect the data you provide to us against loss, alteration, destruction and unauthorised access. We continually improve our security measures in line with technological developments and legal requirements.

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## 7. Categories and sources of personal data

In particular, we process names, job roles and business contact details, as well as personal data contained in business communications and records relating to the performance of contracts, such as order, delivery, invoice and payment data. Where we carry out credit checks involving personal data, we also process the creditworthiness information necessary for those checks.

Where we do not collect your personal data directly from you, we obtain them primarily from the company you work for or from other parties involved in the business relationship. Where we use publicly available sources, these primarily include company websites and professional directories. Where applicable, we obtain information about your creditworthiness from credit reference agencies.

## 8. Provision of personal data

In the course of our business relationship, we require the personal data necessary to establish and manage that relationship and to comply with legal obligations. If these data are not provided, we may be unable to establish or manage the business relationship or to carry out individual transactions. Providing any additional information is generally voluntary.

## 9. Your rights as a data subject

Under the GDPR, you have the following rights in relation to your personal data:

### Right of access (Article 15 GDPR)

You have the right to obtain confirmation as to whether we process personal data about you.

The first copy is free of charge; a reasonable fee may be charged for additional copies. A copy can only be provided insofar as this does not adversely affect the rights of others.

### Right to rectification (Article 16 GDPR)

You have the right to ask us to rectify your data if they are inaccurate and/or incomplete. This includes the right to have incomplete data completed by means of supplementary statements or information.

### Right to erasure of personal data (Article 17 GDPR)

You have the right to ask us to erase your personal data where:

- the personal data are no longer necessary for the purposes for which they were collected and processed;
- processing is based on your consent and you have withdrawn that consent, unless there is another legal basis for processing;
- you have objected to processing based on what is referred to as “legitimate interests” (under Article 6(1)(e) or (f) GDPR); however, erasure is not required where there are overriding legitimate grounds for continued processing;
- you have objected to processing for direct marketing purposes;
- your personal data have been processed unlawfully;
- the data concern a child and were collected on the basis of consent in relation to information society services (i.e. electronic services) under Article 8(1) GDPR.

The right to erasure does not apply insofar as processing is necessary to comply with a legal obligation, in particular a statutory retention obligation, or to establish, exercise or defend legal claims. Further statutory exceptions are set out in Article 17(3) GDPR.

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Where we have made personal data public (for example, on the internet), we must, insofar as technically feasible and reasonable, ensure that other parties processing the data are informed of the erasure request, including the request to erase links to, copies of and/or replications of those data.

### Right to restriction of processing (Article 18 GDPR)

You have the right to have the processing of your personal data restricted in the following circumstances:

- If you contest the accuracy of your personal data, you may ask us not to use the data for other purposes while their accuracy is being verified, and therefore to restrict processing.
- If processing is unlawful, you may request restriction of the use of your data instead of erasure.
- If you need your personal data to establish, exercise or defend legal claims but we no longer need them, you may ask us to restrict processing to those purposes.
- If you have objected to processing under Article 21(1) GDPR and it has not yet been determined whether our interests in processing override your interests, you may ask us not to use your data for other purposes while the matter is being assessed, and therefore to restrict processing.

Personal data whose processing has been restricted at your request may, apart from storage, only be processed:

- with your consent;
- to establish, exercise or defend legal claims;
- to protect the rights of another natural or legal person; or
- for reasons of important public interest.

If a restriction on processing is to be lifted, we will inform you in advance.

### Right to data portability (Article 20 GDPR)

You have the right to receive the personal data concerning you which you have provided to us in a structured, commonly used and machine-readable format, provided that the conditions set out below are met.

You may also ask us to transmit these data directly to another company designated by you, where this is technically feasible.

This right applies provided that:

- processing is based on consent or is carried out for the performance of a contract, and is carried out by automated means;
- exercising the right to data portability does not adversely affect the rights and freedoms of others.

Exercising your right to data portability does not affect your right to erasure under Article 17 GDPR.

### Right to lodge a complaint (Article 77 GDPR)

You have the right to lodge a complaint with a supervisory authority. You may contact the supervisory authority for your habitual residence, your place of work or our registered office (the State Commissioner for Data Protection of North Rhine-Westphalia, Germany).

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## Right to object (Article 21 GDPR)

You have the right to object at any time, on grounds relating to your particular situation, to the processing of your personal data on the basis of Article 6(1)(f) GDPR. This also applies to profiling based on that provision. We will then no longer process your personal data unless we can demonstrate compelling legitimate grounds which override your interests, rights and freedoms, or the processing is necessary to establish, exercise or defend legal claims.

Where your personal data are processed for direct marketing purposes, you may object to that processing at any time without giving reasons. This also applies to profiling insofar as it is related to such direct marketing. Following your objection, we will no longer process your personal data for these purposes.

You may submit your objection using the contact details provided in this privacy notice.

## Right to withdraw consent (Article 7(3) GDPR)

You have the right to withdraw your consent to the processing of your data at any time by notifying us. Withdrawal does not affect the lawfulness of any processing of your personal data carried out before consent was withdrawn.

## Exercising your data subject rights

To exercise your data subject rights, please use the contact details provided above. Requests submitted electronically will generally be answered electronically. Information, communications and measures provided under the GDPR, including in response to the exercise of data subject rights, are generally provided free of charge. Only where requests are manifestly unfounded or excessive may we charge a reasonable fee for handling them or refuse to act on them (Article 12(5) GDPR).

If we have reasonable doubts about your identity, we may request additional information to verify it. If we are unable to identify you, we may refuse to act on your request. Where possible, we will notify you separately if we are unable to identify you (see Article 12(6) and Article 11 GDPR).

Requests for access and information are generally handled without undue delay and within one month of receipt. This period may be extended by a further two months where necessary, taking into account the complexity and/or number of requests. If an extension is required, we will inform you within one month of receiving your request and explain the reasons for the delay. If we do not act on a request, we will inform you without undue delay and within one month of receipt of the reasons for not doing so and of your right to lodge a complaint with a supervisory authority or seek a judicial remedy (see Article 12(3) and (4) GDPR).

Please note that your data subject rights are subject to any restrictions and limitations provided for by EU or Member State law (Article 23 GDPR).

## **10. Recipients or categories of recipients of personal data**

In the course of processing, your data may be disclosed to:

- individuals and internal departments within our company, insofar as they require the data to fulfil our contractual and legal obligations or to pursue our legitimate interests;
- our parent company, TOTO Ltd., 1-1, Nakashima 2-chome, Kokurakita-ku, Kitakyushu, Fukuoka, 802-8601 Japan; transfers are based on a European Commission adequacy decision, available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2019.076.01.0001.01.ENG&toc=OJ:L:2019:076:TOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2019.076.01.0001.01.ENG&toc=OJ:L:2019:076:TOC);
- service providers who are engaged under contract, are subject to confidentiality obligations and carry out specific processing activities in connection with the performance of contracts;

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- external companies where necessary, such as postal service providers for the delivery of correspondence and/or logistics and shipping companies in connection with the performance of contracts;
- external service providers where they process data on our behalf as processors or provide outsourced functions (for example, external data centres, printing companies or data disposal companies);
- public authorities where we are required by law to provide information, make reports or disclose data, or where disclosure is in the public interest (see Section 5 above).

### **11. Transfers of personal data to third countries**

In the course of our business relationship, personal data may be transferred to our parent company, TOTO Ltd. in Japan, as specified in Section 10. The European Commission has adopted an adequacy decision for Japan under Article 45 GDPR, on which we rely for transfers falling within its scope.

No further transfers to recipients outside the European Union or the European Economic Area are currently envisaged.

### **12. Data retention periods and deletion**

We process and retain your data for the duration of our business relationship. This includes the period leading up to the conclusion of a contract (the pre-contractual relationship) and the performance and completion of a contract.

We also retain personal data where necessary to comply with statutory retention and documentation obligations, in particular under the German Commercial Code (Handelsgesetzbuch – HGB) and the German Fiscal Code (Abgabenordnung – AO). Depending on the type of record, retention periods are generally six, eight or ten years. The start and duration of these periods are determined by the applicable statutory provisions. Longer retention periods may apply where required by law.

Specific statutory provisions may require longer retention, for example to preserve evidence in connection with statutory limitation periods. Although the standard limitation period under sections 195 et seq. of the German Civil Code (Bürgerliches Gesetzbuch – BGB) is three years, limitation periods of up to 30 years may apply.

Once the data are no longer required to fulfil contractual or legal obligations or exercise contractual or statutory rights, they are routinely erased, unless their continued processing for a limited period is necessary for the purposes set out in Section 5. In such cases, we may retain and, where applicable, use your data after the end of our business or pre-contractual relationship for a period consistent with those purposes.

### **13. Data processing**

We process your data on our own server. We protect this server against unauthorised access through technical and organisational measures implemented in accordance with Article 32 GDPR. An access control framework ensures that only authorised employees can access these data. We continually improve our security measures in line with technological developments and legal requirements.