

# Privacy notice for customers and business partners

(July 2018)

This privacy notice is to inform you of how we process personal data concerning you as a customer or business partner and/or personal data concerning you as a staff member of any of our customers or business partners, as well as of the rights and claims that you have as a natural person under data protection law.

## 1. Data controller and contact details

Oskar Frech GmbH + Co. KG  
Schorndorf Str. 32  
73614 Schorndorf  
Germany  
Email: [info@frech.com](mailto:info@frech.com)

## 2. Purposes and legal basis on which we process your data

We process personal data in compliance with the provisions of the General Data Protection Regulation (GDPR), the German Federal Data Protection Act (*Bundesdatenschutzgesetz – BDSG*) and any other applicable provisions regarding the protection of data.

### 2.1 Performance of a contract or taking of steps prior to entering into a contract (lit. (b) of Article 6 (1) GDPR)

Personal data, such as your name, first name, title, the address (post code, town, street, street number) of the company where you are employed, the particular department you belong to/your function within the company and, where applicable, the business telephone number/mobile phone number, email address, billing address of the company, the company's bank details, and the legal form of the company, which you or the company where you are employed provide to us in connection with, inter alia, the conclusion and implementation of the contract will be processed for the purposes of entering into, implementing and, where applicable, terminating supply and service contracts. We process data that we receive in connection with other business incidents (such as complaints) for the purposes of examining and handling such incidents. In addition, we use the data of our customers and business partners and/or of staff members of our customers or business partners for the purposes of processing invoices and collecting or paying receivables, as applicable.

### 2.2 Legitimate interests pursued by us or a third party (lit. (f) of Article 6 (1) GDPR)

We may process personal data beyond the actual performance of our contractual obligations where this is necessary in order to safeguard our legitimate interests, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject. Such legitimate interests may be, among other things, our economic interests, our legal interests, our interest in complying with legal requirements and in ensuring

compliance or IT security. Legitimate interests exist in the following cases, for example:

- Reviewing and optimising processes to analyse needs, preparing offers, extending the business relationship and communicating with you;
- Analysing business figures for the purposes of carrying out internal sales analyses, calculating and analysing cost structures or fees;
- Performance of control and monitoring tasks by the relevant supervisory or monitoring bodies (e.g. audit) and risk management within the group of undertakings;
- Implementing business management measures and measures for the further development of services and products;
- Collecting receivables using collection companies;
- Asserting legal claims and defending in legal disputes;
- Ensuring the operation and security of IT;
- Taking measures to ensure the safety of buildings and facilities (e.g. access control) and to prevent trespassing;
- Preventing and investigating criminal acts;
- Ensuring that orders, inquiries, etc. and other agreements can be proven and carrying out quality checks; and
- Carrying out procedures out of goodwill.

### **2.3 Use of data for advertising purposes and your right to object** (lit. (f) of Article 6 (1) GDPR, Section 7 (3) German Act Against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb – UWG*))

We may use your data for advertising purposes, for example, to invite you to events and seminars that might be of interest to you. To this end, we will process your email address but also other information that you voluntarily share with us. We may use the information that has been provided to us voluntarily for the purposes of improving the customer relationship and to inform you in a more target-oriented manner of products, services and events that might be of interest to you. If you do not wish to receive any further communications by email, you may unsubscribe at any time and object to the use of your email address for such purposes by clicking the link that is contained in the newsletter and carrying out the unsubscribe process or by letting us know by notice to [datenschutz@frech.com](mailto:datenschutz@frech.com). In the same manner, you can object to the receipt of advertising letters or advertising material by post by providing us with notice, if applicable; in this case, we will take your objection appropriately into account.

We may process your data for the dispatch of the above-described mailings on the following legal basis:

- If you have given us your consent, pursuant to lit. (a) of Article 6 (1) GDPR;
- If you have provided us with your email address in connection with the purchase of goods or services, or if we send you advertising letters or advertising material by post to safeguard our legitimate interests pursuant to lit. (f) of Article 6 (1) GDPR (in the event of communication by email: in conjunction with Section 7 (3) German Act Against Unfair Competition (*UWG*)); our legitimate interest is based on our economic interest in target-oriented direct advertising.

### **2.4 Compliance with legal obligations** (lit. (c) of Article 6 (1) GDPR)

Just like any other economic player, we are subject to a large number of legal obligations. These obligations are primarily statutory requirements (including, without limitation, requirements under commercial and tax laws), but may also be regulatory or other official

requirements. The purposes of processing may include carrying out identity checks, preventing fraud and money laundering, preventing, combating and investigating terrorism financing and criminal offences that jeopardise assets, performing monitoring and reporting obligations under tax law, and archiving data for data protection and data security purposes and for review by tax and other authorities. In addition, the disclosure of personal data may become necessary as part of official/court measures for purposes such as the taking of evidence, criminal prosecution or the enforcement of civil-law claims.

### **3. Categories of data processed by us, to the extent that we do not receive the data directly from you, and source of such data**

We receive the personal data that is processed by us primarily from you, or from staff of the company where you are employed, as part of our business relationship.

To the extent necessary for the provision of our services as part of our business relationship, we will process personal data that has been lawfully received from other companies or other third parties (e.g. information bureaus or address publishers). Furthermore, we may process personal data that we have lawfully collected, received or purchased from publicly available sources (such as telephone directories, commercial registers and association registers, registers of residents, lists of debtors, land registers, newspapers/print media, the Internet and other media) and which we are allowed to process.

### **4. Recipients or categories of recipients of your data**

The members of our staff will be given knowledge of personal data for the fulfilment of the purposes described above.

As a rule, your data will only be disclosed to third parties to the extent that such disclosure is permitted or required by law, or to the extent that you have given your consent. To the extent necessary, we will additionally share your data with the services providers employed by us so as to be able to provide our services. In doing so, we will limit the disclosure of data to such scope as is necessary to provide these services to you. In some cases, our service providers will receive your data as processors and will then be required to strictly adhere to our instructions when handling your data. In other cases, the recipients will handle your data that we transfer to them independently.

Please find below the categories of recipients of your data:

- Affiliated undertakings within our group of undertakings, to the extent that they work for us as processors or to the extent necessary for the provision of our services;
- Payment service providers and banks, for the collection of outstanding payments from bank accounts or for the payment of refunds;
- Agencies, print shops and letter shops that help us carry out advertising campaigns;
- IT service providers which, among other things, store data and assist us with the administration and maintenance of systems, as well as keepers of file archives and document destruction companies;
- Logistics service providers, for the delivery of goods etc.;
- Collection companies and legal advisors, for the enforcement of our claims;
- Public authorities and institutions, to the extent we have a legal obligation.

Furthermore, we may exchange your personal data within our worldwide group of undertakings, e.g. provide your data to undertakings of our group that need such data for the

fulfilment of our contractual and statutory obligations or based on our legitimate interests. Such interests may be economic, administrative or other internal business purposes; this applies only to the extent that your interests or your fundamental rights and freedoms which require the protection of your personal data do not override our legitimate interests. We will not disclose your data to third parties beyond this scope.

## **5. Transfers to third countries**

Your data will only be transferred to countries outside the EU and/or the EEA (so-called third countries) to the extent that this is necessary as part of the implementation of our contractual relations or that we are required to do so by law (e.g. reporting obligations under tax law or transfer to our establishment in the U.S.A. for the purposes of handling your order or otherwise dealing with your request), that you have given us your consent or as part of processing activities. If any service providers are employed in the third country, they will be obliged to comply with the European data protection level as a result of the EU standard contract clauses being agreed, in addition to the giving of written instructions. Alternatively, we may transfer data to the U.S.A. based on the Commission Implementing Decision (EU) 2016/1250 of 12 July 2016 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the EU-U.S. Privacy Shield. Please contact our Data Protection Officer for further information.

In all other cases, we will not transfer your personal data to countries outside the EU and/or the EEA or to international organisations.

## **6. Duration of storage of your data**

We will process your data during the term of our business relationship. This also includes the initiation of a contract (pre-contractual legal relationship) and the implementation of a contract.

In addition, we are subject to a variety of retention and documentation obligations which result from, inter alia, the German Commercial Code (*Handelsgesetzbuch – HGB*) and the German Tax Code (*Abgabenordnung – AO*). The retention and/or documentation periods stipulated therein continue for up to ten years after the business relationship and/or the pre-contractual legal relationship has ended.

Furthermore, special statutory provisions may require longer retention periods, such as the preservation of evidence in line with the statutory limitation rules. Pursuant to Sections 195 *et seq.* German Civil Code (*Bürgerliches Gesetzbuch – BGB*), the regular limitation period is three years; however, it is also possible that a limitation period of up to 30 years has to be applied.

If the data is no longer needed for the fulfilment of any contractual or statutory obligations and rights, it will normally be erased unless the data needs to be further processed – for a limited period of time – in any particular case for the fulfilment of the purposes set out in Section 2 above. In such cases, we may store and, if necessary, use your data even after our business relationship or our pre-contractual legal relationship has ended, for a duration that is in line with the purposes.

## **7. Your rights**

**Under certain circumstances, you may assert your following rights against us:**

- **Right of access:** Within the limits defined by Article 15 GDPR, you may obtain from us at any time confirmation as to whether or not we process personal data concerning you; where this is the case, you additionally have the right, again within the limits defined by Article 15 GDPR, to obtain access to such personal data and certain other information (inter alia, the purposes of the processing, the categories of personal data concerned, the categories of recipients, the envisaged storage period, your rights, the source of the data, the use of automated decision-making and, where personal data is transferred to third countries, the appropriate safeguards) and a copy of your data.
- **Right to rectification:** Pursuant to Article 16 GDPR, you may demand that we rectify any personal data concerning you that we have stored if such data is not applicable or incorrect.
- **Right to erasure:** If the requirements stipulated in Article 17 GDPR are met, you may demand that we erase personal data concerning you without undue delay. A right to erasure does not exist if, for example, the processing of the personal data is necessary (i) for exercising the right of freedom of expression and information, (ii) for compliance with a legal obligation to which we are subject (e.g. statutory retention obligations) or (iii) for the establishment, exercise or defence of legal claims.
- **Right to restriction of processing:** If the requirements stipulated in Article 18 GDPR are met, you may demand that we restrict the processing of your personal data.
- **Right to data portability:** If the requirements stipulated in Article 20 GDPR are met, you may demand that we deliver to you the personal data concerning you which you have provided to us in a structured, commonly used and machine-readable format.
- **Right to object:** If the requirements stipulated in Article 21 GDPR are met, you may object to the processing of personal data concerning you which is based on lit. (f) of Article 6 (1) GDPR (processing of data based on the weighing of interests) on grounds relating to your particular situation. If you object, we will no longer process your personal data unless we can demonstrate compelling legitimate grounds for the processing which override your interests, rights and freedoms or the processing is done for the establishment, exercise or defence of legal claims. To the extent that we process personal data concerning you in particular cases for direct marketing purposes, you may object at any time if you want such marketing to be discontinued. In this case, we will take your objection into account in future and no longer process your data for direct marketing purposes.
- **Right to withdraw:** You have the right to withdraw any consent to the processing of personal data that you may have given at any time with effect for the future.
- **Right to lodge a complaint with a supervisory authority:** If the requirements stipulated in Article 77 GDPR are met, you may lodge a complaint with a supervisory authority, in particular in the Member State of your habitual residence, place of work or place of the alleged infringement if you believe that the processing of personal data relating to you infringes the GDPR. The right to lodge a complaint exists without prejudice to any other administrative or judicial remedy.

**If you have grounds for a complaint, we would appreciate if you could address your complaint initially to our Data Protection Officer, who can be reached at**

Oskar Frech GmbH + Co. KG  
 Unternehmensbeauftragter für den Datenschutz  
 73614 Schorndorf  
 Germany  
 Email: [datenschutz@frech.com](mailto:datenschutz@frech.com)

**If you wish to exercise any of the above-described rights, please let us know by notice to any of the addresses given in this privacy notice.**

**8. Scope of your obligations to provide us with data**

You only need to provide such data as is necessary for the commencement and implementation of a business relationship or for a pre-contractual relationship with us, or as we are required to collect by law. If such data is not provided, we will generally be unable to carry out the order. This may also regard data that is necessary for the business relationship at a later date. If we ask you for data beyond this scope, we will inform you by separate notice that the provision of such information is voluntary.

**9. Existence of automated decision-making (including profiling) in any particular case**

We do not use any fully automated decision-making processes pursuant to Article 22 GDPR or profiling. If we decide to use such a process in particular cases in the future, we will inform you by separate notice.

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