Data privacy information for business partners under Article 13 GDPR

This data privacy information tells you how we process your personal data within our business. We process your personal data in compliance with the applicable legal data privacy requirements. Personal data should be understood as any information relating to an identified or identifiable natural person. This data privacy advice provides you with information on the nature, scope and purpose of personal data collection within our business and how we handle that data. In addition, you will learn what rights you are entitled to in relation to the processing of your personal data.

1. Application of this Data Privacy Information

1.1. Principle

This data privacy information applies to all business partners of SCHWENK Zement GmbH & Co. KG.

1.2. Supplemental application of special provisions

Additional data privacy information exists for certain services that supplements this data privacy information. This applies, for example, to the data privacy information for the use of our website, which can be viewed on the internet page.

2. Name and contact details of the controller

SCHWENK Zement GmbH & Co. KG
Management board: Eduard Schleicher, Thomas Spannagl, Stephan Pott
Hindenburgring 15
89077 Ulm
Tel. +49 731 9341-0
Email: info@schwenk.de
www.schwenk.de

3. Contact details of the external data protection officer

OFFICESCHOCH GmbH
Melanie Schoch
Hauptstrasse 35
73312 Geislingen an der Steige
Tel. +49 7331 93643-80
Email: datenschutz@schwenk.de

4. Categories of personal data that are processed

We process the following data you provide us upon entry into or in the course of business. These include, in particular, the following data:

- The business partner’s master and contact data and/or that of the people he authorises, in particular, surname, first name, current address, other postal addresses, e-mail addresses, telephone and fax numbers
- Contract dates
- Bank details e.g. account IBAN, BIC, bank information
- Tax data, particularly tax ID and tax number
- Homepage

- Data contained in your passport, driving licence or other identity papers presented, as well authentication data
- Where relevant, other data connected to the performance of the particular business relationship, such as insurance data, HRA no. [companies register, section A no.].

In addition, to the extent this is necessary for the performance of the contract entered into with you, or for precontractual steps, or you have consented to the same, we also process such data as we legitimately receive from third parties (e.g. credit rating information from Euler Hermes).

We only process personal data from publicly accessible sources (e.g. public registers, authorities, the internet) to the extent permitted by law e.g. because this is necessary for the performance of our services or you have consented.

5. Purposes and legal bases for processing

Your personal data are processed for the purpose and on the basis:

- of your consent under Article 6(1)(a) GDPR

  Where you have given consent for a specific purpose, the legality of processing on the basis of the consent is established.

  Where we do not use your data on the basis of our legitimate interest, we shall obtain express consent from you to the further use of your data.

- for the performance of contractual obligations under Article 6(1)(b) GDPR

  Collection and processing occur for the purpose of making contact, precontractual steps at your request and for the performance of our contractual obligations to you. The purpose is made clear from the content of the contract.

- of statutory provisions under Article 6(1)(c) GDPR

  We are subject to extensive legal and regulatory provisions, for example under the Money Laundering Act or also under tax laws. In order to satisfy the provisions of the Money Laundering Act (Geldwäschegesetz), we may be obliged to check your identity using your identity card or passport before we enter into business with you and, in doing so, to take and keep a copy of your identity card or passport and the data it contains (sections 11 and 12 Money Laundering Act). As the controller, we are entitled and obliged to make complete copies of these documents as part of verifying your identity under the Money Laundering Act, or to record them in full in digital format (second sentence of section 8(2) of the Money Laundering Act).

  Furthermore, we process your personal data for the purpose of complying with legal obligations such as commercial and tax law retention obligations.

  Compliance with the resulting legal requirements involves the collection and processing of your personal data under paragraph 4.
  Should you fail to provide us with the necessary information and documents, we are not permitted to enter into or continue the business arrangement you want.

- of a legitimate interest Article 6(1)(f) GDPR.

  Collection and processing occur if this is to protect the legitimate interest of the controller or a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data.

  Your data is processed based on a legitimate interest in the following instances in particular:

  − In order to check your financial standing and based on our interest in avoiding a payment

default or any risk of insolvency, we send credit agencies such as Bürgel personal data on the establishment, conduct and ending of business between us as well as data on behaviour that is not contractually compliant, and receive information about your financial standing. We have a legitimate interest in verifying your financial standing and therefore proceed on the basis that your interest in protecting the processing of your data does not override this.

- We have a legitimate interest in protecting IT operations and ensuring IT is secure. Hence in this situation, too, we proceed on the basis that your interest in protecting the processing of your data does not override this.
- For the establishment of legal claims and defence in case of legal disputes. We proceed on the basis that in such a case our interest overrides your fundamental rights and freedoms requiring the protection of your data.
- We have a legitimate interest in preventing or exposing offences and therefore assume that in such a case our interest overrides your fundamental rights and freedoms requiring the protection of your data.
- In the case of video surveillance for the protection of a householder's rights, protection of property, collection of evidence where a crime has been committed, the investigation of thefts and security interventions as well as measures to secure buildings and the area around them (e.g. entry controls). If necessary, the recordings shall be used as evidence in court or out-of-court proceedings. Here, too, we proceed on the basis that our interest overrides your fundamental rights and freedoms requiring the protection of your data.
- For the direct advertising of our goods and services and, in specific cases, also of special events. In addition, we use your email address for promotional communications about similar goods and services where you have given us your email address in connection with your use of our services and have not objected to such use. Where we collect or whenever use your data, we will provide you with clear advice on your right at any time to object to the use of your data. We use these data to the aforementioned extent for promotional purposes because we assume that we hence have a legitimate interest to the use of your data and your interests or fundamental rights and freedoms in relation to the protection of your data do not override this. We would like to regularly send you information about those of our offers and services we think will interest you.
- In addition, from time to time we engage market research institutions to poll customer satisfaction and to improve our offers and services in the interests of our customers. In this context, too, we assume that your interests or fundamental rights and freedoms requiring the protection of your data will not be unreasonably affected.
- We have a legitimate interest in the efficient and successful management of our business and the further development of our services and products. We therefore assume that our legitimate interest overrides your fundamental rights and freedoms requiring the protection of your data.

6. Recipients or categories of recipients of personal data

We do not transfer your personal data to third parties unless you have consented to such transfer of data, the data is transferred in the performance of our contractual obligations or we are entitled or obliged to make such a transfer on the basis of legal provisions and/or official or court orders.

Your personal data will be sent to:

- Within the business, such bodies shall gain access to your data as require them for the performance of contractual and legal obligations

- Freight forwarding for the purpose of transporting products
- Processors[1] for the purposes of contractual performance under Article 28 GDPR
- Tax consultants for accounting purposes
- Lawyers for the purpose of managing accounts receivable or resolving other disputes
- Financial institutions for the processing of payments
- Parcels and delivery services (e.g. DPD, post, courier services) for deliveries and appointments
- Public authorities and institutions (e.g. tax office, social fund, courts) where a legal or official obligation exists to protect statutory and tax provisions for the purpose of, for example, a tax and/or company audit.
- Credit agencies (e.g. Euler Hermes etc.) for the assessment of risks relating to creditworthiness and/or risks of default.
- Credit and financial services institutions or similar institutions such as credit card companies for the processing of your credit-card payments.

Other data recipients may, for example, be those bodies for which you have given us your consent to the transfer of data.

7. Transfer of personal data to a third country

A transfer of data to countries outside the EU or the EEA (“third countries”) may only take place where this is required or legally prescribed for the conduct of our business with you, or you have given us your consent.

Where service providers are deployed in third countries as part of the processing of an order, they will, in addition to their written instructions, have an obligation, under the agreement on EU standard data protection clauses, to comply with the standard of data protection in Europe unless an “adequacy decision” by the EU Commission exists in respect of the level of data protection (Article 45 GDPR).

An adequacy decision means that the EU Commission has determined, following an assessment to that effect, whether/that, based on its domestic laws and their application, the existence and effective operation of one or more independent supervisory authorities and the international obligations it has entered into, a level of protection exists in a third country that is equivalent to the level of protection provided in the GDPR (“secure third countries”). Adequacy decisions currently exist for the countries of Andorra, Argentina, the Faroe Islands, Israel, the Isle of Man, Canada, Guernsey, Jersey, New Zealand and Uruguay.

The EU standard data protection clauses are a standardised data protection agreement between service providers and their customers that applies in order to ensure that personal data that leave the EEA are transferred in compliance with the European level of data protection and the requirements of the GDPR and the data subject is provided with enforceable rights and effective redress.

8. Length of time for which personal data is stored

Your personal data under paragraph 4 will be processed for as long as is necessary for the performance of our contractual and legal obligations. If a legitimate interest ceases to exist, the data are erased or, where that is not possible, made unavailable.

[1] A body outside the business that processes personal data on behalf of the controller and on its instructions

We are also bound by statutory retention and documentation obligations resulting from the Commercial Code, the Money Laundering Act and the Tax Code, among other things. The time limits provided there for retention and documentation are between two and ten years.
Ultimately, the storage period is also determined under the statutory limitation periods which, for example, under sections 195 onwards of the German Civil Code are generally three years but in certain circumstances may be up to thirty years.

9. Your obligation to provide data

Personal data necessary to establish and conduct business and perform associated contractual obligations or which we are legally obliged to collect must be provided by you. Without that data we will refuse to enter into the contract or carry out the order or will cease to perform an existing contract and, where relevant, terminate it.

In particular, statutory provisions, such as those of the Money Laundering Act (sections 11 and 12 of the Money Laundering Act), may require us to verify your identity using your identity card before we enter into business with you and, in so doing, to take and keep a copy of your identity card or passport and the data it contains along with your home address. As part of verifying your identity under the Money Laundering Act, we are obliged to make complete copies of these documents or to record them in digitised format (second sentence of section 8(2) of the Money Laundering Act). So that we are able to comply with this legal obligation, section 11(6) Money Laundering Act requires you to provide the necessary information and documents and to notify us promptly of any changes arising in the course of our business with you. Should you fail to provide us with the necessary information and documents, we are not permitted to enter into or continue the business arrangement you want.

10. Automated decision-making including profiling

We do not use any automated decision-making, including profiling, to decide whether to enter into or perform a contract (Article 22 GDPR). Should we use such processes in specific cases, you will be separately informed of this where that is legally required.

11. Data subjects' rights

You have the following rights under the EU General Data Protection Regulation:

- Right to information:
  Where your personal data are processed, you have the right to receive **information** about the personal data stored about you (Article 15 GDPR).
- Right of rectification:
  Should incorrect personal data be processed; you have the right to **rectification** (Article 16 GDPR).
- Right to erasure ("right to be forgotten") and restriction of processing:
  Where the legal requirements are satisfied, you can request **erasure** or the **restriction of processing** (Articles 17 and 18 GDPR)
- Right to data portability:
  If you have consented to the data processing or a contract exists for data processing and the data processing is carried out by automated means, you may have a right to **data portability** (Article 20 GDPR).
- Right to withdraw consent:
  You may at any time **withdraw** any **consent** given to the processing of personal data free-of-charge and with future effect.
  This applies also to declarations of consent given before the GDPR took effect i.e. before 25 May 2018.

- Right to lodge a complaint:
  In case of data privacy law complaints you can lodge a complaint with the responsible supervisory authority.

- Right to object:
  You have the right to object at any time to the processing of personal data concerning you, on grounds relating to your particular situation (Article 21 GDPR). Where you lodge an objection we shall suspend the processing of your personal data unless we can demonstrate compelling legitimate grounds for the processing which override your interests, rights and freedoms or the processing is for the establishment, exercise or defence of legal claims.

  Where you object to processing for promotional purposes, we shall no longer process your personal data for such purposes.

  The objection may be made in any format. To exercise your rights, please contact our external data protection officer.