

Mandatory information according to article 12 et seq. of the General Data Protection Regulation (GDPR)

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1 Contact information of the controller

The controller in terms of data protection law is Schiff-Martini & Cie. GmbH (SMC). See the imprint (<https://www.schiffmartini.com/en/imprint/>) of our website for the contact information.

2 Contact information of the internal data protection officer

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3 In what scope do we process your personal data?

3.1 In the context of services provided by SMC

SMC offers a wide variety of services related to tax advice and auditing. These services involve the processing of personal data.

3.1.1 Where do we get your personal data? What are those data?

Data are collected in the categories of, for example, name, address and contact information, bank information, qualifications, tax information, wage groups, hours of work, fields of activity, religious denomination, doctor’s notes, and the impairment of health.

Your data are generally collected from you. Processing the personal data provided by you is necessary to meet the contractual obligations pursuant to the contract concluded with us. It is essential based on your duty to cooperate that you provide us with the personal data we request, otherwise we are unable to meet our contractual obligations. Otherwise, accounting and/or tax disadvantages for you can no longer be excluded.

Providing your personal data is required in the course of pre-contractual measures (such as master data recording in the process for potential clients). A contract cannot be concluded if you do not provide the requested data.

To provide our services, it may be necessary to process personal data that we have permissibly obtained for the respective purpose from other companies or third parties, such as fiscal authorities, your business partners, and similar.

We may also process personal data from publicly accessible sources such as websites, which we use permissibly and only for the respective contractual purpose.

3.1.2 Purpose and legal basis of processing

The personal data provided by you are processed according to the provisions of the European General Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG). The legal basis is as follows:

3.1.2.1 To meet contractual obligations (pursuant to point (b) of Article 6(1) GDPR)

When the processing of data serves to meet contractual obligations, the contractual agreement forms the legal basis. The purpose of data processing on this basis is to initiate pre-contractual measures on the one hand, preceding a contractual business relationship, and to meet the obligations under the contract concluded with you on the other hand.

3.1.2.2 Based on consent (pursuant to point (a) of Article 6(1) GDPR)

Consent to the processing of personal data forms the legal basis. It defines the purpose of processing. You may withdraw your consent at any time with future effect. Consent given before the GDPR came into force (25 May 2018) can also be withdrawn. Processing that takes place prior to withdrawal remains unaffected by the withdrawal. Example: Sending a newsletter, release from professional secrecy for of the data provided by you to third parties on your behalf (e.g. banks, insurers, shareholders, etc.).

3.1.2.3 Based on legal requirements (pursuant to point (c) of Article 6(1) GDPR) or in the public interest (pursuant to point (e) of Article 6(1) GDPR)

The purpose of data processing is defined by legal requirements or the public interest (e.g. compliance with retention obligations, proof of compliance with the tax consultant's obligation to notify and inform).

3.1.2.4 In the course of the balancing of interests (pursuant to point (f) of Article 6(1) GDPR)

The purposes of processing are based on the protection of our legitimate interests. It may be necessary to process the data provided by you beyond contractual performance as such. Our legitimate interests can justify the further processing of the data provided by you, insofar as your interests or fundamental rights and freedoms do not outweigh them. On a case-by-case basis, our legitimate interests may be: Asserting legal claims, defense against liability claims, preventing crimes, safeguarding IT security and IT operations.

3.1.3 Who receives the personal data provided by you?

In general, we only transmit the personal data provided by you to the recipients named by you.

In the course of fulfilling the contract concluded with you, the data provided by you are transmitted only to third parties that require the data for legal reasons, e.g. fiscal authorities, social insurance providers, applicable public authorities, and courts.

We are obligated to maintain professional secrecy and to implement corresponding measures.

In the course of our service provision, we commission processors that contribute to meeting the contractual obligations, e.g. data center service providers, IT partners, document shredders, etc. These processors are contractually obligated by us to maintain professional secrecy and to comply with the requirements of the GDPR and BDSG.

In specific cases we collaborate with cooperation partners/freelancers. These are contractually obligated by us to maintain professional secrecy and to comply with the requirements of the GDPR and BDSG.

3.1.4 Are the data provided by you transmitted to other countries or international organizations?

In no case are the data provided by you transmitted to international organizations¹.

We generally do not transmit the data provided by you to third parties in a non-EU country for which there is no so-called adequacy decision of the EU Commission on an appropriate level of protection. If you want the data provided by you to be transmitted to another country or international organization in a specific case, we shall do so only upon receiving your written consent and release from professional secrecy.

Insofar as you instruct us to exchange data with a company affiliated with you or a third party named by you that is located in another country, we shall assume that you have examined the question of whether transmitting the data to a foreign country is permissible, and that authorization exists within your group of companies for the transmission of these data to an affiliated company and to another country where the company in question is located.

¹ Article 4(26) GDPR: “‘international organisation’ means an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.”

3.1.5 Is automated decision-making including profiling performed?

Fully automated decision-making (including profiling) pursuant to Article 22 GDPR is not used for processing the data provided by you.

3.1.6 Duration of processing (criteria for erasure)

Processing of the data provided by you continues as long as necessary to accomplish the contractually agreed purpose, in principle as long as the contractual relationship with you is maintained. After the contractual relationship ends, the data provided by you are processed for the purpose of complying with statutory retention obligations or to protect our legitimate interests. The data provided by you are erased after the end of the statutory retention periods and/or as soon as there is no legitimate interest.

Expected terms of the retention obligations applicable to us and our legitimate interests:

- Compliance with retention periods under commercial and tax laws and professional duty. The applicable specified periods for the retention of documents are two to ten years.
- Preservation of evidence under the statute of limitations. Pursuant to Section 195 et seq. of the German Civil Code (BGB), these limitation periods can be up to 30 years. The regular limitation period is three years.

3.2 Marketing, customer loyalty, “Best Friends”

SMC engages in permissible marketing activities to boost brand awareness, gain new customers, and improve customer loyalty. This includes maintaining a “Best Friends” database with the contact information of SMC business associates as well as hosting events. Personal data are inevitably also processed in this context.

3.2.1 What are those data?

Data are largely collected in the categories of name, business address, and contact information, as well as the employment with and position within a company. During an event participants may be photographed or filmed.

3.2.2 Where do we get your personal data?

The data processed in marketing are generally collected from you, mostly in the form of business cards exchanged at business events (such as symposiums, trade fairs, etc.) or by filling signing up for an event or newsletter. SMC also uses sources accessible to the public to the extent permitted (such as websites of potential clients, published lists of participants for public events, and social networks of a business nature). Furthermore, SMC receives the data in question from mutual business partners.

3.2.3 Purpose and legal basis of processing

The personal data provided by you are processed according to the provisions of the European General Data Protection Regulation (GDPR) and other applicable standards. The legal basis is as follows:

3.2.3.1 Based on consent (pursuant to point (a) of Article 6(1) GDPR)

Insofar as SMC bases the processing of personal data in the course of marketing on your consent, this defines the purpose and content of the measures. In this case, the legal basis is point (a) of Article 6(1) GDPR. You may withdraw your consent at any time with future effect. Example: Sending a newsletter, release from professional secrecy for the transfer of the data provided by you to third parties on your behalf (e.g. banks, insurers, shareholders, etc.).

3.2.3.2 In the course of the balancing of interests (pursuant to point (f) of Article 6(1) GDPR)

The marketing activities of SMC and the associated processing of personal data, which are only pursued to the extent permitted, serve to protect our legitimate interests pursuant to point (f) of Article 6(1) GDPR. Photographing or filming takes place in the interest of our legitimate interest to do marketing.

3.2.4 Who receives the personal data provided by you?

Photographs taken during events may be used in brochures or on our website. Apart from that we do not transmit the personal data provided to us to third parties without your express consent. As a bearer of professional secrets, we are subject to professional secrecy.

We utilize the services of external partners in certain cases, for example data center operators, IT partners, document shredders, etc. These companies as processors are contractually obligated by us to maintain professional secrecy and to comply with the requirements of the GDPR and BDSG.

3.2.5 Are the data provided by you transmitted to other countries or international organizations?

In no case are the data provided by you transmitted to international organizations.

In no case are the data provided by you transmitted to third parties in a non-EU country for which there is no so-called adequacy decision of the EU Commission on an appropriate level of protection.

We generally do not transmit the data provided by you to third parties in a non-EU country for which there is no so-called adequacy decision of the EU Commission on an appropriate level of protection. If you want the data provided by you to be transmitted to another country or international organization in a specific case, we shall do so only upon receiving your written consent and release from professional secrecy.

Insofar as you instruct us to exchange data with a company affiliated with you or a third party named by you that is located in another country, we shall assume that you have examined the question of whether transmitting the data to a foreign country is permissible, and that authorization exists within your group of companies for the transmission of these data to an affiliated company and to another country where the company in question is located.

3.2.6 Is automated decision-making including profiling performed?

Fully automated decision-making (including profiling) pursuant to Article 22 GDPR is not used for processing the data provided by you.

3.2.7 Duration of processing

The personal data are erased as soon as there is no legitimate interest, unless you have expressly agreed to their storage beyond this period.

3.3 Office communication: Microsoft (Microsoft 365, Microsoft Teams)

3.3.1 What data is involved?

We use Microsoft 365 and Microsoft Teams, to conduct our usual office communications as well as for conference calls, online meetings and/or video conferences, and desktop sharing. If we record online meetings, we will inform you before we start and ask for verbal consent where necessary. If you do not wish to be recorded, you can, of course, leave the online meeting.

If it is necessary for the purposes of an online meeting to keep a written record, we will log the chat content.

Microsoft 365 and Microsoft Teams are a service of Microsoft Ireland Operations, Ltd.

When using Microsoft Teams, various types of data are processed. The scope of the data also depends on the data you provide before or during the use of Microsoft Teams.

The following personal data is subject to processing:

User details: display name, email address, profile picture (optional), preferred language.

Meeting metadata: e.g., date, time, meeting ID, phone number, location

Text, audio and video data: You may have the option to use the chat function in an online meeting. In this case, the text entries you make are processed in order to display them in the online meeting.

In the context of desktop sharing, you can show your screen to the participants of the online meeting. In this case, the screen content you display will be processed.

To enable the display of video and the playback of audio, data from the microphone of your device and from a video camera of the device are processed during the online meeting. You can turn off the camera or mute the microphone yourself at any time through the Microsoft Teams applications.

3.3.2 Where do we obtain your personal data?

The data processed as part of using Microsoft Teams is provided by you.

3.3.3 Purposes and legal basis of the processing

The personal data you provide will be processed in accordance with the provisions of the European General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG). The legal basis is as follows:

When the processing of data serves to meet contractual obligations, the contractual agreement forms the legal basis. The purpose of data processing on this basis is to initiate pre-contractual measures on the one hand, preceding a contractual business relationship, and to meet the obligations under the contract concluded with you on the other hand.

If there is no contractual relationship with you, the legal basis for the processing of your personal data is point (f) of Article 6(1) GDPR. Here, our interest is in effective office communication, for example in the form of online meetings or telephone calls.

3.3.4 Who receives the personal data you provide?

In the context of using Microsoft Teams, only the conference participants and Microsoft receive the personal data described.

3.3.5 Will the data you provide be transferred to third countries or international organizations?

In no case are the data provided by you transmitted to international organizations.

In principle, no data is processed outside the European Union (EU), as we have restricted our storage location to data centers in the European Union. However, we cannot rule out the possibility that data may be routed via Internet servers located outside the EU. This may be the case in particular if participants in an online meeting are located in a third country.

However, the data is encrypted during transport over the Internet and thus secured against unauthorized access by third parties.

3.3.6 Duration of processing

The duration of the processing depends on the purpose of the use of Microsoft Teams, see in this respect the other sections of this text (client support, marketing, ...).

3.4 Application process

SMC is always interested in new employees. In addition to actively searching through recruiters, SMC appreciates unsolicited applications. Personal data about you as an applicant are inevitably also processed in the context of the application process:

3.4.1 What are those data?

Data are collected for example in the categories of name, business address, and contact information, qualifications and CV.

3.4.2 Where do we get your personal data?

As a rule, we obtain the data directly from you or from recruiters. We may also process personal data from publicly accessible sources such as websites, which we use permissibly and only for the purpose of the application process.

3.4.3 Purpose and legal basis of processing

The personal data provided by you are processed according to the provisions of the European General Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG). The legal basis is as follows:

3.4.3.1 To establish an employment relationship (pursuant to Section 26(1), sentence 1 BDSG)

Processing the personal data provided by you is necessary to evaluate whether an employment relationship can be considered and whether the corresponding legal requirements are met. The legal basis for this purpose is Section 26(1), sentence 1 BDSG.

3.4.3.2 Based on consent (pursuant to Section 26(2) BDSG)

The processing of personal data may also be based on your consent, e.g. for subsequent applications for other positions or at a later date. This consent determines the respective purpose of processing. You may withdraw your consent at any time with future effect.

3.4.3.3 In the course of the balancing of interests (pursuant to point (f) of Article 6(1) GDPR)

In specific cases, processing may continue beyond the end of the application process even if an employment relationship is not established. This is the case when the personal data are needed to assert or defend against legal claims. The personal data are erased as soon as there is no legitimate interest, unless you have expressly agreed to their storage beyond this period.

3.4.4 Who receives the personal data provided by you?

Within our company, access to the personal data provided by you is given to the departments that require said data to fulfill employment contract and legal obligations, and that are authorized to process these data.

We engage external service providers to maintain and verify the security of our IT structure. These processors are contractually obligated by us to maintain professional secrecy and to comply with the requirements of the GDPR and BDSG.

Other recipients only receive the data provided by you if you give us your written consent.

3.4.5 Are the data provided by you transmitted to other countries or international organizations?

In no case are the data provided by you transmitted to third parties in a non-EU country or to international organizations.

3.4.6 Is automated decision-making including profiling performed?

Fully automated decision-making (including profiling) pursuant to Article 22 GDPR is not used for processing the data provided by you.

3.4.7 Duration of processing

Generally the data provided by you are erased after the end of the application process, provided an employment relationship is not established. In specific cases, processing may continue beyond that if the personal data are needed to assert or defend against legal claims, or if there is another legitimate interest.

3.5 Business relationships with suppliers and service providers

SMC purchases goods and obtains services from business partners as required for business operations. Personal data are also exchanged within the scope of the business relationship.

3.5.1 What are those data?

Data are collected in the categories of name and contact information for the respective contact persons.

3.5.2 Where do we get your personal data?

We obtain the aforementioned data from our business partners or their employees, or from publicly accessible sources such as websites, which we use permissibly and only for the respective contractual purpose.

3.5.3 Purpose and legal basis of processing

The personal data provided by you are processed according to the provisions of the European General Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG). The legal basis is as follows:

3.5.3.1 To meet contractual obligations (pursuant to point (b) of Article 6(1) GDPR)

Data processing serves to meet contractual obligations pursuant to point (b) of Article 6(1) GDPR. The purpose of data processing on this basis is to initiate pre-contractual measures on the one hand, preceding a contractual business relationship, and to meet the obligations under the contract concluded with you on the other hand.

3.5.3.2 Based on legal requirements (pursuant to point (c) of Article 6(1) GDPR) or in the public interest (pursuant to point (e) of Article 6(1) GDPR)

The purpose of data processing is defined by legal requirements or the public interest (e.g. compliance with retention obligations).

3.5.3.3 In the course of the balancing of interests (pursuant to point (f) of Article 6(1) GDPR)

In specific cases, the purpose of processing can also be based on a legitimate interest pursuant to point (f) of Article 6(1) GDPR. Such cases include: Asserting legal claims or defense against liability claims.

It may be necessary to process the data provided by you beyond contractual performance as such.

3.5.4 Who receives the personal data provided by you?

In the course of fulfilling the contract concluded with our suppliers and service providers, the data provided by you are transmitted only to third parties that require the data for legal or contractual reasons.

We utilize the services of external specialist companies in certain cases, for example data center operators, IT partners, document shredders, etc. These companies as processors are contractually obligated by us to maintain professional secrecy and to comply with the requirements of the GDPR and BDSG.

3.5.5 Are the data provided by you transmitted to other countries or international organizations?

In no case are the data provided by you transmitted to international organizations. We generally do not transmit the data provided by you to third parties outside the EU.

3.5.6 Is automated decision-making including profiling performed?

Fully automated decision-making (including profiling) pursuant to Article 22 GDPR is not used for processing the data provided by you.

3.5.7 Duration of processing

Processing of the data provided by you continues as long as necessary to accomplish the contractually agreed purpose, in principle as long as the contractual relationship with you is maintained. After the contractual relationship ends, the data provided by you are processed for the purpose of complying with statutory retention obligations or to protect our legitimate interests. The data provided by you are erased after the end of the statutory retention periods and/or as soon as there is no legitimate interest.

Expected terms of the retention obligations applicable to us and our legitimate interests:

- Compliance with retention periods under commercial and tax laws and professional duty. The applicable specified periods for the retention of documents are two to ten years.
- Preservation of evidence under the statute of limitations. Pursuant to Section 195 ff of the German Civil Code (BGB), these limitation periods can be up to 30 years. The regular limitation period is three years.

4 Information about your rights

4.1 Right to information pursuant to Article 15 GDPR

You have the right to obtain information free of charge on request, in regards to whether and what data about you are being stored and for what purpose.

4.2 Right to correction pursuant to Article 16 GDPR

You have the right to ask the controller to promptly correct your personal data that are incorrect. Under consideration of the purposes of processing, you have the right to request the completion of incomplete personal data – also by means of a supplementary statement.

4.3 Right to erasure (“right to be forgotten”) pursuant to Article 17 GDPR

You have the right to request the prompt erasure of your data from the controller. The controller is obligated to promptly erase personal data, insofar as one of the following reasons apply and this does not conflict with any other legal regulations:

- a) The purposes for which the personal data were collected no longer apply.
- b) You withdraw your consent to processing. There is no other legal basis for processing.
- c) You object to processing. There is no other legal basis for processing.
- d) The personal data were processed unlawfully.
- e) The erasure of the personal data is required to meet a legal obligation pursuant to European Union law or the laws of the member states that apply to the controller.
- f) The personal data were collected in the context of information society services pursuant to Article 8(1) GDPR.

4.4 Right to the restriction of processing pursuant to Article 18 GDPR, Section 35 BDSG

You have the right to request the restriction of processing if one of the following conditions is met and this does not conflict with any other legal regulations:

- a) You doubt the accuracy of the personal data.
- b) The processing is unlawful, but you object to erasure.
- c) Personal data are no longer needed for the purpose of processing, but you still need the data for the establishment, exercise or defense of legal claims.
- d) You have objected to processing pursuant to Article 21(1) GDPR. As long as it has not been established whether the legitimate reasons of the controller outweigh yours, processing is restricted.

4.5 Right to data portability pursuant to Article 20 GDPR

You have the right to receive the data provided by you from the controller in a structured, common and machine-readable format. We are not permitted to hinder transmission to another controller.

4.6 Right to object pursuant to Article 21 GDPR

You have the right to object at any time, on grounds relating to your personal situation, to the processing of personal data concerning you which is based on point (f) of Article 6(1) GDPR (data processing based the weighing of interests). 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 in case of processing for the establishment, exercise, or defense of legal claims.

4.7 Right to lodge a complaint with a supervisory authority pursuant to point (d) of Article 13(2) GDPR in conjunction with Section 19 BDSG

If you believe that the processing of your data violates the GDPR, you have the right to lodge a complaint with a supervisory authority. Please contact the applicable supervisory authority to do so:

Der Hessische Datenschutzbeauftragte
Postfach 3163
65021 Wiesbaden, Germany
Phone: +49 611 1408 - 0
E-mail: Poststelle@datenschutz.hessen.de

4.8 Revocation of consent

If the processing is based on point (a) of Article 6(1) or point (a) of Article 9(2) (processing of special categories of personal data) or Section 26(2) BDSG (application process), you have the right to withdraw consent for a specific purpose at any time, which does not affect the lawfulness of processing based on consent before its withdrawal.

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