

Data Privacy Policy for Messer Americas (NORTH)

INTRODUCTION

This data privacy policy applies to Messer North America, Inc. and all the companies located in North America that Messer North America, Inc. considers part of Messer Americas (North), which currently includes specified companies (see footnote 1) in the United States, Canada, Puerto Rico and the US Virgin Islands.¹ The companies to which this policy applies are referred to herein, individually or collectively as the context may require, as “Messer” or “the Company.”

At Messer, we respect the privacy of personal information that Messer is exposed to via our business relationships with our customers, vendors and employees² or that Messer receives via other sources. This Data Privacy Policy informs you about Messer’s data privacy practices and the ways in which Messer collects, processes, uses, shares, transfers and discloses your personal identifiable information (“personal data”).

Data privacy or data protection is the process for ensuring the security and privacy of personal data. The data privacy laws of many countries, states and provinces ensure that personal data is maintained to the highest standard. Messer will afford your personal data the protections required under applicable law.

DEFINITIONS

Personal Data

Personal data is broadly defined as any information relating to an identified or identifiable natural person (“data subject”). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity. Data is considered personal when it enables anyone to link information to a specific person, even if the person or entity holding that data cannot make that link. Examples of such data include name, address, home telephone number, e-mail address, bank details, and so forth.

¹ The companies included in Messer Americas (North) are Messer North America, Inc.; Messer LLC; Messer Merchant Production LLC; Messer Energy Services, Inc.; Messer Gas Puerto Rico, Inc.; General Gases of the Virgin Islands, Inc.; and Messer Canada Inc.

² References to customers, vendors and employees include current, former and prospective customers, vendors and employees. Employees include both full-time and part-time employees as well as agency workers, temporary workers and contractors.

Sensitive Personal Data

Some laws create a separate category of “sensitive personal data”, which may include, for example, personal data revealing racial or ethnic origin, age, disabilities, veteran status, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health, genetic information, sex life or sexual preference, criminal convictions or social security number. References in this policy to personal data also apply to and encompass sensitive personal data.

Data Processing

Data Processing is broadly defined as any manual or automatic operation of personal data, including its collection, recording, organization, storage, modification, retrieval, use, transmission, dissemination or publication, and may even include blocking, erasure or destruction of personal data.

THE PRINCIPLES OF DATA PROTECTION

The key to ensuring the security of privacy of personal data is covered by the eight principles of data protection, listed below, which Messer follows³. Accordingly, Messer -

1. Fairly and lawfully processes personal data;
2. Collects and processes personal data for specified limited lawful purposes;
3. The collection of personal data will be adequate, relevant and not excessive to the purposes for which the personal data was collected;
4. Will take reasonable measures to ensure the personal data is accurate and where necessary kept up to date;
5. Keeps personal data no longer than necessary;
6. Processes personal data in accordance with data subjects' rights;
7. Take reasonable technological, organizational and administrative measures to protect personal data against loss or theft and against unauthorized access, disclosure, copying, use or amendment;
8. Will transfer personal data to other countries or third-party service providers only when the recipient has committed to provide adequate protection and, if required under applicable law, with the data subject's consent.

The following sections provide more detail on these key requirements.

Fairly and lawfully processed.

Messer will process personal data only for legitimate business reasons and will process the personal data fairly, which includes an obligation to the data subject to obtain the data fairly. Fairness requires candor and transparency, which means the Company will

³ As permitted or required under applicable law, these principles may be limited in certain cases to the extent necessary to meet national security, public interest or law enforcement requirements.

fully inform you, unless obvious from the nature of the business relationship and the information obtained⁴, of the reasons for obtaining your personal data, the uses to which the data will be put and whether and how it is to be transferred or disposed of.

Obtained and processed for specified limited lawful purposes.

Collected personal data will not be used for any purpose other than collected without first informing you.

Messer collects the personal data of customers for business purposes directly related to the products that Messer sells or the services that Messer provides to the customer. For example, your contact information, such as name and address, to ship or deliver the product to the correct address; your financial information, such as credit card information, to facilitate payment for our products and services; your telephone numbers and/or e-mail addresses to communicate with you regarding products and services; or, in some cases, even a physician's prescription if necessary to provide medical gases or to otherwise fill the prescription. Messer may also use your personal data to make you aware of products and services that may be of interest to you, to ask you questions to help us improve the products and services we provide and to improve our business relationship. Messer may also use personal data to perform due diligence as required or permitted under applicable law, including but not limited to checking credit worthiness and conducting screening against applicable denied party lists.

Similarly, Messer collects personal data of vendors to administer, manage or improve the business relationship with the vendor and to remit payment for products and services. Examples of these types of information are similar to the types of information mentioned above and would include financial information such as bank account numbers to facilitate Messer's payment for good and services. Messer may also use your personal data to perform due diligence as required or permitted under applicable law, including but not limited to checking safety records, obtaining references and conducting screening against applicable denied party lists.

Likewise, Messer collects personal data of its employees to start the employment relationship, facilitate compliance with labor and social security obligations, as provided for or required by applicable law (e.g., eligibility to work), for internal business and administrative purposes, for payroll administration and granting of labor benefits, to ensure compliance with company policies and procedures⁵, and to terminate the employment relationship. Messer may also collect personal data of employees to perform due diligence as required or permitted under applicable law, including but not

⁴ For example, if you are a Messer employee and apply for company healthcare benefits for your family, we may collect and process personal data of your family members in order to manage those benefits. Or if you are a Messer customer and apply for credit, we may collect and process your financial information in order to grant credit.

⁵ Examples of personal data that may exist in a personnel file include, but are not limited to, original employment application, offer letter, performance assessments and plans (including performance improvement plans), disciplinary actions and letters of recognition.

limited to export control or trade sanctions laws that require screening against applicable denied party lists and due diligence to prevent deemed exports in violation of applicable law.

Messer also collects and processes personal data that individuals elect to provide when communicating with the global Messer Group's Integrity Line⁶, consistent with the Integrity Line's confidentiality safeguards.

Adequate, relevant and not excessive.

There is a balance to be struck. Personal data that Messer processes should be sufficient to ensure organizational efficiency and to enable the Company to process the commercial transactions we have entered into and to effectively manage Messer's relationship with its employees, but not excessive, which would infringe your rights.

Accurate and where necessary kept up to date.

Messer implements procedures for checking the accuracy of personal data processed and for amending and updating it where necessary. Your access rights may include the right at any time to access and review the personal data that Messer has collected and stored about you. If the personal data is outdated or incorrect, you may have the right to rectify such data. You may also object to the use of your personal data, for a legitimate reason, and withdraw your consent to Messer's collection and processing of your personal data. Such objection or withdrawal, however, may prevent Messer from doing business, employing, or otherwise interacting with you (see Implications of Withdrawing Consent below).

Not kept longer than necessary.

Messer will check the need for keeping the data and disposing of the data. Messer will remove and delete information that we no longer need and that has served the purpose for which it was collected. Messer will take reasonable precautions that removed or deleted personal data is not disclosed to unauthorized third parties.

Processed in accordance with data subjects' rights.

Messer will process your personal data in compliance with your rights as a data subject under applicable law. Your rights as a data subject may include the following:

- To know what personal data is being processed for a specific purpose – controlled information request;
- To know the source of the data;

⁶ The Integrity Line is an integral part of ethics and compliance within the global Messer Group and a means by which concerns or allegations may be raised.

- To know what processing is done;
- To identify to whom data is disclosed or transferred;
- To access their personal data;
- To correct inaccurate information;
- To cancel your personal data; and
- To object to the processing of your personal data.

Protected against loss or theft and unauthorized use or disclosure.

Messer will take reasonable technological, administrative and organizational measures to ensure that your personal data is reasonably protected against loss, theft and unauthorized access, disclosure, copying, use or amendment⁷. Technological measures include, but are not limited to, password protections for online information systems. Administrative and organizational measures include, but are not limited to, securing files that contain personal data (for example, in locked filing cabinets), employing reliable, qualified employees for the handling of personal data and providing them with appropriate training, restricting who has access to personal data to those employees who have a legitimate need to know the information, ensuring staff disciplinary procedures for violations and by arranging for third parties to be bound by contract to comply with the above Data Privacy Principles.

COLLECTING AND PROCESSING OF SENSITIVE PERSONAL DATA

Messer will collect your sensitive personal data only with your express written consent, if such consent is required under applicable law, and will process such sensitive personal data pursuant to applicable law.

ACCESS TO, DISCLOSURE OR TRANSFER OF PERSONAL DATA TO OTHERS

Messer may grant access to, disclose, or transfer your personal data to other global Messer Group companies and/or third-party service providers to assist Messer with the efficient storage, processing or management of personal data or the processing of commercial transactions and/or the payment process. Whenever we grant access to, disclose or transfer your personal data, Messer will take reasonable steps to ensure the recipient will follow the same Data Privacy Principles and require your personal data is equally protected⁸.

⁷ All inquiries from outside Messer concerning the identity, employment record or performance of a current or former employee must be referred, without exception, to the Human Resources department for handling. Requests from outside Messer concerning non-employee personal data should be referred to Messer Legal.

⁸ Directive to Messer managers: Before transferring personal data outside of Messer to a third-party service provider, you must work with Messer Legal to have the third-party service provider execute Messer's Third-Party Usage Data Protection Agreement. Before transferring personal data within the global Messer Group to another Messer legal entity, you must ensure that the transferring and receiving Messer legal entities have executed or acceded to the global Messer Group's Intragroup Data Protection Agreement ("IGA").

CROSS-BORDER TRANSFER OF PERSONAL DATA

Messer may also transfer your personal data to other global Messer Group companies or to third party service providers outside the country in which you regularly work or reside. Intragroup transfers of employees' personal data across borders may be necessary or desirable for human resource management purposes, such as compensation planning, performance evaluations, training records and promotion decisions. Intragroup transfers of customers' and vendors' personal data across borders may be necessary or desirable for management, operations and reporting purposes, including, assessing and improving service, measuring customer engagement and satisfaction, receiving and making payments and other operations, and reporting financial results. Further, your personal data may be transferred across borders and shared if you call and use the Messer Integrity Line because Messer utilizes foreign service providers to receive and process telephone calls to the Integrity Line and to provide interpretation and translation services. The current service provider's⁹ call center for receiving telephone calls to the Messer Integrity Line is currently located in Portugal. Whenever we transfer your personal data across international borders and grant access to or allow sharing of your personal data with a global Messer Group Company or service provider, Messer will take reasonable steps, including contractual or other means, to ensure the recipient in the foreign country will follow the same Data Privacy Principles and provide a comparable level of protection to your personal data.

Location of global Messer Group Company Recipients and Foreign Data Service Providers

The global Messer Group company or third-party service provider to which we transfer, grant access to, share with, or disclose your personal data might be outside of the country or province (in case of Quebec) in which you reside or work for Messer. This may include any existing or future global Messer Group legal entity (including joint ventures), including but not limited to entities in the United States, Canada, Brazil, Columbia, Germany, Puerto Rico and U.S. Virgin Islands. Current third-party service providers may be located in, but not limited to, the United States, Canada, Brazil, Columbia Germany, Puerto Rico, U.S. Virgin Islands, Portugal, and Philippines.¹⁰ Third party service providers may be changed or added, including in additional countries, based on the business and operational needs of Messer or the global Messer Group.

Potential Mandatory Disclosure of Personal Data under Foreign Laws

Note that the governments, courts, law enforcement or regulatory agencies of the foreign country in which the recipient is located may be able to obtain disclosure of your

⁹ The current service provider is Navex, a global company that specializes in confidential whistleblowing hotlines, contact center solutions and incident and security management software solutions with corporate offices located in Lake Oswego, Oregon, USA and London, UK. Messer may from time to time change its service providers for the same use of your personal data, and without further notice to you.

¹⁰ In addition to Navex, other third-party providers may include, but are not limited to, accounting firms, law firms, email and electronic communications providers, and providers of outsourced shared services.

personal information through the laws of that foreign country. An example of such disclosure laws are the USA PATRIOT Act and other national security and anti-terrorism laws. Messer adheres to the local legal requirements.

Inquiries about Cross-border Transfer, Storage, Use, Sharing or Disclosure of Personal Data

If you have any questions about the accuracy, collection, use, disclosure or storage of personal information by service providers of Messer outside the country (or province in the case of Quebec) in which you reside or work for Messer, please contact one of the individuals listed below:

Michael V. Yap
Senior Counsel and Regional Compliance Officer
200 Somerset Corporate Blvd., Suite 7000
Bridgewater, NJ, 08807
USA
+1.908.508.3937
michael.yap@messer-us.com

Alev Hincer MBA, CHRL
Head of Human Resources
North America Business Operations
Messer Canada Inc.
5860 Chedworth Way
Mississauga, Ontario
+1.905.501.2560
alev.hincer@messer-ca.com

(Regardless of your location, if you wish to communicate in French, please contact Alev Hincer.)

DATA DESTRUCTION

It may become necessary or desirable from a business perspective for Messer to periodically destroy or dispose of personal data obtained from customers, vendors, employees or other sources. This may be considered processing for purposes of this policy, and therefore any destruction or disposal will be performed in accordance with this policy. All personal data, whether in electronic or paper form, will be destroyed, erased or disposed of securely to avoid risk of unauthorized access or use.

BREACH NOTIFICATION

In the event of unauthorized access, use or disclosure; accidental disclosure; or loss or theft of your personal data, Messer will provide breach notifications as may be required under applicable law.

QUESTIONS AND ACCESS, CORRECTION, WITHDRAWAL OF CONSENT AND OPPOSITION RIGHTS

Please feel free to ask questions regarding this policy. Furthermore, at any time, you may exercise your access rights or withdraw your consent to Messer collecting and processing your personal data by contacting or sending an email request or consent withdrawal-notification addressed to any of the Messer employees listed below:

Michael V. Yap
Senior Counsel and Regional Compliance Officer
200 Somerset Corporate Blvd., Suite 7000
Bridgewater, NJ, 08807
USA
+1.908.508.3937
michael.yap@messer-us.com

Alev Hincer MBA, CHRL
Head of Human Resources
North America Business Operations
Messer Canada Inc.
5860 Chedworth Way
Mississauga, Ontario
+1.905.501.2560
alev.hincer@messer-ca.com

(Regardless of your location, if you wish to communicate in French, please contact Alev Hincer.)

Messer will respond within the parameters set by applicable law to all requests for access or withdrawal of consent notifications. If Messer has a legitimate reason to decline your request for access, Messer will notify you in writing and explain the reason(s) for refusal and what further recourse you may take. If your questions or concerns are not addressed to your satisfaction, you may contact the global Messer Group's Data Protection department at the below contact details, or you may contact a data protection agency in the country or province in which you reside or work for Messer.

Messer Group GmbH
Attn: Data protection
Messer-Platz 1

65812 Bad Soden
Germany

or via email at datenschutz.mg@messergroup.com

Implications of Withdrawing Your Consent

While you have the right at any time to withdraw your consent to Messer collecting and processing your personal data, the withdrawal of consent may have certain effects. First, a withdrawal of consent may mean that all your personal data will be deleted from Messer's databases to the extent you request in your notice, unless retention of the data is required by applicable law (for example, under record retention laws applicable to employee information) or court order. Second, if you are a current employee and Messer by law requires your express consent, a withdrawal might mean that Messer may be unable to process your pay or benefits or continue to employ you. If you are a vendor or customer, Messer may be unable to continue to grant you credit facilities or to pay you for your services. Further, if you are an online user, deleting your personal data may cause the Messer website to lose its functionality and any special features that were set up for you as user.

Employees who are exposed to personal data

Employees who are exposed to or have access to personal data are expected to be familiar with and comply with this policy. Supervisors have an added responsibility of enforcing this policy in their business or function. Failure to comply with this policy may result in suspension from having access to personal data or other disciplinary action up to and including dismissal.

UPDATES

Messer may update this data protection policy at any time. Any updates to this policy will be reflected in the then current version posted on the Company's intranet website, and on the Company's external website. Messer advises that you periodically review the current data protection policy available at the aforementioned websites for information and to receive any updates.

This data protection policy may be supplemented, from time to time, by data protection communications from Messer, including from Messer IS, HR, and Legal. If you believe that any supplemental communication is inconsistent with this policy, please contact one of the individuals listed below to seek further guidance.

Michael V. Yap

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