

Standard terms and conditions

Scope

1. These Standard Terms and Conditions (the “**STCs**”) apply to entrepreneurs within the meaning of Section 14 of the German Civil Code (*Bürgerliches Gesetzbuch*, **BGB**), legal entities under public law and special funds under public law (the “**Customer**”).
2. Our goods and services under purchase contracts, contracts for work and materials and contracts for work and services, including consulting and other ancillary services (the “**Deliverables**”) will be supplied exclusively on the basis of these STCs. Customer terms which deviate from these STCs or the provisions of statute or which supplement these STCs or provisions of statute will only apply if we expressly acknowledge them in writing. Such terms will also not be recognised by us even if we do not object to them after receiving them, provide Deliverables without reservation or accept payments without reservation.
3. These STCs will also apply to all our future Deliverables supplied to the Customer within the context of an ongoing business relationship.

Offer and prices

4. Our offers are subject to change without notice and are non-binding. Documents belonging to offers such as illustrations, drawings, weight or dimension specifications or other technical information as well as technical standards and samples referred to, material characteristics and sales brochures are simply indicative of the subject matter of the contract and only represent an agreement on quality if they are expressly designated as such. Features of the Deliverables named in advance of the conclusion of a contract do not automatically form a part of agreed quality within the meaning of Section 434(2) sentence 1 BGB and only do so if they are expressly named in the offer. A guarantee of quality will also only exist if we expressly designate it as such in writing. A contract will only come into existence by an order from the Customer and our written order confirmation or by supplying the Deliverable. However, the above written form requirement does not apply to post-contractual amendments or supplements. We may accept an offer of contract from the Customer within two weeks of its submission. If such an offer provides for a longer acceptance period, we may accept the offer within this period. Until the expiry of the respective period, the Customer is bound by the contract offer. Insofar as a confirmation letter from the Customer deviates from our order confirmation, the Customer will specifically highlight the deviations as such, with the deviations only becoming part of a contract insofar as we agree to them in writing. Subsequent amendments and additions to the contract require explicit agreement.

Due date and payments

5. Unless expressly agreed otherwise, invoices are due for payment immediately upon receipt without any deduction. If the Customer is in default of payment, we will be entitled, without prejudice to any further claims, to demand late payment interest in the amount of 9 (nine) percentage points above the base interest rate. If we have several claims against the Customer, Section 366(2) BGB will apply.
6. Offsetting against our claim is only permissible if the Customer can offset against a claim that has been legally established or is undisputed by us or if the Customer's claim arises from the same contractual relationship as our claim. The same applies in respect of the assertion of right of retention.
7. Insofar as we are not obliged to render a performance in advance, we may withhold the supply of Deliverables under the business relationship with the Customer on account of claims against the Customer due to us until the performance owed to us has been rendered. If, after the conclusion of the contract, a significant deterioration in the financial circumstances of the Customer should become apparent such as would jeopardise one of our claims, especially in the event of the cessation of payments or an application for the opening of insolvency proceedings over the Customer's assets, we will be entitled, in the event of an obligation to render a performance in advance on our part, to supply Deliverables still outstanding only against the provision of appropriate security. If the Customer fails to provide security within a reasonable period of time set for him, we will be entitled, without prejudice to other rights of withdrawal, to withdraw from the contract. This will not apply if the Customer has made an advance payment.

Delivery

8. Adherence to deadlines and dates is subject to the final clarification of all technical details and, if applicable, the timely provision of the specifications or documents, approvals, releases, etc. to be provided by the Customer and the fulfilment of any other cooperation obligations of the Customer as well as, if applicable, the receipt of any contractually agreed down payment. Our delivery obligations are subject to timely and proper delivery of supplies by our suppliers. Supplies that are not delivered or are delayed as a result of force majeure, including natural disasters, civil unrest, partial or general mobilisation, war, civil war, acts of war or warlike acts or conditions, imminent threat of war, government intervention or control in the context of the war economy, monetary or trade policy measures or other sovereign measures, embargoes, riots, terrorism, accidents, official orders, intervention by third parties, cybercrime or epidemics occurring at our premises or those of our suppliers entitle us to deliver later by a period that is equivalent to the duration of the hindrance. The same applies in the event of strikes and industrial disputes. Force majeure will be deemed to include unforeseen events for which

we are not responsible, e.g. operational disruptions, shortages of raw materials or operating materials, machine breakdowns, power shortages or obstructions to transport routes of more than short-term duration, which make the rendering of delivery significantly more difficult or impossible for us. If the aforementioned circumstances last for more than six weeks, the Customer and we are entitled to withdraw from the contract without the Customer being entitled to any claim for damages. Such withdrawal must be made by means of a written declaration. At the request of the other party, each party will declare within a reasonable period of time whether it wishes to withdraw from the contract or continue to adhere to the contract. The Customer will not be entitled to any claims for damages as a result of withdrawal declared by the Customer or by us in accordance with this clause 8, but the Customer will be released from having to provide consideration and any payments received will be returned to it. This clause 8 will also apply if the events regulated herein concern one of our suppliers or subcontractors.

9. We will not be liable for any delays or other breaches in the performance of contractual obligations resulting directly or indirectly from the outbreak of the coronavirus or the ongoing pandemic (COVID 19) and related measures (the "Coronavirus Crisis"). However, we will take commercially reasonable steps to limit the potential impact of the crisis on the performance of our contractual obligations. At our request and after informing the Customer, our contractual obligations will be suspended for as long as the Coronavirus Crisis or its effects or after-effects prevent or delay the performance of the contract. Delivery periods and dates will be extended accordingly. If the suspension lasts longer than three months, the Customer and we will be entitled to withdraw from the contract. At the request of the other party, each party will declare within a reasonable period of time whether it wishes to withdraw from the contract or continue to adhere to the contract. The Customer will not be entitled to any claims for damages as a result of withdrawal declared by the Customer or by us in accordance with this clause 9, but the Customer will be released from having to provide consideration and any payments received will be returned to it. The provision in clause 8 remains unaffected.
10. Notwithstanding the provisions contained in clauses 8 and 9, the Customer may only withdraw from the contract due to a delay in delivery pursuant to the provisions of statute and only if we are responsible for the delay in supplying the Deliverables or if the Customer cannot reasonably be expected to adhere to the contract due to the delay. Statutory rights of termination will remain unaffected thereby. In any event, such withdrawal must be made by means of a written declaration. At our request, the Customer will declare within a reasonable period of time whether it is withdrawing from the contract due to the delay in supplying the Deliverables or whether it continues to insist on the rendering of delivery. If the delay is limited to a part of the Deliverables to be supplied, the right of withdrawal will also be limited to the affected part if such a limitation of the right of withdrawal does not affect the rest of the contract when assessed objectively. Claims for damages on the part of the Customer due to a delay (so-called claims for damages in addition to performance) are, except in the case of intent and gross negligence, limited to 0.5% for each completed working week of the delay up to a maximum total of 5% of the net value of the affected (partial) delivery. A change in the burden of proof is not associated with this clause 10.
11. The dispatch (loading and issuing of necessary documents) of all deliveries to be dispatched by us will, unless otherwise agreed, be for the account and at the risk of the Customer. Insofar as we undertake the transport for the Customer and insofar as not otherwise agreed, we will determine the route and means of dispatch as well as the forwarding agent and carrier. Insofar as we undertake the transport for the Customer, transport insurance will only be taken out on the express instruction and at the expense of the Customer. In the case of damaged or incomplete deliveries, the Customer will arrange for the drawing up of a report immediately upon receipt. The risk of accidental loss and accidental deterioration under a contract of sale or contract for work and materials will pass to the Customer once a separate consignment for delivery has been prepared and notification of readiness for shipment has been provided to the Customer, but no later than upon leaving our works. This will also apply if and to the extent that the shipment is made using our own means of transport. If acceptance is required by law or contractually agreed, the risk of accidental loss and accidental deterioration will pass to the Customer as soon as the consignment is under the Customer's control, but no later than upon acceptance. If the shipment is delayed due to the fault of the Customer or due to the Customer's failure to cooperate, the risk of accidental loss or accidental deterioration will pass to the Customer as soon as the Customer is in default of acceptance. In the event of such delay, we will be entitled to store the consignment at the Customer's risk and, after a grace period of one month, to demand compensation for the resulting damage, in particular storage costs. In the case of payment in advance, we will charge a flat-rate compensation of 0.25% of the net invoice amount for each full week and in other cases 0.5% of the net invoice amount for each full week of the delay in acceptance. Proof of greater damage and our legal rights remain unaffected. However, the flat-rate compensation is to be offset against further payment claims. The Customer will be permitted to prove that we have not suffered any damage at all or that the damage is significantly less than the aforementioned lump sum. The Customer's shipping instructions are only binding if they have been expressly agreed. Additional costs for accelerated shipment requested by the Customer in deviation from the original agreement or for a different type of shipment or the use of other means of transport will be charged to the Customer. We are entitled to make partial deliveries and, with appropriate prior information, also to make early deliveries, unless a partial delivery or early delivery is unreasonable for the Customer.
12. Acceptance test certificates according to DIN-EN 10204-3.1.B will be charged in the amount of €50.00.

Warranty

13. Production-related over- or under-deliveries of up to 5% of the ordered order volume do not constitute a defect.
14. We are only bound to provide Deliverables of average type and quality. Quality characteristics of samples or specimens do not constitute objective requirements for Deliverables within the meaning of Section 434(3) BGB, unless expressly agreed otherwise in writing. We do not provide any quality or durability guarantee.

15. If our Deliverables correspond to the quality agreed between us and the Customer, the Deliverables will also comply with the contract and be free of defects if they do not meet objective requirements within the meaning of Section 434(3) BGB.
16. Claims due to material defects in our Deliverables presuppose that the Customer has properly fulfilled its obligation to inspect and provide notice of defects. Obvious material defects must be notified to us in writing without delay, but no later than within three working days of delivery, hidden material defects without delay, but at the latest within three working days after discovery of the material defect. This clause 16 does not apply to contracts for work and services. ⁱ
17. If our Deliverables are modified, processed, treated, redesigned or if maintenance or installation instructions are not complied with, the Customer will have no claims for defects for any consequences resulting therefrom. If our Deliverables are manufactured according to design documents received from the Customer, we will not be liable for defects attributable to these design documents. If claims are asserted against us under liability law by third parties due to damage which is not attributable to our area of production but in the area attributable to the Customer, the Customer will be obliged, insofar as it is at fault, to indemnify us against such claims.
18. In the event of defects in our Deliverables, we will be entitled and obliged, at our discretion, to remedy the defect or to provide a defect-free Deliverable. In the case of seller recourse, the Customer is obliged, in deviation from Section 445a(2) BGB, to give us the opportunity to remedy the defect within the period set for the Customer by its customer. The setting of a deadline is only dispensable if the setting of a deadline in accordance with Section 445a(2) BGB is already dispensable in the relationship between the Customer and its buyer, so that the Customer cannot give us the opportunity for subsequent performance. If subsequent performance fails, the Customer is entitled to withdraw from the contract. The right to a price reduction is excluded. Claims for damages due to defects and due to breach of the duty of subsequent performance will be governed by Clause 24.
19. The limitation period for claims and rights due to defects in a Deliverable is one year from the statutory commencement of the limitation period. Deviating from this, the statutory limitation period will apply in the case of Section 438(1) no. 1 a) (right *in rem* of a third party) and b) (right entered in the land register), Section 438(1) no. 2 BGB, 634a(1) no. 2 BGB (building; an object which has been used for a building in accordance with its customary use and has caused its defectiveness or planning/supervision services for a building), in the case of recourse claims pursuant to Section 445b BGB as well as in the case of fraudulent intent. The statutory limitation period will also apply to claims for damages based on liability for intent or gross negligence, culpable injury to life, limb or health or under the German Product Liability Act (*Produkthaftungsgesetz*).

Transfer of ownership and reservation of ownership

20. Deliverables will remain our property until full payment of all claims to which we are entitled from the business relationship, including future claims (irrespective of the legal grounds, i.e. also including any claims from bills of exchange as well as claims acquired from third parties). In the case of an open account, our rights of retention of title will apply as security for the claim or after balancing of the respective balance claim. In the event of combining, blending, mixing or processing our Deliverable (with other Deliverables), we will be entitled to co-ownership of the new item in the amount corresponding to the ratio of the value of our Deliverable to the other combined, blended or mixed items. Any processing or treatment in accordance with Section 950 BGB will be carried out for us as a manufacturer without any obligation on our part arising therefrom. In the event of a conflict between this clause with clauses of the suppliers of other individual parts used, the processing will be carried out jointly for all and our co-ownership share will be based on the ratio of the value of our Deliverable to the others. Safekeeping on the part of the Customer will be free of charge in all cases. The value of our Deliverable will be determined by our price (invoice price including VAT and without any discount). Until the settlement of all payment claims to which we are entitled against the Customer from the business relationship, an exploitation or transfer by way of security of the Deliverable supplied by us or under our co-ownership (the "**Reserved Goods**", i.e. goods subject to retention of title) is prohibited, unless the Customer has acquired the Reserved Goods from us for the purpose of resale. In this case, the Customer is entitled to resell the Reserved Goods in its own name within the scope of proper business operations, provided that the claim arising from the resale is assignable.
21. In the event of a resale of the Reserved Goods, the Customer will assign to us the claims resulting from the resale in the amount of the value of the Reserved Goods with all ancillary rights. This will also apply to cases in which a resale was not permissible in accordance with the aforementioned restrictions. Claims resulting from the resale are the claims of the Customer against its customers from a resale or from contracts for work and services or contracts for work and materials. We accept the assignment. The value of our Reserved Goods will be determined by our delivery price (invoice price including value added tax without any discount). The Customer is revocably authorised to collect on the claims even after assignment.
22. We will be entitled to revoke the permission to resell and/or the authorisation to collect if a) the Customer is in default with payments arising from the business relationship; b) the Customer has disposed of the Reserved Goods outside the ordinary course of business; or c) after conclusion of the contract, a significant deterioration in the Customer's financial circumstances becomes apparent as a result of which one of our claims is jeopardised, in particular in the event of the cessation of payments or an application to open insolvency proceedings over the Customer's assets. In the event that collection authorisation is revoked, the Customer will, at our request, disclose to us the assigned claims and their debtors together with their addresses, provide all information necessary for collection, hand over the relevant documents and notify the debtor of the assignment. We are authorised to notify the third-party debtor of the assignment of the claim on behalf of the Customer.
23. We undertake to release the security to which we are entitled at the Customer's request insofar as the value of the security exceeds the claims to be secured by more than 10% in total.

Liability

24. Claims for damages and reimbursement of expenses on the part of the Customer, irrespective of the legal grounds, are excluded. The aforementioned exclusion of liability will not apply:
- in the event of liability under the German Product Liability Act;
 - in cases of intent or gross negligence;
 - in the event of culpable injury to life, limb or health;
 - for claims pursuant to Section 439(3) BGB and for claims pursuant to Section 445a(1) BGB;
 - in the event of a culpable breach of material contractual obligations, i.e. obligations the fulfilment of which is a prerequisite for the proper performance of the contract and the observance of which the Customer regularly relies on and may rely on. Liability for a breach of material contractual obligations is, however, limited to compensation for the foreseeable damage typical for the contract, unless we are liable on the basis of intent or gross negligence, injury to life, limb or health or under the German Product Liability Act.

Insofar as our liability is excluded or limited in accordance with the above provisions, this will also apply to the corresponding personal liability of our employees, vicarious agents and legal representatives.

A change in the burden of proof to the detriment of the Customer is not associated with the aforementioned provisions.

For harm caused by a delay, the provision contained in clause 10 will take precedence over the aforementioned provisions.

Industrial property rights

25. If our Deliverables are manufactured or provided according to drawings, illustrations, specifications or other information provided by the Customer, the Customer will be obliged to ensure that no industrial property rights and copyrights (the "**Industrial Property Rights**") of third parties are infringed by manufacture and delivery. In this respect, we do not assume any liability for our Deliverables being free of third-party Industrial Property Rights and are not obliged to check the legal situation. Claims for damages on the part of the Customer are excluded in such case. If, in this case, third parties prohibit us from manufacturing or delivering by invoking the Industrial Property Rights to which they are entitled, we will be entitled to refuse manufacture or delivery. The Customer will compensate us for harm or expenses incurred by us as a result of the culpable infringement of Industrial Property Rights by the Customer and will indemnify us against claims by third parties.

Foreign trade law

26. The fulfilment of a contract with the Customer is subject to the proviso that there are no obstacles to fulfilment on the basis of national or international regulations applicable to foreign trade law and no embargos and/or other sanctions.

Delivery and transport conditions

27. We deliver – and all prices shall be based on this accordingly – "FCA" SIMONA Werke Deutschland inclusive of standard packaging, plus value-added tax at the respective statutory rate, if applicable, unless expressly agreed otherwise in individual cases. Costs related to customs, import and other ancillary charges will be borne by the Customer. For orders with a net invoice value of less than €250, we will invoice a surcharge for small quantities in the amount of €90 net.
28. If, in deviation from clause 27, we have agreed with the Customer on delivery to the Customer or to another location, delivery will be made in each case to a loading point which is freely accessible by road for a truck. For Deliverables supplied to the Customer or to another agreed location, we charge a percentage surcharge of up to 1.5% on the net invoice value for flat-rate freight/packaging/toll costs, which is shown separately on the offer, the order confirmation and the invoice.
- For Deliverables supplied to the Customer or to another agreed location within Germany, the following conditions apply in addition to the flat-rate freight/packaging/toll charges: For net invoice values between €1,500 and €3,000, we charge an additional flat rate freight charge of €120, for net invoice values between €500 and €1,499, the additional flat rate freight charge is €180. For deliveries with a net invoice value of less than €500, we will invoice the Customer in full for the freight costs incurred; in this case the flat rate (packaging/toll) will be 1.5% of the net invoice value. For net invoice values greater than €3,000, no additional flat-rate freight charge will apply.
29. In deviation from clause 27 and clause 28, we deliver pipes up to d 630 mm, lengths up to 6 m from €5,000, – net invoice value per consignment free delivery within mainland Germany excluding islands, free and passable road for trucks – 40 to, without unloading. For the delivery of pipes greater than d 630 mm and delivery lengths greater than 6 m or with a net invoice value of less than €5,000, customised fittings, customised components, shafts and all other deliveries to the Customer or to another agreed location, clause 28 will apply.
30. The transfer of risk will be governed by clause 11.
31. Packaging waste generated within the scope of the contractual relationship will be properly disposed of by the Customer in the form of preparation for reuse or recycling.

Other

32. The Incoterms 2020 will apply to the interpretation of trade terms.
33. The place of performance for all Deliverables and payments and other obligations including subsequent performance is

55606 Kirn. If the Customer is a merchant, a legal entity under public law or a special fund under public law or if the Customer has no general place of jurisdiction in Germany, the courts at our place of business (55606 Kirn) will have local jurisdiction for all claims arising from the business relationship. However, we remain entitled to sue the Customer at its general place of jurisdiction or at any other competent court.

34. The contractual relationship will be governed by German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention/CISG).
35. Should any provision of these STCs or the contract be invalid in whole or in part, this will not affect the validity of the provision(s) or the contract in other respects.

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