

Offer

Yes, please send me information about new products and services in the form of

- Email
- SMS & Instant Messenger
- Personal advertisements

The enclosed Data Protection Declaration, the enclosed Framework Agreement on Processing According to GDPR, the Technical Organizational Standard Measures (<http://www.simple-sms.com/tom/>) and the enclosed General Terms of Business, including the Data Protection Declaration (<http://www.simple-sms.com/general-terms-and-conditions/>), shall apply.

Customer		Data processor	
Customer number:			
Company:		Company:	Simple SMS GmbH
Name:			
Title:			
Address:		Address:	Doktor-Schauer-Straße 26 4600 Wels, Austria
Telephone:		Telephone:	+43 7242 252 080-20
Email:		Email:	datenschutz@simplesms.at

Customer
Place, Date

SIMPLE
Place, Date

Customer
Order issued

SIMPLE
Order confirmed

Data Protection Declaration

of Simple SMS GmbH, hereafter referred to as SIMPLE.

1. Data protection

1.1. Data protection by SIMPLE. The processing of personal data of the Customer or its affected employees by SIMPLE for the purposes of fulfilling the agreement takes place on the basis of the voluntary permission of the Customer (e.g. for special categories of personal data), the existing contractual relationships and statutory regulations.

There is no obligation to grant permission (e.g. for special categories of personal data) or to conclude the agreement. However, in the event that permission is not granted or the agreement is not concluded, the order cannot be accepted.

1.2. Further processing. SIMPLE will perform further processing of the data in a manner in accordance with the objective of fulfilling the agreement for the purpose of direct marketing in forms that do not require permission, such as via addressed sending of advertising by physical post.

Further processing for the purpose of direct marketing in forms that require permission, such as the electronic sending of advertising or displaying personalized advertisements shall take place only on the basis of additional voluntary permission by the Customer. No obligation to grant this permission exists. However, if the permission is not granted, the Customer will not receive any advertising in forms that require permission.

1.3. Sharing. All data is subject to the agreed and statutory obligation of confidentiality and the protection of personal data. Apart from sharing with typical recipients in the course of doing business such as banks, tax advisors, attorneys, shipping service providers, etc., sharing of the customer's data shall take place only in compliance with the law and/or as agreed with the Customer.

1.4. Worldwide processing. The Customer grants permission for worldwide processing of its data by SIMPLE, in particular for the purpose of remote access by SIMPLE for order-related processing actions, such as in emergencies during business travel.

1.5. Duration of storage. The data of the Customer shall be stored for the purpose of documentation and fulfilling legal obligations up to a maximum of thirty years after conclusion of the orders.

1.6. Right of revocation. The Customer has the right to revoke its permission at any time. In the event that the permission is granted in writing, the revocation may only take place in writing; in the case of permission for the receipt of electronic advertising, this can also take place by clicking on the unsubscribe link. In this case, the processing will be halted, insofar as no other legal basis for processing exists. The legality of the data processing up to the time of revocation remains unaffected by the revocation.

1.7. Right of refusal. The Customer has the right to refuse processing of its personal data for the purpose of direct advertising. In the event of refusal, your personal data will no longer be processed for the purpose of direct advertising.

1.8. Rights of affected parties. The Customer or its affected employees have the right of information, correction and deletion of their personal data, the right of restriction of the data processing, the right of data transferability and the right to lodge a complaint with the data protection authority (Österreichische Datenschutzbehörde, Wickenburggasse 8, 1080 Vienna, telephone: +43 1 531 15 - 202525, email: dsb@dsb.gv.at).

2. Final provisions.

2.1. General Terms of Business. The General Terms of Business of SIMPLE apply.

Framework Agreement for Order Processing

of Simple SMS GmbH, hereafter referred to as SIMPLE.

1. Order processing.

1.1. Scope. In the event that SIMPLE is to be qualified as processor in relation to the Customer under data protection law, this framework agreement automatically enters into effect.

1.2. Processing, data, affected parties. The subject (e.g. newsletter mailing), purpose (e.g. sending of advertising emails), type (with a sending tool) and duration (limited, unlimited) of the processing, the type of personal data (e.g. contact data) and the categories of affected persons (e.g. employees, interested persons, customers, suppliers, website visitors) are defined in the written service description by SIMPLE.

1.3. Standard processing activities. For the event that the processing activities under the agreement

- only contain personal data concerning crime data and criminal convictions or special categories of personal data to a small extent and
- also otherwise pose no or only a low risk and
- technical and organizational standard measures are predefined by SIMPLE for the respective processing activity,

then these are considered standard processing activities.

For the respective standard processing activities, the technical and organizational standard measures apply, which can be found in their current version at <http://www.simple-sms.com/tom/>.

1.4. Special processing activities. For all other processing activities, technical and organizational special measures must be agreed upon to achieve sufficient guarantees of protection of the data.

1.5. Controller. In all cases, the Customer as the controller under data protection law is obligated to specify the content of the processing of personal data under the agreement, the resulting risks, the ordered processing procedures and the required protection level.

1.6. Sufficient guarantees. The Customer has been informed of the technical and organizational measures and has evaluated them and accepted them as sufficient guarantees.

1.7. Evaluation and updating. Insofar as this is agreed in writing, e.g. within the scope of a service contract, SIMPLE must evaluate and update these measures to a reasonable extent. Otherwise, the Customer is responsible for the evaluation and updating of the measures.

The current technical and organizational standard measures can be found on the SIMPLE website. The Customer must evaluate and accept these at appropriate intervals.

In the event of a subsequent update, any further special measures will be provided to the Customer at least once per year for evaluation and acceptance.

2. Special provisions

2.1. Legal compliance. In particular, Article 28 paragraphs 2, 3 and 4 of the GDPR and the references contained therein must be observed.

2.2. Acting under instructions. SIMPLE processes the personal data only under the documented instructions of the controller, including with regard to the transfer of personal data to a Non-Member Country or an international organization, except insofar as it is obligated to do so by the laws of the Union or the Member States, to which SIMPLE is subject; in such a case, SIMPLE will inform the controller of these legal requirements prior to processing, insofar as the law in question does not prohibit such notification due to an important public interest.

2.3. Inclusion of employees. SIMPLE guarantees that the persons authorized to process the personal data are obligated to maintain confidentiality or are subject to an appropriate statutory obligation to confidentiality.

2.4. Technical and organizational measures. SIMPLE takes all measures required according to Article 32 GDPR.

2.5. Rights of affected parties. In consideration of the type of processing, SIMPLE supports the controller with suitable technical and organizational measures, where possible, in complying with the controller's obligation to respond to claims asserting the rights of affected persons delineated in Chapter III GDPR.

2.6. Processing security. In consideration of the type of processing and the information available to it, SIMPLE shall support the controller in compliance with the obligations delineated in Articles 32 to 36 GDPR.

2.7. Conclusion of the processing. After concluding the performance of the processing services, SIMPLE must, at the discretion of the controller, either delete or return all personal data, insofar as no obligation to store the personal data exists under Union law or the law of the Member States.

2.8. Obligation to provide verification and information. SIMPLE shall provide the controller with all required information to verify compliance with the obligations laid out in this article and shall enable and assist with evaluations — including inspections — carried out by the controller or by another inspector on behalf of the controller. SIMPLE shall inform the controller immediately if it is of the opinion that an instruction violates the GDPR or other data protection provisions of the Union or the Member States.

2.9. Subcontractors. SIMPLE is generally authorized to employ further subcontractors as processors in the processing of the personal data. However, the controller must be notified in each individual case of the use of subcontractors in a sufficiently timely fashion to allow the controller the opportunity to object to this. If SIMPLE utilizes the services of a further processor in order to carry out specific processing activities in the name of the controller, this further processor will by way of contract undertake the same data protection obligations as are defined in the contract between the controller and SIMPLE, in which, in particular, sufficient guarantees must be offered that the suitable technical and organizational measures are carried out such that the processing takes place in compliance with the requirements of the GDPR. If the further processor does not comply with its data protection obligations, SIMPLE shall be liable with respect to the controller for the compliance with the obligations of that other processor.

A current list of all subcontractors of SIMPLE can be accessed at any time at <http://www.simple-sms.com/subcontractors>.

3. Final provisions.

3.1. General Terms of Business. The General Terms of Business of SIMPLE apply.

General Terms of Business

of Simple SMS GmbH, hereafter referred to as SIMPLE.

1. Scope

1.1. Contract basis. These General Terms of Business apply only to transactions with businesses.

SIMPLE concludes its contracts and provides its services exclusively on the basis of its written offers as well as the respectively valid version of any service descriptions referenced in the offer (e.g. individual specifications or general product folders), price lists and these General Terms of Business.

Insofar as they are not purely of a project-specific nature (e.g. individual specifications), the service descriptions, price lists and General Terms of Business apply to all legal relationships between SIMPLE and the Customer and therefore automatically form – as of conclusion of the first contract – the basis for all further contracts concluded between SIMPLE and the respective Customer in their most current version, even if no further explicit reference is made to these price lists, product descriptions and General Terms of Business.

1.2. Future changes. The Customer will be informed in writing of any changes to the service descriptions, price lists and General Terms of Business of SIMPLE, and these shall be considered agreed if the Customer does not declare its objection in writing within four weeks.

Once the new agreement enters into effect, the changes to the General Terms of Business will also apply to all other still ongoing contracts.

1.3. Supplemental agreements. All forms of supplemental agreements, both prior to the contract conclusion and during the contract term are only valid if made in writing. This also applies to a deviation from the requirement of the written form.

1.4. Contract components on the part of the Customer. Requirements coming from the Customer with regard to the service content, such as specifications, even when known to SIMPLE, only become a contract component if they have been integrated into the offer by SIMPLE or otherwise explicitly accepted by SIMPLE, such as with references to these requirements.

Legally constitutive elements coming from the Customer, such as general terms of business or contract clauses, even if known by SIMPLE, only become effective if they are accepted by SIMPLE with an additional notice explicitly encompassing these legal texts (e.g.

“General terms of business accepted”). Otherwise, SIMPLE explicitly rejects the inclusion of legally constitutive elements, such as general terms of business or contract clauses.

The mere acceptance of requirements with regard to the service content of the Customer by SIMPLE therefore does not constitute acceptance of legal texts of the Customer, even if these requirements contain legally constitutive elements (such as “Our general terms of business apply.”).

1.5. Procedure in the event of contradictions. In the event of contradictions between the offer, any service descriptions (project-specific documents, general documents), any price lists and the General Terms of Business of SIMPLE, these shall apply in the order listed. The more individual components therefore automatically modify the more general components of the contract.

In the event of contradictions between contract elements from SIMPLE and contract elements of the Customer, all contract elements from SIMPLE take precedence.

1.6. Procedure in the event of ineffectiveness. Should individual provisions of the contract be ineffective or unimplementable, the ineffective provision is to be replaced by an effective provision that comes as close as possible to the economic meaning and purpose of the ineffective provision.

2. Contract conclusion and contract term

2.1. Offer from SIMPLE. The basis for the contract conclusion is the respective offer from SIMPLE to the Customer. The offers from SIMPLE are subject to change and non-binding. If the Customer issues an order, the Customer is bound to this order for two weeks as of its receipt by SIMPLE.

2.2. Offer by the Customer. If the Customer issues an unsolicited order to SIMPLE by way of exception, in other words without a preceding offer from SIMPLE (e.g. in the case of supplemental orders within ongoing business relationships), the Customer is also bound to this for two weeks as of its receipt by SIMPLE.

2.3. Acceptance by SIMPLE. The contract therefore only comes into existence after written acceptance of the order by SIMPLE. The acceptance must take place in written form, e.g. via order confirmation, unless SIMPLE indicates that it has accepted the order by means of, e.g., taking actions based on the order that are apparent to the Customer.

A mere confirmation of receipt of the order, e.g. in the form of a receipt confirmation in a web shop, does not in itself represent acceptance of the order.

2.4. Contract term, termination. Contracts with unlimited term can be terminated in compliance with any minimum term and in compliance with 14 days notice prior to the start of the next billing period.

After expiration of the agreed minimum contract term, the contract is automatically extended by 12 months.

2.5. Types of contract discontinuance. The contract ends through termination (one-sided declaration of intent, contingent upon receipt, in accordance with the provisions of these General Terms of Business or the individual offer), blocking (one-sided blocking of the account by SIMPLE in the event of illegal use by the Customer of services offered by SIMPLE) or deletion after 14-day advance notice (no log-in or sending of SMS messages over a period of more than 12 months).

No residual credit will be reimbursed; the credit must be used up by the Customer in advance.

3. Scope of service, order processing and cooperation obligations of the Customer

3.1. Place of performance. The place of performance is the registered office of SIMPLE.

3.2. Scope of service. The scope of the services to be provided arises from the written service description from SIMPLE that results from the totality of all contract components. Information from other sources and not included in the offer (e.g. presentation documents, websites or catalogs) are not components of the service description.

The Customer is obligated to inspect the service description for agreement with its needs and with regard to completeness. After issuing of the order, changes to the service description are only possible via mutual agreement and can lead in particular to changes to prices, periods and deadlines.

3.3. Proper performance. Insofar as the written service description does not specify otherwise, SIMPLE owes

proper performance according to the generally accepted principles of technology. Within the framework of the written service description, SIMPLE has freedom of design with regard to the execution of the services, insofar as multiple proper possibilities exist for execution.

3.4. Replaceable services. Insofar as this is in compliance with the objectives of the order, SIMPLE is entitled to deviate from the service description and replace services with other equivalent services.

3.5. Third party services. SIMPLE is entitled to perform the services itself or to make use of a capable third party for performance of the services (third party service).

3.6. Agreed third party services. In the event that the performance of a service as a third party service has been agreed upon with the Customer (agreed third party service), SIMPLE is entitled, at its discretion, to order the third party service either in its own name or in the name of the Customer as well as at its own expense or at the expense of the Customer. Regardless of the selected form of contracting, the respective contractor for agreed third services is not acting as an agent of SIMPLE. SIMPLE is therefore liable only for any fault in selecting the contractor. If the third party is engaged at the request of the Customer, then SIMPLE bears no liability whatsoever for the third party.

In the event of agreed third party services, if no special service descriptions or contract contents were agreed upon between SIMPLE and the Customer with regard to these third party services, then the service description of the third party applies to the Customer in the event of contracting of the third party in the name of SIMPLE, while the entire contents of the contract of the third party applies to the Customer in the event of contracting of the third party in the name of the Customer.

SIMPLE is not obligated to evaluate the contract conditions of third parties who provide agreed third party services. This is the responsibility of the Customer.

The Customer is aware that many third party services can only be taken advantage of under standardized conditions that cannot be influenced, that foreign law and places of jurisdiction often apply and that such services may be subject to unforeseeable and unavoidable changes.

SIMPLE need only evaluate the service description for suitability. If the third party is engaged at the request of the Customer, then the Customer must evaluate the service description itself.

Insofar as the term of agreed third party services, as established by agreement, extends beyond the contract between SIMPLE and the Customer in the case of third party services contracted in the name of or at the expense of SIMPLE, the Customer must step in after the end of the term of the contract between SIMPLE and the Customer. This expressly applies also in the event of a termination of the contract with good cause.

3.7. Splittable services. In the case of splittable services, SIMPLE is entitled to make partial deliveries.

3.8. Deadlines and periods. Deadlines or periods indicated by SIMPLE for the delivery of services are non-binding unless they have been expressly designated as binding. In particular, the on-time sending of SMS messages cannot be guaranteed.

3.9. Unforeseeable or unavoidable events. In the event of unforeseeable or unavoidable events – in particular, tardiness by the Customer in fulfilling its obligations as well as delays occurring at SIMPLE or its contractors that were unforeseeable and unavoidable by SIMPLE – the periods or deadlines shall be extended by the duration of the unforeseeable or unavoidable

event plus the duration of the organizational measures required in such an event. SIMPLE must inform the Customer of this in writing.

3.10. Cooperation obligations of the Customer.

The Customer must provide to SIMPLE all information in writing and perform all services that are required for the performance of the services by SIMPLE immediately, unprompted and in a form suitable for further processing. If the need for information to be provided or services performed by the Customer becomes known only during the performance of the services by SIMPLE, the Customer must make good on this obligation without delay.

The Customer must itself inspect the information and services it provides with regard to suitability, correctness and legality.

The Customer is liable for all damages arising from faulty, late or lacking cooperation by the Customer including, in particular, the additional expense arising for SIMPLE thereby. If SIMPLE cannot perform the services in compliance with the agreement due to faulty, late or lacking cooperation by the Customer, SIMPLE is entitled, without prejudice to other rights, to interrupt the performance of the services, take up other services for other customers and continue the performance of the services for the Customer only after completion of these other services and insofar as the Customer has by then complied with its cooperation obligations, in which case all deadlines and periods are extended accordingly.

If SIMPLE is subjected to claims by third parties due to a legal violation in connection with information or services provided by the Customer, the Customer must also indemnify SIMPLE and support it in defending against any claims by third parties.

3.11. Interventions by the Customer. If the Customer intervenes unilaterally without corresponding agreement in the services of SIMPLE and makes changes, the Customer shall be liable for the resulting additional expenses of SIMPLE, e.g. for checking, documentation, fault identification, fault assignment, fault correction.

3.12. Inspection obligations of SIMPLE. SIMPLE is liable only that the services created by SIMPLE are not intrinsically in violation of the law.

However, SIMPLE has no obligation to carry out a legal evaluation of the services created by SIMPLE with regard to any violation of the rights of third parties or any legal violations that may arise from the type of use planned by the Customer (e.g. sending of SMS messages with illegal content created by the Customer). The Customer must itself carry out these legal evaluations, in particular with respect to administrative, criminal, competition, trademark, labeling, registered design, copyright, privacy and data protection law or to have such evaluations carried out by appropriately trained legal experts.

The service of SIMPLE is considered to have been performed properly and in accordance with the agreement upon sending of the SMS message.

3.13. Reference. SIMPLE is entitled to refer in all services created by SIMPLE for the Customer to SIMPLE and, if applicable, to another originator and – subject to potential revocation at any time – to include in SIMPLE's own advertising such data as the name and logo of the Customer, a project description, project depictions and the like as reference or as indication of the business relationship with the Customer without any corresponding compensation for the Customer.

4. SMS gateway

4.1. Legality of the messages. The Customer must comply with the applicable laws with regard to the content of its messages; otherwise, SIMPLE reserves the right to block the SMS account of the Customer. Any residual credit will not be reimbursed.

4.2. Sender identification. The Customer is not entitled to falsify or suppress the sender identification.

4.3. Quantity. SMS messages of the Customer with the same content to multiple recipients will be billed according to the number of recipients.

4.4. Undeliverable messages. SMS messages that cannot be delivered, for example in the case of an incorrect telephone number, shall nevertheless be invoiced.

4.5. Availability. With the exception of announced maintenance work, an availability of 99.7% as an annual average is targeted for the SMS gateway. Based on the dependence on third parties, such as internet service providers, mobile telephony providers and network operators, no specific availability rate can be guaranteed. For this reason, the sending, timely sending and correct display of the messages cannot be guaranteed. The service provided by SIMPLE is nevertheless considered to have been properly performed.

4.6 Access data. The Customer is obligated to keep the access data, consisting of user name and password, inaccessible to third parties. Sharing with third parties is expressly prohibited. The Customer must indemnify SIMPLE from and against any disadvantages arising from use of the SMS account by third parties for which the Customer is at fault.

4.7. Content such as texts, photos and graphics. Insofar as the services of SIMPLE include the creation of content such as texts, photos and graphics, the offer applies in each case only to a single draft and to minor alterations. Should the draft not satisfy the tastes of the Customer despite professional execution in compliance with the order, the creation of additional drafts will be subject to additional costs.

Insofar as the Customer provides such content, this must take place in digital form and in a quality suitable for further processing.

4.8. Domain registration. Insofar as the services of SIMPLE include the registration of domains in the name of the Customer, this shall take place in each case under the conditions of the respective provider / registrar. In the registration of domains for the Customer, SIMPLE owes only a corresponding effort to carry out the registration but not success as this can depend on numerous factors that cannot be influenced by SIMPLE.

4.9. Hosting. Insofar as the services of SIMPLE include the hosting of programs or data, SIMPLE does not owe any specific reliability or data security, insofar as no reliability or data security level has been specifically agreed. An availability of 99% with respect to the contract year is targeted.

4.10. Search engine optimization. Insofar as the services of SIMPLE include measures in the area of search engine optimization, SIMPLE owes only a proper performance suitable for achieving the agreed goals and is not liable for the achievement of specific goals.

4.11. Service and maintenance. Insofar as no service or maintenance services or the like have been agreed, these are also not owed. Insofar as the services of SIMPLE include service and maintenance services, SIMPLE does not owe any specific response time, insofar as no specific response times have been specifically agreed.

4.12. Data backup. The Customer is responsible for the backup and security of its data, in particular prior to installation work, maintenance work or other work by SIMPLE.

4.13. Remote monitoring. Insofar as SIMPLE uses systems for remote monitoring of the functionality of the systems of the Customer without invoicing this service, SIMPLE is not liable for monitoring the functionality of the systems.

4.14. Integration or use of third party components and services. Insofar as the services of SIMPLE include the integration or use of components, services, platforms or similar offerings of third parties, SIMPLE owes only the performance within the scope at the time of the offer presentation. All subsequent changes are not part of the agreed scope of services; rather, they will be offered, ordered and invoiced separately.

In addition, SIMPLE owes only proper performance suitable for achieving the agreed goals and is not liable for the achievement of specific goals as many platforms often make arbitrary changes or restrictions to the usage possibilities.

4.15. App programming. Insofar as the services of SIMPLE include the programming of apps, SIMPLE owes only the performance based on the rules of the app stores known at the time of the offer presentation or any rule changes of the app stores already planned at the time of offer presentation for the offered time of completion. All subsequent changes are not part of the agreed scope of services; rather, they will be offered, ordered and invoiced separately.

4.16. App platform compatibility: Insofar as the services of SIMPLE include the creation of apps for platforms, SIMPLE shall, insofar as this is possible based on the technology used, strive in the case of a native app for a specific platform to ensure compatibility with the two most widespread versions of this platform at the time of offer presentation, or, in the case of a non-native app, compatibility with the two most widespread platforms at the time of the offer presentation, once again targeting the two most widespread versions of these platforms.

4.17. Cross-browser compatibility. Insofar as the services of SIMPLE include the creation of web applications, SIMPLE shall, insofar as this is possible based on the technology used, strive to ensure compatibility with those web browser versions that have a market share of at least 5% at the time at which execution of the order begins.

4.18. Printing. Insofar as the services of SIMPLE include the creation of printed materials, the Customer must supply printing data that satisfies the requirements of SIMPLE.

The Customer must accept technically necessary and industry-typical deviations in the color and material, insofar as no exact requirements were agreed. In the event that exact requirements are agreed, the additional costs necessary to achieve these requirements must be paid by the Customer.

Over- and under-deliveries of up to 5% for the simplest work and up to 10% for more difficult work are permitted and will be invoiced proportionally on the basis of the continued print run. For provided material, the tolerance rates of the supplier industry will be additionally taken into account.

With regard to spelling in the German language, the most recent edition of Duden ("neue Rechtschreibung") shall apply. Proofs will be presented to the Customer only upon agreement. However, SIMPLE is entitled to present proofs even without agreement.

5. Compensation

5.1. Prices. All prices are understood as ex registered office or place of business of SIMPLE in euros, excluding VAT in the statutory amount. The prices for sending an SMS arise from

the valid price information online in the SMS account at the time of the order.

5.2. Additional services. All services of SIMPLE that are not expressly compensated by the agreed fee, such as, in particular, additional services agreed upon later, shall be compensated separately.

5.3. Prepaid account. The SMS account will be loaded with a prepaid procedure. After receipt of payment, the ordered number of SMS messages will be credited to the SMS account. Upon the initial order, the account will be enabled only after receipt of payment for the order.

5.4. Partial services. SIMPLE is entitled to invoice partial services.

5.5. Unjustified withdrawal. In the event that the Customer withdraws from its order – in whole or in part – in the absence of obvious gross negligence or intentional fault on the part of SIMPLE, the Customer nevertheless still owes the agreed fee to SIMPLE. In this case, SIMPLE need only offset savings from as yet unperformed purchases of goods and third party services. The same applies if SIMPLE withdraws from the contract for good reason that lies within the sphere of responsibility of the Customer.

6. Payment

6.1. Due date and payability. The invoices from SIMPLE are due in the net value without any deductions as of the invoice date and must be paid immediately upon receipt of the invoice, unless another agreement has been established in writing. The performance of services takes place only after complete payment.

6.2. Electronic invoicing. The invoicing takes place via email to the specified email address, and the Customer expressly declares its acceptance of this procedure. A (free of charge) postal invoice delivery shall take place exclusively upon the express request of the Customer.

6.3. Prohibition of offsetting and retention of payment. Even in the case of connected demands, the Customer is not entitled to offset its own claims against the claims of SIMPLE, unless the claim of the Customer has been accepted by SIMPLE in writing or ordered by a court of law. A right of retention in favor of the Customer is excluded.

6.4. Late payment. In the event of late payment, the valid statutory interest rates between business, however no less than 12% per year, are to be paid. The Customer must bear all costs and expenses connected with collection of the demand, such as, in particular, collection fees or other costs necessary for related legal action. A flat rate fee in the amount of EUR 5.00 will be invoiced for each instance of dunning.

6.5. Continued late payment. After unsuccessful dunning of the Customer with establishment of an extended deadline of at least 7 days, SIMPLE can demand immediate payment of all services and partial services already performed, including within the scope of other contracts concluded with the Customer, and temporarily cease performance of as yet unpaid services until full payment of all outstanding fee demands.

After another week has elapsed without payment, SIMPLE is entitled to withdraw from all contracts and demand compensation for lost profit in addition to payment of the already performed services. SIMPLE is thereby also entitled to cease already paid services if the ceasing of such services would result in savings. In this case, SIMPLE is entitled to offset the savings against the outstanding demands.

Independent of these options, SIMPLE can naturally also lodge a legal complaint in court immediately after elapsing of the due date.

7. Data protection, confidentiality and non-solicitation agreement.

7.1. Data protection by SIMPLE. The Data Protection Declaration of SIMPLE applies.

7.2. Data protection by the Customer. The processing of personal data of SIMPLE and its affected employees by the Customer for the purpose of processing the contract takes place on the basis of the existing contractual relationship as well as statutory regulations.

There is no obligation to conclude the contract. However, in the event that the contract is not concluded, the order cannot be issued.

Further processing of the data by the Customer for other purposes is not permitted.

All data is subject to the agreed and statutory obligation of confidentiality and the protection of personal data. Apart from sharing with recipients required for execution of the contract such as banks, tax advisors, attorneys, shipping service providers, etc., sharing of the data of SIMPLE is only permitted based on statutory principles and/or with the permission of SIMPLE.

The Customer is entitled to store the data of SIMPLE for the purpose of documentation and fulfilling legal obligations up to a maximum of thirty years after conclusion of the orders.

7.3. Confidentiality. The Customer must keep confidential all information it possesses concerning SIMPLE, its projects and its other customers that is worthy of confidentiality and also may not use this information for its own purposes. This agreement shall also remain intact even beyond any end to the contract. In the event of a violation of this obligation, a fixed penalty in the amount of EUR 50,000.00 per violation must be paid.

7.4. Non-solicitation agreement. The Customer may not solicit any other customers or employees from SIMPLE. This agreement shall remain intact for three years beyond any end to the contract. In the event of a violation of this obligation, a fixed penalty in the amount of EUR 50,000.00 per violation must be paid.

8. Liability

8.1. Obligation to lodge complaints. Upon request of an interim acceptance by SIMPLE, after delivery and after the start of live operations, the Customer must in all cases accept ("approve") the services delivered or to be approved within no later than 14 days or lodge a complaint in writing concerning any defects or damages.

In the event of an interim acceptance, continued work by SIMPLE can take place only after performance of the interim acceptance / "approval". Should no acceptance or complaint take place in time, the services are automatically considered to be accepted by the Customer.

Hidden defects or damages that arise only after the elapsing of 14 days, however within open warranty, guarantee or damage compensation periods, must also be reported in a complaint by the customer within 14 days of discovery.

All defects or damages that the Customer should have identified with due diligence and corresponding inspection are subject to the obligation to lodge complaints. Due to the special significance of interim acceptances to avoid defects which then continue through all subsequent stages of performance, the inspection in the case of interim acceptances must correspond to a final, detailed and especially careful inspection. Upon delivery, the inspection must correspond to an initial, albeit

precise inspection. Due to the special significance of the starting of live operation in order to avoid damages during operation, the inspection upon the start of live operation must in turn correspond to a final, detailed and especially careful inspection. The complaint of the Customer must include a detailed and traceable description of the defect or damages. In the event of defects or damages that do not occur consistently, the exact times and conditions of the occurrence of the defect or damages must be described. The Customer must enable all measures on the part of SIMPLE required for investigation and correction of the defects or damages.

If no complaint concerning the defects is lodged by the Customer in a timely fashion, the assertion by the Customer of warranty, guarantee and damage compensation claims as well as claims on the basis of other liability rules, in particular the right of recourse, is excluded.

8.2. Warranty. Insofar as the products sold by SIMPLE have a manufacturer's warranty, this manufacturer's warranty must be asserted directly with the manufacturers. In the case of a warranty assurance by SIMPLE, the deadline for assertion of the warranty claim begins upon delivery. The warranty claim is subject to a limitation period of six months as of the Customer's knowledge of the occurrence of the warranty instance, however, no later than upon expiration of the warranty period.

If the content of the warranty is not clear from the warranty assurance, then SIMPLE is liable for the typically presumed properties.

8.3. Guarantee. The right to guarantee and the right to guarantee recourse are limited to six months from delivery.

The Customer is entitled to remedy or replacement or, for insignificant defects, also to a price reduction or, for significant defects, also to conversion, at SIMPLE's discretion.

Upon correction of the defect, the guarantee period is not extended nor does it begin again for the portion of the service affected by the correction of the defect.

8.4. Errors, reduction by more than half. The right of contestation due to error or due to reduction by more than half is excluded.

8.5. Compensation for damages and other claims. Claims by the Customer for damage compensation based on other liability rules, in particular claims for recourse, are excluded insofar as these are not based on obvious gross negligence or intent by SIMPLE. Such claims by the Customer expire six months after knowledge of the damage and the damaging party, however no later than after three years as of the damaging act. This exclusion of liability does not apply to claims due to personal injuries and due to other non-optional liability regulations.

8.6. Burden of proof. A reversal of the burden of proof to the disadvantage of SIMPLE is excluded. In particular, the existence of the defect at the time of delivery, the time of the discovery of the defect, the timeliness of the defect complaint and the existence and degree of culpability must be proven by the Customer.

8.7. Extension period. In the event of contract fulfillment that does not comply with the agreement, the Customer is only entitled to assert claims after it has granted SIMPLE a reasonable extension period of no less than fourteen days in writing. This also applies to the dissolving of the contract with good cause.

8.8. Withdrawal from the contract. A withdrawal from the contract by the Customer must be declared in writing via registered letter.

9. Final provisions

9.1. Applicable law. Exclusively Austrian law applies to all legal relationships and affairs between the Customer and SIMPLE, with the exclusion of international principles on conflicts of law. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.

9.2. Place of jurisdiction. The place of jurisdiction for all disputes between SIMPLE and the Customer is agreed as the materially competent Austrian court in Salzburg. However, SIMPLE is also entitled to file suit in the general place of jurisdiction of SIMPLE and of the Customer.