

SIEMENS

Siemens
SCM STAR Portal
Terms of Use for
Suppliers

Version 1
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[siemens.com/SCM STAR](https://www.siemens.com/SCM STAR)

Terms of Use of the SIEMENS SCM STAR Portal for SIEMENS Suppliers

1 Scope

- 1.1 SIEMENS Aktiengesellschaft (hereinafter "SIEMENS") operates through a third-party provider the internet-based SIEMENS SCM STAR Portal (hereinafter "the Portal"). With the Portal, SIEMENS provides a platform on which suppliers and ordering entities administer supplier and contract information and electronic procurement processes. These Terms of Use regulate use of the Portal by Suppliers.
- 1.2 By registering in the Portal, the Supplier agrees to be bound by these Terms of Use. In case of conflicts between separate agreements in writing between the Supplier and SIEMENS and these Terms of use, the separate agreements shall prevail.
- 1.3 SIEMENS reserves the right to modify the services offered via the Portal or to discontinue the offering of the services at any time.

2 Registration and password

- 2.1 Access to and use of the Portal is restricted to invited and registered Suppliers.
- 2.2 When registering the Supplier must provide full and accurate information. Should such information change over time, Supplier shall update the data directly in the Portal.
- 2.3 Upon completion of the registration process and successful activation of Supplier's account, the Supplier will receive confirmation of registration by e-mail.
- 2.4 The access to the Portal is protected by a username and a password. On first log-in, the Supplier shall change the initial password provided by SIEMENS into a reasonably secure password known only to the Supplier.
- 2.5 The Supplier shall ensure that the log-in data are not accessible to third parties and shall be liable for all transaction and other activities carried out using the log-in data, unless Supplier can prove that the log-in data did not become known to third parties through any fault of its own. After each session, the user shall log off from the password-protected area. Should the Supplier become aware that third parties have gained access to or are misusing the log-in data, it is obliged to inform SIEMENS without delay by e-mail to s2c_support.scm@siemens.com.
- 2.6 SIEMENS may suspend access to the password-protected area with the Supplier's log-in data without prior notice and without giving any reason, e.g. if SIEMENS has reasons to believe that the log-in data may be misused by third-parties or if the Supplier has been added to a sanctioned party list. A reactivation may require a separate request by Supplier to SIEMENS or a re-registration.
- 2.7 The Supplier shall ensure that it is capable of receiving e-mails under the e-mail address specified during registration and furthermore shall ensure that a proper mobile number is maintained for user authentication.

3 Rights of use in relation to content, information and documentation

- 3.1 On the Portal, SIEMENS may make available content, information and documentation. Use of this content, information and documentation is subject to these Terms of Use.
- 3.2 SIEMENS grants the Supplier a non-exclusive and non-transferable right to use the content, information and documentation provided on the Portal to the extent agreed, or in the event of no such agreement, to the extent of the purpose intended by SIEMENS when making the same available.
- 3.3 SIEMENS does not grant to the Supplier any license in the Portal or the software used for its operation or any parts thereof, except to use the Portal in accordance with these Terms of Use.
- 3.4 Unless such is permitted by mandatory applicable laws, the Supplier shall not modify the software or related documentation, nor shall it reverse-engineer or decompile the software or separate any part thereof.
- 3.5 Content, information and documentation must not at any time be distributed by the Supplier to third parties, nor may it be made available to third parties in any other way.
- 3.6 Notwithstanding the other provisions of this Section 3 of these Terms of Use, information, brand names and other content of the Portal must not be modified, copied, reproduced, sold, rented out, used, supplemented or otherwise exploited in any way without the prior written consent of SIEMENS.
- 3.7 Except for the rights of use and other rights expressly granted herein, no other rights are granted to the Supplier, especially in (including but not limited to) the company's name or industrial property rights, such as patents, brands or utility models, nor shall any duty to grant such rights be implied.

4 Duties of the Supplier

4.1 While using the Portal, the Supplier shall not:

- provide incorrect information,
- manipulate the outcome of eBiddings or eAuctions (e.g. by providing offers under a false name)
- harm other persons, in particular minors, or infringe their personal rights;
- provide any information which is offensive to public morality or illegal,
- infringe intellectual property or any other proprietary rights or breach any duty or obligation of confidentiality, upload any content containing a virus, malware or any software code which could damage the software or the computer systems of SIEMENS, SIEMENS' subsidiaries, the operator of the Portal or other users;
- submit hyperlinks or content to which the Supplier is not entitled, in particular in cases where such hyperlinks or content infringe confidentiality obligations or are illegal; or
- distribute advertising or unsolicited e-mails (so-called "spam") or hoax warnings, or solicit or request participation in any lottery, pyramid selling, chain letter or similar promotion.

4.2 The Supplier shall at its own expense set up a properly functioning computer configuration and internet access (Microsoft Internet Explorer, Chrome, Firefox), which shall enable it to use the services offered on the Portal. Details of the required configuration may be found on the Portal website.

4.3 The Supplier hereby grants SIEMENS a non-exclusive, royalty-free, world-wide license to use, reproduce, edit, perform and display in full or in part content submitted by Supplier to the Portal or otherwise provided by the Supplier to SIEMENS in connection with the use of the Portal. SIEMENS has the right to sublicense or assign the aforementioned rights to third-party providers and subsidiaries of SIEMENS. The Supplier guarantees that it is authorized to grant to SIEMENS the rights listed in this subsection.

4.4 The Supplier shall ensure the correctness and completeness of the data submitted to the portal and shall update such data on a regular basis. SIEMENS does not assume any responsibility for the content provided by the Supplier. SIEMENS is not obliged to check the content provided by the Supplier to SIEMENS for accuracy. The Supplier shall indemnify and hold harmless SIEMENS against all third-party claims against SIEMENS in connection with the content.

4.5 SIEMENS may suspend access to the Portal at any time if the Supplier breaches the obligations imposed by these Terms of Use and may delete all material and content relating to the breach. Expenses incurred by SIEMENS in so doing may be charged to the Supplier.

5 Hyperlinks and Third Party Content

5.1 The Portal may contain hyperlinks to the web pages of third parties. Third parties are also able to upload content onto the Portal. SIEMENS accepts no liability for the contents of such web pages and third party content and does not make representations to the effect that such web pages or their content are its own, as SIEMENS does not control the information which is uploaded to the Portal or available on hyperlinked web pages and is therefore not responsible for the content and information provided there.

5.2 Supplier's use of such uploaded information and web pages is at Suppliers own risk.

6 Availability, Liability

6.1 SIEMENS does not guarantee the permanent availability of the Portal. Due to the nature of the Internet, the time and quality of the data transmission depends on factors outside of SIEMENS' control. With the current available technology it is not possible to develop and run error-free software and hardware and to exclude all the uncertainties related to the Internet. Moreover, interference may occur as a result of overload of networks, hardware or software problems, and/or other technical problems affecting SIEMENS and/or third parties.

6.2 Insofar as any information, software or documentation is made available at no cost, any liability for defects as to quality or title of the information, software and documentation especially in relation to the correctness or absence of defects or the absence of claims or third party rights or in relation to completeness and/or fitness for purpose are excluded except for cases involving willful misconduct or fraud.

6.3 Any further liability of SIEMENS is excluded unless required by law, e.g. under the Act on Product Liability or in cases of willful misconduct, gross negligence, personal injury or death, failure to meet guaranteed characteristics, fraudulent concealment of a defect or in case of breach of fundamental contractual obligations. Damages in case of breach of fundamental contractual obligations are limited to the contract-typical, foreseeable damage if there is no willful misconduct or gross negligence.

6.4 SIEMENS shall not be responsible for the Supplier's internet access (see subsection 4.2). SIEMENS therefore excludes, insofar as is permitted by law, any liability for disruption to the performance of services under the terms of this agreement, where such disruption is caused by a lack of internet availability or by reduced internet availability.

6.5 Although SIEMENS makes every endeavor to keep the Portal free from viruses, SIEMENS cannot make any guarantee that it is virus-free. The Supplier shall, for its own protection, take the necessary steps to ensure appropriate security measures and shall utilize a virus scanner before downloading any information, software or documentation.

6.6 This Section 6 does not intend nor imply any changes to the burden of proof to the Supplier's disadvantage.

7 Non-disclosure

7.1 When SIEMENS, a subsidiary of SIEMENS, Supplier or another user of the Portal disclose information to each other information marked as "confidential" or marked in a similar manner or obviously confidential by its nature (such information is considered as "Confidential Information"), the receiving party shall use such information only for the purpose for which it has been provided, and shall prevent third parties from gaining access to it, and treat it the same way as its own business secrets (but at least with reasonable care). This confidentiality obligation shall end 5 years after the disclosure of the Confidential Information.

7.2 SIEMENS may disclose Confidential Information to other companies of the Siemens group.

7.3 The above confidentiality obligation does not apply to information:

- a) Which is publicly known;
- b) Which can be shown to have been independently developed by the receiving party;
- c) Which has been acquired from a third party without breach of a confidentiality obligation by such third party;
- d) Which the receiving party is required to reveal by statutory regulations or governmental or court orders for the purpose of complying with such regulations or orders.

8 Compliance with Export Control Regulations

8.1 If the Supplier transfers information, software and documentation provided by SIEMENS or any of its Affiliates to a third party, the Supplier shall comply with all applicable national and international (re-) export control regulations. In any event of such transfer the Supplier shall comply with the (re-) export control regulations of the Federal Republic of Germany, of the European Union and of the United States of America.

8.2 Prior to any such transfer to a third party the Supplier shall in particular check and guarantee by appropriate measures that

- there will be no infringement of an embargo imposed by the European Union, by the United States of America and/ or by the United Nations by such transfer or by provision of other economic resources in connection with information, software and documentation provided by SIEMENS, also considering the limitations of domestic business and prohibitions of by-passing those embargos;
- such information, software and documentation provided by SIEMENS are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;
- -the regulations of all applicable Sanctioned Party Lists of the European Union and the United States of America concerning the trading with entities, persons and organizations listed therein are considered.

8.3 If required to enable authorities or SIEMENS to conduct export control checks, the Supplier, upon request by SIEMENS, shall promptly provide SIEMENS with all information pertaining to the particular end-user, the particular destination and the particular intended use of information, software and documentation provided by SIEMENS, as well as any export control restrictions existing.

8.4 The Supplier shall indemnify and hold harmless SIEMENS and its subsidiaries from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by the Supplier, and the Supplier shall compensate SIEMENS and its subsidiaries for all losses and expenses resulting thereof, unless such noncompliance was not caused by fault of the Supplier. This provision does not imply a change in burden of proof.

8.5 SIEMENS' obligation to fulfill an agreement is subject to the proviso that the fulfillment is not prevented by any impediments arising out of national and international foreign trade and customs requirements or any embargos or other sanctions.

9 Data Privacy

SIEMENS shall comply with applicable laws on data privacy. For information on the collection, processing and use of personal data collected via the Portal please refer to Siemens' Data Privacy Policy accessible on the "tools for suppliers" site and / or on www.siemens.com.

10 Special Conditions for eBiddings and eAuctions

SIEMENS and their subsidiaries may use the Portal in order to conduct electronic biddings and auctions. The carrying out and Supplier's participation in such electronic biddings and auctions shall be governed by the Terms and Conditions for the Participation in Siemens eBiddings and eAuctions attached in the Annex. Such Terms and Conditions form integral part of these Terms of Use.

11 Changes to these Terms of Use

11.1 SIEMENS shall be entitled at any time to amend or update these Terms of Use with reasonable prior notice. Amendments or updates shall be notified to the Supplier in writing, by e-mail or in another appropriate form.

11.2 Should the Supplier not be in agreement with the amendments or update, it shall object in writing within four weeks of receipt of notice. Should the Supplier not object to the amendments within this time-period, the amendments shall be incorporated and shall come into effect as set out in the notice. SIEMENS shall make reference to this right in its notice to the Supplier.

11.3 If amendments or updates to these Terms of Use are required by law, the provision requiring prior notification of the Supplier and the Supplier's right to object shall not apply.

12 Amendments and Supplements, Place of Jurisdiction, Applicable Law

12.1 Any amendment or supplementary agreement requires the written form.

12.2 The place of jurisdiction shall be Munich if the Supplier is a merchant in terms of the German Commercial Code (Handelsgesetzbuch).

12.3 The Portal is intended to comply with the law applicable in Germany. SIEMENS makes no representation that information, software and/or documentation related to the Portal are appropriate or available for viewing or downloading at locations outside of Germany. If Suppliers accesses the Portal from outside of Germany, Supplier is exclusively responsible for compliance with all applicable local laws. Access to the Portal from countries where such content is unlawful is prohibited. In this case and where Supplier seeks to do business with Siemens, the Supplier should contact the Siemens representative for the particular country for country specific business.

12.4 These Terms of Use shall be governed by - and all disputes relating to or in connection with these Terms of Use or their subject matter shall be resolved in accordance with - the laws of Germany, to the exclusion of its conflict of laws rules. The application of the United Nations Convention on Contracts for the International Sales of Goods (CISG) of 11 April 1980 is excluded.

13 Miscellaneous

13.1 SIEMENS reserves the right to subcontract the services it performs under this agreement to third parties.

13.2 SIEMENS may assign this contract with all rights and obligations to an undertaking affiliated to SIEMENS within the meaning of §§15 et seq. of the German Stock Corporations Act.

13.3 Should any provisions of this agreement be or become ineffective or unenforceable in whole or in part, the validity of the remaining provisions shall remain unaffected. The ineffective or unenforceable provision shall be replaced by a corresponding provision which best reflects the intended economic purpose of the ineffective or unenforceable provision.

Annex: Terms and Conditions for the Participation in Siemens eBiddings and eAuctions**1. Scope, Amendments**

- 1.1. These Terms and Conditions shall govern biddings and auctions ("**Events**") that a company of the Siemens group (such company in each individual case "**SIEMENS**") conducts via a specific electronic tool ("**Siemens eSourcing Tool**") operated by a third party ("**Operator**") in order to electronically receive offers from potential contract partners.
- 1.2. The Siemens eSourcing Tool supports different types of Events as further defined in Section 2
- 1.3. SIEMENS may amend or supplement these Terms and Conditions at any time by notifying the Participant before the start of an Event. Participation in an Event after having received such notice shall constitute consent to such amendment or supplement.

2. Definitions of Terms used in the Event Specifics / eAgreement

For the purpose of these Terms and Conditions, the following general definitions shall apply:

- a) An "**eBidding**" is an Event without a direct awarding commitment. This means that SIEMENS is not obliged to award the winner or the winners of the Event a contract for the supply of the Event Goods/Services.
- b) An "**eAuction**" is an Event with a direct awarding commitment. This means that SIEMENS will award the winner or the winners of the Event a contract for the supply of the Event Goods/Services. SIEMENS shall, however, not be obliged to award the winner if the entering into or the fulfilment of a contractual relationship with the winner would be prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.
- c) A "**Starting Price**" may be set by SIEMENS at the start of an event. The system will not accept offers that are higher or lower (depending on the event type) than the Starting Price.
- d) A "**Reserve Price**" may be defined in eAuctions and means the amount or percentage that must be achieved in the Event before SIEMENS is obliged to award the winner(s). SIEMENS is not obliged to communicate the Reserve Price.
- e) "**Price**" shall mean an amount in a defined currency or a percentage as defined in the Event Specifics / eAgreement.

3. Invitation

- 3.1. Prior to any Event SIEMENS will, in its sole discretion, invite selected companies to take part in such Event by providing them with information about the Event ("**Event Specifics / eAgreement**"). These will include the procedure for the Event, the specifications of the goods and/or services that SIEMENS intends to procure ("**Event Goods/Services**") as well as the terms and conditions under which the goods and/or services are to be provided.
- 3.2. A selected company shall only be allowed to take part in an Event if, prior to the Event, it has
 - a) accepted these General Conditions,
 - b) accepted the Event Specifics / eAgreement, and
 - c) registered to the Portal.
- 3.3. A selected company which has satisfied the conditions in section 3.2 above will be hereinafter referred to as a "**Participant**".
- 3.4. SIEMENS may involve a third party operation centre ("**Operation Centre**") to facilitate the Event. SIEMENS reserves the right to authorize individual Participants to submit offers by telephone via the Operation Centre, if SIEMENS determines in its absolute discretion that this is appropriate, e.g. in case of technical difficulties.

4. Procedure

- 4.1. Participants shall make themselves aware of the system requirements and the procedure and the Event Specifics / eAgreement, e.g. by participating in a training prior to the Event. It is the interest of all parties that every Participant is well enabled and thus able to contribute to a smooth execution of the Event.
- 4.2. The Event shall take place according to these General Conditions and the Event Specifics / eAgreement. In case of contradiction between these two set of rules the Event Specifics / eAgreement shall prevail.
- 4.3. The Participants in the Event will not be informed about the identity of other Participants. SIEMENS will not disclose the identity of any Participant to any other Participant.
- 4.4. The commencement of an Event by SIEMENS for the procurement of certain goods or services shall not constitute a binding offer, but rather shall be treated as an invitation to Participants to submit binding offers.
- 4.5. During an Event, a Participant may only provide offers based on these General Conditions and the Event Specifics / eAgreement. Offers amending or deviating in any way from these General Conditions and the Event Specifics / eAgreement are not permitted. If a Participant suggests any alterations, amendments or additions to the Event Specifics

- / eAgreement or these General Conditions, e.g. by suggesting own general terms and conditions, those alterations, amendments or additions are hereby objected to by SIEMENS and shall not be valid.
- 4.6. The availability of the Portal may be subject to technical and data transmission problems. As a result SIEMENS may not be able to receive offers at all times during the Event. If Participant becomes aware of any problem or interference with the communication system and/or the Portal or has a reasonable belief that any such problem or interference exists or is likely, it shall immediately inform SIEMENS irrespective of the sphere of responsibility the problem or interference falls in. If necessary, other means of communication outside the Portal (e.g. telephone, email) shall be used. Notwithstanding the duty to inform as set out above, Participant shall take all reasonable measures to identify the issue and to minimize the consequences resulting from such problem or interference.
 - 4.7. Offers submitted in a currency other than that authorized for the Event will not be considered.
 - 4.8. All offers shall be submitted exclusive of the applicable statutory sales tax.
 - 4.9. The offers of the Participants provided before and during an Event are binding. Except in cases where statutory law provides otherwise, it is not possible for a Participant to change or withdraw any offer received by SIEMENS. The period of commitment for an offer shall be set forth in the Event Specifics / eAgreement. In the absence of any defined period of commitment, a Participant shall be bound by its last offer for 30 calendar days. § 156 of the German Civil Code (BGB) shall be excluded.
 - 4.10. In case a Participant recognizes a typing error in its offer, the Participant shall immediately inform the Operation Centre. If the Participant fails to notify the Operation Centre immediately, its offer shall be binding.
 - 4.11. The Events will be monitored by SIEMENS. If SIEMENS believes that there has been a mistaken offer made, SIEMENS reserves the right, without any liability, to delete such offer in order not to interrupt the Event. If an offer is deleted by SIEMENS for this reason, the Participant will be informed by SIEMENS as soon as reasonably possible.
 - 4.12. The Participants shall bear all of their costs occurring in connection with the Event and the preparation of offers, e. g. costs of communication, working hours.
 - 4.13. Unless otherwise provided for in the Event Specifics / eAgreement, SIEMENS may in its reasonable discretion and without any liability cancel, extend, end or re-open a running Event or repeat a closed Event.
 - 4.14. The system clock of the Siemens eSourcing Tool shall apply exclusively for all Events.
 - 4.15. SIEMENS may transmit information submitted by the Participant to the Operator and the Operation Center and, to the extent necessary for the Event (e.g. the best offer) and after having anonymized the information, to the other Participants.
 - 4.16. Depending on the tool settings defined by SIEMENS the Participant may see - during or after the Event – information about the status of his quote, e.g. own rank or best bid.

