

# General Conditions for the Use and Licensing of Software

**Version: March 2023**

## 1. Scope of application

1.1. Unless expressly stated to the contrary in writing, these General Conditions for the Use and Licensing of Software shall apply in addition to and take precedence over other general terms and conditions of business for all contracts that Müller Martini Eastern Europe GmbH, Reinhartsdorfgasse 1, 2320 Rannersdorf, Austria, one of its subsidiaries or one of its sales partners (referred to below collectively as "Müller Martini") concludes with customers on the use and maintenance of software including the associated user documentation in the language made available by the respective holder of rights (referred to below collectively as "Deliverables"). These General Conditions shall likewise apply to future business relationships with the customer, even if they are not explicitly agreed. The customer shall be informed in writing or by e-mail of changes to these General Conditions for the Use and Licensing of Software. They shall be considered to be accepted unless the customer objects to the change by contacting Müller Martini in writing within one month of the change being announced. General terms and conditions of the customer that conflict with these shall not be accepted, even if Müller Martini does not expressly contradict these.

1.2. Where a sales partner of Müller Martini has agreed in addition as an integral part of the contract that its own conditions for the use of software shall apply, these shall take precedence over Müller Martini's "General Conditions for Licensing Software" covered here.

1.3. Once the customer has loaded the software supplied on a data carrier or received it via a download on any computer, the customer confirms that they agree to the following conditions.

1.4. The source code of the software is not part of the Deliverables.

1.5. The conditions contained in this document shall apply correspondingly for:

a) Software for machine control systems.

- b) Software that is installed on separate computers that are independent of the machines or in a cloud environment (e.g. "Connex").
- c) Müller Martini's customer portal (e.g. "MPOWER").
- d) The data connector "MLINK"

1.6 References to the "URG" are based on the Swiss URG.

## 2. Right of usage and the customer's duty to cooperate

2.1. The Deliverables are the intellectual property of Müller Martini AG, Untere Brühlstrasse 17, CH-4800 Zofingen, Switzerland and/or its licensors (referred to collectively as "Rights Holders"). Müller Martini grants the customer a single, non-exclusive right to use the Deliverables according to the following conditions and the order acknowledgment, which may contain further specific details regarding the type of use, and the temporal and geographic application. Unless an express agreement is made, the usage right shall be granted only for the country in which the customer has its place of business. Only the maximum number of natural persons for whom the customer has made the agreed payment are allowed to exercise this usage right simultaneously. Item 2.20 shall apply in the event of extra usage. The customer shall only be allowed to use the Deliverables to process its internal business transactions and the business transactions of those companies affiliated to it ("Group companies").

2.2. The following activities in particular shall only be permitted with the express written permission of Müller Martini:

- a) The operation of a computer center for third parties; or
- b) Making the software temporarily available (e.g. for application service providing) other than for a Group company; or
- c) The use of software for training people who are not employees of the customer or its Group companies.

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2.3. The customer is expressly forbidden from selling the software (with the exception of the arrangement set out in Item 2.21) and also from hiring out, lending or sub-licensing the software outside the circle of its Group companies or passing it on to third parties in any other way.

2.4. If Müller Martini AG does not own the copyright and other rights to the software, the customer shall only be granted usage rights within the framework of the software usage or licensing conditions granted by the Rights Holder. The information contained in these conditions can be regularly viewed via the graphic user interface of the Deliverable but it does not claim to be complete or up to date, providing that such a user interface is available. Once the software is installed or used, the customer accepts the validity of the relevant Rights Holder's usage or license conditions and undertakes to indemnify Müller Martini, Müller Martini AG and the Rights Holder against claims by third parties on account of these conditions being breached as a result of their own behavior.

2.5. The customer shall not gain ownership of the copyright to the software and the user documentation. Copyright, all industrial property rights and other intellectual property including business secrets shall remain the property of Müller Martini or the third party from whom Müller Martini received the right to sell and to grant user rights to the customer. It is not permitted to remove or change copyright notices, serial numbers and other characteristics that serve to identify the program.

2.6. The software and the data required to operate the software can be installed locally on the supplier's premises and/or in an external data center (cloud-based software). In the event of external installation and storage, the purchaser agrees to the transfer of data required for the software to be used for the intended purpose. Item 18.2 of the general terms and conditions of sale and delivery for machines, systems and spare parts (data protection declaration) shall not be affected by this.

2.7. Should the software be installed and stored in an external data center, the customer shall provide a data connection in accordance with the supplier's specification. If this data connection is not available through the fault of the Purchaser, the

Supplier shall be released from its contractual obligations in respect of the software concerned.

2.8. Müller Martini shall make the delivery by selecting one of the following options:

- a) Provide the customer with the agreed number of program copies of the software on a machine-readable data carrier as well as the user documentation; or
- b) Make the software available so that it can be accessed on a network and advise the customer of this, and send the agreed user documentation electronically; or
- c) Provide the software as a cloud-based application, which is not physically installed in the customer environment. In this case, the time that is decisive for meeting delivery deadlines is the time at which the customer has been advised of the access data for accessing the software. The software access is only rented in this case and shall not pass into the customer's ownership.

If a physical copy of the software is sent, the decisive time for meeting delivery deadlines and the transfer of risk shall be the time when the Deliverables are handed to the freight forwarder; alternatively, when the software is made available to download from the network, the time shall be when the software is made available and the customer is advised of this.

2.9. The customer is allowed to copy the software, if this is required to use the software and essential in accordance with the conditions set out in Art. 24 (2) of the Swiss Copyright Act (URG). Necessary copying includes the installation of the software from the data carrier or downloaded to the hard disk and loading the software into the user memory of the hardware used. If the customer has purchased the software as an online download, the customer shall be entitled to copy the software to a data carrier when transferring it in accordance with Item 2.21. Furthermore, the right of Müller Martini to the online copy is limited in the same way as if the customer had received the software on a data carrier. No other copies are permitted (including using a printer to print out the program code and photocopying the program code).

2.10. The customer is allowed to make one copy each of the software as a back-up. Copies shall

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only be permitted to be made for other purposes with the prior written approval of Müller Martini. The customer shall be required to include the copyright notices present on the software on all copies. In particular, back-up copies of the software must be expressly identified as such. It is not possible to make a local back-up copy for cloud-based applications in accordance with Item 2.6 and regular software backups are the responsibility of Müller Martini.

2.11. The Deliverables contain valuable business secrets of Müller Martini or third parties, are protected by copyright and, if applicable, by patents and proprietary rights and they may only be used for the customer's intended internal business operations. The customer therefore undertakes to keep the Deliverables secret and not to disclose them or pass them on to third parties either in full or in part. Access to data and information may only be given to those who depend on this to use the software on behalf of the customer. A justified transfer by the customer following a sale of the Deliverables in accordance with Item 2.21 shall not be affected by these obligations.

2.12. The customer shall not be permitted to re-translate the software program code provided into other code forms (decompilation) or carry out other types of reverse engineering. Such interventions shall only be permitted within the limits of Art. 21 of the Swiss Copyright Act (URG) providing that these are unavoidable to obtain the necessary information for interoperability of the software with other programs, and this information has neither been published nor is accessible in any other form and the customer has not received this after making an appropriate request to Müller Martini. In this case, the customer shall inform Müller Martini which parts of the software it has decompiled. Müller Martini shall be allowed to demand appropriate remuneration for granting access to the information and for decompilation by the customer.

2.13. The customer shall only be authorized to implement changes, extensions and other reworking of the software as defined by Art. 21 of the Swiss Copyright Act (URG) to the extent that the law deems this to be essential. Such adaptations shall only be permitted to be used for the customer's own internal business operations. The customer shall

not be permitted to pass on this work it has undertaken to third parties, regardless of whether this is for payment or free of charge, or to undertake any other kind of commercial exploitation, including the use of the technical solutions or modules contained in the software for any purposes other than the use stipulated in the contract. If requested in writing, the customer shall allow Müller Martini to review (inspect) its own work.

2.14. The customer shall make every employee in its company who has access to the Deliverables or copies of these aware of the information contained in these terms of use and ensure that the employees comply with the contract.

2.15. The customer shall be responsible for local installation of the software. If requested by the customer, Müller Martini is always prepared to install the software on the basis of an agreement to be concluded separately and subject to the applicable prices in each case. Should the customer decide to carry out the installation itself, it must follow the installation instructions described in the user documentation, in particular in relation to the hardware and software environment, and provide Internet access.

2.16. The customer shall grant Müller Martini access to the Deliverables to trace and rectify faults, either on site and/or via remote data transmission, as chosen by Müller Martini. Müller Martini shall be entitled to examine whether the Deliverables are being used in compliance with these conditions of use. For this purpose, Müller Martini may demand information from the customer, in particular concerning the period and scope of the use of the Deliverables, and inspect the accounts and records as well as the customer's hardware and software. For this purpose, Müller Martini shall be granted access to the customer's business premises during normal business hours.

2.17. Should Müller Martini provide the customer with additions (e.g. patches, additions to the user documentation) in the course of rectification or maintenance or a new version of the Deliverables (e.g. update, upgrade) that supersedes the Deliverables provided previously ("Old Software"), these items shall also be subject to the terms of these contractual conditions. If Müller Martini provides a new version of the Deliverable, the customer's

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rights in relation to the Old Software shall lapse according to these conditions, even if Müller Martini does not expressly demand its return, as soon as the customer uses the new software for production.

2.18. Each time authorization for use ends (e.g. withdrawal, new delivery), the customer undertakes to return the original Deliverables together with all available copies, reproductions and modifications of whatever kind. Should it be impossible for technical reasons to physically hand over the software and copies, the customer shall delete these and confirm to Müller Martini in writing that it has fulfilled the above obligations.

2.19. The supplier shall make the software within the framework of these General Conditions for Licensing Software available in the following models:

- a) **“Permanent License”** in exchange for a one-off payment and use for an unlimited period of time.
- b) **“Subscription License / Maintenance License”**: Should the supplier's software also include software which is made available by the supplier as part of a subscription model, the purchaser shall be granted the non-exclusive right to use software for the rental period (subscription), unless an agreement is made to the contrary. Once the subscription has ended, the supplier shall be allowed to block access to and the use of the software for which the subscription has expired. The supplier shall also have the right to block access to and the use of the software, if the purchaser has not paid the rents due (license fees) even after a reasonable additional period has been granted.

2.20. If the Deliverables are purchased, once the agreed remuneration has been paid in full Müller Martini shall grant the customer a non-exclusive right for an unlimited period of time, which can only be transferred under the following conditions, to use in its company the software contained in the Deliverables on one device only in each case (“Permanent License”). Permanent Licenses are used, if this is explicitly noted in the order acknowledgment for the corresponding software module and for control systems for machines. Simultaneous use of the software on several workstations or output devices or on one computer or system that more than one user can access simultaneously

shall only be permissible, if the customer has acquired a “Multiple-Use License” (subject to an additional payment and according to availability). The customer shall only be entitled to use the software with more extensive usage rights than those granted in this contract, if Müller Martini has given its written approval beforehand. In the event of extra usage without permission (in particular in the case of simultaneous use of a greater number of users than agreed), Müller Martini shall be entitled to charge the amount due for more extensive use in accordance with Müller Martini's price list that applies at this time. The customer shall only be allowed to use the software on a revocable basis until the remuneration agreed and due has been paid in full. Müller Martini may revoke the use of such services for which the customer is in default of payment for the duration of the default.

2.21. The customer shall only be entitled to transfer the Deliverables and its right to use these to a third party if all the following conditions are met:

- a) The customer transfers the Deliverables to the third party as one unit and in full,
- b) The customer relinquishes its own usage in full and definitively, transfers all original copies of the Deliverables to the third party, deletes all the copies and reproductions the customer has itself produced and confirms compliance with these obligations to Müller Martini in writing, stating the name of the third party in full,
- c) The third party provides Müller Martini with a written declaration of its agreement with the validity of these conditions of use of Müller Martini and gives a written acknowledgment that their contents, including the conditions of further transfer, also represent a binding commitment for itself.

2.22. In the event of a breach, the supplier may revoke the right of use. In the case of third-party software, the licensor's conditions of use also apply and in the event of a breach the licensor, in addition to the supplier, may also assert claims.

### 3. Software maintenance

3.1. If agreed in Müller Martini's order acknowledgment, the maintenance of the software provided to the customer is also the subject of Müller Martini's services (“Maintenance License”). Where

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the customer uses various modules of software or Deliverables, the maintenance can only be provided for the complete system consisting of all modules or Deliverables. Maintenance Licenses are used, providing these are explicitly noted in the order acknowledgment for the corresponding software modules.

3.2. Müller Martini shall only be required to provide the maintenance services, if the customer owns a right of usage granted by Müller Martini, the hardware on which the software to be maintained is installed is in working order and the software to be maintained can be run on this hardware. The specified installation conditions for the hardware and software must be met.

3.3. The software to be maintained must correspond to the latest version of the program. It is understood that the latest version of the program is the current version. If the software is not this version, it must first be updated. Where the software has not been supplied or maintained by Müller Martini immediately before the maintenance starts, Müller Martini shall examine the software to ascertain whether an update is possible and required. As a rule, an update is only possible, if the software installed is not older than two years compared to the current version. All services that are required as part of the update to bring the software up to the latest version shall be invoiced to the customer separately at current prices and conditions. In this case, Müller Martini will provide the customer with a separate binding quotation for the update in advance. Should the customer refuse the update, both parties shall be released from their obligations in respect of the software concerned in relation to the maintenance of software arising from this contract.

3.4. There shall be no obligation to provide maintenance services, if the software has been modified without justification by the customer or a third party, the site of the software has been changed without justification or the software has been copied without justification or the hardware on which the software runs has been exchanged without justification.

3.5. In some cases, third-party software products ("Third-Party Products") are used in Müller Martini's software modules where the use via the license

from the respective supplier is limited in time. It is possible that, once the usage period has expired without the license being renewed, the affected Third-Party Product can no longer be used and this then also impairs the use of the software modules from Müller Martini. In this case, Müller Martini shall provide the customer in good time with the information required on how to extend the term of the software in the individual case. Unless explicitly stated to the contrary in the order acknowledgment, the fees for extending the license for Third-Party Products are included in the fees for maintaining the license of Müller Martini's software modules. Where installation or configuration services are required from Müller Martini to extend the duration of use of the Third-Party Products, these shall be invoiced to the customer separately at the current prices in each case.

3.6. The maintenance measures are provided in detail as follows:

- a) During the term of the maintenance agreement, Müller Martini shall supply the most recent generally offered program version including the associated installation instructions required. Installation services are not included in the maintenance services and can be purchased separately by the customer. The written user documentation can be purchased in addition, providing it is available. The above conditions for documentation within the framework of the provision of software for the first time shall apply in respect to the user documentation.
- b) If the customer notifies Müller Martini of an important reproducible difference in the software that deviates from the current product specification as set out in the user documentation, Müller Martini shall decide at its own discretion whether this deviation will be rectified by individual measures or by supplying a new version of the software. Should a customer expressly demand the reworking or change to the software as an individual measure, although Müller Martini had already scheduled the change for the next update, the customer can only place a separate order with Müller Martini at its own expense to provide the services before the update.
- c) If a new version can only run after converting or retrofitting the computer system including

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the operating system, the necessary database and graphics software or the customer's other hardware and if the customer does not carry out this conversion or retrofitting work within four weeks of Müller Martini making the customer aware of this, Müller Martini is permitted to refuse to supply the new version and reduce the maintenance services in respect of the existing software version to preserving the important functions, without the customer's obligations to pay the agreed fees for maintenance services being reduced.

- d) Should it be established in the course of carrying out the maintenance work that the reason for the deviation was that either the customer or a third party has modified the software, the deviation has been caused by the customer or the customer is operating the software together with software not maintained by Müller Martini, the customer shall pay for the services provided separately and in addition, including travel costs, in accordance with the current price list at the time the service was provided. When software is updated, unauthorized modifications to the software by the customer and special features that arise from the customer operating the software together with software that is not maintained by Müller Martini cannot be taken into account.
- e) Müller Martini has the right to limit or block access to cloud services on a temporary basis for carrying out maintenance work on Cloud-based Services, if required for software updates, technical changes, system maintenance, the security of network operation, preservation of network integrity, and, in particular, to avoid faults in connection with the network, cloud services, software or stored data. Maintenance windows of this kind shall be indicated to the customer in good time via the user interface.

#### **4. Data back-up and data protection**

4.1. The customer is required to ensure that its data, materials and programs are appropriately secured. If the customer is aware that Müller Martini is due to carry out scheduled work or provide other services, it shall check in each case whether the data back-up is current; if this is not the case, the

customer shall undertake this without delay before the service is provided by Müller Martini.

4.2. In cases where the software is not physically installed at the customer's premises and instead is operated from a computer center ("Cloud-based Services"), Müller Martini is responsible for backing up data. Even if every care is taken, the loss of production data cannot be completely ruled out. The following framework conditions shall apply to cloud-based software and data, which is stored in the cloud:

- a) Data loss: All cloud-based data are automatically backed up every day. In the unlikely event of a fault where data are lost, the loss is generally limited to one day's data.
- b) Data recovery: In order to restore system availability after a fault and to transfer the back-up data to the live system, it is possible that the function/availability of cloud-based software may be temporarily limited.

The customer cannot make any claims whatsoever against Müller Martini as a result of data loss or limited availability for the reasons stated above. The liability waiver shall not apply in the case of unlawful intent or gross negligence on the part of Müller Martini.

4.3. Müller Martini complies with the applicable provisions of data protection, in particular if access is granted to the customer's operations, hardware and software. Müller Martini ensures that its vicarious agents also comply with these provisions and, in particular, it obtains an undertaking from them regarding data secrecy before they commence their activities. Müller Martini does not intend to process or use personal data on behalf of the customer. It is only permitted to transfer personal data in exceptional cases as an incidental effect of Müller Martini's contractual services. Müller Martini handles personal data in compliance with data protection regulations. Where access to personal data by Müller Martini cannot be ruled out, the customer shall conclude an appropriate agreement with Müller Martini that corresponds to the requirements in Art. 28 GDPR. Detailed provisions on data protection at Müller Martini is available here: [Privacy Policy](#).

#### **5. Data transfer**

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5.1. For the contractual use of the delivery items, the continuous improvement of the Supplier's products and for the use of further services, data can be regularly transferred from the Purchaser's location to a data centre. The interval and scope of this data shall be defined by the Supplier.

5.2. The following data may be transmitted:

- a) Diagnostic data (e.g. status and error messages, counter values, etc.)
- b) Order data (order name, target quantities, configurations, etc.)
- c) Environmental data (e.g. temperature, humidity, power consumption, etc.)
- d) Operating data (machine status, machine speed, etc.)
- e) Specific technical data (e.g. software versions, licenses, machine configuration, log files, backup data, technical order data, etc.).

5.3. Personal data are not be transmitted. The Purchaser shall ensure that no personal data is entered in fields of files transmitted to the delivery items or in input masks of machines which could subsequently be included in the data transmission pursuant to section 5.3. The Supplier's data protection provisions apply, which can be viewed on the website [www.mullermartini.com](http://www.mullermartini.com) under Privacy Policy.

5.4. The Customer expressly consents to the collection, transmission, storage and use of data by the Supplier and its affiliated companies. The Supplier undertakes to treat all transmitted data confidentially.

5.5. Only the Supplier and its affiliated companies have access to the transmitted data. The Supplier shall not pass on the transmitted data to third parties.

5.6. At the request of the Purchaser, the order data can be anonymised by the Supplier so that no plain text information on the orders is transmitted.

5.7. Protection against malware: The Supplier and the Purchaser shall take state-of-the-art technical measures to protect the systems of the Supplier and the Purchaser against attacks by malicious software ("malware").

5.8. Ownership of the raw data shall remain with the Purchaser. Aggregated and processed data shall become the property of the Supplier.

5.9. At the Purchaser's request, the Supplier shall be obliged:

- a) To provide information on the type and scope of the stored data.
- b) To delete data defined by the Purchaser and stored by the Supplier.
- c) To give the Purchaser access to the raw data stored by the Supplier on request.

5.10. There is be no active deletion of data in the Supplier's data centre so that long-term evaluations can be carried out as a source for product improvements.

## 6. Claims for defects

6.1. The product specification valid at the time the contract was concluded and available to the customer shall be decisive for the properties of the software provided and this is set out in the user documentation. Müller Martini shall not owe the customer any additional features in respect of the Deliverables. The customer cannot, in particular, derive such an obligation from other representations of the software in public statements or in Müller Martini's advertising or from employees, unless the additional features have been expressly confirmed in writing by Müller Martini AG.

6.2. Should the contractual items supplied be defective, Müller Martini shall rectify the defects by a method it chooses through

- a) Rectifying the defects; or
- b) Providing a new defect-free version of the software free of charge; or
- c) Providing a temporary means of correcting the fault until a new version of the software that is free of defects is supplied.

The customer has an obligation to accept the new version of the software, if it maintains the scope of functions specified in the contract.

6.3. After consultation with Müller Martini the customer shall ensure that the time and opportunity are available to implement all the rectification measures and replacement deliveries that Müller Martini deems to be necessary. The prerequisite for

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rectifying faults is for the effects of the defects to be reproducible and adequate complaints and descriptions to be provided by the customer. If this is not the case, Müller Martini is released from the customer's claims for defects.

6.4. Should the customer be provided with new versions of the software as part of the rectification work which, in comparison with the software originally acquired, have an extended scope of functions and services, the customer's rights to have defects rectified shall not extend to the new more extensive scope of functions and services.

6.5. A defect in the Deliverables shall be deemed to not exist if

- a) The software is used for the customer's operations with a functional connection to hardware and software components already present or acquired from a third party, where the fault is caused by components not supplied by Müller Martini or through their lack of compatibility. Where Müller Martini has given an express warranty as to compatibility with third-party products, this only relates to the current product version at the time this warranty was given and not to any older or future product versions ("Updates" or "Upgrades") of this product; or
- b) If and to the extent that a fault is due to the fact that the customer has not ensured compliance with the technical framework conditions that are specified in the documentation and in these additional documents.

6.6. If it is established that the Deliverables were not defective, the customer shall pay for the services provided by Müller Martini to rectify the reported faults or to locate and solve the alleged defects in accordance with Müller Martini's usual rates and conditions.

6.7. Müller Martini shall assume no liability for advice provided to the customer by Müller Martini employees as a courtesy outside the scope due under the contract; this applies correspondingly for any assistance provided in this context.

6.8. The period of limitation for any claims in connection with the purchase of Deliverables shall be one year from the date of delivery. The duty to in-

spect the goods and notify any defects in accordance with Art. 370 of the Swiss Law of Obligations (OR) shall apply to the customer.

6.9. Should the attempt to rectify the fault fail definitively, if the Deliverables have been purchased the customer shall have the right to withdraw from the contract or reduce the amount paid. The possibility to withdraw from the contract shall be excluded, if the breach of obligation by Müller Martini is only insignificant.

## **7. Liability for compensation**

7.1. Müller Martini shall be liable in accordance with the statutory provisions in the event of injury to life, limb or health that can be attributed to a negligent breach of obligation by Müller Martini or a deliberate or negligent breach of obligation by one of its legal representatives or vicarious agents.

7.2. For other losses the following shall apply: Müller Martini shall be liable in accordance with the statutory provisions for losses that can be attributed to a grossly negligent breach of obligation by Müller Martini or a deliberate or grossly negligent breach of obligation by one of its legal representatives or vicarious agents.

7.3. Where losses are caused by a breach of substantial contractual obligations as a result of simple negligence on the part of Müller Martini or Müller Martini's legal representatives or vicarious agents, Müller Martini's liability shall be limited to the typical foreseeable losses for the contract overall up to a maximum of the value of the Deliverables where these have been purchased.

7.4. Claims for compensation for other losses arising from a breach of subsidiary contractual obligations or non-essential obligations in the event of simple negligence shall be excluded.

7.5. Claims for compensation arising from delays that can be attributed to simple negligence shall be excluded; the customer's statutory rights after a reasonable additional period has passed shall remain unaffected.

7.6. Liability exclusions or limitations shall not apply if Müller Martini have fraudulently concealed a



defect or have given a warranty for the properties of the Deliverables.

7.7. The customer's claim for reimbursement of wasted expenditure in place of the claim for compensation instead of the service shall not be affected. The above conditions shall apply to this accordingly.

## **8. Liability for indirect losses**

8.1. Müller Martini shall not be liable for direct or indirect losses resulting from defective Deliverables such as down times, loss of production, lost profit and additional use of materials, damage to or loss of data, unless the cause can be attributed to deliberate action or gross negligence.

## **9. Infringements of proprietary rights**

9.1. Müller Martini undertakes that the Deliverables do not violate any proprietary rights of third parties in Germany, Switzerland and the USA.

9.2. Should a third party assert vis-à-vis the customer that the Deliverables infringe proprietary rights and the customer advises Müller Martini of this immediately in writing, Müller Martini shall take action, choosing one of the options:

- a) Defend or settle the claim and thus cover all the necessary and appropriate costs, including reasonable costs for court proceedings; or
- b) Obtain the usage right for the customer; or
- c) Replace the service, in particular software, by services or software which will not infringe proprietary rights.

9.3. Should it not be possible to resolve an infringement of proprietary rights by the measures set out in Item 8.2 above, Müller Martini shall be entitled to take back the Deliverables and reimburse the payment made by the customer minus an appropriate amount to compensate for use for the time for which the customer was able to use the Deliverable.

9.4. If the infringement of proprietary rights can be attributed to the customer's behavior, in particular changes of services, the definition of certain workflows or use in conjunction with goods and services not provided by Müller Martini, the customer

is nevertheless required to pay the remuneration agreed for the Deliverables and remuneration at the usual rates for services provided by Müller Martini.

## **10. Remuneration, payment conditions**

10.1. The remuneration agreed upon submission of Müller Martini's order acknowledgment shall be paid after the start of the rental period or receipt of the Deliverables and provision of an invoice without discount for cash payment or any other deduction. All prices exclude Value Added Tax at the current statutory rate.

10.2. Unless different arrangements are specified in the order acknowledgment, the maintenance fees for "Maintenance Licenses" as specified in Item 3.1 shall be invoiced for the first time at the start of the date specified in the order acknowledgment until the end of a full year of the contract term, and after that in advance at the start of every new year of the contract term. In cases where the maintenance fee is calculated according to a certain percentage rate of the license fee, the list price currently charged by Müller Martini as the basis on which to calculate the maintenance fee is decisive rather than price of the license fee agreed with the customer.

10.3. Müller Martini shall be entitled to adjust the recurring payment on the first day of each calendar year based on the change to the National Consumer Price Index published by the Verbraucherpreisindex des Statistischen Zentralamtes Österreich as compared to the figure that applied on the date of the order acknowledgment.

## **11. Foreign trade provisions**

11.1. The customer is aware that the Deliverables, services rendered, work results, information, know-how and/or software provided for use or the direct results of these in accordance with this contract may be subject to export controls by the Federal Republic of Germany, the European Union, Switzerland, the United States of America or other states. The customer shall not export any services supplied under this contract or the results of these, either directly or indirectly, individually or as part of a system (or re-export them from the country where they are used), without first and at the customer's

Your **strong partner.**

**Müller Martini Eastern Europe GmbH**

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own expense obtaining all the specified approvals of the responsible authorities in each case, in particular the United States Department of Commerce and all other responsible bodies.

## **12. Term and termination**

12.1. No termination shall take place in the case of usage rights with an unlimited term granted on the basis of one-off payments ("Permanent License" in accordance with Item 2.20).

12.2. Maintenance services ("Maintenance Licenses" as set out in Item 3.1) can – unless a different arrangement is made in Müller Martini's order acknowledgment – be terminated in the ordinary way by giving a period of notice of three (3) months to the end of a full year of the contract term. If no written termination is received by the due date, the term of the Maintenance License shall be automatically extended by a further year and the customer is required to pay the license fees. Before the customer can terminate maintenance services in the ordinary way for the first time, the services must have been provided for a minimum period of twelve (12) months.

12.3. The parties shall be entitled to end the contract for all permanent or recurring services provided by Müller Martini – in particular, maintenance services – by means of extraordinary termination with immediate effect for good cause. One party to the contract can terminate the contract and all individual services with immediate effect, in particular in the following cases:

- a) The other party to the contract repeatedly breaches its obligations arising from this contract, in spite of receiving warnings; or
- b) The customer ceases to make payments, is overindebted or there is reason to believe that the economic or financial situation of the customer has deteriorated to such an extent that compliance with its contractual obligations is at risk to the degree that it is unreasonable for Müller Martini to adhere to the contract; or
- c) Court composition proceedings have been instituted against the assets of the other party to the contract or proceedings are rejected on account of insufficiency of assets; or

- d) There is some other important reason for which one of the parties to the contract is responsible and which makes it unreasonable for the other party to the contract to continue with the contract until the end of the agreed term.

12.4. Notice to terminate shall always be in writing. Arrival at the recipient shall be decisive for complying with the deadline.

## **13. Jurisdiction and applicable law**

13.1. The exclusive place of jurisdiction for all disputes arising from or in connection with these General Conditions for Licensing Software shall be Zofingen. Müller Martini shall also be entitled to institute legal proceedings at the customer's general place of jurisdiction.

13.2. Swiss law shall apply to these General Conditions for Licensing Software and all contracts covered by these to the exclusion of the UN Convention on the International Sale of Goods.