

General Terms and Conditions of Licensing and Use of Software

Valid as of 1 January 2018

MÜLLER MARTINI

§ 1 Applicability

- (1) In so far as not expressly provided to the contrary in writing, these General Terms and Conditions of Müller Martini AG, Untere Brühlstrasse 13, CH-4800 Zofingen, Switzerland for the Licensing and Use of Software apply in addition to and with priority over any other terms and conditions for all contracts which Müller Martini AG, any of its subsidiaries or any of its distribution partners (hereinafter collectively called "Müller Martini") conclude with customers concerning the use and maintenance of software, including the pertinent user documentation in the language provided by the respective Rights Holder (hereinafter collectively called the "Objects of Delivery"). They likewise apply for future business relationships, even where this is not expressly agreed once again. Any deviating general terms and conditions of the customer will not be recognised, even if Müller Martini does not expressly contradict the same.
- (2) By loading of the software which is contained on a data carrier or which the customer has obtained via download, onto any computer, the customer declares its agreement with applicability of the following General Terms and Conditions.
- (3) The source code of the software is not a part of the Objects of Delivery.

§ 2 Right of use and obligations of co-operation on the part of the customer

- (1) The Objects of Delivery are the intellectual property of Müller Martini AG and/or of its licensors (together called the "Rights Holders"). The customer receives from Müller Martini a simple, non-exclusive right of use to the Objects of Delivery in accordance with the following provisions and the order confirmation, which may contain further stipulations in regard to the type of use and its validity in terms of time and geographical area. In the absence of any express agreement, the right of use is granted only for the country in which the customer has its registered office. This right of use may only be exercised simultaneously by the maximum number of natural persons for whom the customer has paid the agreed remuneration. In the case of an exceeding use § 2 (14) applies. The customer may only use the Objects of Delivery for the purpose of processing its own internal business matters and those of such other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the customer ("Group Companies"). In particular a) any computer centre services for third parties or b) the temporary provision of the software to any other than Group Companies (e.g. as application service providing) or c) the use of the software for the training of persons who are not employees of the customer or its Group Companies are only permitted with the prior written consent of Müller Martini. The customer is expressly prohibited from selling the software (with the exception of the arrangements set out in § 2 (16)) or from leasing or hiring out the software or granting sub-licenses in respect of the same or from passing the software on to third parties in any other manner outside the circle of its Group Companies.
- (2) Where Müller Martini AG does not itself hold the copyrights and other rights in the software, rights of use to the software are only granted to the customer within the scope of the terms and conditions of licensing and use of the respective Rights Holder. The contents of these terms and conditions can in general be viewed, without any claim to completeness or current validity, using the graphic user interface of the Object of Delivery in so far as such a user interface is installed. By installing or using the software, the customer declares its agreement with the applicability of the terms and conditions of use or licence of the respective Rights Holder, and undertakes to indemnify Müller Martini against any claims asserted by any third party due to any breach of these Terms and Conditions through its own conduct.
- (3) The customer shall not become the owner of the copyrights in the software or in the user documentation. The copyright, all industrial property rights and other intellectual property including business secrets, remain with Müller Martini or the third party from which Müller Martini has received the right to distribute and grant the rights of use to the customer. Copyright notices, serial numbers and other distinguishing features which serve to identify the software may not be removed or changed.
- (4) Müller Martini effects the delivery at its option either through a) providing the customer with the agreed number of copies of the software on a computer-readable data carrier together with the user documentation or b) providing the software in a network for download and notifying the customer accordingly and sending it the agreed user documentation electronically. For the purpose of compliance with delivery dates and the passing of risk, the relevant point in time in the case of physical despatch is the moment when the Objects of Delivery are passed on to the carrier, otherwise the moment when the software has been provided in the network for retrieval and the customer has been notified thereof.
- (5) The customer may copy the software in so far as this is necessary for the use of the software and is indispensable under the conditions of the Swiss Federal Act on Copyright and Related Rights (Copyright Act). Necessary copies include the installation of the software from the data carrier or download of the software onto the hard drive and the loading of the software into the working memory of the deployed hardware. If the customer has acquired the software through online download, it shall be entitled in the event of any transfer in accordance with § 2 (15) to copy the software onto a data carrier. Furthermore, the rights of Müller Martini to the online copy shall become exhausted in same way as if the customer had received the software on a data carrier. No other copies are permitted (including the making of a print-out of the software code and the photocopying of the same).
- (6) The customer may in each case copy the software once for the purpose of creating a security back-up of the software. Copies for other purposes may only be created following the prior written consent of Müller Martini. The customer shall be obliged to transfer trademark notices contained on the software to all copies. In particular, back-up copies of the software must be expressly labelled as such.
- (7) The Objects of Delivery contain valuable business secrets belonging to Müller Martini or third parties, are protected by copyrights and, in some cases, by patents and other intellectual property rights, and may only be used for the

intended internal business operations of the customer. The customer accordingly undertakes to preserve secrecy in relation to the Objects of Delivery and not to disclose the same to third parties, either in whole or in part, or to pass them on to such third parties. Data and information may only be made accessible to such persons who have a need to access the same for the use of the software on behalf of the customer. A legitimate transfer by the customer in accordance with § 2 (15) following a purchase of the Objects of Delivery remains unaffected by these duties.

- (8) The customer is not permitted to re-translate the program code provided into other code forms (decompilation) or to carry out any other types of reverse engineering of the various production stages of the software. Any such intervention is only admissible within the limits laid down in Art. 21 of the Copyright Act in so far as it is indispensable in order to obtain the necessary information on the interfaces of the software and to develop, maintain and use interoperable computer programs together with the software insofar as neither the normal exploitation of the software nor the legitimate interests of the owner of the rights are unreasonably prejudiced and only in so far as this information is neither published nor otherwise freely accessible and the customer has not obtained it from Müller Martini in response to a corresponding inquiry. In the aforementioned case, the customer shall inform Müller Martini which parts of the software it is decompiling. Müller Martini may demand reasonable remuneration for the grant of access to the information and for the decompilation by the customer.
- (9) The customer shall inform each employee of its business who has access to the Objects of Delivery or to copies of the same about the contents of these Terms and Conditions and shall ensure that the employees comply with the its provisions.
- (10) The customer shall be responsible for the installation of the software. Generally and at the request of the customer, Müller Martini will carry out the installation of the software on the basis of an agreement to be separately concluded and at the respectively applicable prices. Should the customer decide to install the software on its own, he has to keep the installation instructions contained in the user documentation in particular in relation to the hardware and software environment, including access to the internet which he must provide for
- (11) For the purpose of locating and eliminating defects the customer has to grant Müller Martini access to the Objects of Delivery, at the option of Müller Martini either directly and/or by remote data transmission. Müller Martini shall be entitled to verify whether the Objects of Delivery are being used in compliance with these Terms and 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 Objects of Delivery, and may also inspect the books and documents, as well as the hardware and software of the customer. For this purpose the customer has to grant Müller Martini access to its business premises during normal business hours.
- (12) Should Müller Martini in the course of rectification or maintenance provide the customer with additions (e.g. patches, additions to the user documentation) or a new edition of the Objects of Delivery (e.g. update, upgrade) which replace any Object of Delivery previously supplied ("Old Software"), such addition shall also be governed by the provisions of these Terms and Conditions. Where Müller Martini provides a new edition of an Object of Delivery, the rights of the customer in accordance with these Terms and Conditions shall lapse in regard to the Old Software, even without any express demand for return by Müller Martini, as soon as the customer uses the new software productively.
- (13) At the end of the authorisation for use (e.g. replacement delivery), the customer undertakes to return the original Objects of Delivery together with all existing copies, reproductions and modifications of any kind. Should a physical surrender of the software and of the reproductions not be possible for technical reasons, the customer shall delete the same and confirm to Müller Martini in writing that it has complied with the foregoing duties.
- (14) In the case of a purchase of the Objects of Delivery and upon payment of the agreed remuneration in full, Müller Martini grants the customer a non-exclusive, perpetual right, such right being only transferable under the subsequent conditions to use the software contained in the Objects of Delivery in its business on one respective appliance. The deployment of the software at the same time on more than one work station or output device, or on a computer or system to which more than one user has access at the same time is only allowed if the customer (for an additional charge and according to availability) has acquired a "multiple use licence". The customer shall only be entitled to use the software in any manner above and beyond the rights of use granted in this agreement following the prior written consent of Müller Martini. In the case of an exceeding use without consent (in particular in the case of any simultaneous use by a larger number of users than agreed), Müller Martini shall be entitled to invoice the amount payable for the additional use in accordance with the Müller Martini price list valid at this point in time. Up until payment in full of the remuneration agreed and due, the customer is only entitled to use the software on a revocable basis. For the duration of the default, Müller Martini may revoke the entitlement to use any such deliveries or performances in regard to which the customer is in default of payment.
- (15) The customer shall only be entitled to transfer the Objects of Delivery and its right of use of the same to a third party subject to compliance with all of the following conditions:
 - the customer transfers the Objects of Delivery to the third party as an undivided unit and in full,
 - the customer stops its own use in full and on a permanent basis, hands over all original copies of the Objects of Delivery to the third party, deletes the copies and reproductions prepared by itself, and confirms compliance with these duties to Müller Martini in writing, quoting the full details of the third party,
 - the third party provides Müller Martini with a written declaration of its agreement with the validity of these Terms and Conditions of Müller Martini, and gives a

written acknowledgement that their contents, including the conditions for further transfer, also represent a binding commitment for itself.

§ 3 Software maintenance

- (1) If agreed upon within the scope of the order confirmation by Müller Martini, the performance by Müller Martini also includes the maintenance of the software provided to the customer. Where the customer uses various modules of an item of software or Objects of Delivery, maintenance can only be carried out for the entire system consisting of all modules and Objects of Delivery.
- (2) Müller Martini shall only be obliged to provide maintenance services if the customer has been granted a right of use by Müller Martini, the hardware is functional, on which the software to be maintained is installed and the software to be maintained can be run on this hardware. The pre-requisites prescribed for the installation of both the hardware and the software must be satisfied.
- (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 means the current version. If the software is not the current version, it must first be updated. If the software has not been newly delivered or maintained by Müller Martini immediately prior to the commencement of the maintenance period, Müller Martini shall examine the software to determine whether an update is possible and necessary. In general an update is only possible, if the installed software is not older than two years compared with the current version. All services necessary within the scope of the update in order to bring the software up to the latest version of the programme will be invoiced to the customer separately at the respectively valid prices and terms and conditions. In this case, Müller Martini shall provide the customer with a separate, binding offer for the update in advance. If the customer refuses the update, both parties shall be released from their obligations under this agreement in regard to the maintenance of the software in question.
- (4) No obligation to perform maintenance services shall exist if the software has been modified by the customer or a third party without authorisation, the location of the software has been changed without authorisation, the software has been copied without authorisation or the hardware on which the software runs has been replaced without authorisation.
- (5) The following specific maintenance services are to be provided:
 - a) During the term of the maintenance agreement, Müller Martini will supply the latest generally available version of the software, including the necessary pertinent installation instructions. Installation services by Müller Martini are not included in the maintenance services and may be ordered separately by the customer. The written user documentation may be acquired additionally if available. The foregoing provisions concerning the documentation within the scope of the initial delivery of software shall also apply to such user documentation.
 - b) Should the customer notify Müller Martini of a reproducible, significant divergence of the software from the respectively applicable product specifications as set out in the user documentation, Müller Martini shall decide at its own discretion on how to eliminate this divergence either through individual measures or by the delivery of a new version of the software. Should a customer expressly want to have a correction or modification to be made to the software by an individual measure, which Müller Martini has already planned to solve in the course of the next update, then the customer may only instruct Müller Martini separately and at its own cost to render such service before the update.
 - c) If a new version can only be run after the computer system, including the operating system, necessary database and graphics software or other hardware of the customer, has been converted or retrofitted, and the customer does not perform this conversion or retrofitting within four weeks after notification by Müller Martini, Müller Martini may refuse delivery of the new version and reduce the scope of maintenance services in relation to the existing software version to the preservation of the essential functions, without giving effect to any reduction of the payment duty of the customer of the agreed fees for the maintenance services.
 - d) If, in the course of performing maintenance work, it becomes evident that the divergence results either from the fact that the customer or a third party has modified the software, that the divergence was caused by the customer, or is a result of the fact that the customer has operated the software together with software not maintained by Müller Martini, the customer shall pay separately and additionally for the services provided, including travel costs, in accordance with the price list applicable at the time when the service was provided. The fact that the customer modified the software without authorisation or the peculiarities resulting from the operation of the software by the customer together with software not maintained by Müller Martini cannot be taken into account in software updates.

§ 4 Data back-ups and data protection

- (1) The customer shall be obliged to ensure that its data, materials, and computer programs are suitably secured. If the customer is aware that Müller Martini is due to perform work or provide other services, it shall in each case check whether a current back-up is in place. If this is not the case, it is to carry out a back-up promptly before Müller Martini commences with the provision of its services.
- (2) Müller Martini shall comply with the regulations governing data protection, in particular where access is granted to the operations or to hardware and software of the customer. Müller Martini shall ensure that its auxiliary persons likewise comply with these provisions, and, in particular, it shall put binding data secrecy obligations upon them before they commence their activities. Müller Martini does not intend to carry out any processing of or to use any personal data on behalf of the customer. A transfer of personal data may only take place in exceptional cases as an incidental consequence of the contractual services provided by Müller Martini. Müller Martini will handle the personal data in compliance with the legal data protection provisions. Should it not be possible to avoid access to personal data by Müller Martini, the customer will conclude an agreement with

Müller Martini satisfying the requirements of the Swiss Federal Act on Data Protection.

§ 5 Warranty / Claims for defects

- (1) In regard to the features of the software delivered, the product specifications valid and accessible to the customer at the time of conclusion of the contract, as laid down in the user documentation, are authoritative. Müller Martini shall not be liable to provide any features of the Objects of Delivery above and beyond the same. In particular, the customer may not derive any such obligation from other presentations of the software in any public statements or advertising by Müller Martini or from its staff unless the additional features have been expressly confirmed by Müller Martini AG in writing.
- (2) Following delivery, the customer shall immediately check and examine the Object of Delivery and immediately notify Müller Martini in writing by letter or fax of any possible defects. If no such notification is made to Müller Martini within five working days from delivery or discovery of the defect, the Object of Delivery is deemed to have been approved.
- (3) Should any Object of Delivery show a defect, the customer shall have the following rights: Müller Martini shall be obliged to rectify the defect and shall at its option perform the rectification through elimination of the defect or delivery of a new software version free from defects and free of charge or until the delivery of the defect-free version, in the form of a temporary defect correction. The customer shall be obliged to accept a new software version provided the functional scope in accordance with the agreement is kept.
- (4) Following consultation with Müller Martini, the customer shall provide the necessary time and opportunity for Müller Martini to undertake all rectification measures and replacement deliveries which the Müller Martini considers necessary. A condition for the correction of defects is that the effects of the defect are reproducible and are adequately specified and described by the customer. Müller Martini shall otherwise be released from any claims for defects by the customer.
- (5) Should the customer be provided with new versions of the software within the scope of the rectification, which, in comparison with the software originally acquired, have an extended scope of functionality and performance, the warranty rights of the customer shall not extend to the new, extended scope of functionality and performance.
- (6) No defect in the Objects of Delivery exists if a) the software is used in the operations of the customer in a functional connection with hardware and software components already present or acquired from a third party, where the defect is caused through 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 in so far as the defect results from the customer having failed to ensure compliance with technical framework conditions prescribed in the documentation and supplementary material.
- (7) Should it turn out, that the Objects of Delivery contained no defect, the customer shall pay for any service provided by Müller Martini for the elimination of any reported incident and the location and resolution of an alleged defect at the normal rates and in accordance with the Terms and Conditions of Müller Martini.
- (8) Müller Martini assumes no liability for any suggestions or advice provided to the customer by employees of Müller Martini as a courtesy outside the contractual scope owed; this applies correspondingly for any assistance provided in this context.
- (9) The limitation period for all claims in connection with defects shall be one year from delivery.
- (10) Any warranty claims of the customer beyond the above provisions are excluded to the extent permitted by law.

§ 6 Liability for damages

- (1) In the case of any injury to life, body or health resulting from a wilful or negligent breach of duty by Müller Martini or a wilful or negligent breach of duty by any of its statutory representatives or auxiliary persons, Müller Martini shall be liable in accordance with the statutory provisions.
- (2) For any other damage, the following applies: any liability on the part of Müller Martini is excluded to the extent permitted by law. In particular, there is no liability for direct, indirect or consequential damages (such as e.g. down times, loss of production, loss of profit and increased consumption of material, damage to or loss of data) resulting from the use, incorrect delivery, performance failure or defect of an Object of Delivery supplied by Müller Martini.

§ 7 Infringement of industrial property rights

- (1) Müller Martini AG shall be responsible for ensuring that the Objects of Delivery do not infringe any industrial property rights of third parties in the Swiss Confederation.
- (2) Should a third party assert any claim against a customer due to a corresponding infringement of industrial property rights by the Objects of Delivery and should the customer notify Müller Martini thereof without delay in writing, then Müller Martini shall at its own discretion
 - a) defend or settle the claim and assume all the necessary and reasonable costs in this connection, including the reasonable costs of any litigation or
 - b) procure the right of use for the customer or
 - c) replace the performance provided, in particular any software, with such performances or software as do not give rise to any infringement of industrial property rights.
- (3) If an infringement of industrial property rights cannot be eliminated through the measures referred to in Sec. (2) above, Müller Martini shall be entitled to take back the Objects of Delivery and reimburse the remuneration paid by the customer for the same less a reasonable sum as compensation for the period during which the Objects of Delivery could be used by the customer.

- (4) Should the infringement of industrial property rights be attributable to the conduct of the customer, in particular to any changes to the performance provided, to the definition of certain work processes or to use in combination with deliveries or services not provided by Müller Martini, the customer shall nevertheless be obliged to pay the agreed remuneration for the Objects of Delivery as well as remuneration in accordance with the usual rates for the services provided by Müller Martini.

§ 8 Remuneration; Terms and conditions of payment

- (1) The remuneration agreed is as stipulated in the order confirmation by Müller Martini and shall be payable following receipt of the Objects of Delivery or commencement of the maintenance period and upon receipt of the respective invoice, without any early payment discount or other deduction. All prices are quoted without the respectively applicable statutory value added tax, which is to be added to the same.
- (2) Except as stipulated to the contrary in the order confirmation, the maintenance fees will be invoiced for the first time from the starting date stipulated in the order confirmation until the end of a full contractual year, and thereafter yearly in advance at the start of each contractual year. Should the maintenance fee be calculated as a certain percentage of the licence fee, it is not the price of the licence fee agreed with the customer which is to be taken as the basis of calculation for the maintenance fee, but, rather, the respective current list price charged by Müller Martini.
- (3) Müller Martini shall be entitled to adjust the recurring remuneration as of the first day of each respective calendar year so as to reflect any changes in the Swiss Consumer Price Index published by the Federal Statistical Office for the Swiss Confederation in comparison with the figure quoted at the date of the order confirmation.
- (4) Müller Martini shall give the customer advance written notice of the price changes referred to in this section.

§ 9 Foreign trade provisions

The customer is aware that the Objects of Delivery, the services provided, the work results, information, know how and/or software provided for use under this agreement or their direct results may be subject to export controls by the Swiss Confederation, the European Union, the United States of America or other countries. The customer may not export any performances provided under this Agreement or any results of the same, either directly or indirectly, either individually or as part of a system (or re-export them from the country in which they are being used) without first obtaining all prescribed licences from the respective competent authorities, in particular the United States Department of Commerce and any other competent authority at its own expense.

§ 10 Term and termination

- (1) No termination is admissible to a purchase of perpetual rights of use of the Objects of Delivery.
- (2) Maintenance services may be duly terminated - unless provided to the contrary in the order confirmation from Müller Martini - with a notice period of three (3) months to the end of a contractual year. A minimum term of twelve (12) months applies before the customer is permitted to give due notice of termination for the first time.
- (3) The parties shall be entitled to give notice of termination with immediate effect for maintenance services to be provided by Müller Martini, where an important reason exists in the following cases:
- where, despite a formal warning notice, the other party repeatedly breaches its obligations under the agreement.
 - where the customer ceases to make payments, is over-indebted or there are any other indications that the economic or financial situation of the customer has deteriorated to such an extent that the fulfilment of its obligations is jeopardised and Müller Martini cannot reasonably be expected to adhere to the agreement,
 - where judicial insolvency proceedings have been opened in respect of the assets of the other party or the opening of such proceedings has been refused on account of lack of assets,
 - where any other important reason exists for which either of the parties is responsible and which makes it unacceptable for the other party to maintain the agreement until the end of the agreed term.
- (4) Any notice of termination must be given in writing. Transmission by fax is sufficient for the purpose of meeting the stipulated deadline. The date of receipt by the addressee shall be authoritative for the purpose of ascertaining compliance with the deadline.

§ 11 Place of jurisdiction and applicable law

- (1) Unless otherwise prescribed by mandatory law, the exclusive place of jurisdiction for all disputes arising from or in connection with these General Terms and Conditions of Licensing and Use of Software and all contracts entered into while they are effective shall be Zofingen, Switzerland. Müller Martini however shall also be entitled to bring an action against the customer at the customer's place of general jurisdiction.
- (2) These General Terms and Conditions of Licensing and Use of Software and all contracts entered into while they are effective are subject to substantive Swiss law to the exclusion of the UN Sales Convention (CISG - United Nations Convention on contracts for the International Sale of Goods, entered into in Vienna on 11 April 1980).

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