

# General Terms and Conditions of Sale and Delivery for Machines, Plants and Spare Parts of Müller Martini Benelux B.V.

Version: December 2024

## 1. Scope of validity

1.1. Unless otherwise expressly stipulated in writing, these **General Terms and Conditions of Sale and Delivery for Machines, Equipment and Spare Parts** (hereinafter collectively referred to as the "GTC") shall apply to all offers, sales contracts and orders for supplies from **Müller Martini Benelux B.V.**, Industrieweg 23, 3641 RK Mijdrecht, or one of its sales partners (hereinafter collectively referred to as the "Supplier") to its principals/clients ("Purchaser"), together to be referred to as the "Parties".

1.2. Applicability of the terms and conditions used by the Purchaser or any party other than the Supplier is explicitly dismissed/excluded by the Supplier.

## 2. General

2.1. Any offers made by the Supplier shall be free of engagement. Unless expressly provided otherwise, any offers made by the Supplier shall be considered invitations to enter into negotiations.

2.2. A contract shall be deemed to have been entered into upon receipt of the Supplier's written acknowledgement stating acceptance of the order (order confirmation). Deemed to be equivalent are order confirmations of web shop orders by e-mail from the Supplier or the direct delivery of ordered spare parts by the Supplier. The e-mail automatically sent to the Purchaser in the web shop confirming the receipt of the order does not constitute an order confirmation within the meaning of this Clause. Offers of the Supplier are subject to change and non-binding unless they are expressly declared as binding in the offer text.

2.3. All agreements and legally relevant declarations of the contracting Parties must be in writing in order to be valid. Declarations in text form which

are transmitted by or recorded on electronic media shall be deemed equivalent to the written form if specifically agreed by the Parties.

2.4. The Purchaser with whom a contract has once been concluded on the basis of the GTC, agrees to the applicability thereof to all subsequent agreements between the Parties.

2.5. Collateral agreements, amendments to the GTC and deviations thereof, are only valid if these are specifically mentioned in the underlying GTC or if this is explicitly agreed upon by the Parties in writing and only in regard to the specific agreements that the Parties agree upon. Insofar as multiple general terms and conditions of the Supplier apply to a contract between the Parties, these terms shall all be fully applicable.

2.6. The GTC have been communicated to the Purchaser in advance and have been deposited at the Dutch Chamber of Commerce where they can be consulted at any time. Upon request the GTC will be sent to the Purchaser free of charge.

2.7. The Supplier has the right to unilaterally change the GTC at any time. All changes will have legal effect between the Parties, also with regard to existing agreements, and will come into effect 30 days after its announcement by means of filing with the Dutch Chamber of Commerce or, in the case of existing agreements, by notification thereof to the Purchaser.

2.8. In the event of a change to the GTC by the Supplier, the Purchaser has the right to indicate within 14 days after the aforementioned notification (Clause 2.7) to the Supplier in writing that it wishes to terminate all contracts between the Parties to which the GTC apply prematurely, with effect from the date that the amended GTC enter into force. The Supplier then has the right to indicate in writing to the Purchaser no later than 14 days after the timely receipt of the aforementioned notice, whether it wishes to continue these contracts on

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the basis of unaltered conditions. If the Supplier wishes to continue the contracts, the change will not apply to the Purchaser and the contracts will be continued on the basis of unchanged conditions. If the Supplier does not wish to continue the contracts, the contracts with the Purchaser will automatically be terminated with effect from the date the amended GTC enter into force.

2.9. Should any provision of these GTC prove to be wholly or partly invalid, the contracting Parties shall jointly seek an arrangement which has a legal and economic effect as similar as possible to the invalid provision. All other provisions of these GTC shall remain unaffected.

### **3. Scope of supplies and services**

3.1. The deliveries and services of the Supplier are exhaustively specified in the order confirmation and in appendices thereto. The Supplier shall be entitled to make any changes provided such changes do not affect the agreed scope of functions and do not result in a price increase.

3.2. If, after the original order, the Purchaser wishes to make changes or extensions to the scope of delivery and services specified in the order confirmation, these shall be offered by the Supplier in writing and confirmed by the Supplier in a new order confirmation after the order has been placed. Such change orders may have an impact on the agreed delivery date of the original subject matter of the contract, which the Supplier shall point out in its offer.

### **4. Plans and technical documentation**

4.1. Brochures and catalogues as well as technical information in electronic media (web shop, website, social media) are not binding unless otherwise agreed in writing. Information in technical documents and descriptions of articles in the web shop are only binding insofar as it has been expressly stipulated as a quality of the delivery item in the order confirmation and in appendices thereto.

4.2. Each contracting party retains all rights to plans and technical documents provided to the other. The receiving party recognises these rights and shall - without prior written authorisation of the

other party - not make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

### **5. Regulations and protective provisions in the destination country**

5.1. The Purchaser shall, at the latest with the order, draw the attention of the Supplier to the relevant local regulations and standards applicable to the execution of the supplies and services, to the operation of the machines as well as to the health and safety of personnel.

5.2. In the absence of an agreement in accordance with Clause 5.1, the supplies and services shall comply with the regulations and standards at the Supplier's place of business. Additional or other protective devices shall be supplied insofar as this has been expressly agreed. Additional protective devices subsequently requested by the Purchaser may have cost consequences for the Purchaser in accordance with Clause 3.2.

### **6. Prices**

6.1. Unless otherwise agreed, all prices shall be deemed to be net, thus excluding VAT, ex works and excluding packaging, in the freely available applicable local currency, without any deductions whatsoever. Any and all additional costs, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as certifications and all other costs, taxes and duties relating to the delivery of goods, shall be borne by the Purchaser, unless they are explicitly listed as included in the order confirmation. Likewise, the Purchaser shall bear any and all taxes, levies, fees, customs duties, certificates and the like as well as the related administrative costs which are levied out or in connection with the contract or its fulfilment. Insofar as such costs, taxes, etc. are charged to the Supplier or to persons employed or appointed by the Supplier to perform any of his obligations, they shall be refunded by the Purchaser upon presentation of the receipts. In the web shop the net prices of the items without taxes or other costs are listed. In the order confirmation of a web shop order, the delivery costs and the value-added tax are shown separately.

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6.2. The Supplier reserves the right to adjust prices if wage rates or material prices change between the time of the offer and the fulfilment of the contract.

6.3. An appropriate price adjustment shall also be made if

- a) The delivery time has been subsequently extended due to any reason stated in clause 9.5; or
- b) The nature or scope of the agreed supplies or services have changed; or
- c) The material or the execution has undergone changes because any documents supplied by the Purchaser were not in conformity with the actual conditions or were incomplete; or
- d) An amendment has been made to laws, regulations or the principles of interpretation or application; or
- e) Foreign currency rates change, so that it becomes or has become more expensive for the Supplier to procure services or goods, including raw materials.

6.4. The Supplier implementing an interim time price increase does not entitle the Purchaser to terminate the agreement with the Supplier unless a price is increased by more than 20%.

## 7. Terms of payment

7.1. Payments shall be made by the Purchaser at the Supplier's domicile according to the agreed terms of payment, without any deduction for cash discount, expenses, taxes, levies, fees, customs duties and the like. For services and spare parts, payments shall be made in full within the payment period stated in the invoice, unless otherwise agreed. For machinery and equipment, the price shall be paid in the following instalments, unless otherwise agreed:

- a) One third as advance payment immediately after receipt of the order confirmation.
- b) One third on expiry of two thirds of the agreed delivery time.
- c) The remaining amount within one month after Supplier's notification that the supplies are ready for dispatch.

7.2. The payment obligation shall be deemed to be effected when the applicable local currency been made freely available to the Supplier at the Supplier 's domicile. If payment by bill of exchange or by Letter of Credit is agreed, the Purchaser shall pay the cost of discounting such bills, bill of exchange tax and collection charges and the costs of issuing, notifying and confirming the Letter of Credit. The Letter of Credit must be opened by the Purchaser latest at receipt of the order confirmation.

7.3. The dates of payment shall also be observed if transport, delivery, installation, commissioning or acceptance of the supplies or services is delayed or prevented due to reasons beyond Supplier's control, or if unimportant parts and functions are missing or if post-delivery work is to be carried out which does not prevent the supplies from being used.

7.4. If the advance payment or the contractually agreed securities are not provided in accordance with the terms of the contract, the Supplier shall be entitled to adhere to the contract or to terminate the contract, and shall in both cases be entitled to claim damages. If the Purchaser, for any reason whatsoever, is in delay with a further payment, or if the Supplier is seriously concerned that he will not receive payments in total or in due time because of circumstances having taken place since entering the contract, the Supplier, without being limited in his rights provided for by law, shall be entitled to refuse further performance of the contract and to retain deliveries that are ready for dispatch until new payment and delivery conditions have been agreed and the Supplier has received sufficient securities. If such an agreement cannot be reached within a reasonable period of time, or if the Supplier does not receive adequate securities, the Supplier shall be entitled to terminate the contract and to claim damages from the Purchaser.

7.5. In case of overdue payment of any invoice sent by the Supplier, all payable obligations of the Purchaser become due in full immediately.

7.6. If the Purchaser does not adhere to the agreed terms of payment, he shall be liable, without reminder, to pay interest of 5% on the outstanding amount from the time of the agreed due date. The

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Purchaser reserves the right to claim damages instead of the aforementioned interest in case these damages exceed the interest of 5%. These damages also contain, but are not limited to, any extrajudicial costs the Supplier needs to make in this regard, for which costs the Purchaser is fully liable.

7.7. On penalty of lapse of rights to object, the Purchaser can raise objections to an invoice only within the term of payment, and in any case no later than 14 days following the invoice date.

## 8. Reservation of title

8.1. Per article 3:92 of the Dutch Civil Code, the Supplier shall remain the owner of, and thus retains the title to, any goods it delivers to the Purchaser, until the Supplier has received full payment of everything the Supplier is entitled to in accordance with the contract, being but not limited to:

- a) The price for all goods and services it provides to the Purchaser based on the contract;
- b) All claims the Supplier has resulting from the Purchaser failing to comply with any obligation following from the contract.

8.2. The Purchaser shall not be allowed to invoke any right of retention relating to goods delivered by the Supplier, nor to settle any claims it has on the Supplier with obligations it owes to the Supplier.

8.3. If the Purchaser creates a new good from the goods the Supplier delivered, this shall be deemed a good that the Supplier creates for itself. The Purchaser shall keep such good for the Supplier until all obligations that are mentioned in Clause 8.1 are completely fulfilled. Thus the Supplier is the full owner of this newly created good.

8.4. The Purchaser shall cooperate in any measures necessary for the protection of the Supplier's title. In particular, upon entering into the contract, he authorises the Supplier to enter or notify the reservation of title in public registers, books or similar records, all in accordance with the relevant national laws, and to fulfil all corresponding formalities, at the Purchaser's expenses.

8.5. If the Purchaser fails to fulfil the obligations referred to in Clause 8.1, or if the Supplier has reasonable cause to fear that the Purchaser will fail any of its obligations under the contract, the Supplier has the right, without prejudice to any other rights the Supplier has by law and without a warning being required, to take back all the goods the Supplier delivered to the Purchaser, without this leading to a termination of the contract, as well as without the obligation for the Supplier to refund any payments it has already received, as well as with the right of the Supplier to claim compensation from the Purchaser on account of the decrease in value of the delivered goods. To that end, the Supplier shall be allowed to enter the premises of the Purchaser. All costs relating to the recovery of these goods by the Supplier shall be borne by the Purchaser. The Supplier also has this right in case:

- a) The Purchaser is declared bankrupt, files a request for suspension of payments or offers a payment arrangement to any of its clients;
- b) The Purchaser liquidates its business or any part thereof;
- c) The goods delivered by the Supplier are seized by a third party;
- d) The goods delivered by the Supplier are seriously damaged;
- e) The Purchaser undertakes any action that endangers the fulfilments of any obligation to the Supplier.

8.6. The Purchaser shall be obliged at first request of the Supplier to establish satisfactory security to the Supplier for all obligations the Purchaser has to the Supplier, in such form as demanded by the Supplier. As long as the Purchaser does not comply with such a request, the Supplier is entitled to suspend all the obligations it has to the Purchaser.

8.7. During the period of the reservation of title, the Purchaser shall, at his own cost, maintain the supplies in good condition and insure them for the benefit of the Supplier against theft, breakdown, fire, water and other risks. The Purchaser shall furthermore take all measures to ensure that the Supplier's title is in no way compromised or restricted.

8.8. If the value of the goods taken back by the Supplier is to be determined, the valuation shall be

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carried out by an expert to be designated by the Supplier. Such valuation shall take into account the price at which, on the day of retrieval, the Supplier can acquire new goods of the same nature as the retrieved goods. Taking the price referred to as a basis, the valuation shall also take into account the decrease in value resulting from use, damage, aging and the decrease in saleability of the retrieved goods, for whatever reason. To determine the decrease in saleability of retrieved goods, the valuation shall also take into account the costs of an overall technical inspection to be incurred by the Supplier in the event of a possible resale.

## 9. Delivery time

9.1. Delivery periods that are not expressly designated as binding are non-binding and thus indicative only.

9.2. Spare parts orders received from Monday to Friday during office opening hours will be despatched on the same day using the delivery method chosen by the Purchaser (Economy or Express), provided the ordered parts are in stock. Items not in stock will be delivered as soon as possible. The expected delivery date for these items is shown in the web shop no later than 48 hours after ordering.

9.3. The despatch period shall start as soon as the contract is entered into, the Purchaser has fulfilled all agreed obligations to cooperate (in particular, has provided all documents and information required for the determination of the content of the order, insofar as the Purchaser is required to provide such documents and information in accordance with the contract), has made the advance payment, has obtained all official formalities such as import, export, transit and payment permits, has made the payments and provided any securities required for the order, has settled the essential technical points and, in the case of machine supplies, has signed a definitive installation plan. The delivery time shall be deemed to be observed if by that time the Supplier has sent a notice to the Purchaser informing him that the supplies are ready for dispatch.

9.4. Compliance with the delivery time is conditional upon the Purchaser's fulfilment of his contractual obligations.

9.5. The delivery time shall be extended accordingly:

- a) If the information required by the Supplier for the performance of the contract is not received in time, or if the Purchaser subsequently changes it thereby causing a delay in the delivery of the supplies or services;
- b) If hindrances occur which the Supplier cannot prevent despite exercising the required care, regardless of whether they affect the Supplier, the Purchaser or a third party. Such hindrances include, but shall not be limited to, pandemics & epidemics, mobilisation, war, civil war, acts of terrorism, riots, political unrest, revolutions, sabotage, serious breakdown in the works, accidents, labour conflict, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, actions or omissions by any authorities or state or supranational bodies, embargoes, unforeseeable transport problems, fire, explosion, natural catastrophes;
- c) If the Purchaser or a third party is behind schedule with work he has to execute, or with the performance of his contractual obligations, in particular if the Purchaser fails to observe the terms of payment, or if the installation start date cannot be met.

9.6. The Purchaser shall be entitled to claim liquidated damages for delayed supplies insofar as it can be proven that the delay has been caused through the fault of the Supplier and that the Purchaser has suffered a loss as a result of such delay. If substitute material can be supplied to accommodate the Purchaser, the latter is not entitled to any damages for delay. Damages for delayed delivery shall not exceed 0.5% for each full week of delay, and shall in no case whatsoever altogether exceed 5% of the contract price of the part of the supplies in delay. No damages at all shall be due for the first two weeks of delay. After reaching the maximum liquidated damages for delayed delivery, the Purchaser shall grant the Supplier a reasonable extension of time in writing. If such an extension is not observed for reasons within the Supplier's control, the Purchaser shall have the right to reject the delayed part of the supplies or services. If a partial

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acceptance is economically not justified on the part of the Purchaser, the latter shall be entitled to terminate the contract and to claim refund of the money already paid against return of the deliveries supplied.

9.7. If a specific date has been fixed instead of a delivery period, this date shall be equivalent to the last day of a delivery period; Clause 9.1 to 9.5 apply by analogy.

9.8. Any delay of the supplies or services does not entitle the Purchaser to any rights and claims other than those expressly stipulated in this section 9. This limitation does, however, not apply to unlawful intent or gross negligence on the part of the Supplier, but does apply to persons employed or appointed by the Supplier to perform any of his obligations.

9.9. The Supplier shall be entitled to claim compensation from the Purchaser for any delay in delivery for which the Supplier is not responsible. This compensation includes verifiable additional costs of the Supplier, such as, but not limited to, costs for interim storage. Compensation for delayed delivery shall not exceed 0.5% for each full week of delay, and shall in no case whatsoever altogether exceed 5% of the contract price of the part of the supplies in delay. No damages at all shall be due for the first two weeks of delay.

## 10. Packaging

10.1. The packaging shall be invoiced separately by the Supplier and shall in principle not be returnable. On the contrary, if it is declared as the Supplier's property, it shall be returned by the Purchaser, carriage paid, to the place of dispatch.

10.2. If packaging is invoiced, this will concern all costs of packaging by the Supplier including all used materials and labour costs, as well any packaging costs charged to the Supplier by third parties.

## 11. Passing of benefit and risk

11.1. Unless otherwise stipulated in the order confirmation, benefit and risk of the supplies shall pass to the Purchaser by the date of their leaving the works at the latest.

11.2. If dispatch is delayed at the request of the Purchaser or due to reasons beyond Supplier's control, the risk of the supplies shall pass to the Purchaser at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the Purchaser.

## 12. Shipping, transport and insurance

12.1. The Supplier shall be notified in good time of any special requirements regarding dispatch, transport and insurance. Unless otherwise agreed in the order confirmation, transportation shall be at the Purchaser's expense and risk.

12.2. If not otherwise agreed upon, the Supplier shall determine the mode of transport and the type of goods in transit insurance.

12.3. The Supplier shall be entitled to fulfil all of its obligations in parts.

12.4. Objections regarding shipment or transport shall be immediately submitted by the Purchaser to the last carrier upon receipt of the supplies or of the shipping documents.

12.5. The Purchaser shall be responsible for proper insurance of the supplies against damage of any kind.

12.6. The Purchaser shall be responsible for insuring and bringing the supplies from the unloading place of delivery to the place of installation.

## 13. Return of spare parts

13.1. Unused spare parts may be returned by the Purchaser subject to the prior written approval of the Supplier within a maximum of 30 days of receipt of the goods. Before returning the parts, the Purchaser must contact the Supplier at [info@bx.mullermartini.com](mailto:info@bx.mullermartini.com) to authorise the return. A handling charge of 20% of the original order value of the parts (excluding ancillary costs) will be levied on returns of spare parts, which will be offset against the credit note.

13.2. The spare parts must be returned in the original packaging and in unused condition. The authorisation of return must be enclosed. The amount

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of the credit note will be determined after the Supplier has checked the returned goods.

13.3. In the case of defective spare parts delivered, the Purchaser must inform the Supplier immediately and, if necessary, provide evidence of the defect at the Supplier's request (e.g. by means of photos). These parts shall be replaced immediately by the Supplier without further costs for the Purchaser.

#### **14. Inspection and acceptance of the supplies and the scope of functions**

14.1. As far as being normal practice, the Supplier shall inspect the supplies and services before dispatch. If the Purchaser requires further testing, this has to be specially agreed upon and paid for by the Purchaser.

14.2. The Purchaser shall inspect the supplies and the functional scope within a reasonable period of time after notification of readiness for acceptance and shall immediately notify the Supplier of any deficiencies in writing. If he fails to do so, the supplies and the functional scope shall be deemed to have been approved.

14.3. The Supplier shall remedy the defects notified to him in accordance with Clause 14.2 as soon as possible and the Purchaser shall give him the possibility to do so. After remedy of such deficiencies, an acceptance test shall be carried out at the request of the Purchaser or the Supplier in accordance with Clause 14.4.

14.4. Subject to Clause 14.3, the execution of an acceptance test (functional test), as well as the stipulation of the conditions related thereto require a special agreement. In the absence of such an agreement the following shall apply:

- a) The Supplier shall notify the Purchaser in good time of the execution of the acceptance test so that the Purchaser or its representative can attend.
- b) An acceptance report shall be prepared which shall be signed by both the Purchaser and the Supplier or by their representatives. Such report shall either state that the acceptance has taken place, or that it has taken place under

reservations, or that the Purchaser has refused it. In the latter two cases, the deficiencies shall be listed individually in the report.

- c) In case of insignificant deficiencies, in particular those which do not substantially hinder the efficient functioning of the supplies or services, the Purchaser shall not be entitled to refuse acceptance of the supplies or services and refuse to sign the acceptance report. The Supplier shall remedy such deficiencies without delay.
- d) In the event of significant deviations from the contract or serious defects, the Purchaser shall give the Supplier the opportunity to remedy these within a reasonable period of time. A further acceptance test shall then take place. If this again reveals significant deviations from the contract or serious defects, the Purchaser may demand a price reduction, compensation payment or other services from the Supplier if the contracting Parties have agreed on these. If, however, the defects or deviations revealed by this inspection are so serious that they cannot be remedied within a reasonable period of time and the supplies and the scope of functions are not usable for the notified purpose or are usable only to a considerably reduced extent, the Purchaser shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically unreasonable for him, to withdraw from the contract. The Supplier can only be obliged to refund the amounts paid to him for the parts affected by the withdrawal.

14.5. Acceptance shall also be deemed completed

- a) If the Purchaser does not participate in the acceptance test despite being requested in advance to do so;
- b) If the acceptance test cannot be carried out on the scheduled date due to reasons beyond Supplier's control;
- c) If the Purchaser refuses acceptance without being entitled to do so;

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- d) If the Purchaser refuses to sign an acceptance report prepared in accordance with Clause 14.4;
- e) As soon as the Purchaser uses the supplies or services.

14.6. Deficiencies of any kind in supplies or services shall not entitle the Purchaser to any rights and claims other than those expressly stipulated in Clauses 14.3 and 15 (Warranty, Liability for Defects).

## 15. Warranty, liability for defects

### 15.1. Warranty period

Unless otherwise agreed, the warranty period shall be 12 months. It starts with the readiness for production at the Purchaser's premises. If dispatch, acceptance or installation are delayed due to reasons beyond Supplier's control, the warranty period shall end not later than 18 months after Supplier's notification that the supplies are ready for dispatch. For replaced or repaired parts, the warranty period starts anew and lasts 12 months from replacement, completion of repair or from acceptance, but not longer than the expiry of a period double the warranty period stipulated in the preceding paragraph. The warranty expires prematurely if the Purchaser or a third party undertakes modifications or repairs or if the Purchaser, in case of a defect, does not immediately take all appropriate steps to mitigate the damage and give the Supplier the possibility to remedy the defect.

### 15.2. Liability for defects in material, design and workmanship

Upon the written request of the Purchaser, the Supplier may choose to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the warranty period, are proven to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become the Supplier's property if he does not explicitly renounce this. Under restriction of proportionality, the Supplier shall bear the costs of remedying the defective parts provided that they do not exceed the customary costs of transport, personnel, travelling, accommodation, dismantling and reassembly of the defective parts. Supplies cannot be returned without prior written permission from the Supplier.

### 15.3. Liability for express warranties

Express warranties are only those which have been expressly specified as such in the order confirmation or in the specifications. An express warranty is valid until the expiry of the warranty period at the latest. If an acceptance test has been agreed, the warranty shall be deemed to have been fulfilled as soon as the test results prove the relevant characteristic. If the express warranties are not or only partially achieved, the Purchaser may first of all require the supplier to carry out the improvements immediately. The Purchaser shall give the Supplier the necessary time and possibility to do so. If these improvements fail completely or in part, the Purchaser may claim compensation as agreed beforehand for such case, or, if no such agreement has been made, a reasonable reduction of price. If, however, the defects are of such significance that they cannot be remedied within a reasonable period of time, and provided that the supplies or services cannot be used for their specified purpose, or if such use is considerably impaired, then the Purchaser shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically not justified for him and he communicates this immediately, to terminate the contract. In this case, the Supplier can only be held liable for reimbursing the sums which have been paid to him for the parts affected by the termination.

### 15.4. Exclusions from liability for defects

All deficiencies which cannot be proven to have their origin in bad material, faulty design or poor workmanship, e.g. those resulting from normal wear and tear, improper maintenance, failure to observe the operating instructions, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, building or installation work not undertaken by the Supplier, or resulting from other reasons beyond Supplier's control are excluded from the Supplier's warranty and liability for defects.

15.5. Wear parts and consumables are generally excluded from the warranty.

### 15.6. Supplies and services of subcontractors

For supplies and services of subcontractors requested by the Purchaser, and which are expressly included in the Supplier's delivery and service con-

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tract, the Supplier assumes the warranty and liability for defects only to the extent of the subcontractor's warranty and liability obligations.

#### 15.7. Exclusivity of warranty claims

With respect to any defective material, poor design or workmanship as well as to any failure to fulfil express warranties, the Purchaser shall not be entitled to any rights and claims other than those expressly stipulated in Clauses 15.1 to 15.6. If the Purchaser reports a defect and no defect is found for which the Supplier is liable, the Purchaser is responsible for compensating the Supplier for the work undertaken and other expenses and costs.

15.8. The Supplier shall be obliged to replace or repair any broken or faulty parts, insofar as the producer or the Supplier who manufactured such parts enables the Supplier to do so. This obligation shall exist only within the applicable warranty period. With regard to broken or faulty parts, it is up to the Supplier to choose to either deliver what is lacking, repair what is broken and/or faulty or to replace broken or faulty parts.

15.9. On penalty of lapse of rights, any defects in the proper working must be notified to the Supplier in writing within 14 days from detection, and in any case not later than 14 days from expiry of the warranty period.

15.10. In the event of being challenged, any claims on account of the Supplier's warranty obligations should be enforced at law within 12 months from expiry of the applicable warranty term, on penalty of lapse of rights.

15.11. The Supplier shall never be bound by any warranty, if and as long as the other party has not fulfilled any of its obligations under any agreement, especially its payment obligations.

15.12. Any machines dispatched in disassembled condition are given a warranty only if such machines are assembled under the supervision of the Supplier.

15.13. If the Purchaser makes any repair or alteration, irrespective of the nature of any such repair or alteration, to any delivered goods without the explicit permission of the Supplier, and this shall explicitly include any rearrangement or reassembly

following a removal or relocation, other than made by or on behalf of the Supplier, any claim under the warranty and any right of complaint in respect of such delivered goods shall lapse.

#### 15.14. Liability for additional obligations

The Supplier shall only be liable for claims of the Purchaser due to bad advice and the like or due to breach of any ancillary obligations, in the event of unlawful intent or gross negligence by the Supplier.

### **16. Non-performance, bad performance and their consequences**

16.1. In all cases of bad performance or non-performance not expressly covered by these GTC due to Supplier's fault, the Purchaser shall grant a reasonable additional period for the delivery of the supplies or services affected thereby, by simultaneously warning to terminate the contract in case of non-compliance. Only if such additional period lapses due to Supplier's fault, the Purchaser shall be entitled to terminate the contract with respect to the supplies or services executed, or certain to be executed, contrary to the terms of the contract, and to claim a refund of the payments already made for such supplies and services.

16.2. In the situation as described in Clause 16.1 the provisions of Clause 22 apply, and the claim for damages shall at all times be limited to 10% of the contract price for the supplies and services affected by the termination.

### **17. Termination of the contract by the Supplier**

17.1. The contract shall be adapted appropriately if unforeseen events considerably change the economic effect or the content of the supplies or services or considerably affect the activities of the Supplier, or if performance subsequently becomes impossible. If such an adaptation is economically not justifiable, the Supplier shall be entitled to terminate the contract or the parts affected thereby.

17.2. If the Supplier wishes to terminate the contract, the Purchaser shall – after having recognized the consequences of the event – immediately inform the Purchaser, even if an extension of the delivery time has been agreed beforehand. In case of

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termination of the contract, the Supplier shall be entitled to payment for those parts of the supplies and services which have already been carried out. Claims for damages on the part of the Purchaser because of such termination are excluded.

17.3. The Supplier may terminate any contract with the Purchaser, either fully or partially, with immediate effect and without becoming liable to pay any damages as well as without prejudice to any other right the Supplier has, without any notice of default or any court intervention being required, in case the situation as described in Clause 8.5 arises.

## 18. Export control

18.1. The Purchaser recognises that the supplies may be subject to Dutch and/or foreign legal provisions and regulations on export control and are not allowed to be sold, leased or otherwise transferred or used for any purpose other than the agreed purpose without an export or reexport permit issued by the competent authority. The Purchaser undertakes to comply with such provisions and regulations. He is aware that these may change and that they apply to the contract in the current valid wording.

## 19. Data protection

19.1. The Supplier is entitled to process the personal data of the Purchaser and its personnel and other affiliated persons, in order to perform the contract. Furthermore, the Purchaser consents in particular to the Supplier transmitting such data to third parties in the Netherlands and abroad for the purpose of performing and maintaining the business relationships between the Parties. The processing shall be limited to the minimum necessary for the processing of an order.

19.2. The Supplier's privacy policy applies, which is available on the website [www.mullermartini.com](http://www.mullermartini.com) under "Data Privacy".

19.3. The Purchaser shall indemnify the Supplier against any claim by third parties in connection with any violation of privacy and/or any improper handling or storage of personal data, all this to the extent that the way in which the Purchaser's acts increased the risk of any such violation or any such

improper handling of personal data. The Purchaser warrants that it has fulfilled all of its obligations under any applicable laws and regulations on personal data and data leaks.

## 20. Intellectual property

20.1. All software delivered by the Supplier is the intellectual property of its parent company, Müller Martini AG, Untere Brühlstrasse 17, 4800 Zofingen, Switzerland. Thus as far as the Purchaser makes use of the software delivered by the Supplier, the "General Terms and Conditions for the Use of Software" of Müller Martini AG, in the version valid at the time of conclusion of the contract, apply. The current valid version is available on the website [www.mullermartini.com](http://www.mullermartini.com) under "Impressum".

20.2. The Supplier is in no way accountable or liable for the correct working of any software it delivers, nor for any damage caused by this software.

20.3. The Supplier does not warrant that the delivered goods do not infringe on any (intellectual property) rights owned by any third party.

20.4. The Purchaser shall indemnify the Supplier against any claim by third parties in connection with any violation of intellectual property rights belonging to them.

## 21. Digital service support

21.1. In order to optimally support the commissioning and operation of the supplies at the Purchaser's site, the operational use of the Remote Service Portal ("RSP") - a remote access connection using a secure channel, is required.

21.2. The RSP is provided by the parent company of the Supplier, Müller Martini AG, Untere Brühlstrasse 17, 4800 Zofingen, Switzerland. As far as the Purchaser makes use of the RSP, the "General Terms and Conditions for the Use of Remote Services" of Müller Martini AG, in the version valid at the time of the conclusion of the contract form, apply. The current valid version is available on the website [www.mullermartini.com](http://www.mullermartini.com) under "Impressum".

21.3. The Supplier will be the contact person for the Purchaser with regard to the RSP.

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21.4. The commissioning of the remote access connection takes place - regardless of whether the Purchaser has purchased a further remote contract or not - before the production start. The Purchaser provides the Supplier with Internet access for this purpose.

21.5. If it is not possible to establish a remote connection to the system for reasons beyond Supplier's control, this may lead to restrictions in the Supplier's services to the Purchaser in the form of increased response times, additional costs in the event of service or impediment / impossibility of support.

21.6. Müller Martini AG is entitled to transmit via RSP non-personal machine data as a basis for services and product improvements using a secure connection and to store and evaluate these data in a protected manner. The use of this data is neither temporally nor territorially limited. When collecting and using this data, the Supplier shall comply with all legal provisions and existing contractual non-disclosure agreements and shall consider the data protection provisions in accordance with Clause 19.2.

21.7. The Purchaser is obliged to reliably protect its IT resources and network against cyber-attacks and to report any incidents to the Supplier without delay.

21.8. If Müller Martini AG or any third party authorized by the Purchaser carries out services or analysis work on the supplies by himself and establishes electronic connections to the machine control system, the Purchaser is responsible to ensure that cyber security is maintained.

## **22. Exclusion of further liabilities on the Supplier's part**

22.1. All cases of breach of contract and the relevant consequences as well as all rights and (alleged) claims on the part of the Purchaser, irrespective of what ground they are based, are exhaustively covered by these GTC. Thus these GTC set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Purchaser.

22.2. In the event that claims of the Purchaser in relation to or in connection with the contract or the breach thereof should exist, the total amount of such claims is restricted to the price paid by the Purchaser based on that contract or, if the damage is covered by an insurance policy of the Supplier, the amount actually paid out by the insurer in this regard. In particular, any claims not expressly mentioned for damages, reduction of price, termination of or withdrawal from the contract are excluded.

22.3. In no case shall the Purchaser be entitled to claim damages from the Supplier, other than compensation for the costs of remedying defects in the supplies.

22.4. With exception of intent or willful recklessness on the part of the Supplier, the Supplier is in no way liable for any indirect, subsequent faults, or immaterial damage, regardless of the legal basis on which such claims are based, such as but not limited to:

- any materials used for the execution of the contract;
- loss of profit;
- loss of or damage to goodwill;
- loss of business;
- loss of business opportunity;
- loss of production;
- loss of use;
- loss of orders;
- recall costs;
- loss of anticipated saving;
- loss or corruption of data or information;
- special, indirect or consequential damage;
- trading loss;
- damage to persons or property;
- loss of income/margin and profits;
- loss of customers.

22.5. The Supplier shall not bear the risk of any damage caused by strikes, lockouts, illness, import, export and/or transit prohibitions, transport problems, non-fulfilment of obligations by suppliers, interruption of operations, natural and/or nuclear disasters, war, threat of war and/or civil commotions or any other form of force majeure as referred to in article 6:75 of the Dutch Civil Code.

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22.6. The Supplier is under no circumstances liable for any claims from third parties against the Purchaser.

22.7. The exclusion of liability on the Supplier's part does not apply to unlawful intent or gross negligence on the part of the Supplier, but does apply to persons employed or appointed by the Supplier to perform any of its obligations. The personnel of the Supplier and auxiliary persons engaged by the Supplier for the execution of a contract, can invoke all defenses to be derived from the contract and the GTC against the Purchaser as if they were a party to the contract themselves.

22.8. The right to choose the manner of remedying a shortcoming lies with the Supplier. The right of the Supplier to pay a compensation, in particular the right to pay a compensation instead of recovery, is expressly reserved.

22.9. Any claim against the Supplier, except those acknowledged by the Supplier, lapses by the mere lapse of 12 months after the claim arose.

22.10. The Purchaser shall indemnify the Supplier from and against any compensation, cost and damage which the Supplier might incur, arising from any claims filed by third parties on account of any defect in any good delivered by the Supplier to the Purchaser, or on account of the use thereof by the Purchaser.

### **23. Right of recourse of the Supplier**

23.1. If personal injury or damage to the property of third parties occurs through actions or omissions of the Purchaser or of persons employed or appointed by the Purchaser to perform any of its obligations, and if a claim is made against the Supplier, the latter shall be entitled to take recourse against the Purchaser.

### **24. Installation**

24.1. If the Supplier undertakes the installation or the supervision of the installation of the supplies the "General Terms and Conditions of Installation of Müller Martini Benelux B.V." apply.

24.2. The "General Terms and Conditions of Installation of Müller Martini Benelux B.V." have been

deposited at the Dutch Chamber of Commerce where they can be consulted at any time.

### **25. Jurisdiction and applicable law**

25.1. The place of jurisdiction for the Purchaser and the Supplier shall be the Supplier's registered office.

25.2. The Supplier shall, however, be entitled to sue the Purchaser at the latter's registered address.

25.3. The contract and the GTC shall be governed exclusively by Dutch law. The application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded.

### **26. Confidentiality**

26.1. All competitively sensitive and company confidential information, of whatever form, including without limitation any price lists, product specifications, protocols and price and innovation campaigns), which the Parties exchange or already have exchanged within the scope of any (possible) conclusion of an agreement or during the term of the contract, or which they make or have made available to one another for inspection, or which they are or have been confronted with, shall be deemed to be confidential (referred to below as "**Confidential Information**").

26.2. No party is allowed to use, copy or store any Confidential Information concerning the other party for any purpose other than the purpose for which it was provided. The other party's Confidential Information must be safely stored for a period that is not longer than is reasonably necessary for the execution of an agreement.

26.3. No party is allowed to disclose any Confidential Information concerning the other party to any third party in any way, unless it has obtained the other party's written permission to do so, or unless it is required to do so pursuant to the law, any court judgment or any requirement set by an authorised government body.

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## 27. Miscellaneous

27.1. The Supplier shall at all times be entitled to set off any of its claims against the Purchaser, on whatever account, against any of the Purchaser's claims against the Supplier on whatever account.

27.2. The Supplier shall at all times be entitled to postpone any of its obligations if it establishes a shortcoming in the fulfilment of any of the Purchaser's obligations.

27.3. The Supplier is authorised to outsource the execution of all or a part of an agreement to any third party.

27.4. Any samples and models are provided for reference purposes only and shall not be resold by the Purchaser. The Purchaser shall destroy or return any received samples and models at the first request of the Supplier in writing.

27.5. The Purchaser is not allowed to transfer all or a part of the rights and obligations under an agreement to any third party without the Supplier's prior written permission. The Supplier may attach conditions to any such permission. The Supplier shall be entitled to transfer any of his rights or obligations to a group company.

27.6. In the event that any provisions of an agreement that is governed by these GTC deviate from these GTC, then the provisions of such agreement shall prevail.

27.7. The Supplier not invoking compliance with these GTC or with any of its provisions shall not be construed as a waiver by the Supplier of any right or remedy that the Supplier has under these GTC.