

# Martin Engineering GmbH general delivery conditions

## 1. Validity

- 1.1 The following general delivery conditions shall apply to all delivery obligations of Martin Engineering GmbH (hereinafter referred to as "Martin Engineering") towards its customers. This applies in particular to delivery obligations arising from purchase contracts and contracts for work.
- 1.2 The customer agrees to these general delivery conditions when placing the order. These shall also apply to all future offers, deliveries and services to the customer, even if they are not separately agreed again.
- 1.3 All the customer's terms and conditions of business or purchase are hereby rejected. Amendments and supplements to these general terms and conditions are only binding if they have been confirmed in writing by Martin Engineering. This shall also apply to any amendment of this requirement for the written form. Transmission by telecommunication, in particular by fax or by e-mail, shall be sufficient to comply with the written form, provided that a copy of the signed declaration is sent.

## 2. Conclusion of contract

- 2.1 Quotations from Martin Engineering are subject to change without notice. The placement of an order by the customer shall be deemed a binding offer of contract. Martin Engineering is entitled to accept this offer of contract within 14 days of its receipt. A contract shall only become effective upon dispatch of a written order confirmation by Martin Engineering or upon performance of the service.
- 2.2 Technical information sent in connection with the offer, such as weight and dimension specifications as well as other descriptions of properties and services, shall only be binding if they are expressly designated as binding in the order confirmation.

## 3. Confidentiality

The customer shall maintain confidentiality of information and documents, such as cost estimates, weights and dimensions, illustrations and drawings, which were transmitted to them in connection with the offer and were designated as confidential or are otherwise clearly recognisable as business or trade secrets; such confidentiality shall also be preserved beyond the end of the contract. In particular, the customer shall not record, exploit or forward this information and documents to third parties unless this is necessary for the intended use of the delivered goods. The customer shall treat and protect confidential information and documents with at least the same degree of care that it applies in its own comparable matters, but at the very least to the standard of care that would be expected of a prudent businessperson. The customer shall ensure that its employees and contractual partners are also bound by the confidentiality obligations of this Clause 3.

## 4. Delivery

- 4.1 Delivery dates and deadlines are only binding insofar as they are expressly designated as binding in the order confirmation. Delivery periods shall commence on the date of the order confirmation, but not before the customer has carried out all acts of cooperation or other services incumbent upon them prior to the commencement of delivery, such as the transmission of technical data, obtaining approvals and not before receipt of payments contractually due. Delivery dates and deadlines shall be deemed to have been met and delivery shall be deemed to have taken place if, on the due date, the risk has passed to the customer in accordance with clause 5 of these general delivery conditions. Martin Engineering is only entitled to make partial deliveries if the partial delivery is usable for the customer within the scope of the contractual intended purpose, the delivery of the remaining ordered goods is assured and the customer does not incur any significant additional expenses or costs as a result, unless Martin Engineering agrees to bear such costs.
- 4.2 Events beyond Martin Engineering's control which delay delivery and for which Martin Engineering is not responsible, such as force majeure, delays in delivery and transport in the case of subcontracting, official directives, industrial disputes, or pandemics, release Martin Engineering from its obligation to deliver on time for as long as the effects of such events persist. Delivery periods shall be extended by the duration of these events. Martin Engineering will notify the customer of the occurrence and cessation of such events by reasonable means. If such events last longer than three months, either party shall be entitled to withdraw from the contract. The customer shall not be entitled to claim damages in this respect.
- 4.3 If the customer suffers damage due to a delay caused by Martin Engineering, the customer shall be entitled to claim as damages for the delay the foreseeable damage demonstrably causal to such delay and actually incurred by them, but not more than half a per cent for each full week of delay, and not more than five per cent in total of the value of the parts of the delivery which cannot be used in time or in accordance with the contract as a result of such delay. No further claims may be asserted, unless such delay is due to intent or gross negligence on the part of Martin Engineering. Delays caused by public holidays, pandemics or company holidays are not considered to be culpable reasons.
- 4.4 If the customer defaults in acceptance or if delivery is delayed for other reasons for which the customer is responsible, Martin Engineering shall be entitled to withdraw from the contract if such default is not remedied after expiry of a reasonable grace period. Martin Engineering shall have the option to otherwise dispose of the goods intended for delivery, or to deliver the contractually agreed service with a reasonably extended period of time. Further rights remain unaffected.

## 5. Transfer of risk

- 5.1 Risk shall pass to the carrier when the goods are handed over. This also applies if Martin Engineering undertakes performance obligations that go beyond the handover

of the goods to the carrier, such as undertaking shipment or the installation of the goods. Martin Engineering shall insure the goods at the request and expense of the customer against theft, breakage, transport, fire and water damage and other insurable risks. If the customer defaults in acceptance or if delivery of the goods is delayed for other reasons for which the customer is responsible, risk shall pass to the customer from the day the goods are ready for delivery.

- 5.2 Delivered goods shall be accepted by the customer unless they have significant defects. Clause 9 of these general delivery conditions shall remain unaffected.

## 6. Remuneration, terms of payment, rights of set-off and retention

- 6.1 Delivery remuneration are calculated according to the price list valid on the date of the order confirmation. Prices are ex works including loading. They do not include packaging, value added tax at the respective statutory rate and Customs duty in the case of export deliveries. Payments are due in cash and without deduction within the payment period specified in the order confirmation. If the customer is in default of payment, default interest shall be due at the respective applicable statutory default interest rate for legal transactions in which no consumer is involved. Rights to make further valid claims are unaffected.
- 6.2 The customer may only assert rights of retention or set-off to the extent that such claims by the customer are undisputed or have been established as legally valid or arise from the same order under which the relevant delivery was made.

## 7. Retention of title

- 7.1 Martin Engineering retains title to the delivered goods as well as to the goods resulting from their treatment or processing until all existing or future claims against the customer have been satisfied in full. The customer shall process the delivered goods on behalf of Martin Engineering without Martin Engineering incurring any obligations as a result.
- 7.2 The customer hereby assigns to Martin Engineering co-ownership rights resulting from the processing, combination, blending or mixing of the delivered goods with third party goods. Martin Engineering accepts this assignment.
- 7.3 The customer shall hold the goods that are the sole or joint property of Martin Engineering as custodian for Martin Engineering with due commercial care.
- 7.4 The sale of goods owned or co-owned by Martin Engineering by the customer is only permitted in the ordinary course of the customer's business. The customer hereby assigns claims to which the customer is entitled from the sale of these goods, or from any other legal entitlement concerning these goods, as security for all existing or future claims of Martin Engineering against the customer. Martin Engineering accepts this assignment by way of security. The customer is revocably authorised to collect the assigned claims on trust for Martin Engineering.
- 7.5 If the customer defaults on any obligations to Martin Engineering, Martin Engineering may, without prejudice to any other rights, and after setting a reasonable deadline, take back the goods covered by this retention of title and dispose of them elsewhere in order to satisfy claims due from the customer. In this case, the customer shall immediately grant Martin Engineering access to the goods covered by this retention of title and surrender them. This demand for surrender shall not be deemed to be a withdrawal from the contract unless the Consumer Credit Act applies.
- 7.6 Martin Engineering is entitled to insure the goods covered by the extended retention of title against appropriate risks at the expense of the customer until full transfer of title to the customer, unless the customer can demonstrate that they have taken out such insurance themselves. If the customer takes out such insurances, they hereby assign to Martin Engineering any benefits from the respective insurance policy proportionate to Martin Engineering's proportion of ownership; Martin Engineering accepts this assignment.
- 7.7 The customer shall at all times provide all requested information about the goods covered by this retention of title and the related claims assigned to Martin Engineering. The customer shall immediately notify any seizures or claims by third parties with regard to these goods and hand over such documentation as may be necessary. They shall notify such third parties of the existing retention of title. The costs of a defence against such accesses and claims shall be borne by the customer.
- 7.8 If Martin Engineering delivers to countries in which the extended retention of title does not afford the same security benefits as in the Federal Republic of Germany, the customer shall do everything necessary to create comparable security rights for Martin Engineering without delay. The customer shall cooperate in all measures necessary or conducive to the effectiveness and enforceability of such security interests, such as registrations, publications, etc.
- 7.9 If the realisable value of the securities granted in or pursuant to this Clause 7 shall exceed Martin Engineering's secured claims by more than 20 percent, the customer shall be entitled to demand the release of existing security above that threshold. Furthermore, Martin Engineering may revoke the customer's authorisation to sell the goods covered by this retention of title pursuant to Clause 7.4 of these General Delivery Conditions if the customer fails to fulfil its obligations under the extended retention of title.

## 8. Warranty

Martin Engineering shall be liable for defects in the goods delivered, to the exclusion of further claims by the customer, as follows:

- 8.1 Martin Engineering shall repair or replace the defective parts of the delivery free of charge at their discretion. The spare parts used for repair are subject to retention of title in accordance with Clause 7 of these General Delivery Conditions. Replaced parts remain or become the property of Martin Engineering. The customer shall only be entitled to remedy defects themselves or have them remedied by third parties at the expense of Martin Engineering if this is necessary in urgent cases of danger to operational safety

or to prevent disproportionately large damage, or if Martin Engineering is in default in remedying the defect. If the rectification fails or if further attempts at rectification are unreasonable for the customer, the customer shall be entitled to a reduction in price or to withdraw from the contract.

8.2 The customer shall carefully inspect the delivered goods upon receipt and shall notify Martin Engineering promptly in writing of any immediately obvious defects and of any defects that become apparent upon careful inspection, but no later than ten days after delivery. Defects that are not immediately apparent must be reported to Martin Engineering in writing immediately after discovery. If the customer fails to properly inspect the goods and/or give notice of defects, our liability for any defects not reported, or not reported in time, or not properly reported shall be excluded in accordance with statutory provisions. A rejected delivery item must be returned to Martin Engineering on their request, carriage paid. In the event of a justified rejection, Martin Engineering shall reimburse the costs of the most favourable shipping route; this shall not apply to the extent that any costs increase is due to the delivery item being located at a place other than the place of intended use. If a notice of rejection proves to be unjustified, the customer shall reimburse Martin Engineering for all expenses incurred by them as a result of this notice of defect, unless the customer could not have reasonably known that the rejection was unjustifiable.

8.3 The warranty period shall be twelve months from delivery; insofar as acceptance has been agreed, the limitation period shall begin with acceptance. This limitation period shall not apply if longer periods are prescribed by law pursuant to Sections 438 para. 1 No. 2 (buildings and items for buildings), 478, 479 (supplier's recourse) and 634 para. 1 No. 2 BGB (German Civil Code – Building Defects), as well as in cases of injury to life, body or health, in the event of a wilful or grossly negligent breach of duty by Martin Engineering and in the event of fraudulent concealment of a defect. Martin Engineering accepts no liability for defects arising from the following: Improper use, faulty assembly or commissioning by the customer or third parties, normal wear and tear, faulty or negligent handling, unsuitable operating materials or replacement materials, defective construction work or unsuitable building ground or chemical, electrochemical or electrical influences. This applies only insofar as these reasons are not due to Martin Engineering's fault.

#### 9. Liability

9.1 Martin Engineering's liability for damages, irrespective of the legal grounds, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations and tort, shall be limited in accordance with this Clause 9, insofar as fault is relevant in each case.

9.2 Martin Engineering shall not be liable in the event of simple negligence on the part of its executive bodies, legal representatives, employees or other vicarious agents, insofar as this does not involve a breach of material contractual obligations. Material contractual obligations are the obligation to deliver and install the delivery item in due time, its freedom from defects of title as well as such material defects that impair its

functionality or usability more than insignificantly, as well as advisory, protective and custodial obligations that are intended to enable the customer to use the delivery item in accordance with the contract or are intended to protect life and limb of the customer's personnel or to protect the customer's property from significant damage.

9.3 Insofar as Martin Engineering is liable on the merits for damages in accordance with Clause 9.2, this liability is limited to damages which Martin Engineering foresaw as a possible consequence of a breach of contract at the time of the conclusion of the contract or which Martin Engineering should have foreseen by exercising due care. Indirect damage and consequential damage resulting from defects in the delivery item are also only eligible for compensation insofar as such damage is typically to be expected when the delivery item is used as intended.

9.4 In the event of liability for ordinary negligence, Martin Engineering's liability to pay compensation for damage to property and further financial loss resulting therefrom shall be limited to the amount of US\$ 1,000,000 per claim covered by Martin Engineering's public liability insurance, even if it involves a breach of material contractual obligations.

9.5 The above exclusions and limitations of liability apply to the same extent in favour of Martin Engineering's corporate bodies, legal representatives, employees and other vicarious agents.

9.6 Insofar as Martin Engineering provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by Martin Engineering, this is done free of charge and to the exclusion of any liability.

9.7 The limitations of this Clause 9 shall not apply to Martin Engineering's liability for wilful misconduct, for guaranteed qualities, for injury to life, body or health or under the German Product Liability Act (Produkthaftungsgesetz)

#### 10. Final clauses

10.1 Should the contract or these General Delivery Conditions contain unintended loopholes, legally effective provisions to fill these loopholes, which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Delivery Conditions had they known about the loophole, shall be deemed to have been agreed.

10.2 The customer is not entitled to assign their rights arising from this contract.

10.3 The place of performance for all deliveries is the place of delivery, i.e. the place to which the goods are to be contractually delivered by Martin Engineering.

10.4 The laws of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

10.5 The place of jurisdiction for all disputes arising from the contract and these General Terms and Conditions is Wiesbaden. However, Martin Engineering is also entitled to sue the customer at the legal places of jurisdiction applicable to the customer.

## Special Conditions for the use of the N2-Service (Online Monitoring Service)

These special conditions for the use of the N2-Service shall apply in addition to the current General Terms of Delivery of Martin Engineering and in addition to the N2-App Terms of Use.

### 1. SUBJECT MATTER OF THE CONTRACT

1.1 Martin Engineering offers its customers an online monitoring of Belt Scrapers or other goods supplied by Martin Engineering as an additional service ("**N2-Service**"). For this purpose, a sensor, which sends data about the goods (the "**N2 Position Indicator**"), is installed to the goods, and the data is then transmitted to the cloud by a Mobile Communications Access Point (the "**N2 Gateway**") installed separately on the site.

1.2 An online platform ("**N2 Platform**"), as part of the N2-Service, collects and analyses performance usage data and metadata transmitted by the installed sensor and gateway (the "**Data**"). The customer may access and monitor via the Martin Engineering mobile application and dashboards (together the "**App**") (and such App is included in and issued as part of the N2 Platform), which may enable the customer to optimize the servicing and control the performance of the goods supplied by Martin Engineering

1.3 The customer shall elect in a written confirmation order accepted by Martin Engineering to use the N2 Platform for the products identified in that confirmation order (the "Products"). By this the customer gains the right to use the Service as described in these Special Conditions according to Sec. 2.4. The ownership of the N2 Position Indicator and the N2 Gateway remains with Martin Engineering.

1.4 If there is any conflict or inconsistency between these Special Conditions and the terms set out in the General Terms of Delivery in relation to use of the N2 Platform and Data, these Special Conditions shall prevail. Other than as indicated herein, capitalized terms contained in these Special Conditions shall have the same meaning as specified in the General Terms of Delivery.

### 2. RIGHTS AND OBLIGATIONS OF MARTIN ENGINEERING

#### 2.1 Installation

Martin Engineering shall install the technical devices required for the use of the N2-Service for the customer. Martin Engineering shall also schedule the necessary installation dates with the customer. The N2 Gateway will be initially installed by the customer, or in agreement with Martin Engineering by the Martin Engineering or third parties.

#### 2.2 Adaptions

Martin Engineering is entitled to alter or upgrade the hard- and software used for the provision of the N2-Service. In case additional or altered requirements arise thereby, Martin Engineering shall provide reasonable notice about upgrades, alterations or these additional or altered requirements to the customer where possible. Martin Engineering may suspend, withdraw or restrict the availability of all or any part of the N2 Platform and/or the Data at any time at its discretion and without notice. Martin Engineering will give the customer reasonable notice where possible.

#### 2.3 Transfer

Where the customer sells, leases, or otherwise transfers its Products (which use or otherwise make available the N2 Platform) to a third party (the "New Customer") Martin Engineering may, at its sole discretion, and subject to the remainder of this paragraph, approve and grant access rights to the New Customer by the App or one of the permitted means of access notified by Martin Engineering to the New Customer. Any other means of access to the N2 Platform by the New Customer is prohibited. The customer shall notify Martin Engineering in writing and in advance before any such transfer and

the customer is not allowed to provide the New Customer access to the customer's access rights or Security Details for the use of the N2 Platform. The customer agrees that the New Customer shall only have access to the N2 Platform if it has entered into a written agreement with Martin Engineering in advance.

If the customer moves or transfers any of its Products (which use or otherwise make available the N2 Platform) to a new site then it shall notify Martin Engineering in advance for its prior written approval, such approval not to be unreasonably withheld.

### 2.4 Licence

2.4.1 Martin Engineering grants the customer a personal, revocable, non-transferable, non-sublicensable, limited right to access and use the N2 Platform and Data for the Products for its own internal business purposes for the term of the Contract only.

2.4.2 The N2 Platform, the N2 Position Indicators, the N2 Gateway and Data shall be owned by Martin Engineering. Any intellectual property rights which subsist in the N2 Platform, the N2 Position Indicators, the N2 Gateway and the Data shall remain the intellectual property rights owned by or licensed to Martin Engineering, its affiliates and/or its respective licensors.

2.4.3 In order to be granted a right to use the N2 Platform and Data, a customer affiliate must be explicitly named in a written confirmation order validly executed by Martin Engineering. A customer affiliate will only use or have access to the N2 Platform or the Data on the same terms of these Special Conditions. The customer will remain liable for the payment of all fees and for the acts and omissions of the customer's affiliates including any breach of these Special Conditions by those affiliates.

### 3. RIGHTS AND OBLIGATIONS OF THE CUSTOMER

#### 3.1 Obligation to cooperate

The customer shall support Martin Engineering with the provision of the N2-Service in an acceptable scope. The customer shall, after prior notice, grant access to all areas required for personnel charged by Martin Engineering for the purpose of the installation. This shall also apply in the case of necessary maintenance or repair work of the N2 sensors and Gateways of the N2-Service. The customer shall provide space and permanent electric supply for the technical devices of the N2-Service free of charge for the duration of the contract. Furthermore Martin Engineering may require the customer to enter into written agreements with third parties with respect to the provision of the N2 Platform and Data and any related services and the customer shall enter into such third party agreements where notified to do so. The customer further agrees that Martin Engineering shall have no liability with respect to any such third-party agreements, and the customer agrees to comply in full with such third party agreements. Martin Engineering shall not be liable for any delay or failure to provide the N2 Platform or Data to the extent caused by the customer's non-compliance with any applicable third-party agreement. After termination of this agreement the customer is obliged to return the N2 Position Indicator and the N2 Gateway. For this purpose Martin Engineering is entitled to access customer's site and remove the N2 Position Indicator and the N2 Gateway. Customer is obliged to support Martin Engineering, especially grant Martin Engineering necessary access to the site.

#### 3.2 Utilization of the devices

The N2-Service may be used with Martin Engineering systems only, unless Martin Engineering gives its prior written consent to a use with third party devices.

#### 3.3 Damage to devices

Customer is obliged to handle the N2 Position Indicator and the N2 Gateway carefully. In cases where customer damages the N2 Position Indicator and/or the N2 Gateway (together also "devices") intentionally or grossly negligent or removes the devices unauthorised, Martin Engineering reserves the right to charge the current value of the damaged devices.

#### 4. USE OF THE N2 PLATFORM

- 4.1 Other than the permitted uses of the App by the customer (as updated and notified to the customer from time to time by Martin Engineering), the use of the N2 Platform is on a "read only" basis. Apart from that, the customer can download certain information from the dashboard. Access to the N2 Platform is only permitted via the App or one of the permitted means of access notified by Martin Engineering to the customer. Any other attempts to access the N2 Platform are prohibited.
- 4.2 The customer may permit each of its employees, workers or contractors ("Users") to download the App on to devices issued to them as part of their employment or engagement with the customer, or as otherwise permitted according to the customer's device and security policies. The devices must meet any minimum specification notified by Martin Engineering from time to time, and acceptance of the App will be subject to additional terms and conditions that a User must accept when downloading the same, including application store terms of use, or any specific licence terms and security requirements issued by Martin Engineering. It is a condition of the customer's use of the App that these terms are accepted. The customer shall procure that each User complies with any such terms and conditions, and shall be liable for the acts and defaults of each User (and/or customer affiliates) with regard to the use of the App, and care of the devices on which the App is installed (including ensuring the removal of the App from any devices if requested by Martin Engineering). Martin Engineering may suspend or terminate a User's access to the App at any time.
- 4.3 It is the customer's sole responsibility to ensure that each User keeps his or her username and password for accessing the N2 Platform ("Security Details") secure, and to prevent unauthorised or fraudulent use of the customer's Security Details.
- 4.4 The customer shall notify Martin Engineering immediately if it knows or suspects that anyone other than the customer and the User to whom the Security Details apply knows or has access to its Security Details. The customer will be responsible for any losses, damages or other liabilities it incurs as a result of any failure to keep any Security Details secure and Martin Engineering will not be liable for any loss or damage whatsoever resulting from the disclosure of the customer's Security Details to any person, save where Martin Engineering has deliberately or negligently misused the Security Details.
- 4.5 Martin Engineering shall use reasonable endeavours (including by using commercially available industry recognised anti-virus software) and act in accordance with good industry practice to ensure that the N2 Platform is available for access and is protected using appropriate technical and organisational security measures. Whilst Martin Engineering shall use reasonable endeavours to ensure that the N2 Platform is appropriately secure, the customer acknowledges that the full security and integrity of the N2 Platform (and the Data) cannot be guaranteed in all circumstances. Accordingly:
- 4.5.1 Martin Engineering does not guarantee that the N2 Platform will be available or fully operational at all times and, whilst Martin Engineering shall make reasonable efforts to keep the N2 Platform operational, Martin Engineering do not offer or provide any service levels;
- 4.5.2 the customer acknowledges that it is responsible for arranging the necessary means of communication between the App and the N2 Platform, and that data transmissions are never completely private or secure and that any message or information the customer accesses using the N2 Platform may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted;
- 4.5.3 Notwithstanding the security measures described in this paragraph 4.5, there is a possibility that malicious actors could still access or attempt to access the N2 Platform by means of hacking or other unauthorised means; and
- 4.5.4 it is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and

facilities, including loss or interruption of cellular networks and the internet, and the customer acknowledges that the N2 Platform may be subject to limitations, delays and other problems inherent in the use of such communications facilities or outside of Martin Engineering's control such as network congestion and geographic or atmospheric conditions. If a communication network cannot be accessed and a User downloads any Data direct to its own device including to re-upload later, then this is done at the customer's sole risk and Martin Engineering does not guarantee the security, accuracy, timeliness or completeness of any of the downloaded Data or that it will be able to be re-uploaded or fit for use in the N2 Platform.

- 4.6 The customer shall not use the N2 Platform in any unlawful, unauthorised or improper manner or bring Martin Engineering or its business into disrepute. The customer shall comply with all applicable laws relating to the N2 Platform.
- 4.7 Subject to paragraph 4.5, the N2 Platform is provided by Martin Engineering on an "AS IS" and "AS AVAILABLE" basis without any representation or endorsement made and without warranty or condition of any kind whether express or implied (in each case, to the maximum extent permitted by applicable law).
- 4.8 The customer may not change or configure the N2 Platform (including, but not limited to, the source code, algorithms, or any ancillary documentation without the prior written consent of Martin Engineering).
- 4.9 The customer shall not:
- 4.9.1 copy, modify, adapt, translate or create derivative works based on the N2 Platform except to the extent expressly permitted by applicable law;
- 4.9.2 disassemble, decompile or reverse engineer the N2 Platform or all or any part of the systems or software Martin Engineering makes available to the customer or otherwise attempt to gain access to the source code of the N2 Platform;
- 4.9.3 save for where expressly permitted by Martin Engineering, lease, loan, rent, resell, sublicense or distribute the N2 Platform to any third party;
- 4.9.4 store, upload, distribute or transmit any viruses, malicious code or other harmful code through the N2 Platform including, without limitation, Trojan horses, bugs, worms, backdoors and/or bots; or
- 4.9.5 use the N2 Platform other than for its own internal business purposes.
- 4.10 Martin Engineering shall take reasonable steps to try to protect the security of its systems but the customer acknowledges that Martin Engineering shall not be responsible for fraudsters or hackers who intercept communications by accessing servers and devices outside Martin Engineering's control.
- 4.11 The N2 Platform and the Data is not a replacement or substitute for the customer to perform and carry out its own regular maintenance, performance and safety checks of the Products and the customer acknowledges that it still has a duty and responsibility to carry out all such checks to the same standard as would have been reasonably expected if the N2 Platform and Data were otherwise unavailable to the customer. It is the customer's sole responsibility and duty to monitor and manage any alerts and/or notifications that it receives from or by using the N2 Platform including requesting and monitoring any orders for any replacement Products or any spare parts or ancillary products that may be necessary. Martin Engineering is not responsible for monitoring any of the customer's orders or if the transmission of an order is not completed correctly by the customer or is otherwise erroneously transmitted. The customer acknowledges that all orders shall be made in accordance with Martin's standard terms and shall be made separate to the customer's use of the N2 Platform.
- 4.12 Subject to paragraph 4.11, support for the N2 Platform will be provided to the customer by Martin Engineering on the terms notified to the customer from time to time by Martin Engineering but, notwithstanding the foregoing, Martin Engineering does not guarantee any response times, targets and/or services levels with respect to any of its support.

#### 5. COSTS AND BILLING

5.1 The Service-Fee for the use of the N2-Service will be agreed to between the parties prior to the commencement of the contract and the parties will negotiate the amount of the service-fee at least two months before the commencement of each 12 month prolongation period respectively. In absence of such agreement for the prolongation period, the prior price shall be deemed to have been agreed upon for the prolongation period.

5.2 Martin Engineering shall bill the client the Service-Fee once-a-year.

## 6. DATA PROTECTION

6.1 By means of the N2-Service, Martin Engineering collects, processes and analyses data regarding the use and the preservation status of the Products, this includes data on the blade angle, the temperature, the battery voltage and time stamps. Furthermore, Martin Engineering collects data entered into the App by the user. This includes the user name, E-Mail address as well as date and place of installation of the products and the product details. If maintenance works are carried out, Martin Engineering collects the user name of the person entering the confirmation of the maintenance tasks undertaken, date and time of the entries.

6.2 The customer acknowledges that the N2 Platform is made available as a means of providing Data to the customer which may assist the customer to understand and gain greater insight into the operation of the Products. The N2 Platform does not enable the customer to control the Products. Accordingly:

6.2.1 Martin Engineering shall make reasonable efforts to ensure that the Data represents an accurate reading of the functions and features monitored, but does not give any guarantees in this respect. The Data is provided by Martin Engineering on an "AS IS" basis without any representation or endorsement made and without any condition or warranty of any kind whether express or implied; and

6.2.2 the customer is solely responsible for any use of the Products or adjustment or maintenance of its performance using the Data, and must perform its own analysis of the Products performance and tolerances using its own skill and care, and any other performance reports or data sources available to it, unless the customer separately engages Martin Engineering to provide professional services to make any such adjustments or provide maintenance for the Products. Any such professional services are not covered by these Special Conditions and shall form a separate professional services engagement between the parties, if agreed.

6.3 In no event shall Martin Engineering incur liability for the customer's use of the Data (including where the customer uses the Data to change or alter the set-up or use of the Products). If the customer's loss of Data arises from malicious actors (for example, hackers or fraudsters) the customer's sole remedy is for Martin Engineering to reconstitute the Data for the customer to the extent reasonably possible. Where the customer's loss of Data arises from the customer's breach of the Contract, or in any other circumstances where Martin Engineering has complied with its security obligations under the Contract, Martin Engineering shall have the right to charge the customer a reasonable fee for reconstituting the Data.

6.4 Martin Engineering shall take reasonable technical and organizational measures to ensure the security of the Data. Notwithstanding the foregoing, Martin Engineering does not guarantee that the Data will always be available, error-free or be uninterrupted or that the Data will be secure or free from any bugs or viruses.

6.5 To the extent that any Data includes personal data (as defined in applicable data protection law) the parties agree that each party shall act as independent data controllers. The customer shall always comply with applicable data protection law and shall not act in such a way as to cause Martin Engineering

to breach any of its applicable obligations under applicable data protection law. The customer warrants and undertakes that it shall provide the Users all the relevant fair processing information about how their personal data will be processed as part of these Special Conditions (which, includes, without limitation, providing the relevant User with information for them to understand what personal data of theirs is being shared with Martin Engineering, the purposes for the personal data sharing and either Martin Engineering's identity or a description of the categories of third party of recipients of their personal data that would clearly identify Martin Engineering).

## 7. CONTRACTUAL PERIOD

7.1 The contract is entered into for a period of one year. It will extend for another year, if it is not terminated by either party with one month written notice before the end of each contractual period.

7.2 The right to terminate the contract for cause remains unaffected.

## 8. WARRANTY AND LIABILITY

8.1 Martin Engineering does not guarantee a complete accuracy of the data provided by the N2-Platform. Thus, Martin Engineering is not liable for damages which occur to the client because of inaccurate data. Martin Engineering shall not be liable for losses resulting from a breach of security relating to, or the unavailability of, the N2 Platform or Data or for any losses related to any bugs, worms, Trojan horses, backdoors, viruses or any other unauthorised access (including hacking) of the N2 Platform or Data.

8.2 Should there be any performance reduction or cessation during maintenance works, the client is not entitled to make any claims with respect to warranty or compensation.

8.3 Any limitations of liability in these Special Conditions do not apply for intentional or grossly negligent breaches of duty by Martin Engineering, for any damages resulting from injury to life, body or health or as far as guarantees given or claims under the Product Liability Act are affected. Furthermore, the liability for breaches of obligations, whose fulfillment is a pre-requisite for the proper performance of the contract and whose fulfillment the customer regularly relies on and may rely on remains unaffected. The same applies to breaches of duty by our vicarious agents.

## 9. CONFIDENTIALITY

Each party shall keep confidential all confidential information of the other party and shall not disclose such confidential information to any third party unless and to the extent that (i) the confidential information has become public knowledge (otherwise than due to a breach of this paragraph or (ii) disclosure is required by law (in which case the party compelled to disclose shall provide the other party prompt prior written notice of such requirement to disclose so that the other party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this paragraph, and shall give reasonable assistance in resisting such disclosure) or (iii) disclosure is made in confidence to its professional advisers who are bound by obligations of confidence no less onerous than those set out in this paragraph. The receiving party acknowledges that in the event of a breach of this paragraph by the receiving party or its affiliates, substantial injury could result to the disclosing party and money damages will not be a sufficient remedy for such breach. Therefore, in the event that the receiving party or its affiliates engage in, or threaten to engage in any act which violates this paragraph, the disclosing party shall be entitled, in addition to all other remedies which may be available to it under law, to seek injunctive relief (including, without limitation, temporary restraining orders, or preliminary or permanent injunctions) and specific enforcement of this Agreement. For the purposes of this paragraph, the confidential information of Martin Engineering shall include the Data.