

# General Terms of Delivery of Martin Engineering Limited (co no. 01828212)

In the event these General Terms of Delivery are translated into a different language, this English version shall prevail in the event of any conflict between such translations.

## 1. Applicability

The following General Terms of Delivery (including, where applicable, the N2 Remote Support Addendum) (the "Addendum") shall apply to all goods and services to be delivered by Martin Engineering Limited (hereinafter referred to as "Martin Engineering") with regard to its customers. In particular these terms shall apply to the delivery of all goods to be supplied commitments resulting from sales contracts and contracts for work and services.

## 2. Conclusion of Contract

2.1. Offers from Martin Engineering shall not be binding. A contract shall not come into existence between Martin Engineering and the customer unless and until Martin Engineering issues a written confirmation of order to the customer.

## 3. Contract Documents

3.1. The following documents shall be construed as forming the Contract between Martin Engineering and the customer:

- 3.1.1. The written confirmation of order
- 3.1.2. These General Terms of Delivery;
- 3.1.3. Where applicable, the Addendum;
- 3.1.4. Any technical information referred to in or attached to the written confirmation of order;

("the Contract")

3.2. The Parties acknowledge that they are not relying upon any statement or representation made by or on behalf of the other party, other than as set out in the Contract, at any time prior to the execution of the Contract and only in the event that any such statement or representation was made fraudulently will the parties have any right of action arising out of any statement or representation. For this Contract, any phrase introduced by the terms include, including, in particular or similar expression shall be construed as illustrative and shall not limit the sense of the words preceding that term.

3.3. If the customer orders and/or uses Martin Engineering's remote monitoring system (the "N2 Platform") then the terms set out in the Addendum shall apply in addition to the terms set out in these General Terms of Delivery. The duration of the customer's use of the N2 Platform and the fees payable by the customer for use of the N2 Platform (including any related services) shall be set out in the written confirmation of order.

## 4. Providing the Goods and Services

4.1. Martin Engineering provides the goods and services as set out in the Contract.

4.2. Martin Engineering shall design the goods and services, except those elements which the Contract states the customer is to design.

4.3. The customer shall allow such access to its premises as may be reasonably necessary to allow Martin Engineering to provide the goods and services.

4.4. The customer may propose a change in the scope of the goods and services to be provided by Martin Engineering. Such changes shall be subject to the sole and exclusive approval of Martin Engineering. In the event Martin Engineering agrees to such proposed changes but which will cause delay to the Delivery Date(s) and / or Delivery Period(s) or result in additional costs, Martin Engineering shall be entitled to an equivalent extension of time to the Delivery Date(s) and / or Delivery Period(s) and such additional costs shall be added to the Contract Price.

## 5. Communications and Notices

5.1. All communications and notices which the Contract requires shall be in writing and in the English language.

5.2. If the Contract requires a notice to be served on Martin Engineering it shall be served at the address stipulated in the written confirmation of order.

## 6. Confidentiality and Intellectual Property

6.1. The intellectual property in all information, drawings, details, plans and other documents, such as estimates of cost, details about weight and measurements produced for the purposes of this Contract (in printed, electronic or whatever form) and the designs contained in them, together with any other document which can reasonably be recognised as contained business or trade secrets ("Documents") produced by Martin Engineering for the purposes of this Contract shall remain vested in Martin Engineering.

6.2. In the event the customer is provided with any Documents for the purposes of this Contract, they hereby agree not to record, use or transfer the Documents to any third parties, unless it is with the prior written authority of Martin Engineering; the disclosure is to the customer's professional advisers; or as may be required by law; or to the extent it is necessary for the appropriate use of the delivered goods. The customer hereby guarantees that its employees and / or any third party to whom the Documents are provided, they shall be obliged to maintain the same level of confidentiality in the Documents as set out in this clause 6.2.

## 7. Delivery

7.1. The goods and / or services shall be delivered to the customer's premises as stated in the written confirmation of order.

7.2. The date(s) for delivery of the goods and services ("Delivery Date(s)") and / or the period during which the goods and services will be delivered ("Delivery Period(s)") shall only be binding if they are explicitly specified as such in the confirmation of order and only upon the customer's compliance with any express pre-conditions to commencement as set out in the written confirmation of order. Such pre-conditions include but are not limited to: the provision of any necessary technical information, solicitation of permissions; and the receipt of any specified advance payments.

7.3. Any binding Delivery Date(s) and / or Delivery Period(s) shall be deemed to be complied with on the passing of risk in the goods pursuant to clause 8 of these General Terms of Delivery.

7.4. Martin Engineering shall be entitled to make partial delivery of the goods and services.

7.5. If an event occurs which causes a delay to the Delivery Date(s) or Delivery Period(s) and for which neither Martin Engineering nor the customer is responsible, including but not limited to: force majeure, delays caused during delivery and transportation, official regulations or labour disputes, Martin Engineering shall notify the customer of any such delays and shall be entitled to an extension of time to the Delivery Date(s) and / or Delivery Period(s) equivalent to the period of delay. If a single delay event under this clause 7.5 delays the Delivery date(s) and / or Delivery Period(s) by three months, either party may give 1 month's written notice to terminate the Martin Engineering's employment under this contract.

7.6. If termination of Martin Engineering's employment occurs pursuant to clause 7.5, Martin Engineering shall have no liability to the customer for any direct or indirect loss arising out of such termination including but not limited to loss of profit, loss of revenue, loss of contract, loss of goodwill, loss of investment, loss of opportunity or increased costs of finance or like items irrespective of whether based on contract, warranty, tort, strict liability or otherwise. The customer shall indemnify Martin Engineering against any losses, liabilities, damages or costs arising out of or in connection with such termination.

7.7. If the customer causes a delay to the Delivery Date(s) and / or Delivery Period(s) as a result of: giving an instruction changing the scope of the goods and / or services to be delivered; giving an instruction to stop or not start any work; not allowing access to and use of the parts of their premises necessary for the goods and / or services; failing to provide something to Martin Engineering which he is obliged to under the Contract; unreasonably refuses to accept delivery of the goods and / or services when delivered to the customer's premises; impeding or preventing Martin Engineering from performing its obligations or is in default of any of its obligations (whether by act or omission); and which causes a delay to the delivery of the goods

and / or services then Martin Engineering shall be entitled to an extension of time to the Delivery Date(s) and / Delivery Period(s) equivalent to the period of delay.

7.8. Further, to extent Martin Engineering suffers any loss and expense arising out of delays set out in clause 7.7, which it cannot recover under any other clause in this Contract, such loss and expense shall be added to the Contract Price.

7.9. If there is a single period of delay which entitles Martin Engineering to an extension of time as set out in clause 7.7 (save for an instruction changing the scope of the goods and / or services to be delivered) which lasts in excess of a period of time equal to 50% of the Delivery Period, Martin may at its sole discretion, give 1 month's written notice of termination of its employment under the Contract. The customer shall indemnify Martin Engineering against any losses, liabilities, damages or costs arising out of or in connection with such termination. All other rights and obligations under the Contract shall survive such termination.

7.10. If an event occurs which causes a delay to the Delivery Date(s) or Delivery Period(s) (as may be extended by clauses 7.5 or 7.7) and for which Martin Engineering is responsible, the customer shall be entitled to claim liquidated damages at the rate of 0.5% of the Contract Price for each complete week of the delay, subject to a maximum sum of 5% of the Contract Price and such damages shall be the customer's sole and exclusive remedy arising out of any delay caused to the Delivery Date(s) and / or Delivery Period(s) by Martin Engineering.

## 8. Passing of Risk

8.1. Risk in the goods shall pass to the customer on the day when Martin Engineering notify the customer that the goods are ready for delivery to the customer's premises.

8.2. In the event the customer requests Martin Engineering to be responsible for the delivery of the goods to the customer's premises, the costs of doing so shall be calculated on the basis of the price list applicable on the date of the confirmation of order, excluding packaging costs and VAT and shall be added to the Contract Price.

8.3. In the event the customer requests Martin Engineering to insure the goods between the date on which Martin Engineering notify the customer the goods are ready for delivery and the actual date of delivery, for losses arising out of theft, breakages, damages caused during transportation, as well as other insurable risks, Martin Engineering shall take out and such insurance. The cost of such insurance shall be notified to the customer and added to the Contract Price.

8.4. The customer shall be obliged to accept delivery of any goods, unless there are clear and obvious defects in the goods and/or products which would prevent them from operating at the customer's premises. All goods listed in the written confirmation of order shall be deemed to be received by the customer unless the customer notifies Martin Engineering within 7 days. Any missing items shall be supplied by Martin Engineering within a reasonable period provided the customer provides satisfactory evidence that such items had not been received. Paragraph 14 of these General Terms of Delivery shall remain unaffected.

## 9. Contract Price and Terms of Payment

9.1. The Contract Price shall be as stated in the written confirmation of order and shall be exclusive of the cost of delivery unless otherwise stated in the written confirmation of order.

9.2. The Contract Price shall be payable by the date which is 30 days after the last day of the calendar month in which the written confirmation of order is dated.

9.3. If the customer fails to make a payment in accordance with the payment period as stated in the written confirmation of order, the customer shall also pay interest at a rate of 5% per annum above the official bank rate of the Bank of England current at the date the payment due under the Contract becomes overdue. Payment of such interest shall not be construed as a waiver of Martin Engineering's rights to the principal sum due it.

9.4. Further, where the Contract Price is payable in stages, or instalments and the customer fails to pay the a stage payment by the final date for payment, Martin Engineering, may upon 7 days notice, suspend performance of its obligations under the Contract until such payment is made and Martin Engineering shall be entitled to an equivalent extension of time to the Delivery Date(s) or Delivery Period(s) in accordance with clause 7.7 and any associated costs of the suspension and subsequently recommencement of works shall be recoverable under clause 7.10.

## 10. Retention of Title

10.1. Title (including full legal and beneficial title and interest) in all goods supplied (including any repaired, corrected, or replaced goods in accordance with clause 13) by Martin Engineering shall not pass to the customer until Martin Engineering has received payment in full (in cash or cleared funds) the Contract Price and all such other sums due and owing to Martin Engineering.

10.2. The customer acknowledges and agrees to hold all goods supplied by Martin Engineering on a fiduciary basis as bailee for Martin Engineering until such time as title passes in accordance with clause 10.1.

10.3. Until title passes to the customer in accordance with clause 10.1, the customer shall:

10.3.1. Store the goods supplied by Martin Engineering (at its cost) separately from all other goods (including the customer's goods and or third party goods) so that they remain readily identifiable as Martin Engineering's property and to make a note in its accounting records that such goods remain the property of Martin Engineering;

10.3.2. Not remove, destroy, deface or obscure any identifying mark or packaging on or relating to the goods supplied by Martin Engineering;

10.3.3. Keep the goods supplied by Martin Engineering in a satisfactory condition and in accordance with instructions from Martin Engineering from time to time;

10.3.4. Give such information relating to the goods supplied by Martin Engineering to Martin Engineering as it may require from time to time;

10.3.5. Not be entitled to pledge and/or charge and/or encumber in any way whatsoever by way of security or otherwise for any indebtedness any of the goods supplied by Martin Engineering;

10.3.6. From the date risk passes to the customer take out and maintain an all risks insurance policy (in the joint names of the customer and Martin Engineering) in respect of all goods supplied by Martin Engineering for their full price; and notify Martin Engineering immediately if it becomes subject to any of the events listed in clause 15.1;

10.4. If the customer fails to provide satisfactory evidence (when reasonably requested by Martin Engineering) that the insurance required by clause 10.3.6 is in place, Martin Engineering shall be authorised by the customer (but is not obliged) to take out and maintain such similar insurance. If Martin Engineering take out such insurance, the customer shall be liable to indemnify Martin Engineering for such costs of the insurance and these shall be added to the Contract Price.

10.5. If Martin Engineering delivers goods into countries in which the retention of title provided hereunder does not have the same effect of security as it has under English law, the customer shall undertake everything necessary in order to provide Martin Engineering with corresponding security interests. The customer shall cooperate with regard to all steps which are required for the effectiveness and the enforceability of such security interests, such as registrations and publications.

## 11. Proceeds of Sale

11.1. Provided that none of the events specified in clause 15.1 inclusive allowing Martin Engineering to terminate this Contract have occurred, the customer may resell the Martin Engineering goods before title has passed to it provided that:

11.1.1. it shall be effected in the ordinary course of the customer's business;

11.1.2. it shall be a sale of Martin Engineering's property on the customer's own behalf where the customer deals as principal and for the avoidance of doubt the customer shall not bind Martin Engineering to any liability to any third party by contract or otherwise;

11.1.3. the customer will hold on trust for Martin Engineering such part of the proceeds as is equal to the amounts owed by the customer to Martin

- Engineering at the time of the receipt of the proceeds of resale by the customer ("Trust Proceeds") and the customer shall keep the Trust Proceeds separate from any moneys or property of the customer and third parties;
- 11.1.4. if Martin Engineering's goods are supplied on credit, the customer is not free to use the Trust Proceeds as it sees fit and the customer will hold the Trust Proceeds on trust (and separate from any moneys or property of the customer and third parties) until the end of the period of credit, at which time Martin Engineering is entitled to call for them; and
- 11.1.5. Martin Engineering may at any time revoke the customer's power of sale by written notice to the customer and upon determination of the customer's power of sale, the customer shall place the goods and the Trust Proceeds at the disposal of Martin Engineering.
- 12. Recovery of Goods**
- 12.1. Martin Engineering shall be entitled to recover the amounts due notwithstanding that title to Martin Engineering's goods have not passed to the customer.
- 12.2. Martin Engineering's goods which are in the customer's possession shall at all times be subject to the direction and control of Martin Engineering and the customer shall immediately return any of Martin Engineering's goods (save for the goods in which title has passed to the Company in accordance with clause 10.1) on demand by Martin Engineering.
- 12.3. Martin Engineering may recover and dispose of any of Martin Engineering's goods in which Martin Engineering has retained property hereunder. The customer grants Martin Engineering, its agents and employees an irrevocable licence at any time to enter any premises where Martin Engineering's goods are or may be stored in order to inspect them, or, where the customer's right to possession has terminated, to recover them.
- 12.4. If, before title to Martin Engineering's goods passes to the customer, any of the events listed in clause 15.1 occurs, thereby ending the customer's right to possession of Martin Engineering's goods, and allowing Martin Engineering to terminate this Contract in accordance with clause 15, without prejudice to Martin Engineering's other rights and remedies:
- 12.4.1. The customer must immediately notify Martin Engineering of the event listed in clause 15.1 that has occurred;
- 12.4.2. The customer's right to resell or use Martin Engineering's goods in the ordinary course of its business shall cease immediately;
- 12.4.3. Martin Engineering may at any time require the customer to (or procure that any third party in possession of Martin Engineering's goods) deliver up all of Martin Engineering's goods in its possession that has not been resold and/or Martin Engineering or persons authorised by Martin Engineering are hereby authorised to enter any premises where such Martin Engineering's goods are or may be or where Martin Engineering reasonably believes it may be and such entry may be effected by any means, which, for the avoidance of doubt, shall mean that Martin Engineering or its agents are authorised to inflict damage to the customer's property for the purpose of recovering Martin Engineering's goods to which Martin Engineering has retained property and Martin Engineering shall not be liable for such damage in any way whatsoever.
- 12.5. On termination of this Contract, howsoever caused, Martin Engineering's (but not the customer's) rights contained in clauses 10 to 12 shall remain in effect
- 13. Defects Correction**
- 13.1. Martin Engineering shall within a reasonable period of time repair, correct or replace any goods delivered to the customer's premises which have been notified as defective and / or faulty free of charge provided:
- 13.1.1. Such defect and or fault occurs within 6 months of the date of delivery of the goods to the customer's premises;
- 13.1.2. The customer notifies Martin Engineering no later than 7 days after becoming aware or should have become aware of such defect and / or fault and in any event no later than 7 days after the expiry of the 6 month period referred to in clause 13.1.1; and
- 13.1.3. Martin Engineering is responsible for such defect or fault.
- 13.2. If the defective and / or faulty goods are to be repaired, corrected, or replaced at Martin Engineering's premises, the cost of returning any defective and / or faulty goods shall be borne by the customer.
- 13.3. If the defective and / or faulty goods are to be repaired, corrected, or replaced on the customer's premises, the customer shall allow Martin Engineering all access necessary to the customer's premises in order to effect such repair, correction, or replacement.
- 13.4. Martin Engineering shall not be responsible for any defect and / or fault with the goods which arise out of:
- 13.4.1. the customer's improper use of the goods including but not limited to: incorrect mounting or putting into operation of the goods by the customer or by third parties, usual wear and tear, incorrect or negligent treatment or any failure to comply with the requirements of any operating and maintenance manual, unsuitable equipment or replacement material, poor construction work or unsuitable building site or chemical, electrochemical or electrical impacts, damage caused by the customer, whether accidental or otherwise and incorrect storage of the goods;
- 13.4.2. Any other circumstance for which Martin Engineering is not responsible.
- 13.5. In the event a defect and / or fault with the goods arises out of circumstances described in clause 13.4, Martin Engineering may repair, correct or replace the defective and / or faulty goods, but the costs of doing so shall be borne by the customer.
- 14. Liability**
- 14.1. Martin Engineering shall not be liable to the customer for any loss of production, or equipment or facility down-time, loss of reputation, loss of profit, loss of data, loss of revenue, loss of contract, loss of goodwill, loss of investment, loss of opportunity or increased costs of finance or like items of loss and damage or any other direct or indirect or consequential loss or damage irrespective of whether based on contract, warranty, tort (including negligence), strict liability or otherwise.
- 14.2. Further and in any event, notwithstanding any other term of the Contract, the total liability of Martin Engineering to the customer under or in connection with the Contract whether in tort (including negligence) or otherwise shall be limited to of £1,000,000 (one million pounds) ("the Cap") in the aggregate, provided the parties agree the Cap shall not apply in respect of:
- 14.2.1. any liability arising in the event of personal injury to or death of any person to the extent caused by defective design, material or workmanship, or negligence; and / or
- 14.2.2. any fraudulent conduct, statement or misrepresentation by Martin Engineering; and
- 14.3. Martin Engineering shall not be liable for any such damages which are caused and / or contributed to by the customer.
- 14.4. If the customer acts as a reseller of the goods or processes the goods to new products the customer indemnifies Martin Engineering from all Claims of third Parties with regard to product liability unless these are based on grossly negligent or intentional conduct of Martin Engineering.
- 15. Termination**
- 15.1. For the purposes of the Contract, Insolvency Event means:
- 15.1.1. suspending, or threatening to suspend, payment of its debts or being unable to pay its debts as they fall due or admitting inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
- 15.1.2. if the value of its assets is less than the amount of its liabilities as defined in section 123(2) of the Insolvency Act 1986; or
- 15.1.3. commencing negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or making a proposal for or entering into any voluntary arrangement, composition of debts or a scheme of arrangement to be approved in accordance with the Companies Act 1986 or the Insolvency Act 1986 as the case may be (other than for the sole purpose of a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
- 15.1.4. having a petition filed, a notice given, a resolution passed, or an order made, for or on connection with its winding up (other than the passing of a resolution for voluntary winding-up with a declaration of solvency under section 89 of the Insolvency Act 1986); or
- 15.1.5. if it files a notice of intention to appoint an administrator, a notice of appointment of an administrator or an application to court for the appointment of an administrator or it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986; or
- 15.1.6. being an individual, is the subject of a bankruptcy petition or order; or
- 15.1.7. having a floating charge holder over its assets becoming entitled to appoint or on the appointment of an administrative receiver or having possessions taken, by or on behalf of the holders of any debentures secured by a floating charge or of any property comprised in or subject to the floating charge; or
- 15.1.8. having a person becoming entitled to appoint a receiver or manager of its property or a receiver or manager being appointed over its property; or
- 15.1.9. having a creditor or encumbrancer of it attaching or taking possession of, or a distress, execution, expropriation sequestration or other analogous legal process such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days; or
- 15.1.10. being subject to any analogous arrangement, event or proceedings in any other jurisdiction to those set out in clauses 15.1.1 to 15.1.9 above; or
- 15.1.11. (additionally in the case of a partnership) having any partner the subject of an individual arrangement or any other event or proceeding referred to in clauses 15.1.1 to 15.1.10 above; or
- 15.1.12. suspending or ceasing, or threatening to suspend or cease, to carry on all or a substantial part of its business;
- 15.2. Any reference to any legislation or statute in this clause 15 shall also be a reference to such legislation or statute as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification and including corresponding legislation or statute in any other relevant part of the United Kingdom.
- 15.3. If an Insolvency Event occurs in relation to the customer, Martin Engineering may terminate its employment under the Contract forthwith by written notice to the customer.
- 15.4. If the delivery of the goods and services are suspended pursuant to clause 9.4 for more than 21 days, Martin Engineering may give written notice of default to the customer and in the event the customer fails to rectify such default within 7 days of such notice, Martin Engineering may serve a further written notice terminating their employment under the Contract forthwith.
- 15.5. If Martin Engineering's employment under the contract is terminated in accordance with clauses 7.9, 15.3 or 15.4, Martin Engineering shall be entitled to enforce its rights pursuant to clauses 10 to 12 of the Contract, together with any other rights of recourse it may have in respect of monies owed to it.
- 15.6. If an Insolvency Event occurs in relation to Martin Engineering, the customer may terminate Martin Engineering's employment under the Contract forthwith by written notice to Martin Engineering.
- 16. Customer Premises**
- 16.1. In any case where employees, contractors or any other personnel acting for or on behalf of Martin Engineering ("Personnel") visit the premises of the customer for the purposes of providing its services, the customer shall notify that Personnel with all security, safety and other regulations which apply to or at force at the customer's premises and provide the Personnel with an adequate and secure working space necessary to ensure their safety (in accordance with all applicable health and safety laws). The customer shall provide all information and facilities as are reasonably necessary for the Personnel to perform their obligations or as otherwise reasonably requested by Martin Engineering and Martin Engineering shall not be liable for any damage or loss caused to the customer for the customer's failure to comply with this clause 16 (save for where prohibited by applicable law). The customer shall indemnify Martin Engineering on demand for any liabilities, losses, damages, expenses or other costs incurred by it and/or any of its Personnel connected to its breach of this clause 16.1.
- 17. Subcontracting**
- 17.1. Martin Engineering may sub-contract all or any of its obligations to provide the goods and services as required by the Contract, however, notwithstanding any such subcontracting, Martin Engineering shall remain liable for the performance of the Contract.
- 18. General**
- 18.1. This Contract shall be governed and construed in accordance with the laws of England and Wales and the English Courts shall have jurisdiction with regard to any dispute or difference arising between the parties under, out of or in connection with this Contract.
- 18.2. There shall be no variation or waiver of any rights and obligations contained in these General Terms of Delivery and Contract unless expressly agreed and signed by the parties in writing.
- 18.3. If any clause, sub-clause or part of this Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable, then that provision will, to the extent required, be severed from the Contract and will be ineffective without, as far as is possible, modifying any other clause, sub-clause or part of the Contract and thus not affect any other provisions of the Contract which will remain in full force and effect.
- 18.4. The customer shall not assign his rights or benefits under this Contract without the prior written approval of Martin Engineering.
- 18.5. Place of performance for all deliveries shall be the place of delivery.

# N2 Remote Support Addendum

1. **Application.**
  - 1.1. Martin Engineering has developed the N2 Platform for the collection and analysis of various performance usage data and metadata arising from certain goods supplied by Martin Engineering (the "Data") which 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 optimise the performance of the goods supplied by Martin Engineering.
  - 1.2. 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").
  - 1.1. If there is any conflict or inconsistency between this Addendum and the terms set out in the General Terms of Delivery in relation to use of the N2 Platform and Data, this Addendum shall prevail. Other than as indicated herein, capitalized terms contained in this Addendum shall have the same meaning as specified in the General Terms of Delivery.
2. **Licence**
  - 2.1. Martin Engineering grants the customer a personal, revocable, non-transferable, non-sublicensable (subject to paragraph 2.3), 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.
  - 2.2. The N2 Platform and Data shall be owned by Martin Engineering. Any intellectual property rights which subsist in the N2 Platform and the Data shall remain the intellectual property rights owned by or licensed to Martin Engineering, its affiliates and/or its respective licensors.
  - 2.3. 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 this Addendum. 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 this Addendum by those affiliates.
3. **Use of the N2 Platform**
  - 3.1. 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. 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.
  - 3.2. The customer may permit each of its employees, workers or contractors ("Users") to download the App onto 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.
  - 3.3. 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.
  - 3.4. 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.
  - 3.5. 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:
    - 3.5.1. 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;
    - 3.5.2. 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;
    - 3.5.3. Notwithstanding the security measures described in this paragraph 3.5, 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
    - 3.5.4. 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 do 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.
  - 3.6. 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.
  - 3.7. Subject to paragraph 3.5, 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).
  - 3.8. 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).
  - 3.9. The customer shall not:
    - 3.9.1. copy, modify, adapt, translate or create derivative works based on the N2 Platform except to the extent expressly permitted by applicable law;
    - 3.9.2. 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;
    - 3.9.3. save for where expressly permitted by Martin Engineering, lease, loan, rent, resell, sublicense or distribute the N2 Platform to any third party;
    - 3.9.4. 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
    - 3.9.5. use the N2 Platform other than for its own internal business purposes.
4. **Use of the Data**
  - 4.1. 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:
    - 4.1.1. 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. To the maximum extent permitted by applicable law, 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 (including any warranty or condition of timeliness, accuracy, completeness, merchantability, quality, correspondence with any methodology or description, or fitness for particular purpose (whether or not Martin Engineering know or has reason to know of such purpose)); and
    - 4.1.2. 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 this Addendum and shall form a separate professional services engagement between the parties, if agreed.
  - 4.2. 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.
  - 4.3. Martin Engineering shall take reasonable technical and organisational measures to ensure the security of the Data. Notwithstanding the foregoing, Martin Engineering do 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. 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.
5. **Suspension, Updates and Support**
  - 5.1. Martin Engineering may suspend or 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, including to protect its systems and infrastructure or for any planned (or emergency) maintenance, updates or support or in connection with any computer virus or malicious or disabling code, denial of service attack, communications failure, breakdown or other malfunction, or the customer's use of the N2 Platform in an unlawful, unauthorised or improper manner. Martin Engineering will give the customer reasonable notice of any suspension or withdrawal to the extent reasonably practical save for Martin Engineering reserves the right to perform emergency maintenance on the N2 Platform at any time and without prior notice to Customer. All or a portion of the N2 Platform may be unavailable during any period of such emergency maintenance.
  - 5.2. The customer acknowledges that the N2 Platform may be upgraded or altered from time to time and that Martin Engineering shall provide reasonable notice of any such upgrades or alterations to the customer where possible.
  - 5.3. 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 5.3, 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 undertakes that it shall not, and it shall procure that New Customer shall not, permit the New Customer to use the customer's access rights or Security Details to use the N2 Platform. The customer agrees that the New Customer shall only have access to the N2 Platform provided that it has entered into a written agreement with Martin Engineering in advance.
  - 5.4. 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. Subject to paragraph 3.11, 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.
  - 5.5.
6. **Third Parties**
  - 6.1. 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 and understands 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.
7. **Termination**

- 7.1. This Addendum shall automatically terminate if the Contract is terminated for any reason.
- 7.2. Without prejudice to paragraph 5.1, Martin Engineering may suspend or terminate this Addendum on 30 days' written notice to the customer.
- 7.3. Either party may immediately terminate this Addendum if the other party is in material breach of this Addendum and such breach is incapable of remedy, or where capable of being remedied the other party fails, within 28 days after the receipt of notice in writing from that party specifying the breach and requiring it to be remedied, to remedy the material breach.
- 7.4. Upon termination of this Addendum for any reason, the customer shall within 30 days of the applicable termination date pay any part of the Contract Price and/or any other sums that may be due to Martin Engineering and the licence granted to the customer under 2.1 or, if applicable, paragraph 2.3 shall immediately cease. Subject to paragraph 7.1, in all other respects, the Contract shall remain in force (unless specified otherwise by Martin Engineering) and any provision of this Addendum that expressly or by implication is intended to come into or continue in force on or after termination of this Addendum shall remain in full force and effect.

**8. Confidentiality**

- 8.1. 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 8.1) 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 8.1, 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 8.1. The receiving party acknowledges that in the event of a breach of this paragraph 8.1 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 8.1, 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 8.1, the confidential information of Martin Engineering shall include the Data.

**9. Data Protection**

- 9.1. 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 comply with applicable data protection law at all times 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 this Addendum (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).