

1. Scope of Application

The following Terms of Use apply to all agreements in which a connected product within the meaning of Article 2(5) of Regulation (EU) 2023/2854 ("DA") or a connected service within the meaning of Article 2(6) DA is the subject matter of the agreement or forms part of the agreed services.

2. Definitions

The definitions set forth in Article 2 of the Data Act shall apply.

3. Nature and Scope of Data Used

In connection with the use of a connected product or a connected service, the following categories of data, which may include personal data, may be generated, provided, and transmitted. Such data shall be used and shared in accordance with the provisions of these General Terms and Conditions. Any processing of personal data by the parties shall take place exclusively within the European Union and in third countries only where an adequate level of protection exists in accordance with Article 45 of the General Data Protection Regulation ("GDPR").

3.1. Registration Data:

For the purpose of registration, the Buyer shall provide data necessary for the creation and administration of their user account, pursuant to Article 6(1)(b) GDPR. The Buyer is obliged to provide accurate information during registration and to promptly notify or update any changes via their user account. Upon registration, the Buyer shall receive access credentials for their account and must keep passwords and other digital identity credentials confidential and protect access against unauthorized use.

3.2. Product Data:

Product data includes all data generated through the operation, use, or interaction with a connected product or connected service. This includes, in particular, sensor data, operating parameters, diagnostic data, and data relating to the performance, efficiency, or condition of the product.

3.3. Internal Business Data:

Internal business data refers to data generated or processed exclusively by the Seller and not in connection with the Buyer's use. This includes, in particular, aggregated analyses, internal reports, forecasting models, and technical development data. Such data is not subject to the access and sharing rights under the Data Act.

3.4. Derived Data:

Where applicable contractual services are agreed upon, the Seller may generate derived data by processing product data, potentially in combination with other data or information. Such derived data may contain new insights, provided that the Buyer cannot be identified.

4. Seller's Rights to Use and Share Data

4.1. Use for Contractual Performance

4.1.1. Registration data shall be used to the extent necessary for the administration of the Buyer's user account and for the performance of contractual obligations, pursuant to Article 6(1)(b) GDPR.

4.1.2. Product data and derived data shall be used to provide the connected product and connected services in accordance with the contract and to ensure their secure and proper functioning.

4.2. Use for Seller's Own Purposes

The Seller shall also be entitled to use product data and derived data for the improvement and further development of the product and connected services, as well as for the creation of new or comparable products and services, in all currently known and future forms. Prior to such use, the Seller shall fully anonymize the data and exclude any possibility of tracing it back to the Buyer. This right shall remain in effect beyond the term of the contract.

4.3. Disclosure of Data by the Seller

4.3.1. The Seller may disclose product data and derived data to third parties insofar as this serves the purpose of providing the connected product or connected service in accordance with the contract and ensuring their secure and proper functioning. The Seller shall, where possible, inform the Buyer in advance of the recipients and purposes of such disclosures. The Seller shall bind such third parties to contractual terms that ensure the confidentiality of the Buyer's data and restrict its use to the purposes agreed with the Buyer, in compliance with applicable data protection obligations. Third parties shall also be required to implement adequate technical and organizational measures to ensure the integrity, confidentiality, and availability of the data.

4.3.2. The Seller may further disclose product data and derived data to third parties with whom it collaborates for the purposes of improving and developing its products and services or creating new or comparable offerings. Such disclosure is permitted only if the data has been fully anonymized and cannot be traced back to the Buyer. This right shall also extend beyond the duration of the contract.

4.3.3. Any further disclosure of data by the Seller shall require the Buyer's consent or be initiated by the Buyer pursuant to their data sharing rights. Disclosure is strictly prohibited if the third party is a provider of core platform services designated as a gatekeeper under the Digital Markets Act. If data has been disclosed to a third party who is subsequently designated as a gatekeeper, such disclosure must be terminated immediately.

4.4. Under no circumstances may the Seller use or disclose data in a manner that harms the legitimate business interests of the Buyer. This includes, in particular, any use or disclosure intended to gain insights into the Buyer's financial condition, assets, or production methods, or to derive information about the Buyer's use of the product that could be exploited to impair the Buyer's competitive position in the markets in which it operates.

5. Buyer's Data Rights

The Buyer shall have the right, in accordance with the following provisions, to access, use, and share product-generated and derived data.

5.1. Access and Use of Product Data:

Where the Buyer does not have direct access to product data via appropriate interfaces, the Seller shall provide such data, including metadata, promptly, easily, securely, free of charge, in a comprehensive, commonly used, and machine-readable format and—where relevant and technically feasible—in the same quality as available to the Seller, continuously and in real time. This shall be done upon simple electronic request by the Buyer, provided it is technically feasible.

5.2. Confidential Data:

Where access or use involves confidential data or information of the Seller or third parties, such access and use shall only be permitted if the parties have previously entered into a confidentiality agreement specifying the applicable conditions.

5.3. Disclosure to Third Parties:

5.3.1. The Buyer shall be entitled to disclose product data and connected usage rights to third parties or to instruct the Seller to do so, provided such disclosure is based on contractually agreed purposes with those third parties.

5.3.2. No disclosure rights shall exist if the third party is a provider of core platform services designated as a gatekeeper under the Digital Markets Act.

5.3.3. Disclosure shall be governed by a contractual agreement. Where applicable, existing confidentiality obligations between the Seller and the Buyer shall be extended to the third party. The agreement must ensure that (i) the third party treats the data confidentially and implements adequate technical and organizational measures to ensure the integrity, confidentiality, and availability of the data; (ii) the third party uses the data solely for the purposes agreed with the Buyer and under the conditions agreed with the Buyer and the Seller, and deletes the data once it is no longer required for the agreed purpose; and (iii) the third party is prohibited from using the data to develop products or services that compete with those of the Seller.

5.3.4. Disclosure of data or related access and usage rights by the third party to further third parties shall be permitted if necessary for the provision of services by such further third parties and if no apparent conflicting interests of the Seller exist. In the event of conflicting interests, the Seller shall have the right to prohibit such disclosure.

5.3.5. The Buyer's rights to use and share product data shall remain in effect even after termination of the underlying contract. However, the Buyer may not use or disclose the product data, or cause it to be disclosed, in a manner that harms the legitimate interests of the Seller, particularly not for the development of products or services that compete with those of the Seller. This restriction shall also apply after termination of the contract concerning the connected product and/or connected service.

5.3.6. The Buyer may only disclose derived data with the express consent of the Seller.

6. Assignment of Contract

6.1. In the event that the Buyer sells the connected product, the Buyer shall inform their customer ("Secondary Buyer") of the existing terms of use agreed with the Seller and shall offer the Secondary Buyer the opportunity to enter into the existing data usage agreement with the Seller.

6.2. The Buyer shall be obliged to inform the Seller of the identity of the contractual counterparty and the intended date of the contract assignment.

6.3. If the Seller and the Secondary Buyer choose to enter into a new data usage agreement in connection with the sale of the machine, the Buyer shall consent to the continued use of data generated by the product prior to the conclusion of such new agreement or prior to the assignment of the contract, provided that the Buyer has fully anonymized such data and excluded any possibility of tracing it back to the Buyer. In particular, the Seller shall not be entitled to disclose historical data to the Secondary Buyer that would reveal or allow conclusions to be drawn regarding the Buyer's operational or financial circumstances or trade secrets. Consent to the disclosure of such data is expressly excluded under these General Terms and Conditions.

6.4. Existing confidentiality agreements shall remain unaffected.

7. Modalities of Data Provision and Disclosure; Obligations related to Third-Party Sharing

7.1. The Seller undertakes to establish the necessary technical conditions to enable the Buyer to fully exercise their data rights under these provisions.

7.2. In particular, the Seller shall ensure the availability of the required and industry-standard technical infrastructure for access and use by providing the necessary and commonly used interfaces or system gateways. Upon request, the Seller shall make the product data available through such means promptly, in a commonly used, machine-readable, downloadable, and editable format, and in real time.

7.3. Furthermore, the Seller shall ensure the necessary and industry-standard technical infrastructure for the sharing of product data and shall make such data available to authorized third parties, upon request, in an agreed, commonly used, machine-readable format, directly, promptly, and for a reasonable fee, via standard interfaces or system gateways, continuously and in real time, and in the same quality as available to the Seller, to the extent technically feasible. To this end, the Seller undertakes to offer the third party a contractual agreement governing the modalities of data provision. The calculation of the fee shall take into account Article 9 of the Data Act.

7.4. To facilitate the simple, rapid, and secure transmission of access or sharing requests, the Seller shall provide the Buyer with a straightforward and secure electronic means of communication.

7.5. The parties agree that the Seller shall only be obliged to disclose its trade secrets in the context of data sharing initiated by the Buyer or upon the Buyer's request to the extent strictly necessary to fulfill the purpose agreed between the Buyer and the third party. Such disclosure shall be contingent upon the third party having entered into a confidentiality agreement with the Seller and having implemented all specific measures stipulated therein to ensure confidentiality, with such measures duly demonstrated to the Seller.

8. Measures to Protect the Integrity, Confidentiality, and Availability of Data

The following provisions shall not affect any additional statutory or regulatory requirements.

8.1. Integrity, Confidentiality, and Availability:

The Seller shall implement all necessary technical and organizational measures to adequately safeguard all product data against unauthorized access, misuse, and loss, and to preserve the integrity of the data. Furthermore, the Seller shall take all necessary and appropriate technical and organizational precautions to prevent third parties from gaining unauthorized access to the connected product or connected services via the provided interfaces. The Seller shall maintain a documented and implemented security concept and an information security management system for its contractual services and all data processing activities.

8.2. Confidential Data Processing:

For the processing of confidential data (including trade secrets) within the scope of the contractual relationship, the parties shall enter into a confidentiality agreement, which may remain in effect beyond the term of the contract.

8.3. Buyer's Obligations:

In connection with the use of the connected product and connected services, the Buyer shall ensure that they, their employees, and agents comply with the obligations arising from the confidentiality agreement.

8.4. Incident Notification:

The parties shall promptly and appropriately inform each other of any security incidents that become known to them.

9. Protection of Personal Data and Obligations Regarding Anonymization

9.1. To the extent that personal data is processed in connection with the Buyer's use of the connected product and connected services, both parties shall ensure, within their respective areas of responsibility as well as within any joint responsibility, that the rights of the data subjects under the General Data Protection Regulation ("GDPR") are respected. For this purpose, the parties shall, where they qualify as joint controllers pursuant to Article 26 GDPR, enter into a joint controllership agreement in accordance with Article 26(1), second sentence, GDPR. Where processing is carried out on behalf of one party, the parties shall enter into a data processing agreement pursuant to Article 28(3) GDPR.

9.2. The parties responsible for data protection shall make every reasonable effort to anonymize personal data at the earliest possible stage of processing under this agreement, provided such anonymization does

not conflict with the lawfully agreed purpose of processing. In all other cases, personal data generated through the use of the connected product or connected service shall only be made available by the Seller to the Buyer or third parties if a valid legal basis exists under Article 6(1) GDPR and, where applicable, the conditions of Article 9 GDPR are met. Where data is provided to the Buyer, this shall apply only if the Buyer is the data subject. In such cases, the Buyer's rights of access under the GDPR shall apply.

9.3. The Seller's privacy policy shall apply in all other respects.

10. Warranty and Liability

Warranty claims of the Buyer and the liability of the Parties shall be governed by the underlying agreement concerning the connected product or connected service. These Terms of Use do not contain any deviating provisions in this respect.

11. Term and Termination

The term and ordinary termination shall be governed by the underlying agreement concerning the connected product or connected service. These Terms of Use do not contain any deviating provisions in this respect.

12. Contract Termination and Data Handling

12.1. Upon termination of the contract, the Seller shall, upon request by the Buyer, provide and deliver all product data that is within the Seller's control and to which the Buyer has not previously had access in a commonly used, machine-readable, downloadable, and editable format, free of charge and in such format.

12.2. Following the delivery of product data pursuant to Section 12.1, the Seller shall retain the data for a period of no less than one month and no more than six months to allow for any further data retrieval. Thereafter, or earlier upon request by the Buyer, the Seller shall permanently delete the data from its systems, unless the Seller is entitled to further use or disclosure of the data or is subject to a statutory obligation to retain and archive the data.

13. Choice of law and jurisdiction

The choice of law and the place of jurisdiction shall be governed by the underlying agreement concerning the connected product or connected service. These Terms of Use do not contain any deviating provisions in this respect.