EU Data Act Addendum: Data Ownership and Control, Data Use and Data Disclosure

1. **Data ownership and transfer of rights**

The manufacturer Agathon remains, as far as legally permissible, the data holder within the meaning of Article 2 para. 13 of Regulation (EU) 2023/2854 ("Data Act") with regard to all non-personal data ("product data"), associated service data and associated metadata generated during operation of the delivered machine(s). The customer is the user within the meaning of the Data Act. The customer expressly acknowledges this allocation of roles, without prejudice to its rights as a user under the Data Act.

2. **Rights of use of the manufacturer**

The customer grants the manufacturer the free, non-exclusive, worldwide right to use the data generated during operation of the machine(s) for the following purposes:

- product maintenance and further development,
- maintenance, diagnostics, and service,
- development of data-based business models, insofar as this does not serve to gain insights into the economic situation, assets, production methods or use of the customer in a way that could impair the customer's commercial position in the markets in which the customer operates, unless the customer has expressly consented to this (pursuant to Article 4(13) Data Act),
- statutory or regulatory reporting obligations,
- statistical evaluations or scientific purposes.

Use is made in accordance with the legitimate interests of the customer and in compliance with the statutory provisions, in particular the Data Act.

3. **Disclosure of data to third parties at the request of the customer**

In accordance with Article 5 of the Data Act, the customer is entitled to disclose data to third parties on request. This can be done either by the customer itself transmitting the data to the third party or by the customer requesting the manufacturer, as data holder, make the data directly available to a third party of its choice (pursuant to Article 5(1) Data Act).

Insofar as the customer transfers the data to the third party itself, the customer undertakes to organize this transfer as follows:

- Purpose limitation: The third party may only use the data for the agreed purpose (pursuant to Article 6(1) Data Act).
- Confidentiality: Before passing on the data, the customer shall ensure that the recipient is obliged in writing to maintain confidentiality and to protect the data.

Conclusions on technical details, trade secrets or commercial information of the manufacturer must be excluded (in accordance with Article 6(2)(g) Data Act).

- Duty to inform: The customer shall inform the manufacturer in text form at the same time as the transfer of the name and contact details of the recipient, intended use, type and scope of the data. This notification does not constitute a right of approval on the part of the manufacturer.

If the customer requests the manufacturer make the data directly available to a third party, the manufacturer shall do so on fair, reasonable and non-discriminatory terms in accordance with Articles 8 and 9 of the Data Act. In this case, the manufacturer, as data holder, is responsible for identifying trade secrets in the data provided and agreeing appropriate technical and organizational measures with the third party to maintain confidentiality (pursuant to Article 5(9) Data Act).

4. **IP rights and trade secrets**

The transfer and use of data must not lead to the unauthorized disclosure of trade secrets, technical IP rights, or other know-how of the manufacturer. The party transferring the data to the third party (either the customer or the manufacturer at the customer's request) shall take appropriate measures to prevent this and support the other party in enforcing legitimate protection interests against third parties, in accordance with Article 5(9) and Article 6(2)(g) of the Data Act. In certain cases, the data holder may refuse or suspend the disclosure of data classified as trade secrets if there is a risk of serious economic damage despite the measures taken (pursuant to Article 5(10) and (11) Data Act).

5. **Applicability of the Data Act and unfair clauses**

The provisions of the Data Act take precedence over conflicting contractual agreements insofar as the Data Act grants mandatory rights or imposes obligations. Contractual clauses in this addendum or in the main contract that are imposed unilaterally by an enterprise on another enterprise and are unfair are not binding (Article 13 Data Act).