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Data Annex – Product Marine v1.0

Background

This Data Annex (“Annex”) is part of the main agreement (“Agreement”) between Koja Oy (“Koja”) and the party purchasing Koja products (“Customer”) (Koja and Customer individually a “Party”, together the “Parties”), and the terms of the Annex shall be applied as part of, and together with the Agreement.

Note! This Annex relates to the gathering and processing of non-personal data. Any processing of personal data in the context of the Agreement shall be subject to separate terms relating specifically to personal data.

1. Data Holder and User

For the purposes of this Annex, the data holder under the EU Data Act (EU 2023/2854) is the party that controls or holds data and has the ability to share it with the Customer or third parties, whereas the user under the Data Act is the party from whom the data is gathered. The data holder may, with respect to Koja Marine Solutions & Service, be for example the shipowner that operates the ship on which Koja products or services are deployed, or in some cases the data holder may be Koja itself.

In situations where the data holder is not Koja, it is the responsibility of that data holder to ensure that said data holder meets its own obligations under the Data Act, in particular the rights referred to in Sections 4 and 5 under this Annex.

In the event Koja’s counterparty under the Agreement is not the end customer of the Koja products, Koja’s counterparty undertakes to ensure that the terms of this Annex will be provided as part of the agreement with said end customer, who shall be deemed the Customer for the purpose of this Annex, and shall be deemed the user under the Data Act.

2. Data Gathering

The Parties acknowledge that the products sold under the Agreement (“Product/s”) generate data on and relating to the usage of the Products, as well as their immediate environment (“Product Data”). This Product Data is stored on the Products and/or local or remote servers controlled by Koja, the Customer or a third party such as a shipowner. More information about what data is gathered is more closely described in product-specific data notices available at: <https://koja.materiaali.fi/folder/koja-yleiset/datasaadost/datatiedote/koja/>. In the event a sticker or other notice relating to the data notices is provided as part of the Product, the Customer undertakes not to remove such sticker or notice.

3. Rights of Koja

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Regardless of whether the data holder is Koja, the Customer, or a third party, the Parties agree that Koja has the right to use the Product Data for the following purposes:

- a. performing any agreement with the Customer or activities related to such agreement (e.g. generating and providing reports or analysis), including using the Product Data for providing online services relating to the Product
- b. providing support, warranty, guarantee or similar services or to assess Customer's or third party's claims (e.g. regarding malfunctions of the Product) related to the Product or related services
- c. monitoring and maintaining the functioning, safety and security of the Product or related services and ensuring quality control
- d. improving the functioning of any product or related service offered by Koja or its group companies
- e. developing new products or services, including artificial intelligence (AI) solutions, by Koja or Koja group companies, or by third parties acting on behalf of Koja
- f. aggregating these Product Data with other data or creating derived data
- g. providing Product Data or data derived from Product Data to third parties for any commercial or research purposes, provided that specific data from the Product or the identity of the Customer cannot be identified from the dataset

Koja may share with third parties (in particular group companies of Koja) the Product Data or use a processing service or platform provided by a third party for the purposes provided above, provided that it ensures that such sharing or use is in pursuit of said purposes. Koja agrees not to use the Product Data in a manner that could undermine the commercial position of the User on the markets.

4. Rights of Customer

To the extent that the Product Data is not directly accessible from the Product or related service, the Customer has the right to request a copy of any unprocessed, raw data included in the Product Data and relevant metadata by sending a request to this email address data@kojagroup.eu. However, this right does not apply to Product Data that is derived from the testing of new connected product(s) that are not yet placed on the market. Furthermore, this right does not apply in situations where Koja is not the data holder.

The data referred to above shall be made available to the Customer free of charge within 30 days of receipt of the request by Koja. This deadline may be extended unilaterally by Koja if the data to be disclosed contains trade secrets or personal data, and the disclosure is delayed because Customer is unwilling or unable to agree to the protection of said trade secrets or personal data.

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The Customer undertakes not to use the Product Data to:

- (a) develop a connected product that competes with the Product, nor share the Product Data with a third party with that intent;
- (b) use the Product Data for reverse engineering by the Customer or a third party for the purpose of developing a product mentioned in (a) above;
- (c) derive insights about the economic situation, assets and production methods of Koja or its group companies;
- (d) use coercive measures to obtain access to Product Data, or to abuse gaps in Koja's technical infrastructure which is designed to protect the Product Data;
- (e) share the Product Data with a third-party considered as a gatekeeper under article 3 of Regulation (EU) 2022/1925;
- (f) carry out any purposes that might infringe EU law or applicable national law.

Koja may request that the Customer signs a confidentiality obligation or a data processing agreement, in the event the Product Data to be disclosed includes trade secrets or personal data. Koja may refuse to share Product Data under this clause if the Product Data contains trade secrets or personal data and the Customer refuses to undertake a confidentiality obligation or data processing agreement with respect to the Product Data. In exceptional cases Koja can refuse to provide Product Data where disclosing trade secrets included in the Product Data is highly likely to cause serious economic damage.

5. Providing Product Data to Third Parties

In situations where Koja is the data holder, the Customer has the right to request that unprocessed, raw data included in the Product Data and relevant metadata be provided by Koja to a third party ("Data Recipient") upon request by the Customer or a party acting on its behalf, by sending an email to the following address: data@kojagroup.eu.

Upon receiving such a request, Koja will negotiate with the Data Recipient on the provision of the data under fair, reasonable and non-discriminatory terms in accordance with the Data Act.

However, Product Data (either received from Koja or derived directly from the Product) shall not be provided to third parties in the following situation:

- (a) The Data Recipient would be considered a gatekeeper under Article 3 of Regulation (EU) 2022/1925

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- (b) The Product Data is derived from the testing of new connected product(s) that are not yet placed on the market
- (c) The Data Recipient develops, produces or sells products that compete with the Products, or the Product Data would otherwise be provided for developing, producing or selling products that compete with the Products
- (d) The Product Data contains trade secrets and the third party refuses to undertake a confidentiality obligation with respect to the Product Data, or in exceptional cases where disclosing trade secrets included in the Product Data is highly likely to cause serious economic damage
- (e) The Product Data contains personal data and the third party refuses to sign a data processing agreement or undertake other mandatory actions to comply with applicable personal data protection legislation

6. Intellectual Property Rights and Proprietary Information

For the avoidance of doubt, any intellectual property rights, trade secrets or proprietary information included in, or relating to the Product Data belong to Koja or its licensors, and no title to or license in such intellectual property rights, trade secrets or proprietary information is granted to the Customer or any third party hereby. Any rights to use software or related services shall be governed by their own terms.

7. Entry into Force, Term and Termination

This Annex shall enter into force upon the entry into force of the Agreement, and shall remain in force for whichever is longer:

- (a) The Agreement is terminated or expires
- (b) The Customer ceases to use the Product(s)

However, in the event the Customer transfers the Product(s) permanently to a third party, the Customer's rights under this Agreement shall terminate. In such an event, the Customer undertakes to ensure that the third party who has received the Product(s) is informed of this Annex, and accepts the terms of this Annex as a new Customer under the Annex.

Despite the termination or expiry of the Annex, Koja has the right to retain Product Data, as well as data derived or generated on the basis of Product Data. With respect to situations where Koja is the data holder, the Customer may request the removal of any Product Data derived from the Customer's Product(s) by sending an email to data@kojagroup.eu, whereupon Koja shall remove the Product Data. This right of removal does not apply to data derived or generated on the basis of the Product Data in question.