

The KOMTRAX service is offered to you by KOMATSU EUROPE INTERNATIONAL NV, a corporation organized and existing under the laws of Belgium, with registered office at 1800 Vilvoorde, Belgium, Mechelsesteenweg 586, registered in Brussels under the company number and VAT number (BE)(0)404.968.268. You can contact us on the aforementioned address, by email [komtrax.support@komatsu.eu](mailto:komtrax.support@komatsu.eu) and/or by phone on +32 2 255 24 11. KOMATSU subscribed to "KOMATSU'S WORLDWIDE CODE OF BUSINESS CONDUCT" and ensures that all employees of Komatsu understand how important it is to observe the rules of the business community. KOMATSU's code of conduct can be consulted at <http://www.komatsu.com/CompanyInfo/profile/conduct/>. In order to use KOMTRAX, the 'Terms of Use – Customer Consent' must be agreed to by you. This can be done electronically via the Komtrax® web application [www.komtrax.eu](http://www.komtrax.eu) by clicking on the ACCEPT button. The accepted version of the Terms of Use – Customer Consent will be filed by KOMATSU and can be consulted, downloaded and saved at any times by you on the following webpage <http://www.komatsu.eu/komtrax-terms-of-use>.

For any further information, questions, suggestions you can contact us on [komtrax.support@komatsu.eu](mailto:komtrax.support@komatsu.eu)

#### TERMS OF USE – USER AND CONTRACTING ENTITY (KOMTRAX) Version May 2022

This agreement ('AGREEMENT') contains the terms and conditions with respect to the use of the remote monitoring and management system for construction and mining equipment utilizing radio communication or other means of transmitting data, which is owned, managed and provided by KOMATSU Ltd. and KOMATSU EUROPE INTERNATIONAL NV (jointly referred to as "KOMATSU"), under the name of "KOMTRAX", "KOMTRAX Plus" or such other names as may be assigned by KOMATSU, (collectively "KOMTRAX")

As used in this AGREEMENT, (i) "we", "us", "our", or "KOMATSU" refers to Komatsu Ltd., a company duly organized and existing under the laws of Japan, and having its registered office at 2-3-6 Akasaka, Minato-ku, Tokyo 107-8414, Japan ('Komatsu Ltd.') and Komatsu Europe International NV ('KEISA'), a company duly organized and existing under the laws of Belgium, and having its registered office at Mechelsesteenweg 586-B, 1800 Vilvoorde, Belgium; (ii) "you", "your" or "USER" refers to the person entering into this AGREEMENT and using KOMTRAX on behalf of a CUSTOMER, DISTRIBUTOR, DEALER, RENTAL COMPANY, or KOMATSU ENTITY; (iii) "CUSTOMER" refers to the company or other legal entity entering into this AGREEMENT and using KOMTRAX and which employs or otherwise authorizes USER(S) to use KOMTRAX on its behalf, and which itself or its affiliates is authorized to use the MACHINES associated with the KOMTRAX APPARATUS; (iv) "WEB SITE" or "SITE" refers to all viewable pages (including page headers, custom graphics, button icons, links and text), underlying program code, and accompanying service and system features and documentation of the Internet web site made available by KOMATSU for use of KOMTRAX; (v) "SOFTWARE" shall mean the software provided with, or embedded in, the KOMTRAX APPARATUS, the software contained in or underlying the WEB SITE, and the KOMTRAX information system software, including message processing software, databases, interfaces including the ISO API SERVICE, user displays and engineering tools; (vi) "ISO API SERVICE" shall mean the service, essentially consisting of SOFTWARE, which allows the CUSTOMER through an application programming interface to receive KOMTRAX INFORMATION, directly or via a third party service provider, on CUSTOMER's own

server; (vii) "KOMTRAX APPARATUS" shall consist of equipment used by an end user to provide access to KOMTRAX, which equipment has been "type-approved" by or on behalf of KOMATSU and to which a physical serial number, device control number, associated radio identification codes and/or system address have been assigned by KOMATSU, together with components that may include a battery, GPS receiver, antenna, embedded software and the cabling necessary to connect the foregoing components, in each case for installation and/or use on a unit of construction, mining or utility equipment; (viii) DISTRIBUTOR refers to the company or other legal entity, appointed by KEISA as official distributor, which has sold the MACHINE(S) equipped with KOMTRAX to CUSTOMER or DEALER; (ix) DEALER refers to the company or other legal entity which has purchased the MACHINE(S) equipped with KOMTRAX from a DISTRIBUTOR and sold the MACHINE(S) to CUSTOMER; (x) RENTAL COMPANY refers to the company or other legal entity which has purchased the MACHINE(S) equipped with KOMTRAX from a DISTRIBUTOR or DEALER and rents it to its client; unless otherwise stated herein, the RENTAL COMPANY is regarded as CUSTOMER and is not entitled to grant access to KOMTRAX INFORMATION to its client; (xi) CONTRACTING ENTITY refers to a CUSTOMER, DISTRIBUTOR or DEALER; (xii) TRADING PARTNER refers to a company or other legal entity which provides retail finance services to CUSTOMER at the request of DISTRIBUTOR.

By registering to use KOMTRAX, by clicking "I AGREE" to this AGREEMENT, or by signing this AGREEMENT, you, and the organisation that you represent, agree to use KOMTRAX in a manner consistent with all applicable laws and regulations and follow and be bound by these terms and conditions. If you are doing so on behalf of a business entity or corporation, you certify that you are authorized to so act on its behalf.

CUSTOMER, through its USERS, is permitted to use, reproduce and display materials on the SITE or provided by KOMTRAX as set forth below only upon the condition that it, as well as the USER, accepts all of the terms contained in this AGREEMENT. You agree that access to the SITE and use of KOMTRAX shall only be by employees or agents authorized to be USER in accordance with the terms hereof.

#### Article 1 (Scope)

This AGREEMENT applies to any and all construction and mining equipment owned or used by CUSTOMER and/or its USERS in which the apparatus required for use of KOMTRAX (the "KOMTRAX APPARATUS") is installed (individually, a "MACHINE," and collectively, the "MACHINES").

#### Article 2 (KOMTRAX INFORMATION)

1. CUSTOMER and its USERS acknowledge and agree that information regarding the MACHINES, including, but not limited to, service meter readings, running hours, the location of the MACHINES (the "KOMTRAX INFORMATION"), may be collected through KOMTRAX and accessed and used for each of the purposes described below. In addition, personal information generated through the use of the KOMTRAX website may be processed for the same purposes. If a USER logs in through an operator ID, such information may be specific to such USER.

2. DISTRIBUTOR, DEALER and KEISA may (1) access and use KOMTRAX INFORMATION for the purposes of performing analysis and providing advice and support regarding the operation or management of the MACHINE(S), and (2) may grant such access and use rights to any DISTRIBUTOR or DEALER with whom CUSTOMER enters into a new contractual or operational

relationship, e.g. (but not limited to) a situation where a reallocation of the MACHINE(S) requires such new relationship. For the purposes of this Agreement, a TRADING PARTNER, cooperating with DISTRIBUTOR, shall be considered a USER of DISTRIBUTOR when accessing KOMTRAX and KOMTRAX INFORMATION at the request of DISTRIBUTOR. In such event, DISTRIBUTOR shall be solely responsible for any act or omission of TRADING PARTNER in relation to KOMTRAX and KOMTRAX INFORMATION.

KEISA may grant access to KOMTRAX INFORMATION to any affiliate of CUSTOMER upon CUSTOMER's request or upon the request of CUSTOMER's global or regional headquarters. It is CUSTOMER's sole and exclusive responsibility to ascertain which of its affiliates should be given access to KOMTRAX INFORMATION and to ensure that such granting of access complies with applicable law, including data protection laws.

3. CUSTOMER and USER acknowledge that KOMTRAX INFORMATION may be kept in a form which allows identification of CUSTOMER and/or USER for a period of 10 years following the last use of the MACHINE by CUSTOMER.

4. CUSTOMER and its USERS acknowledge that (i) information that is aggregated such that a specific USER or MACHINE is no longer readily identifiable as a result of statistically processing the KOMTRAX INFORMATION, or (ii) information from which a specific USER or MACHINE is otherwise not readily identifiable (collectively, "Statistically Processed Information") may be accessed and used by KEISA (including its subsidiaries and affiliates, jointly "KOMATSU ENTITIES") and DISTRIBUTOR (including its DEALERS) for any purpose, and without limitation in duration.

CUSTOMER and its USERS agree and acknowledge that the KOMTRAX INFORMATION may contain any data or information relating to an identified or identifiable natural person ("Personal Data").

For the processing of Personal Data via KOMTRAX, KEISA is considered a controller for the purposes set forth in its Privacy Policy.

CUSTOMER and its USERS agree that KEISA may undertake any actions it deems appropriate or necessary to comply with its obligations under applicable personal data protection laws, including without limitation adding a privacy notice, which is to be accepted by the USERS, on the screens of the MACHINES.

Where CUSTOMER or any other CONTRACTING ENTITY processes Personal Data in relation to KOMTRAX or KOMTRAX INFORMATION for its own purposes, it shall, as a data controller for such processing, appropriately observe its duties under the Privacy Laws, including (but not limited to) ensuring (i) the right to access and process Personal Data, (ii) the right to correct any inaccurate or incomplete data, and (iii) the right to request erasure of Personal Data.

### Article 3 (CONTRACTING ENTITY and USER's Obligations)

With respect to the use of KOMTRAX, CONTRACTING ENTITY and its USERS shall comply with the following:

1. CONTRACTING ENTITY and its USERS shall use KOMTRAX in accordance with all applicable laws and regulations (including Privacy Laws), as well as in accordance with operation

manuals and any other instructions that may be provided by DISTRIBUTOR, DEALER or any KOMATSU ENTITY. CUSTOMER and its USERS shall prior to the initial use of the MACHINE(S) perform all necessary procedures for registration as a KOMTRAX customer in accordance with the procedures separately instructed by DISTRIBUTOR or DEALER.

2. In order to use KOMTRAX, CONTRACTING ENTITY and its USERS shall be responsible for preparing an environment for use of an internet system (including, but not limited to, preparing computers, installing browsers and signing up with internet service providers). CONTRACTING ENTITY shall bear any and all costs and expenses relating to the use of the internet system, including, but not limited to, connection and communication fees for internet use.

3. KOMTRAX shall be used only by those officers and employees (including temporary employees) of CONTRACTING ENTITY who are so authorized by CONTRACTING ENTITY and only for the purposes of CONTRACTING ENTITY's own business in accordance with the terms and conditions of this Agreement. CONTRACTING ENTITY shall be responsible for protecting the security of the CONTRACTING ENTITY's account number and password for using KOMTRAX and for correctly and completely informing its officers and employees (including operators of the MACHINES) about KOMTRAX, KOMTRAX INFORMATION and the purposes thereof. CONTRACTING ENTITY and its USERS shall disclose its KOMTRAX account number and password only to those officers and employees described in the first sentence of this Section 3.3, and shall not disclose, sell, lease, transfer or otherwise make available to any other party CONTRACTING ENTITY's KOMTRAX account number or password, or otherwise permit any other party to use or access KOMTRAX.

4. CUSTOMER and its USERS acknowledge that (i) the KOMTRAX APPARATUS is a wireless application that uses radio waves, and (ii) the KOMTRAX APPARATUS requires regulatory type approvals and/or licenses from the jurisdiction(s) in which the MACHINES are used. If CUSTOMER and its USERS desire to use the MACHINES in another jurisdiction, CUSTOMER shall notify DISTRIBUTOR or DEALER in advance to that effect and follow DISTRIBUTOR's or DEALER's instructions with respect to the use of KOMTRAX in such other jurisdiction. In this case, such instructions may be given by a DISTRIBUTOR or DEALER who is responsible for the relevant jurisdiction.

5. In case a RENTAL COMPANY or a CUSTOMER and its USERS lease or otherwise lend to a third party any or all of the MACHINES, it shall inform such third party in writing in advance that (i) the KOMTRAX APPARATUS is installed in such MACHINES, and (ii) RENTAL COMPANY, CUSTOMER, DISTRIBUTOR, DEALER and KOMATSU ENTITIES may collect, access and use KOMTRAX INFORMATION with respect to such MACHINES. If such third party in turn becomes a CUSTOMER, that secondary CUSTOMER will inform the RENTAL COMPANY or initial CUSTOMER of an intention to use a MACHINE in another jurisdiction as per article 3.4 above.

#### Article 4 (ISO API SERVICE – LICENSING STRUCTURE)

1. Subject to a License and Technical Assistance Agreement (“LTA”) between KOMATSU and DISTRIBUTOR, DISTRIBUTOR is allowed to sub-license DISTRIBUTOR’S non-exclusive license to access and use the ISO API SERVICE solely to implement, integrate and use the Komtrax Information for business purposes to CUSTOMER.

2. Both DISTRIBUTOR and CUSTOMER agree that a sub-license (“SUB-LICENSE”) granted to CUSTOMER by DISTRIBUTOR to use the ISO API SERVICE shall be subject to Customer’s acceptance of this AGREEMENT, including the ISO API SERVICE’s acceptable use principles as set out in Article 5 below.

3. The fees for and the duration of the SUB-LICENSE, as well as the categories, format and period of availability of KOMTRAX INFORMATION communicated through the ISO API SERVICE will be specified in an order form (“ORDER FORM”) executed between DISTRIBUTOR and CUSTOMER.

4. KOMATSU reserves the right to modify or update the ISO API SERVICE for any reason and at any time, without prior notice. The ISO API SERVICE is regarded as additional service in the framework of the purchase of KOMATSU branded machines and does not constitute a decisive element of such purchase.

5. In principle, the ISO API SERVICE will be provided on the basis of the request-response model, which means that CUSTOMER’s server requests information about its fleet to the KOMATSU server and the Komatsu server automatically responds with sending the requested KOMTRAX INFORMATION. The initiative comes from CUSTOMER, which needs to poll the Komatsu server. It is CUSTOMER’s responsibility to procure and acquire the necessary infrastructure, internet access and related services to be able to use the ISO API SERVICE.

6. If CUSTOMER wants the ISO API SERVICE to be activated for a third party provider acting on CUSTOMER’s behalf, such will be explicitly requested. No activation for a third party provider will take place before KOMATSU’s prior approval of that third party provider and in no event shall that third party become a party to the AGREEMENT. CUSTOMER remains solely responsible for the use of the ISO API SERVICE by its approved third party provider. KOMATSU has the right to refuse to approve, or revoke given approval for, a third party provider if and when that third party provider offers goods and/or services which are in indirect or direct competition with KOMATSU’s own goods and/or services, including but not limited to the services listed in this Agreement. Without prejudice to article 3.5 above third party provider is in any case not allowed to transfer KOMTRAX INFORMATION to any other party than CUSTOMER.



CUSTOMER acknowledges and understands that KOMTRAX INFORMATION is not made available via the ISO API SERVICE in real-time, but only updated periodically. The periodicity of the updates shall be once every 6 hours every working day (JST), unless stipulated otherwise in the ORDER FORM. The ISO API SERVICE is made available as is and on a best efforts basis only, unless specific service levels are agreed upon in writing in the ORDER FORM.

#### Article 5 (ISO API SERVICE – ACCEPTABLE USE PRINCIPLES)

1. Upon payment of the fee (“SERVICE FEE”) charged by the DISTRIBUTOR for the SUB-LICENSE, CUSTOMER is allowed to access and use the ISO API SERVICE for the purposes of performing analysis and receiving advice and support regarding the operation or management of the Machines.
2. CUSTOMER is not allowed to use the ISO API SERVICE:
  - In a manner that is illegal, unauthorized or violates any rights of third parties in a relevant jurisdiction in which the Machines or the ISO API SERVICE are used;
  - In a manner that grants access to, or discloses the characteristics or components of the ISO API SERVICE to any third party, except as approved in writing by KOMATSU; this clause applies especially, but is not limited to, any direct disclosure to competitors of KOMATSU, or, indirectly, to third parties that create a risk of disclosure of such information to competitors of KOMATSU;
  - In a manner that recreates or materially modifies the characteristics or components of the ISO API SERVICE, through reverse engineering or otherwise;
  - In a manner that causes any connection or communication that may cause risks of security, safety, disclosure, or liability or that is otherwise not corresponding with the normal purpose of the ISO API SERVICE;
  - In a manner that, in general, may be considered as detrimental to the commercial interests of KOMATSU, its intellectual property, its commercial image and its competitive position in the market.

Any use of KOMTRAX and the ISO API SERVICE not expressly permitted under the terms of the AGREEMENT, is expressly prohibited. In such case KOMATSU may immediately, by registered mail and without prior warning and without the need for court intervention suspend or terminate CUSTOMER's use of the ISO API SERVICE, notwithstanding any other remedy or sanction foreseen by law or by agreement.

#### Article 6 (Confidentiality)

DISTRIBUTOR, DEALER and KOMATSU ENTITIES shall not respectively (i) use the KOMTRAX INFORMATION held by them for any purpose other than those specified in this AGREEMENT or, for DISTRIBUTORS, in the Supplemental Agreement for the installation and use of KOMTRAX, KOMTRAX SERVICES and the Use of KomCall, or (ii) disclose to any third party other than DISTRIBUTOR, DEALER and KOMATSU ENTITIES any KOMTRAX INFORMATION, without the prior written consent of CUSTOMER. Notwithstanding the foregoing, DISTRIBUTOR, DEALER and KOMATSU ENTITIES may disclose KOMTRAX INFORMATION if such disclosure is (i) requested by governmental authorities or any other competent authority, (ii) needed to exercise its legitimate legal rights or to safeguard the due operation or management of the MACHINE(S), (iii) subsequent to public

availability of the information or (iv) made to legal advisors, certified public accountants, or other persons who have a duty of confidentiality under applicable law or professional standards, or (v) agreed with CUSTOMER's parental company or any other organisation acting on behalf of CUSTOMER, if the CUSTOMER's right to use KOMTRAX is based upon such agreement.

#### Article 7 (Disposal or Transfer of MACHINES to a Third Party)

In case CUSTOMER disposes of or transfers (in this AGREEMENT, transfer means any one or more of the following activities: selling, exporting or otherwise definitive transferring) to a third party ("TRANSFeree"), any MACHINE, CUSTOMER shall apply to DISTRIBUTOR or DEALER in advance for deregistration of such MACHINE with respect to the use of KOMTRAX (including the ISO API SERVICE) and CUSTOMER and its USERS shall cease to use or access KOMTRAX for any purpose with respect to such MACHINE immediately upon the effectiveness of such disposal or transfer to a third party.

CUSTOMER shall not be entitled to claim any property right in relation to KOMTRAX INFORMATION, nor any use right, nor retention right in relation thereto, beyond the date of deregistration.

#### Article 8 (Termination or Change of KOMTRAX)

1. KOMATSU ENTITIES may terminate CONTRACTING ENTITY's and its USERS's right of utilization of KOMTRAX, suspend communication and/or remove the KOMTRAX APPARATUS immediately, without prior notice to CONTRACTING ENTITY upon the occurrence of any of the following:

(1) If KOMATSU ENTITIES determine that the CONTRACTING ENTITY's and/or its USER(S)'s use of KOMTRAX occurs in a jurisdiction where utilization of the KOMTRAX APPARATUS is not authorized or provision of telecommunication services suitable for the KOMTRAX APPARATUS is not licensed;

(2) If KOMATSU ENTITIES determine that KOMTRAX is accessed or utilized by any party in connection with CONTRACTING ENTITY's MACHINES in violation of this AGREEMENT;  
or

(3) If KOMATSU ENTITIES determine it is necessary to do so to ensure compliance with applicable laws or accomplish any purpose contemplated by this AGREEMENT.

2. KOMATSU ENTITIES reserve the right to modify or supplement any part or all of the operation of KOMTRAX (including the scope of KOMTRAX INFORMATION and the method of provision thereof, including via the ISO API SERVICE), or terminate or suspend the provision of KOMTRAX, KOMTRAX services or access, for any reason and at any time, without prior notice. KOMTRAX services are regarded as additional services in the framework of the purchase of MACHINE(S) and do not constitute a decisive element of such purchase.

3. At any time, KOMATSU ENTITIES may in their discretion and without the need to give any prior notice, modify the SOFTWARE, including of the ISO API SERVICE, and the WEB SITE

constituting KOMTRAX, to the extent that it does not adversely affect the operating performance or specifications of the MACHINES.

4. CONTRACTING ENTITY and its USERS waive their right to, and shall not, claim any damages or pursue any other remedy against DISTRIBUTOR and/or KOMATSU ENTITIES, and neither DISTRIBUTOR nor KOMATSU ENTITIES shall bear any liability towards CONTRACTING ENTITY and its USERS, with respect to or in connection with any action that DISTRIBUTOR or KOMATSU ENTITIES may take under this Article 8.

5. Upon termination of this Agreement with CUSTOMER for whatever reason, the ISO API SERVICE will be deactivated.

#### Article 9 (Discharge and No Warranty)

1. CUSTOMER and its USERS acknowledge that various incidents (including, but not limited to, those stated below) may occur and cause impaired utilization of KOMTRAX (which includes the WEB SITE, SOFTWARE and/or ISO API SERVICE) by CUSTOMER and its USERS and CUSTOMER and its USERS waive their right to, and shall not, claim any damages or pursue any other remedy arising therefrom against DISTRIBUTOR, DEALER, KOMATSU ENTITIES or any telecommunication company that has entered into an agreement with KOMATSU regarding telecommunication services for the provision of KOMTRAX:

- (1) earthquakes, flood, war, fire, an act of God, acts of war or terrorism, or the occurrence of any other event beyond the reasonable control of DISTRIBUTOR, DEALER, KOMATSU ENTITIES, or such telecommunication company;
- (2) breakdown or maintenance issues relating to the KOMTRAX APPARATUS, or server maintenance issues;
- (3) termination or suspension of the services provided by any telecommunications company or internet service provider;
- (4) interference or radio disturbance (including when the MACHINES are located in a place with bad reception); or
- (5) the unavailability of Global Positioning System (GPS) or similar systems.

2. CUSTOMER and its USERS acknowledge and agree that in no event does DISTRIBUTOR, DEALER or KOMATSU ENTITIES warrant, nor shall they be liable with respect to, the integrity, accuracy, fitness for any particular use or purpose or any other quality or aspect of KOMTRAX.



3. If any dispute arises between CUSTOMER and/or its USERS and any third parties (including any TRANSFEREE, governmental authority, telecommunication company or internet service provider) relating to CUSTOMER's and its USER(S)'s breach of this AGREEMENT or any instructions provided by DISTRIBUTOR, DEALER or KOMATSU ENTITIES with respect to the use of the MACHINES or KOMTRAX (which includes the WEB SITE and SOFTWARE), CUSTOMER shall be responsible for the settlement of such dispute and shall indemnify and hold DISTRIBUTOR, DEALER and KOMATSU ENTITIES harmless from any and all losses or damages of any kind arising therefrom.
4. KOMATSU's total maximum liability under this AGREEMENT for all claims arising during the term of the AGREEMENT shall not exceed 25.000 EUR. KOMATSU shall not be liable for any indirect, economic or consequential loss, damage, cost or expense of any kind, whether arising from tort (including negligence), breach of contract or howsoever.
5. With regard to the ISO API SERVICE, KOMATSU will only be responsible for the technical support to the following extent:
  - **Data availability** - CUSTOMER acknowledges and understands that KOMTRAX INFORMATION retrieving using the API is not made available in real time, but only updated periodically provided that KOMTRAX INFORMATION has been transmitted by the KOMTRAX APPARATUS. KOMATSU shall use commercially reasonable efforts to make the ISO API SERVICE available and to minimize downtime and interruption to the access to the ISO API SERVICE but does not warrant any particular level of availability.
  - **Technical support** – KOMATSU will make available its email-based support services for the ISO API SERVICE and KOMATSU will provide access to its knowledge base archive to assist in troubleshooting and answering questions regarding the ISO API SERVICE.The use of the ISO API SERVICE is at the sole risk of Licensee, who will be solely responsible for any damage to their computer system or loss of data that results from the download or use of the ISO API SERVICE.
6. KOMATSU undertakes to perform its obligations under the AGREEMENT in a competent and professional manner, with all due skill, diligence and prudence, in accordance with good industry practices and high professional standards used in well-managed operations. However, time for performance of all obligations of KOMATSU is not of the essence for Parties. KOMTRAX and its related ISO API SERVICE are made available 'as is' and 'as available' on a best efforts basis only.

#### Article 10 (Intellectual Property)

1. CONTRACTING ENTITY and its USERS acknowledge that KOMATSU (or its licensors) is the sole owner of any trademark, copyright, database right or other intellectual property rights pertaining, directly or indirectly, to KOMTRAX (including the WEB SITE the SOFTWARE and the ISO API SERVICE), KOMTRAX INFORMATION and Statistically Processed Information. Unless explicitly stated otherwise, nothing in this Agreement shall operate to transfer, assign or otherwise grant CONTRACTING ENTITY and its USERS any right or interest in any of KOMATSU's intellectual property rights, nor in the KOMTRAX INFORMATION. Any rights not explicitly granted are expressly reserved by KOMATSU.
2. Insofar the KOMTRAX INFORMATION would contain data that can be regarded as business secrets, or otherwise important information pertaining to the CUSTOMER's business, any processing,

use and transfer of such information by KOMATSU ENTITIES, DISTRIBUTOR or DEALER in accordance with this AGREEMENT will be considered as lawful use of such information.

3. Without prejudice to articles 4 and 5, KOMATSU hereby grants to CUSTOMER and its USERS a limited, non-exclusive, right to use KOMTRAX as part of its use of a MACHINE, as an additional service and for the term of this Agreement only.

#### Article 11 (Term, etc.)

1. This AGREEMENT shall be automatically terminated in case (i) the contractual relationship with CONTRACTING ENTITY that this AGREEMENT is linked is terminated; or, vis-à-vis CUSTOMER, in case (ii) CUSTOMER disposes of or transfers to third parties all of the MACHINES owned by CUSTOMER, and (iii) all of CUSTOMER's registrations as a user of KOMTRAX are deregistered in connection with all of the MACHINES owned by CUSTOMER.

#### Article 12 (Various)

1. CONTRACTING ENTITY and its USERS acknowledge and agree that this AGREEMENT supersedes any agreement or consent letter relating to the use of KOMTRAX previously entered into by CONTRACTING PARTY and its USERS.

2. KOMATSU ENTITIES' failure to enforce any provision of this AGREEMENT will not be construed as a waiver of any provision or right and shall not preclude its exercise at any subsequent time.

3. The provisions of this AGREEMENT shall be deemed to be severable, and the invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions of this AGREEMENT.

#### Article 13 (Governing Law, Jurisdiction)

1. This AGREEMENT shall be governed by, and construed in accordance with, the laws of Belgium.

2. Parties agree to try and solve any dispute arising out of or in connection with this AGREEMENT through negotiations. Should negotiations fail, the dispute shall be brought before the competent courts in Brussels, Belgium.

