

## **General Terms and Conditions of Purchase**

These General Terms and Conditions of Purchase (“Terms”) apply to all deliveries of products and services from a party (“Supplier”) to Danfoss A/S or its Affiliates (each of which is referred to as “Danfoss”). In these Terms “Affiliate” shall mean an entity directly or indirectly controlled by Danfoss A/S whether by shares or voting rights.

No terms and conditions other than the Terms shall be binding upon Danfoss and Supplier unless agreed in writing by both Danfoss and Supplier. All terms and conditions contained in any prior communication which are different from or in addition to the Terms shall not be binding on Danfoss unless otherwise expressly agreed in writing by both Danfoss and Supplier.

### **1. Ordering and Order Confirmation**

Purchase orders will be issued by Danfoss in writing, by fax or electronically and will be binding to the parties at Supplier’s acceptance in writing, by fax or electronically. Any modifications of or comments to the purchase order by Supplier are binding only, if accepted by Danfoss in writing. Performing of any part of a Danfoss purchase order by Supplier will operate as Supplier’s unconditional acceptance of the purchase order. A Danfoss purchase order accepted by Supplier is hereinafter referred to as a “Contract”. Products and/or services covered by a Contract are hereinafter referred to as “Products”.

### **2. Delivery**

Delivery of Products shall be made pursuant to the Contract. If the delivery terms have not been specified in the Contract deliveries shall be made DDP the ordering Danfoss entity. DDP shall be interpreted in accordance with the version of Incoterms valid on the time of Supplier’s acceptance of the Contract.

Danfoss is not obligated to accept early deliveries, partial deliveries or excess deliveries.

### **3. Delay**

If Supplier consider it probable that it will not be able to deliver Products at the agreed time of delivery, Supplier shall immediately notice Danfoss thereof in writing in order to agree the right priorities. For the avoidance of doubt it is outlined that such notice shall not relieve Supplier of its responsibility and liability to deliver on time. Supplier shall use best efforts to avoid any delay.

If Supplier does not deliver the Products on the agreed time of delivery Danfoss is entitled to liquidated damages as from the agreed delivery date. The liquidated damages amount to 2 % of the total order sum per week or fraction of a week of the delay. The liquidated damages cannot amount to more than 10% of the total order sum. The liquidated damages shall fall due for payment at Danfoss’ written demand. Part deliveries shall not exempt Supplier from liability pursuant to this provision.

Any delay beyond 14 days from the agreed delivery date is considered a material delay which entitles Danfoss to terminate the Contract.

Supplier’s payment of liquidated damages due to delay does not exclude the right of Danfoss to claim compensation for any direct loss in excess of the liquidated damages amount. This obligation on Supplier to compensate Danfoss’ loss shall exist irrespective of whether Danfoss chooses to terminate the Contract or not.

In the event of delay Danfoss may request Supplier to deliver the Products by the fastest means of transport. If Danfoss' request is reasonable based on the potential implication on Danfoss, Supplier shall meet Danfoss' request. Any additional delivery charges in excess of those that would apply for the usual means of delivery shall be borne by Supplier.

#### **4. Prices and Payment**

Unless expressly stated to the contrary, prices stated in a Contract are (i) fixed and firm, (ii) exclusive of VAT (if any), but including all other costs, including, but not limited to taxes, duties, levies, charges etc and (iii) inclusive of the costs of packaging.

Payment terms are current month plus ninety (90) days from the date of undisputed invoice. All invoices shall state Danfoss' order number and the agreed terms of payment. Invoices without this information are not payable and will be returned to Supplier.

Danfoss and its Affiliates shall be entitled to set off own claims against Supplier, in Supplier's possible claims against any of said entities.

#### **5. Confidentiality and Restricted Use**

Any non-public information, including, but not limited to, drawings, descriptions, specifications and any other technical documents which Danfoss has made or may make available to the Supplier ("Confidential Information") shall remain the property of Danfoss and shall be treated as confidential by Supplier and its representatives and must not, without the written consent of Danfoss, be copied, reproduced, or transferred to third parties or be used for other purposes than those intended when the Confidential Information was made available. Confidential Information shall be returned upon Danfoss' request.

#### **6. Warranty**

For a period of 24 months from the date of delivery Supplier warrants that Products delivered (i) are designed and manufactured in a professional and workmanlike manner; (ii) are fit for any normal or agreed purpose; (iii) are free from defects in design, materials and workmanship; and (iv) comply with specifications and requirements agreed on with Danfoss and in the absence of such agreement with industry standards.

Supplier shall without undue delay - at Danfoss' discretion - credit, repair or replace defective Products at Supplier's cost and risk. Supplier shall reimburse Danfoss any documented, direct loss incurred as a result of defective Products including, but not limited to, inspection costs, dismounting and mounting cost, freight, import and export duties, charges and taxes.

Defective Products that have been replaced at Supplier's cost shall be the property of Supplier and shall be returned to Supplier at Supplier's risk and cost if Supplier request so within 30 days from Supplier's receipt of Danfoss' complaint.

#### **7. Serial Failures**

If the same type of defect occurs, within the warranty period of the defective Products and in minimum three (3) % of Products or parts thereof, however always at least 15 units, manufactured to the same design, which have been delivered by Supplier to Danfoss during any twelve (12) months' period, such defect is considered a "Serial Failure". All such Products delivered to Danfoss within the twelve month's period are considered "Serial Failure Products".

Supplier shall without undue delay - at Danfoss' discretion - repair or replace Serial Failure Products at Supplier's cost and risk. Supplier shall reimburse Danfoss any documented loss incurred as a result of a Serial Failure including, but not limited to, project management costs,

analysis costs, advertising costs, inspection costs, recall costs, freight, import and export duties, charges and taxes.

## **8. Product Liability**

Supplier is fully liable for any product liability claims resulting from Products delivered by Supplier whether such a product liability claim is brought against Supplier or Danfoss. Thus, Supplier shall indemnify and hold Danfoss harmless from all claims related to product liability from third parties for personal injury, property damage and any other losses caused by defective Products.

If a product liability claim relating to Products is lodged by a third party against one of the Parties, the latter Party shall without undue delay inform the other Party thereof in writing.

Supplier is obliged to let itself be summoned to the court or arbitrational tribunal examining claims for damages lodged against Danfoss on the basis of damage allegedly caused by a Product.

## **9. Insurance**

Supplier shall maintain and keep in force adequate business and products liability insurance including recall covering Products. The insurance is to be valid as minimum for the term of the Parties' business co-operation and for a period of five (5) years hereafter. As proof of such insurance Supplier shall prior to Supplier's acceptance of a Danfoss purchase order provide Danfoss with an insurance certificate issued on name. Coverage of injuries on persons or damages to property should be valid worldwide including USA and Canada at not less than EUR 4,000,000.00 per injury/damage with no limitation regarding aggregate amount per year.

Furthermore, the insurance shall cover responsibility for damages to or losses concerning objects (incl. objects belonging to Danfoss) that Supplier's Products are (i) made part of, mixed with, incorporated in, joint with, used for packing of or in any other way connected with; or (ii) worked up with or used for working up of; or (iii) used for production or working up of or any kind of handling of.

## **10. Secondary Damage**

Except for any liability under clause 5 above and clause 11 below all claims for consequential losses, loss of production, loss of profit, loss of goodwill and any other indirect losses are expressly excluded. This limitation shall not apply in the event of (i) wilful misconduct or fraudulence, (ii) gross negligence, or (iii) in case of death or personal injury that may be the result of the negligence of Danfoss or Supplier or of someone for whom Danfoss or Supplier is responsible.

## **11. Intellectual Property Rights**

Supplier bears the responsibility for ensuring that the Products, or the use or transfer thereof, shall not infringe any intellectual property rights of any third party (including, without limitation, any patent, trademark, industrial design, copyright or license right or trade secret). If claims based on the Products' infringement of intellectual property rights are made by a third party against Danfoss and/or Danfoss' customers and/or end-users of the Products or Danfoss products of which the Products form part, Supplier shall be obligated to indemnify Danfoss for all damages, costs and expenses arising out of or in connection with such claim or infringement. Danfoss shall without undue delay notify the Supplier of any such claim and allow the Supplier to either independently plead or to intervene in the proceedings regarding such infringement claim.

Should Products be found to infringe the intellectual property rights of a third party, Supplier shall, without cost to Danfoss, modify the Products to be non-infringing or shall obtain and maintain such license and rights from the third party as are required for the unrestricted, continuous use of the Products.

## **12. Force Majeure**

Neither party can be held responsible for non-fulfilment of a Contract, provided the non-fulfilling party proves that this is caused by force majeure, including but not limited to labour conflict involving other than Supplier's employees unless an involvement of Supplier's employees is due to national labour conflicts, fire, export and import prohibitions, currency restrictions or other obstructions beyond its control, which could not reasonably have been avoided, foreseen or limited.

The party intending to claim relief due to force majeure shall, in writing, without delay inform the other party of the obstruction(s) and the implication of this for the fulfilment of the Contract. This party is furthermore obligated loyally to co-operate in mitigating the consequences of a force majeure situation.

In case the force majeure situation is not brought to a termination within two (2) months, the other party is entitled to cancel the Contract by written notice with immediate effect.

## **13. Environment**

All supplied Products have to meet Danfoss' superior mission, which is to consume a minimum of raw materials and energy, the fewest possible undesirable environmental effects and the most effective application and resources.

Supplier shall at all times comply with the most recent version of the Danfoss Negative List (the Danfoss Negative List consists of the Danfoss Black List and the Danfoss Grey List). The Danfoss Negative List in force at any given time is available on: [www.danfoss.com/AboutUs/Corporate+Citizenship/NegativeList.htm](http://www.danfoss.com/AboutUs/Corporate+Citizenship/NegativeList.htm). On the same webpage Supplier shall register as recipient of updates to the Danfoss Negative List and remain registered for the term of its co-operation with Danfoss.

Supplier shall as a minimum fulfill all environmental and safety rules valid in the recipient country at the time of delivery.

## **14. Danfoss Code of Conduct for Suppliers**

Danfoss has joined the United Nations' Global Compact initiative, which means that Danfoss has entered into the obligation to live up to The Ten Principles of the United Nations Global Compact on human rights, employees' rights, the environment and corruption. The Ten Principles are incorporated in the Danfoss Code of Conduct for Suppliers available on: [www.danfoss.com/NR/rdonlyres/3BCFE15B-E754-44B5-891E-B72AC7D8DF25/0/CoCv7.pdf](http://www.danfoss.com/NR/rdonlyres/3BCFE15B-E754-44B5-891E-B72AC7D8DF25/0/CoCv7.pdf).

Supplier shall comply with Danfoss Code of Conduct for Suppliers in force at the time in question. Supplier's breach of this obligation is considered a material breach of the Contract.

## **15. Export Control and Customs**

Supplier shall be obliged to inform Danfoss about any applicable (re-) export licence requirements for the Products under local (the country from which Supplier will export the Products), European

or US export control law and customs regulations as well as the export control law and customs regulations of the country of origin of the Products. Therefore, at least in his offers, order confirmations and invoices Supplier shall provide the following information with respect to the Products:

- ECCN (Export Control Classification Number) for European and/or US-goods (including technology and software) pursuant to the European Export Control regulations and/or US Export Administration Regulations (EAR);
- country of origin of the Products and of the components thereof, including technology and software;
- any transport of the Products through USA, manufacture or stocking of the Products in the USA and whether the Products have been manufactured by using US technology; and
- a contact person in Supplier's organisation to provide further information to Danfoss upon request.

Upon Danfoss' request Supplier shall provide any other foreign trade data with respect to the Products and their components in written form and shall inform Danfoss on all changes to such data without undue delay and prior to supply to Danfoss.

#### **16. Partial Invalidity**

If one or more of the terms and conditions in these Terms or any part of a term is deemed invalid, unenforceable, illegal or inoperable, the validity, enforceability, legality or operability of all further terms and conditions shall not be affected or diminished thereby.

#### **17. Disputes**

Any dispute between the parties arising from or in connection with a Contract shall be settled pursuant to the substantive law of the country where the ordering Danfoss entity is situated excluding the United Nations' Convention for the International Sales of Goods (CISG).

Venue for any litigation related to a Contract shall be the venue of the ordering Danfoss entity.