

Medium Voltage Partner Program General Terms and Conditions



These General Terms and Conditions (“Terms”) for the Medium Voltage Partner Program (“MVP Program[®]”) apply to the on-line services, training, tools, software, information and support (collectively “On-line Services”) provided by Vacon, LLC or its legal successors (hereinafter referred to as “Danfoss”) to partners (“Partner”) in connection with the MVP Program[®]. For the avoidance of doubt, these Terms shall not be applicable for the sale of products or the maintenance, repair, commissioning or similar services for such products by Danfoss.

The right to use the On-line Services provided under the MVP Program[®] is expressly conditioned upon Partner’s acceptance of these Terms. No terms and conditions other than the Terms shall be binding upon Danfoss and Partner in relation to the On-line Services and the MVP Program[®] unless otherwise expressly agreed in writing by Danfoss and Partner. Use by Partner of the On-line Services will constitute acceptance of these Terms.

1. General

The MVP Program[®] provides a new possibility for selected and committed partners capable of adding value through integration of Danfoss medium-voltage AC drives and through offering definitive purpose medium-voltage AC drives to their customers in market segments and applications where they are experts. The purpose of the MVP Program[®] is to provide tools, training and support to Partner for designing and developing its own cabinet offering using Danfoss medium-voltage AC drives and related electrical and mechanical components. Such cabinet is hereinafter referred to as the “Cabinet” and the purpose of the MVP Program is hereinafter referred to as the “Purpose”.

Danfoss shall not be deemed to have accepted the Partner as part of the MVP Program[®] until Partner has received written confirmation from Danfoss that it has been approved as a partner of the MVP Program[®] and Danfoss has received an unconditional acceptance from Partner of these Terms.

2. Provision and Use of On-line Services

Partner is granted a non-exclusive and non-transferable right to use the On-line Services for the Purpose in accordance with these Terms.

Unless otherwise agreed, the On-line Services will be made available to the Partner via the internet. Danfoss will use its reasonable efforts to ensure the availability of the On-line Services and the On-line Services are made available and performed with reasonable skill and care. However, Danfoss does not give any warranties that the On-line Services will be uninterrupted and Danfoss makes no warranties as to the suitability thereof. Warranties, conditions and other terms implied by statute or otherwise (including any implied warranty of merchantability or fitness for a particular purpose) shall be excluded other than those, that cannot be excluded by applicable law. In addition to the generality of the foregoing, unless otherwise expressly set forth herein in these Terms, the On-line Services are supplied “as is”, “where is” and “with all faults”.

The Partner shall safeguard with appropriate secrecy the passwords as well as all other information security measures and prohibit any unauthorized access to or use of the On-line Services. The Partner shall notify Danfoss immediately of any unauthorized use of its username or password or any other breach of security regarding the On-line Services of which the Partner has knowledge.

The Partner undertakes to comply with all applicable laws and regulations and these Terms when using the On-line Services. The Partner shall solely use the On-line Services for the Purpose.

3. Prices

Danfoss will provide such On-line Services that are available via mvp.danfoss.com at no extra cost to the Partner. Danfoss may charge Partner separately for surcharges and fees e.g. for face-to-face training or support provided Danfoss has informed Partner of such surcharges and fees as part of price lists or as otherwise made available to Partner.

4. Marketing and Branding

The Partner is granted a non-exclusive, revocable and non-transferable right and obligation (unless otherwise separately agreed) to use the term “Danfoss Medium Voltage Partner” or other similar designation defined by Danfoss on their website and otherwise in connection with the marketing of their products. Danfoss shall be entitled to use the Partner’s name and logo as a reference on its websites in connection with the marketing of the MVP Program[®] and/or its medium-voltage AC drives.

The Partner shall display a clearly visible mark, label and/or plate on any Cabinets, indicating that the medium voltage AC drive within the Cabinet is a Danfoss product. The design and details of such mark, label and/or plate shall be defined by Danfoss.

The Partner shall comply with the instructions and guidelines by Danfoss from time to time in the use of any trademarks, logos or other distinctive brand features of Danfoss.

5. Proprietary Information and Confidentiality

Any information, including but not limited to, designs, drawings, descriptions, software and any technical documents which Danfoss has made or may make available to Partner (“Confidential Information”) shall remain the property of Danfoss and shall be treated as confidential by Partner 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 the Purpose.

All Confidential Information shall upon Danfoss’ request either be returned to Danfoss or be destroyed by Partner immediately. In case of destruction, the Partner shall confirm in writing such destruction.

Notwithstanding the foregoing, latent data such as deleted files, and other non-logical data types, such as memory dumps, swap files, temporary files, printer spool files, and metadata that can only be retrieved by computer forensics experts and is generally considered inaccessible without the use of specialized tools and techniques will not be within the

Medium Voltage Partner Program General Terms and Conditions



requirement for return or destruction of Confidential Information.

The obligations of confidentiality set out in this clause 5 shall not apply, however, to any information which:

- a) the Partner can demonstrate, at the time of disclosure is already in the public domain or hereafter becomes available to the public through no breach of these Terms; or
- b) was in the Partner's rightful possession without any confidentiality obligation prior to receipt from Danfoss; or
- c) is lawfully obtained by the Partner from a third party without an obligation of confidentiality, provided such third party is not in breach of any confidentiality obligation relating to such information;
- d) is independently developed by the Partner without use of or reference to the Confidential Information or under the exceptions as set out in a)-c) above; or
- e) is disclosed in response to a valid order of court or authorized agency of government; this only applies to the extent so ordered and provided, that notice must first be given to Danfoss, so a protective order, if appropriate, may be sought by Danfoss. Any such required disclosure shall not, in and of itself, change the status of the disclosed information as Confidential Information under these Terms.

6. Alterations

Danfoss reserves the right to make amendments to the MVP Program®, the On-line Services or the scope thereof without notice from time to time.

7. Limitation of Liability

Danfoss shall not be liable to Partner for any of the following types of loss or damage arising under or in relation to the MVP Program® or the On-line Services: 1) any loss of profits, business, contracts, anticipated savings, goodwill, or revenue; or 2) any loss or corruption of data; or 3) any indirect, special, punitive, exemplary or consequential loss or damage whatsoever; even if Danfoss was advised in advance of the possibility of such loss or damage, and whether arising out of breach of warranty, tort, statute, delay, faulty On-line Services, product liability, recall or otherwise, and even if any express warranties fails its essential purpose.

Danfoss shall not be liable for any damage to any property (real or movable) caused by use of the On-line Services and Danfoss shall have no liability for the Cabinets or other products or applications that have been developed, designed or manufactured by Partner by use of the On-line Services. If Danfoss incurs liability towards any third party for such damage, Partner shall indemnify, defend and hold Danfoss harmless.

To the extent not prohibited by law, Danfoss shall have no liability for any loss or damage arising under or in relation to the MVP Program® and any On-line Services provided to Partner thereunder.

Partner acknowledges and agrees, that Danfoss provides the On-line Services without extra cost to the Partner in reliance upon the disclaimers of warranty and the limitations of

liability set forth herein, and that the same reflect a risk allocation between the parties forming an essential basis for the bargain between them.

8. Mandatory liability

Nothing in these Terms (including but not limited to the exclusions and limitations in clause 7) shall operate so as to exclude or limit the liability of either party to the other for death or personal injury arising out of its negligence, fraudulent misrepresentation or for any other liability which cannot be excluded or limited by law.

9. Notice of Claims

Claims or complaints as to defects in the On-line Services or other claims related to the MVP Program® shall be submitted in writing by Partner to the Partner's relevant contact person at Danfoss without undue delay.

10. Intellectual Property Rights and use of Software

Except as set forth in clause 4 above and except for the right to use the On-line Services for the Purpose in accordance with these Terms, no license or right of use under any patent or patentable right, copyright, trademark or other proprietary right is granted or conveyed by these Terms. The disclosure of Confidential Information and materials shall not result in any obligation of Danfoss to grant the Partner any other rights than expressly set forth in these Terms. Danfoss shall have the sole ownership and title to any reference designs, drawings, descriptions and other technical information provided by Danfoss in connection with the On-line Services. Partner shall have the ownership and title to the design of the Cabinet to the extent independently created or developed solely by the Partner and to the extent such ownership and title does not in any manner prevent or hinder any marketing, sale, use or other forms of utilization of Danfoss' products, reference designs or drawings by Danfoss, its affiliates and/or their business partners.

If software is provided in connection with the On-line Services, Partner obtains a non-exclusive, revocable and non-transferable license in form of a right of use to the software solely for the Purpose and in accordance with any applicable license conditions made available. The software may not be copied or reproduced in any form or be modified, rented, leased, sold, or sublicensed. Partner shall not obtain any rights to source codes to such software. Any software is made available on an "as is", "where is" and "with all faults" basis. Danfoss shall not be liable in any way for errors or for any loss or damage arising out of or as a result of use of such software, or any third party software relating thereto.

11. Compliance

Partner shall comply with all applicable export control rules and regulations (including EU and US export control rules and regulations) in connection with the MVP Program® and the use of the On-line Services. Partner shall also comply with all rules and regulations on health, safety and security applicable to the operation of medium voltage AC drives. If Partner receives knowledge of or suspects that the conditions in this clause have been violated, Partner shall immediately inform Danfoss thereof. If Danfoss receives

Medium Voltage Partner Program General Terms and Conditions



knowledge or in its reasonable opinion suspects that the conditions in this clause have been violated by Partner, Danfoss may refuse the Partner access to any On-line Services, physical training or support.

12. Force Majeure

Danfoss is entitled to cancel or suspend the On-line Services and shall not be liable for any non-availability, fault or delay, which partly or wholly is caused by circumstances beyond Danfoss' reasonable control, including, but not limited to, riots, civil unrest, war, terrorism, fire, insurrection, requisition, seizure, embargo or defects or delays in deliveries by sub-suppliers, strikes, lockouts, slow downs, lack of transportation, scarcity of materials, and insufficient supplies of energy. Any of Partner's contractual rights are suspended or become void in any such circumstances referred to in this clause. Partner is not entitled to any kind of damages or to make a claim whatsoever in case of cancellation or delayed delivery due to such circumstances.

13. Global Compact and Anti-Corruption

Danfoss has joined the United Nations' Global Compact initiative which means that Danfoss has undertaken to live up to 10 principles on human rights, employees' rights, the environment and corruption. These principles and further information are set out at Global Compact: <http://www.unglobalcompact.org>. Therefore Danfoss encourages Partner to comply with these fundamental principles. Danfoss shall be entitled to cancel any On-line Services without incurring any liability if Danfoss has reason to believe that Partner acts in a manner contrary to applicable laws and regulations regarding bribery and corruption.

14. Data Privacy

Personal data of individual contacts of the Partner such as name and business contact details may be processed and stored globally outside of the Partner's country by Danfoss, its affiliates or authorized third party providers. Danfoss will use personal data to perform its contractual obligations (such as administration of Partner relations and of payment transactions), to analyze and improve its products and On-line Services, and/or to send information on products, On-line Services and events of Danfoss to contact persons of Partner. Where consent is required by law, the Partner hereby agrees to the personal data being used and transferred as described above, and acknowledges that personal data will be subject to the foreign law of the country where it is being held/server is located. Danfoss will use adequate contractual and technical mechanisms to protect personal data. Danfoss will keep personal data for the duration of the contractual relationship. Where required by mandatory law and provided that the necessary conditions are satisfied, the Partner may as a natural person have the right to access, rectify, inquire about or, object to the processing of his personal data. For further details contact your local Danfoss contact – see www.Danfoss.com.

15. Term and Termination

The agreement between the Partner and Danfoss governed by these Terms shall continue in force until further notice.

Either party may terminate the agreement for convenience and without incurring any liability with a 60 days prior written notice.

The agreement between Danfoss and the Partner may be terminated by Danfoss with immediate effect in whole or in part in the following events:

- (i) In the event of a material breach of these Terms by the Partner, and either that breach is incapable of remedy or the material breach is not remedied to Danfoss reasonable satisfaction within thirty (30) days after receiving written notice requiring the Partner to remedy the breach. A material breach includes but is not limited to:
 - Use of the On-line Services for other purposes than the Purpose.
 - Disclosure to a third party of Confidential Information in violation of these Terms.
 - Violation of trademarks, or misuse of other Danfoss brand features.
 - Failure to maintain reasonable quality standards as expected by a partner in the MVP Program®.
- (ii) If not restricted by applicable law, if Partner becomes insolvent or any resolution or proceedings for liquidation (voluntary or involuntary) are instituted by or against Partner or in the event of the appointment with or without consent of an administrator, assignee or agent for the benefit of a creditor or creditors or of a receiver for the Partner.
- (iii) If Partner commits any repetitive breach of the same type for which notice has already been given.
- (iv) If the ownership or control of the Partner is transferred to a competitor of Danfoss or its affiliates or otherwise in a way that Danfoss considers to be in conflict with its business interests.

16. Consequences of Termination

If for any reason the agreement between Danfoss and Partner is terminated or expires:

- (i) Partner shall immediately cease to use the On-line Services.
- (ii) Partner shall immediately cease to use any trademarks, logos or other distinctive brand features of Danfoss.
- (iii) Partner shall return or destroy any Confidential Information in accordance with section 5 above as well as any other material provided to Partner in connection with the MVP Program®.

The termination or expiry of the agreement shall not in itself give rise to any liability on the part of Danfoss to pay any compensation to Partner for loss of profits or goodwill. Upon termination of the MVP Program® for any reason, any section that by its nature should survive the MVP Program® (including but not limited to clause 5 above) will survive and continue in effect and be binding upon the Partner and Danfoss. The termination or expiry of the MVP Program® shall have no effect on the validity of any supply agreement or other agreement between Danfoss and Partner.

Medium Voltage Partner Program General Terms and Conditions



17. Partial Invalidity

If one or more of the terms and conditions in these Terms or any part thereof 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.

18. Assignment

Neither party may assign or transfer any of its rights or obligations under these Terms without the prior written consent of the other party. Notwithstanding the aforesaid, however, Danfoss may transfer its rights and obligations under these Terms to any of its affiliates (affiliate meaning an entity that directly or indirectly through one or more intermediaries either controls, is controlled by, or is under common control with Danfoss).

19. Governing law and Disputes

Any dispute between the parties arising from or in connection with an agreement governed by these Terms shall be governed by the substantive laws of Denmark, without regard to its principles and rules on conflict of laws. Any dispute arising from or in connection with an agreement governed by these Terms and which the parties themselves are unable to resolve shall be referred to and finally settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce, ("Rules") by one or more arbitrators appointed in accordance with said Rules. Either Party shall be entitled to seek injunctive or interim relief or any other temporary measures. The Parties may refer the enforcement of any arbitral award to any competent court. The seat of arbitration shall be Copenhagen, Denmark. English shall be the language to be used in the arbitration proceedings unless otherwise agreed between the parties. The arbitration proceedings and the arbitral award shall be confidential and involved persons on both sides are pledged to secrecy.

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