

1. General

Unless other written agreements exist, the terms and conditions of delivery set forth herein shall apply to all offers and orders given to or received by Semikron Danfoss Elektronik GmbH & Co. KG ("SEMİKRON DANFOSS"). Unless they have already been agreed previously, these general terms and conditions of delivery shall become part of the contract upon conclusion of the contract. The general terms and conditions of business of customers shall not apply, even if customers expressly so request in their orders. The acceptance of an order on the part of SEMİKRON DANFOSS cannot be used to infer the validity of other conditions.

SEMİKRON DANFOSS's range of goods is exclusively being offered to persons and partnerships acting in their commercial or independent professional function when concluding the legal transaction and to legal entities under public law and special funds under public law. Upon placing an order, the customer makes a binding declaration not to be acting as a private customer.

2. Offers and Conclusion of Contract

Product descriptions on SEMİKRON DANFOSS web pages are only presentations of goods without commitment. When clicking the order button, the customer makes a binding offer of buying the goods he selected. SEMİKRON DANFOSS will then send an order confirmation to the customer by e-mail, thus accepting the customer's offer.

In case of dual use products (products that have both civilian and military uses), a final acceptance of the order by SEMİKRON DANFOSS can be made dependent on an End-User Certificate, which the customer has to submit free of charge, even after an order confirmation by SEMİKRON DANFOSS.

Only then a legally binding contract will be concluded between the parties.

3. Delivery Dates

In principle, no delivery dates have been agreed upon. Any specified delivery dates are only for information. If a specific delivery date has been agreed upon in individual cases, this shall only apply subject to a timely receipt of materials and a flawless functioning of the finished part during quality control inspection. In the event of the customer being in default of acceptance of delivery, SEMİKRON DANFOSS is entitled to demand compensation for any loss sustained. The risk of accidental perishing and of accidental deterioration shall be devolved on the customer from the occurrence of the default of acceptance. In case of force majeure, SEMİKRON DANFOSS shall be released from its obligation to deliver until the end of the force majeure situation. SEMİKRON DANFOSS shall inform the customer thereof immediately. The impossibility of a sufficient supply of raw materials and provision of means of transport, strikes and lockouts are considered cases of force majeure. At the end of the force majeure situation, it shall be decided by mutual agreement whether a subsequent delivery is to be carried out for those deliveries which were not made during the force majeure situation.

4. Successive Delivery

In the case of deliveries by instalment, SEMİKRON DANFOSS reserves the right to determine the order of delivery for the parts and the quantities of parts to be delivered.

5. Sub-Suppliers

In order to fulfil its obligations, SEMİKRON DANFOSS shall be entitled to use the services of third parties.

If SEMİKRON DANFOSS's delivery contains merchandise bought from third parties, SEMİKRON DANFOSS shall not be under the obligation to inspect this merchandise more closely than in the scope of the usual incoming goods inspections. Any fault of the manufacturer of the merchandise shall not be attributed to SEMİKRON DANFOSS. Any advertising assurances by third parties shall not constitute an agreement of a quality between SEMİKRON DANFOSS and the customer.

6. Deliveries

The place of performance for delivery is the headquarters of SEMİKRON DANFOSS. If, at the request of the customer, the goods are to be dispatched to a place designated by the customer, the risk of transportation, including that for deliveries for which carriage is paid, shall pass to the customer at the moment in which SEMİKRON DANFOSS hands over the goods to the forwarding agent, the carrier or the railway. SEMİKRON DANFOSS is entitled to take out transportation insurance on behalf of and at the expense of the customer covering the value of the goods being delivered. In individual cases, SEMİKRON DANFOSS reserves the right to make excess/short deliveries of up to 10 %; notwithstanding the excess/short delivery, the contractual obligations shall be considered duly fulfilled with regards to the order volume.

7. Products and Services

SEMİKRON DANFOSS reserves the right to supply products which are technically equivalent to or better than those ordered and confirmed - at the same price-. The acceptance of these equivalent or higher-quality products is considered to be agreed. The products delivered or services performed are specified in the data books, catalogues, drawings or the likes. These do not represent guarantees for individual properties. Drawings/tables, measurement data or performance data are not binding, unless expressly agreed upon in writing. However, they do not represent a guarantee for specific properties, nor do any other notices containing technical data on SEMİKRON DANFOSS products.

8. Prices

The prices stated in the relevant price lists shall be applicable. These are net manufacturing prices stated in EURO per unit or a multiple thereof. The prices are ex works and do not include carriage, packaging and VAT. VAT is shown and calculated separately. All previous price lists hereby become void. Prices for special models and/or for considerably higher order volumes are available upon request. Prices are subject to changes without notice at any time.

9. Invoicing and Payment

All payments must be received in full within 30 days from date of invoice. The place of performance for the customer's obligation to pay is Nuremberg. Payment shall be considered to be on time when the amount due has been credited to the account designated by SEMİKRON DANFOSS with value date on or before the due date. The customer is in default of payment, without further reminder, if the payment has not been received within 30 days of the invoice date. From that moment, SEMİKRON DANFOSS will be entitled to charge default interests of 9 % above the respective base interest rate, to accelerate maturity on undue or deferred payments and to hold all further deliveries immediately. Furthermore, SEMİKRON DANFOSS will be entitled to charge a lump sum of 40 EURO. This does not affect the right to claim higher damage caused by default.

If it becomes evident after the conclusion of the contract that SEMİKRON DANFOSS's entitlement to the purchasing price is jeopardized by the customer's insufficient capacity (for example commencement of bankruptcy proceedings), SEMİKRON DANFOSS shall be entitled to refuse performance and - possibly after fixing a time limit - to rescind the contract (section 321 of the German Civil Code [BGB]). In case of contracts about the production of non-fungible goods (customized products), SEMİKRON DANFOSS can immediately declare its withdrawal; the legal regulations concerning the dispensability of a time limit shall remain unaffected by this.

10. Prohibition of Set-Off and Right of Retention

The customer is not entitled to set off SEMİKRON DANFOSS's claims or assert any right of retention, particularly in the event of any notifications of defects, unless the customer's claims are recognised by SEMİKRON DANFOSS or by a declaratory judgement. Claims made against SEMİKRON DANFOSS cannot be transferred without written consent from SEMİKRON DANFOSS.

11. Defects

SEMİKRON DANFOSS shall provide that the products it supplies comply with the specifications given in the data sheets. SEMİKRON DANFOSS reserves the right to modify the specifications without giving the ordering party notice thereof. SEMİKRON DANFOSS does not guarantee that the products supplied are suitable for use in the customer's designated applications, nor that they comply with the specifications of the customer application. The customer himself is thus responsible for the usability of the product supplied in his application. The defects liability period is one year beginning at the moment of passing of risk.

In case of a defect, SEMİKRON DANFOSS shall be entitled to rework or replace defective goods at its own discretion. Minor deviations of the supplied goods from the quality agreed upon shall not constitute a defect.

12. Reservation of Ownership

SEMİKRON DANFOSS shall retain ownership in the products sold until all claims - including future claims - arising from the business relation will have been fulfilled. In the case of bills and cheques, payment is not considered to be received until said bills and cheques have been honoured. Machining or processing of the products is considered to be carried out on behalf of SEMİKRON DANFOSS. In the event of an intermixture or combination of goods belonging to a third party, SEMİKRON DANFOSS shall acquire a co-ownership share proportionate to the ratio of SEMİKRON DANFOSS products to the third-party objects brought in by the customer at the moment of intermixture or combination. In case the customer acquires sole ownership of the new object, it already grants a co-ownership share of the said goods proportionate to the ratio of the invoice value of the reserved property to the value of the new goods. The customer is entitled, subject to revocation, to resell, but not to pledge or to assign by way of security, the goods which are owned or co-owned by SEMİKRON DANFOSS within the scope of proper business activity. If the customer resells SEMİKRON DANFOSS products or his own goods containing SEMİKRON DANFOSS products without receiving the full purchase price in advance or concurrent with the delivery of the object of purchase, he is obliged to conclude an agreement with his own customer about retention of ownership in accordance with these terms and conditions. The customer already assigns to SEMİKRON DANFOSS all claims it may have from the resale as well as any rights accrued to him from the agreement on retention of ownership made by him. At SEMİKRON DANFOSS's request, the customer is obliged to inform his own customer of the assignment and furnish SEMİKRON DANFOSS with the information and documents it requires to assert its rights against the purchaser. In the event of delayed payment, other material breaches of contract or in the event of substantial deterioration of the customer's financial circumstances, the customer is obliged, at SEMİKRON DANFOSS's request, to surrender to SEMİKRON DANFOSS, immediately and at its own expense, all property co-owned by SEMİKRON DANFOSS. If the value of the securities arising out of the reservation of title agreement exceeds SEMİKRON DANFOSS's claims from its business relations with the customer by a total of more than 20 %, SEMİKRON DANFOSS shall, at the request of the customer, declare the release of securities as it sees fit.

13. Liability

Claims for damages and reimbursement of expenses on the part of the customer shall be excluded, regardless of the legal cause, especially claims in contract and in tort. This shall not apply to cases where a guarantee is given or if a procurement risk exists. Furthermore, it shall not apply in cases of statutory liability independent of the question of blame or negligence, especially claims under the German Product Liability Act in cases of wilful intent, gross negligence, or injury to life, limb or health and on account of a breach of major contractual obligations. Compensation for failure to comply with major contractual obligations shall, however, be limited to typical, foreseeable damages, unless caused by wilful intent or gross negligence or on account of a liability for injury to life, limb or health. Any change in the burden of proof to the detriment of the customer shall not be associated with the aforesaid rulings.

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Any contractual and non-contractual damages the customer claims shall be subject to a limitation period of one year after the delivery of the goods, unless the regular legal statute of limitation (pursuant to sections 195, 199 of the German Civil Code [BGB]) would lead to a shorter period in the specific case. The mandatory limitation periods in the German Product Liability Act shall remain unaffected.

14. Briefing/Product Observation/Product and Manufacturer's Liability

The customer is obliged to carefully observe the product instructions issued by SEMİKRON DANFOSS and to forward them to any users and his customers with a special note. Should the customer not fulfil this duty causing third parties' product and/or manufacturer's liability claims against SEMİKRON DANFOSS, the customer shall indemnify and hold harmless SEMİKRON DANFOSS from these claims; if circumstances for which SEMİKRON DANFOSS was responsible have become co-causal for the harm or damage incurred, SEMİKRON DANFOSS shall be indemnified and held harmless proportionally.

The customer is obliged to observe the delivered products and their practical use. This also applies to resale. The obligation to observe the products shall especially apply to harmful properties of the product yet unknown of or to uses and consequences of use creating a dangerous situation. SEMİKRON DANFOSS must be immediately informed about any knowledge gained.

15. Intellectual Property Rights

The conclusion of a contract shall by no means constitute SEMİKRON DANFOSS's renunciation of any copyrights, trademark, patent or other intellectual property rights it may have. Without prior consent otherwise provided in writing, the conclusion of the contract does not constitute the awarding of a licence of any intellectual property rights, including but not limited to the trademark "SEMİKRON DANFOSS" and other SEMİKRON DANFOSS trademarks registered in any jurisdiction or any patent (except for the sole purpose of use the products purchased from SEMİKRON DANFOSS). Any right of use hereby conferred, under the reservation of different legal stipulations, shall be restricted to the agreed destination country for which the contract was intended.

16. Export Controls

The customer certifies that the above-mentioned products will not be used, in their entirety or in part, in any nuclear explosive activity; that the products will not be used, in their entirety or in part, in any activities related to the development or production of chemical or biological weapons; that the products will not be used, in their entirety or in part, in any activity related to the development, production, maintenance or storage of missiles capable of delivering the aforementioned weapons.

The customer certifies that the above-mentioned products are not intended, in their entirety or in part, for military use or for a military end-user. Hence, the products will only be used for civil end-uses.

The customer certifies that the above-mentioned products will not be used, in their entirety or in part, for projects pertaining deep water oil exploration and production, Arctic oil exploration and production, or shale oil projects in Russia.

In addition, the customer certifies that the above-mentioned products will not be transferred to any natural or legal person, entity or body in Crimea and/or Sevastopol without the prior consent of the Federal Office for Economic Affairs and Export Control (BAFA) of the Federal Republic of Germany.

The products will only be delivered to a third person/company on condition that this person/company accepts the commitments of this declaration as binding for itself and on condition that this person/company is known to be trustworthy and reliable in the observance of such commitments.

17. Place of Jurisdiction/Applicable Law

The place of jurisdiction for all disputes, including action arising out of a bill of exchange or cheque, is Nuremberg, Germany. Unless otherwise agreed by the parties in writing, German law applies exclusively, to the exclusion of the rules for renvoi under the conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.

18. Miscellaneous

Subsidiary agreements are not effective unless confirmed in writing. Should any of the provisions of this Agreement be or become invalid or unenforceable, in whole or in part, the validity of the remaining terms and conditions shall not be affected. The ineffective or unenforceable provision shall be replaced by a new provision the effect of which being as similar as possible to the original economic intent. This also applies to an unintentional gap in regulation.