



Alsmart End User License Agreement (EULA)

These conditions apply to all delivery of Alsmart Development System from Danfoss A/S and its affiliates (hereafter referred to as "DANFOSS") to any customers (hereafter referred to as "USER").

As used in this Agreement on the use of Alsmart Development System (the "Agreement"), the term "Alsmart Development System" means, collectively:

- (i) the software product identified as
 - a. Alsmart Design software tool
 - b. Alsmart Simulator
 - c. Alsmart Service Tool
 - d. Alsmart Project Templates
 - e. Alsmart Application Software Library
 - f. any source files used for developing the application software (collectively "Application Source")
 - g. Alsmart applications for download to the Alsmart controller in the binary code form or any other form (collectively "Application Binary")
 - h. Alsmart application customisation tools in web form or any other form
- (ii) all the contents of the installation package, disk(s), CD-ROM(s), electronic mail and its file attachments, or other media with which this Agreement is provided, including the object code form of the software delivered via a CD-ROM, electronic mail or Web page
- (iii) digital images, stock photographs, clip art, or other artistic work ("Stock Files")
- (iv) related explanatory written materials and any other possible documentation related thereto ("Application Documentation");
- (v) upgrades, modified versions, updates, additions (collectively "Updates"), if any, licensed to USER by Danfoss under this Agreement
- (vi) any documentation referred to as Manuals in electronic or any other form (collectively "Application Manuals")

1. The USER is granted a non-exclusive, limited, non-transferable, right to use the Alsmart Development System provided that the USER complies with all terms and conditions of this Agreement. It is understood that the right to use the Alsmart Development System granted hereunder shall be additionally subject to payment of any consideration therefor, if so contemplated in the applicable price list or otherwise agreed in writing between the parties.

2. The USER may not reverse engineer, decompile, or disassemble the Alsmart Development System, except (i) and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation; or (ii) for the Application Source and the Application Documentation.

3. DANFOSS reserves all rights not expressly granted to the USER in this Agreement. The Alsmart Development System is protected by copyright and other intellectual property laws and treaties. DANFOSS owns the title, copyright, and other intellectual property rights in the Alsmart Development System. The Alsmart Development System is licensed, not sold. In particular, without limitation, DANFOSS retains the title and copyright in and to the Application Documentation (save for any alteration made under 2. Above), the Application Manuals as well as any idea embedded in the Alsmart Development System.

4. The USER shall not be entitled to publish, transfer or in any other way make the Alsmart Development System accessible to third parties, other than to allow installers&contractors working on behalf of User to access and use the Alsmart Development System on Users behalf.

5. The USER shall inform any member of his staff affected by this agreement on the use of Alsmart Development System of the content of same and that it will be his/her responsibility to adhere to the conditions of said Agreement.

6. Without prejudice to any other rights, DANFOSS may terminate this Agreement with immediate effect if the USER fails to comply with any of the terms and conditions hereof and said breach has not ceased 30 days after receipt by the USER of a notice in writing from DANFOSS advising him/her to do so. In such event, the USER must destroy all copies of the Alsmart Development System and all of its component parts.

7. The USER assumes full responsibility for the use of the Alsmart Development System from the moment where this Agreement is executed thereby.

8. The USER shall in every respect be obliged to indemnify DANFOSS for any and all costs arising in connection with any action for damages against DANFOSS initiated by a third party and having relation to the USER'S use of the Alsmart Development System.

9. Unless agreed otherwise in writing between DANFOSS and the USER, DANFOSS shall assume no liability with regard to service or maintenance of the Alsmart Development System. DANFOSS shall be under no obligation to update or provide the USER with new releases of the Alsmart Development System.



10. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DANFOSS PROVIDE THE ALSMART DEVELOPMENT SYSTEM AS IS AND WITH ALL FAULTS, AND HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY (IF ANY) IMPLIED WARRANTIES, DUTIES OR CONDITIONS OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF RELIABILITY OR AVAILABILITY, OF ACCURACY OR COMPLETENESS OF RESPONSES, OF RESULTS, OF WORKMANLIKE EFFORT, OF LACK OF VIRUSES, AND OF LACK OF NEGLIGENCE, ALL WITH REGARD TO THE SOFTWARE, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE ALSMART DEVELOPMENT SYSTEM OR OTHERWISE ARISING OUT OF THE USE OF THE ALSMART DEVELOPMENT SYSTEM. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THE ALSMART DEVELOPMENT SYSTEM. THE ENTIRE RISK AS TO THE QUALITY, OR ARISING OUT OF THE USE OR PERFORMANCE OF THE ALSMART DEVELOPMENT SYSTEM REMAINS WITH THE USER.

11. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL DANFOSS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE ALSMART DEVELOPMENT SYSTEM, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE ALSMART DEVELOPMENT SYSTEM OR OTHERWISE ARISING OUT OF THE USE OF THE ALSMART DEVELOPMENT SYSTEM, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF DANFOSS, AND EVEN IF DANFOSS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. NOTWITHSTANDING ANY DAMAGES THAT YOU MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED HEREIN AND ALL DIRECT OR GENERAL DAMAGES IN CONTRACT OR ANYTHING ELSE), THE ENTIRE LIABILITY OF DANFOSS UNDER ANY PROVISION OF THIS AGREEMENT AND THE USER'S EXCLUSIVE REMEDY HEREUNDER SHALL BE LIMITED TO THE GREATER OF THE ACTUAL DAMAGES THE USER INCURS IN REASONABLE RELIANCE ON THE ALSMART DEVELOPMENT SYSTEM UP TO THE AMOUNT ACTUALLY PAID BY THE USER FOR THE COMPONENTS WHERE THE ALSMART DEVELOPMENT SYSTEM IS INSTALLED OR € 100,00 (EURO ONE HUNDRED). THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

13. This Agreement is governed by the substantive laws of Denmark. Each Party will dedicate its best efforts to amicably settle any dispute, which may arise out of this Agreement. If no amicable settlement can be reached, all disputes arising in connection with this Agreement shall be finally settled under the rules of Arbitration of The International Chamber of Commerce, by one arbitrators appointed in accordance with the said rules. The seat of arbitration shall be in the city at DANFOSS place of business. English shall be the language to be used in the arbitration proceedings.

14. This Agreement (including any addendum or amendment to this Agreement which is included with the Alsmart Development System) is the entire agreement between the USER and DANFOSS relating to the Alsmart Development System and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Alsmart Development System or any other subject matter covered by this Agreement. If any provision of this Agreement is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect.