

## General Terms and Conditions of Sale, Delivery and Payment of Bosch KWK Systeme GmbH for Commercial and Industrial Systems

### 1. General

1.1 The following terms and conditions apply to our deliveries (including ancillary services, e.g. commissioning), if the contract explicitly refers to these General Terms and Conditions.

1.2 The customer's general terms and conditions of purchase are excluded unless accepted by us in writing.

1.3 Our offers are non-binding. Delivery contracts and all other agreements (including ancillary agreements), as well as statements made by our representatives, become legally binding only after confirmation from us in writing.

1.4 A contract comes into effect only when we have accepted the customer's offer in the form of an order confirmation.

1.5 Unless explicitly agreed upon otherwise, labour and environmental regulations are only included in the scope of supply of shipments abroad if they correspond to German labour and environmental regulations. The customer is responsible for observing the legal or other regulations at the place of use.

1.6 The delivered goods correspond to the scope of supply and service described in the order confirmation, and are, unless explicitly agreed otherwise, approved for application on the German market. In the case of export by the customer, it is the sole responsibility of the customer to obtain the necessary documentation and licences for the country of destination.

1.7 We reserve the right of ownership and copyright of our cost estimates, drawings and designs, as well as the related computational bases. These documents may not be duplicated or made available to third parties without our written consent. They must be returned to us promptly if the contract is not awarded.

### 2. Prices

2.1 Unless agreed otherwise, our prices assume delivery at the agreed time and at the place identified in the order confirmation, including loading (systems and retrofits according to FCA incoterms 2010) plus VAT at the legally applicable rate. Unless otherwise agreed upon, prices exclude packaging.

2.2 All public levies (taxes, fees, customs duties etc.) arising from or in connection with conclusion or execution of the order outside Germany, must be borne by the customer.

2.3 Partial deliveries may be invoiced separately unless explicitly agreed otherwise.

### 3. Payment conditions

3.1 The conditions of payment for the delivery of systems and retrofits are agreed in relation the specific

order. Unless otherwise agreed, spare parts are always shipped against cash in advance.

3.2 Regardless of instructions otherwise from the customer, all payments are credited first against interest and costs and then against our oldest accounts receivable.

3.3 In the event of late payment, suspension of payment, action brought for settlement of debt, breach of payment terms, or if circumstances arise which are liable to reduce the customer's credit score, all our accounts receivable shall become payable immediately, even if deferment has been allowed. We shall also be entitled to make any outstanding deliveries only against advance payment in cash or, after setting an appropriate grace period, to withdraw from the contract and claim damages in lieu of performance.

3.4 The customer may only present offset claims which have been legally established or are undisputed.

### 4. Retention of title

4.1 Our deliveries are all subject to retention of title (reserved goods). Ownership is transferred to the customer only after they have settled all accounts payable (including any ancillary costs and charges) relating to our delivered goods. In the case of current accounts, ownership is retained as security for the balance due, even when payments are made against specially designated receivables.

4.2 Goods supplied by us and of which we retain ownership are still to be processed and handled on our behalf without payables accruing to us. If the goods delivered by us are combined or embedded with other objects, the customer shall assign us (co-)ownership of the resulting combination in the ratio of the invoice value of our retained goods to the invoice value of goods with which they are combined.

4.3 The customer may sell or use the goods delivered in the regular course of business (e.g. as part of a service or works supply contract) only if their purchaser has not excluded the assignment of accounts receivable arising through further sale or subsequent use. The customer must ensure that the purchaser gives consent to the assignment to us in the required form. The customer shall not have the right to transfer or hypothecation of the retained goods as security.

4.4 Even if there is a prospect of seizure, or any other encroachment by a third party on our right of ownership, and particularly if there are blanket assignments and factoring contracts, the customer must notify us immediately and confirm our right of ownership in writing both to third parties and to us. In the event of seizure, a section of the seizure report must be forwarded to us.

4.5 If the customer is in default of payment, we shall be entitled to demand surrender of the goods under retained ownership, and obtain direct possession of these either by ourselves or through authorised agents, wherever the goods may be located. The customer shall be obliged to surrender the goods under retained

ownership and to provide us with the information and documentation necessary for enforcing our rights. A demand for the surrender of goods is not to be interpreted as withdrawal from the contract. The same applies to the recall of goods under retained ownership.

4.6 As security for all our accounts payable, including payables arising in future from the business relationship, the customer hereby assigns to us all accounts receivable (including those in the current account) and ancillary rights which result from further sale and subsequent use of the goods under retained ownership (e.g. tie-in, finishing, installation in a building).

4.7 If the sale or other use of goods under our retained ownership - regardless of the condition - takes place in combination with the sale or other use of objects which are subject to third-party rights and/or in combination with services provided by third parties, advance assignment shall be limited to the value of our invoices.

4.8 The customer shall be entitled to collect accounts receivable assigned to us. In the event of default of payment, suspension of payment, application for or commencement of insolvency proceedings or out-of-court settlement, or other deterioration of customer assets, we shall be entitled to revoke the collection authorisation. On request, the customer must inform us of assigned accounts receivable and their debtors, provide us with all the information necessary for the collection of payables, hand over the corresponding documentation and inform debtors about the assignment. We shall also be entitled to inform the customer's debtors of the assignment and request that payment be made to us.

4.9 If the realisable value of the securities due to us on the above terms exceeds the value of our accounts receivable by more than 10 %, we shall be obliged, at the request of the customer, to release the excess securities at our discretion.

## 5. Delivery

5.1 Changes and amendments after conclusion of the contract require our written approval.

5.2 The description of the scope of supply and services on the order confirmation sets out delivery limits (interfaces) and benefit exclusions.

5.3 Unless otherwise agreed, systems and retrofits are delivered according to FCA Incoterms 2010 to the location indicated on the order confirmation. Delivery is made to the place indicated on the order confirmation for collection by the customer. Unless expressly agreed otherwise, transport is not part of our scope of supply and services. Unless expressly agreed otherwise, supplies of spare parts are delivered according to DAP Incoterm 2010 to the place indicated by the customer in the order.

5.4 Partial deliveries are permitted provided these are acceptable to the customer.

## 6. Delivery time and obstacles to delivery

6.1 Delivery time is determined according to the details

given in our order confirmation. So that we can keep to the delivery times, all commercial and technical issues must have been settled between the parties after conclusion of the contract and the customer must have fulfilled all their contractual obligations before delivery.

6.2 In the event of force majeure, strike or lock-out, or other event beyond our control, the delivery date shall be deferred - even during cases of default - for the duration of the effect of such events. We shall notify the customer about the onset and foreseeable duration of such events. If the customer does not fulfil the obligations necessary for performance of our services, or does not meet the payment obligations, the delivery date is rescheduled accordingly.

6.3 If the customer defaults on acceptance, the customer must bear the costs incurred by us, particularly the costs for storage (including by a third party).

6.4 Delivery items not manufactured by us are subject to the timely and correct delivery to us as the supplier, unless we are responsible for the delayed, incorrect or non-delivery.

6.5 Failure to meet the deadline or an agreed date entitles the customer to request us to make a statement within two weeks whether we wish to withdraw from the contract or wish to make delivery within a reasonable grace period. If we fail to give this statement, the customer shall be entitled to withdraw from the contract if execution has no interest for them.

## 7. Additional services

7.1 Services not expressly referred to in the contract, which are necessary for carrying out the order or which are carried out at the customer's request, are invoiced additionally at the current billing rates. If necessary, these billing rates are available from us on demand.

7.2 For work performed outside normal working hours (Mondays to Thursdays from 7:00 to 16:00 and Fridays from 7:00 to 13:00), surcharges will be made at the current billing rates.

7.3 Waiting times and/or repeated arrivals and departures for which we are not responsible are charged according to time and travel costs at the current billing rates.

7.4 If commissioning cannot begin, or is interrupted for reasons outside of our control, the commissioning shall be invoiced in full and the repeated or continued commissioning shall be invoiced additionally according to the current billing rates.

## 8. Returns

The return of material in our deliveries is generally excluded.

## 9. Values for performance, consumption and emissions; inspections and plant acceptance

9.1 The values for performance, consumption and emissions are agreed upon as binding in the contract.

9.2 If inspections or acceptance in the manufacturing plant are to be carried out by the customer or by a third

party commissioned by the customer, these must be agreed by the customer with Bosch in advance. The costs for such inspections or plant acceptances are the responsibility of the customer.

### 10. Commissioning

10.1 If commissioning has been confirmed by us, commissioning dates in Germany are agreed between us and the customer at least 4 weeks in advance, commissioning dates abroad are agreed between us and the customer at least 8 weeks in advance. We will not be obliged to carry out commissioning or other on-site operations in regions for which the German Foreign Office has issued a (partial) travel warning.

10.2 Documents to be provided by the customer according to the commissioning checklist must be submitted 2 days at the latest before the date of commissioning. The commissioning checklist is sent to the customer in advance of the commissioning. In addition, the customer must ensure that the system is installed ready for operation and that the system is supplied with all necessary fuels and media as well as a sufficient power output.

10.3 We are only required to carry out commissioning if we have received all payments due under the contract before the start of commissioning.

10.4 Commissioning takes place within the framework of the related technical requirements and conditions, with the aim of obtaining contractually agreed function of the system. We reserve the right to make the necessary changes and additions to the system during commissioning. Successful commissioning is documented in writing in the commissioning report and must be confirmed by the customer.

10.5 The customer must meet all the requirements for uninterrupted commissioning and safely establishing continuous operation of the system. The requirements are those derived from the commissioning checklist, and the following rules. The customer must make his staff available for instruction and assistance free of charge. Official approvals and other authorisations must be produced by the customer. We can provide the customer with the necessary documentation of our scope of supply and services on request. Supporting documents requested by authorities or third parties, for any measuring devices which may be necessary, must be provided by the customer.

### 11. Claims for defects

11.1 Delivered goods are to be considered free of material defects if they correspond to the product description or, if no product description is available, under the generally accepted engineering practice. We reserve the right to make changes to the construction and/or design which do not impair the functionality or value of the delivered goods, and such changes do not entitle the customer to give notice of defect.

Claims for defects may not be made in the case of defects that do not impair or only marginally impair the value and/or serviceability of the delivered goods.

11.2 Guarantees of the condition and durability of deliv-

ery goods can only be considered as granted insofar as we have expressly given such guarantees in writing.

We shall be responsible for public statements, particularly those made in advertising, only if these have originated from us. Claims for defects based on such statements may be made only if the statement has actually influenced the customer's decision to purchase.

Guarantees provided by our suppliers in warranty statements, related advertising or other product documentation, do not originate from us. These are the sole responsibility of the supplier who has provided the guarantee. Paragraph 1 of this clause shall remain unaffected.

11.3 Notices of defect must be given promptly, and will be excluded if not received by us within 2 weeks of receipt of the delivery. Defects not discovered within this time, even after the most careful inspection, must be reported without delay and no later than 2 weeks after they are discovered.

11.4 If the delivered goods are found to have defects or do not have the guaranteed quality, we will remedy the defect at our discretion within a reasonable period of time, free of charge, either by reworking or by providing a defect-free replacement (subsequent performance). The customer must allow us or our agents the time and opportunity to do this. If these are not allowed, or if changes or repairs are made to the defective goods, we shall be released from the liability for defects.

11.5 If subsequent performance fails or does not take place within a reasonable grace period defined by the customer, the customer shall be entitled to demand a reduction of the payment or withdraw from the contract.

11.6 Claims by the customer for costs required for the purpose of subsequent performance (paragraph 11.4) or due to rescission following withdrawal from the contract (paragraph 11.5), in particular those relating to transport, travel, labour and material costs, shall be excluded if the costs are increased because the delivered goods have been installed at a location that is difficult to access. The same applies if the delivered goods have been installed outside the territory of the Federal Republic of Germany.

11.7 The customer or the operating company shall be responsible for acceptable fuels and water quality. The customer must observe the requirements for fuels, boiler and feed water specified in the Codes of Practice and guidelines in the contract. Attention must also be given to the worksheets in the current related catalogues.

11.8 No claims for defects can be made for damage that results from a failure to comply with our rules and conditions for installation, assembly, start-up, handling, operating or maintenance, or from the use of control devices, fuels, firing/current type voltages that are inappropriate or other than those stipulated, or from incorrect burner selections or burner settings.

11.9.1 Claims due to defects of combined heat and power systems and spare parts are barred by statute

after 12 months and claims due to defects of other delivery items after 24 months, unless they involve a case as described in § 438 par. 1 no. 2 b) of the German Civil Code.

11.9.2 For systems and the accessories and space parts supplied along with them, the limitation period starts at commissioning of the system, and 3 months at the latest after the agreed delivery date, provided we were ready for delivery at that time.

11.9.3 The legal time limitation period applies if there is injury to life, body or health, or breach of obligation which is intentional or due to gross negligence, fraudulent concealment of defects, or acceptance of a quality guarantee.

11.10 Parts replaced in the course of supplementary performance become our property.

11.11 Irrespective of the above time limitation periods, the service life of wear parts is determined from the wear and tear encountered when used for their intended purpose (standard service life). This can be significantly shorter than the periods indicated in paragraph 11.9.1. If wear parts need to be replaced after their normal service life has elapsed, this cannot be the subject of a claim for defect.

11.12 Software supplied by us has been developed with the utmost care and according to recognised coding rules. It fulfils the function indicated in the product description valid at the time the contract was concluded, or which was agreed separately. A necessary condition of warranty is the reproducibility of a defect. The customer must be able to demonstrate this in sufficient detail. If the software is defective, we will remedy the defect at our discretion free of charge and within a reasonable period, either by reworking or by supplying defect-free software (subsequent performance).

11.13 In order to verify the validity of a warranty claim, the customer must, on request, promptly provide the operating records of the operating company and the maintenance record if maintenance was not carried out by us.

11.14 We shall not be liable for damage due to commissioning which was not performed by us.

11.15 Otherwise, clause 12 shall apply for claims for damages. Further claims by the customer due to defects are excluded.

11.16 If we have, by special request from the customer, provided planning assistance that goes beyond our supply obligation, we shall be liable in this regard only to the extent that we have by choice produced or repeatedly provided planning aids that can be shown to be faulty. Any further liability for planning assistance is excluded unless we are liable under clause 12.

## 12. Liability

12.1 We shall be liable for damages and compensation for futile expenditure (§284 BGB) due to breach of

contractual and non-contractual obligations (e.g. due to default or wrongful act) only in the following cases:

- wilful intent or gross negligence,
- if we are responsible for injury to life, body or health,
- due to fraudulent concealment of a defect or acceptance of a guarantee of quality or
- in accordance with the Product Liability Act for damage to persons or property damage to privately used objects.

12.2 Furthermore, we shall be liable for breach of essential contractual obligations even in cases of minor negligence. In this case, however, our liability is limited to the damage that would be reasonably foreseeable and typical at the time of conclusion of the contract.

12.3 Notwithstanding the above rules, liability for damages to property and consequential damages, especially loss of profit or savings, is excluded unless we have acted intentionally or with gross negligence.

12.4 The above rules apply to the same extent for our assistants and vicarious agents.

12.5 The above rules do not involve any change in the burden of proof to the disadvantage of the customer.

## 13. Export control

13.1 Deliveries and services (contract fulfillment) are subject to the condition that there are no obstacles due to national or international export control regulations, particularly embargoes or other sanctions preventing fulfillment. The customer is obligated to provide all information and documents required for the export or shipment. Delays due to export inspections or approval procedures invalidate deadlines and delivery times. If necessary approvals are not granted or if the delivery and service cannot be approved, the contract shall be deemed as not concluded with regard to the parts concerned.

13.2 We are entitled to terminate the contract without notice if the termination is necessary for us to comply with national or international statutory regulations.

13.3 In the event of a termination according to paragraph 13.2, claims for damage or claims of other rights by the customer are excluded due to the termination.

13.4 When distributing goods delivered by us (hardware and/or software and/or technology as well as associated documents, regardless of how it is made available) or work and services provided by us (including technical support of any kind) to third parties domestically and abroad, the customer must comply with the applicable regulations of national and international (re-) export control law.

## 14. Place of jurisdiction, choice of law

Place of jurisdiction is Gießen provided that the customer is a merchant. However we shall be entitled to nominate the court that has jurisdiction at the registered office of the customer. This contract is subject to the law of the Federal Republic of Germany, with exclusion of the conflict of law provisions and UN sales law (CISG).

### **15. Partial invalidity**

If one of the terms of these general terms and conditions of sale, delivery and payment, or one of the terms in other agreements between ourselves and the customer, should be or become ineffective, the effectiveness of all the other terms and conditions or agreements shall remain unaffected.

### **16. Data protection**

16.1 The customer is obligated to treat all personal data obtained in connection with the contractual relationship between the parties confidentially and to process this data in compliance with applicable data protection laws. This includes especially compliance with the provisions of the (EU) 2016/679 regulation (hereinafter called "GDPR").

16.2 The customer only transmits us personal data which meets all the requirements of data protection law required for a transfer. In particular, the customer shall inform the respective affected parties before the transfer of their personal data in accordance with Section 12 et seq. GDPR. This includes the obligation to expressly designate us and the companies associated with us, according to §§ 15 et. seq. AktG, as recipients of the respective personal data with respect to those affected.

16.3 The customer is obligated to provide us upon request with suitable proof of compliance with the regulations of paragraph 16 free of charge.

**Bosch KWK Systeme GmbH**