



### Terms and Conditions of Sale with Distributor Rights and Obligations:

Bosch reserves the right to add special conditions in addition to these Terms and Conditions if the nature of the contractual relationship so requires.

#### 1. Definitions

- 1.1. "Agreement:" or "Terms & Conditions" means this agreement, its annexes, addendums, appendices and amendments as stipulated in this document.
- 1.2. "Complete" means ready for delivery from the Bosch's warehouse and "Completion" must be construed accordingly.
- 1.3. "Documentation" means weight and dimension data, drawings, instructions, explanations, descriptions and illustrations in relation to a Product/s.
- 1.4. "End-User" means the individual or entity that makes use of a Product, whether supplied by Bosch or a Purchaser or a Distributor.
- 1.5. "List Price" means the recommended price to the market for a Product as published in Bosch's official Price List which may be amended by Bosch if required.
- 1.6. "Order" means Products ordered by the Purchaser from Bosch in the prescribed manner and form.
- 1.7. "Parties" means Bosch and the Purchaser and "Party" means either one of them.
- 1.8. "Price List" means the document published by Bosch and amended from time to time containing the List Prices.
- 1.9. "Products" means the Bosch Power Tools, Accessories, Spare Parts, Measuring Tools and Dremel Power Tools within the Bosch Power Tools product portfolio.
- 1.10. "Purchase Order" means a document sent to Bosch by the Purchaser setting out details of an Order. Bosch shall not be liable for incorrect orders ordered received by Bosch on behalf of the Purchaser.
- 1.11. "Purchaser" means the individual or entity that orders and/or purchases Products from Bosch as specified in a Purchase Order. A Purchaser may also be a Distributor of Bosch as set out herein.
- 1.12. "Bosch" means Robert Bosch Limited, acting through its Power Tools Division and having its principal place of business situated at No. 2 Soji Adepegba Close, off Allen Ikeja, 101233, Lagos, Nigeria.
- 1.13. "Bosch Order Confirmation" means a document prepared by Bosch and sent to the Purchaser to confirm an Order setting out the nature, quantity, prices and anticipated delivery dates of Products ordered by a Purchaser.
- 1.14. "Trademarks" means the Bosch's logos, insignia, product and/or corporate branding and includes any other similar intellectual property owned by Bosch.
- 1.15. any reference to "days" shall be construed as being a reference to calendar days unless qualified by the word "business" in which instance a "business day" shall be any day of the week other than a Saturday, Sunday and/or a public holiday as gazetted by the government of Nigeria from time to time.
- 1.16. any reference to "business hours" shall be construed as being the hours between 08h30 and 17h00 on any business day. Any reference to time shall be based upon Lagos Time (GMT+1).
- 1.17. unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a Saturday, Sunday or public holiday, the next succeeding business day.
- 1.18. where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

#### 2. Purpose of Agreement

- 2.1. Bosch is involved with the sales, marketing, supply and support of certain Products sold on a non-exclusive basis to Purchasers such as Distributors and resellers.
- 2.2. These Terms & Conditions set out the terms and conditions on which Bosch supplies Products to Purchasers and are binding on the Purchaser.
- 2.3. Bosch may replace these Terms and Conditions with new terms and conditions or may amend any particular term and condition in these Terms and Conditions on notice to the Purchaser whereafter it will become binding.
- 2.4. Upon signing the Credit Application Form together with the Terms and Conditions of Sale it shall be regarded as binding once received physically or electronically by Bosch. In any subsequent legal proceedings, Bosch shall not be required to prove acceptance or that these documents were signed by Bosch in order to enforce the documents against the Purchaser.

#### 3. Controlling Terms

These Terms & Conditions shall be read with any Bosch Order Confirmation and applies to each Order accepted or delivered by Bosch and are the sole agreement between Bosch and the Purchaser in relation to the matters dealt with in this Agreement. No other terms or conditions apply, unless expressly agreed upon by Bosch.

#### 4. Export regulations

The Purchaser acknowledges that the Products and/or Documentation may be subject to export regulations, including those imposed by the Government of the United States, which may, amongst other things, prohibit the supply or sale of the Products and/or Documentation in certain territories or countries or to particular individuals or entities. The Purchaser acknowledges that he/it is familiar with or agrees to become familiar with such regulations. The Purchaser furthermore agrees that he/it will not deal with the Products and/or Documentation in violation of such regulations and that he/it indemnifies Bosch against any claim made against Bosch due to any breach by the Purchaser or any individual or entity to which the Purchaser supplies Products in violation of such regulations.

#### 5. Compliance, Gifts and Favours

- 5.1 The Purchaser undertake and warrants that it will comply with applicable laws and the Bosch Rules of Conduct for Giving and Accepting Gratuities, a copy of which is attached herewith, relevant to its business operations at all times. Despite any provision to the contrary contained herein, Bosch may terminate the agreement immediately if it is found that the Purchaser has acted in violation of any law it was obliged to comply with.
- 5.2 Bosch shall be entitled to terminate the Agreement forthwith if it is found that gifts and favours were given by the Purchaser, or any employee, agent or representative of the Purchaser to any officer or employee of Bosch (or family of such an officer or employee of Bosch) with a view toward securing the Agreement or securing the favourable

treatment or trading terms by or from Bosch.

- 5.3 Each Party shall comply with and not contravene any anti-corruption legislation that applies to the business activities of the Parties and Bosch's Code of Business Conduct, a copy of which is attached herewith, in all business dealings. In determining whether or not bribery or corruption was or is being perpetrated regard shall be had to decisions taken in terms of the US Foreign Corrupt Practices Act of 1977 and the UK Bribery Act of 2010. Either Party shall be entitled, notwithstanding its other legal remedies, to terminate the Agreement with immediate effect in the event that the other Party is not complying with this clause and claim damages from the other Party. No claim shall be made or damages claimed against Bosch for such termination.

#### 6. Order Procedure

- 6.1. To order Products from Bosch, a Purchaser must submit a written Purchase Order to Bosch setting out all that is required from Bosch to fulfil the order. Any error in the Order will be for the account of the Purchaser and Bosch shall not be held liable in respect thereof.
- 6.2. All Orders for Products are subject to acceptance by Bosch in whole or in part, and will not bind Bosch until accepted by Bosch by means of confirmation of the Order in writing by sending the Purchaser a Bosch Order Confirmation duly signed by an authorised representative. Where part of an Order is delivered to the Purchaser, Bosch's acceptance is only in relation to that part of the Order that is actually received by Bosch.
- 6.3. A Purchase Order may be amended by a Purchaser after it has been accepted by Bosch in terms of clause 6.2 only with Bosch's written approval. An amendment that results in the cancellation of an Order or any part of an Order may be subject to cancellation penalties as prescribed by Bosch from time to time.

#### 7. Delivery dates

- 7.1. Bosch will endeavor to meet requested delivery dates but does not guarantee that delivery will take place on any requested or anticipated date.
- 7.2. If the delivery date requested by a Purchaser is not in line with Bosch's standard production, supply and logistics lead times, Bosch will adjust the delivery date and communicate the anticipated delivery date to the Purchaser in writing in accordance with clause 16.1.

#### 8. Cancellation of Orders

- 8.1. Bosch reserves the right to cancel or suspend any Order/s placed by the Purchaser and accepted by Bosch or to refuse or delay delivery thereof, if the Purchaser fails:
  - 8.1.1. to make any payment of any amount as provided in this Agreement or in any invoice which is due and payable or a pre-payment which was agreed upon;
  - 8.1.2. to meet credit or financial requirements established by Bosch in its entirety; or
  - 8.1.3. otherwise fail to comply with these Terms & Conditions in its entirety.

#### 9. Pricing and Discounts

- 9.1. Pricing
  - 9.1.1. The prices listed in the Price List include does not include freight and packaging for deliveries within the Purchaser's respective country unless specifically indicated and agreed thereto by Bosch. Bosch may change the List Prices of any Products in the Price List at any time.
  - 9.1.2. Price Lists issued by Bosch from time to time are general information purposes only and not constitute offers for sale.
  - 9.1.3. Bosch prices are not subject to any discounts unless expressly agreed in writing by Bosch.
  - 9.1.4. The Purchaser is free to determine its own resale prices for the Products.
  - 9.1.5. Bosch may, upon request, provide a quotation to a Purchaser. Quotations expressly designated as binding are binding for a period of thirty (30) days from the date of issue of that Quotation, unless extended by the Bosch in writing. All other quotations are subject to change without notice.
  - 9.1.6. The prices listed in the Price List on the date that an Order is accepted or a binding quotation is issued will be the applicable prices for the relevant Products.
- 9.2. Prices in the Price List do not include taxes of any nature, including Value Added Tax ("VAT"). The Purchaser shall be liable and pay applicable taxes when invoiced by Bosch. Only in cases where the conditions for exempting export Products from such tax are fulfilled will VAT not be charged. Liability for tax shall remain on the Purchaser and Bosch shall have a right to claim from the Purchaser if exemption does not apply.
- 9.3. Bosch reserve the right to charge surcharges from time to time and shall notify the Purchaser in writing. This shall particularly apply to a small order charge or an express (air) freight charge or cross docking fee or document fee or any other service charge for services requested by the Purchaser, like labelling, packaging or testing.
- 9.4. Discounts
  - 9.4.1. Pricing benefits in the form of any scheme, discount structure, policy or offering may be operated or given by Bosch from time to time. Whether or not a Purchaser enjoys any pricing benefits in general or in relation to a particular Order is entirely at the discretion of Bosch and subject to internal policy and approval. Bosch reserves its rights in this regard and the Purchaser cannot compel or insist that Bosch provide any pricing benefits or discounts or gratuities.
  - 9.4.2. All pricing and associated discounts, if applicable, are subject to Bosch's official Pricing and Gratuity Policies which may include, but is not limited to:
    - 9.4.2.1. Rebate discount for sales volumes.
    - 9.4.2.2. A value added discount awarded for presales skills, post sales skills, geographical presence, stock holding and marketing support.
    - 9.4.2.3. A base discount determined by the Purchaser's position in the supply chain or sales channel.

#### 10. Freight & Tax Charges

- 10.1. The cost of freight and any known or unknown taxes, levies, duties or fees of any kind, nature or description whatsoever applicable to the sale of any Products by Bosch to the Purchaser (referred to as "charges"), shall be for the account and the sole responsibility of the Purchaser unless otherwise specifically indicated and agreed thereto in writing by Bosch. Bosch reserves the right to impose charges if deemed necessary or to meet a legal requirement.
- 10.2. In the event that Bosch incurs and pays any of the charges as listed in 10.1 above, the Purchaser shall reimburse Bosch for all such expenses. The Purchaser indemnifies



10.3. Bosch against all costs incurred in this respect and shall pay Bosch on request.  
 The Purchaser may designate in writing, not less than 15 (fifteen) business days prior to the anticipated delivery date, the carrier for shipment and the amount of insurance and nature of coverage. If the Purchaser fails to so designate any or all such items, Bosch, at its discretion, may specify any item not so designated.

### 11. Payment Terms

- 11.1. Purchasers may be required to make any upfront payments with the placement of any Order, and must pay any invoices rendered in connection with the sale of any Products by Bosch within 30 (thirty) days from date of statement, or as per the conditions for granting Credit. This is subject to the Purchaser having an account with Bosch with credit terms, agreed credit limit, and sufficient credit limit in relation to an Order and excludes Cash On Delivery (C.O.D.) sales, or export sales where the Purchaser does not have an agreement with the Bosch in relation to such sales.
- 11.2. Bosch reserves the right, upon written notice to the Purchaser, to declare all sums immediately due and payable in the event of a breach by the Purchaser of any of its obligations to Bosch, including the failure of the Purchaser to comply with any credit terms or conditions or limits.
- 11.3. Bosch reserves the right to vary, change, or limit the amount or duration of credit to be allowed to the Purchaser, either generally or with respect to a particular Order, on 30 (thirty) days' written notice.
- 11.4. Bosch will credit payments received from the Purchaser against the oldest invoice due and towards interest on outstanding amounts first, thereafter capital will be settled, unless a specific clearing instruction, agreed upon by Bosch, is received from the Purchaser.
- 11.5. Payments to Bosch shall be made in Nigerian Naira. If a Purchaser receives an invoice requesting payment in any other currency, then that payment must be made to Bosch in the invoiced currency.
- 11.6. Products supplied to Purchasers in Nigeria will be invoiced in the Naira.

### 12. Interest

- 12.1. Interest shall accrue on any overdue amounts owed by the Purchaser at the rate of 2% (two percent) above the ruling prime overdraft rate quoted by Bosch's Bankers in Nigeria, or the maximum rate permitted by applicable law, whichever is the greater.

### 13. Warehousing

- 13.1. If the Purchaser requests in writing that Bosch deliver Products to the warehouse of a third party, delivery by Bosch to that warehouse will constitute delivery to the Purchaser and the risk of loss or damage shall pass to the Purchaser on delivery.

### 14. Risk of Loss

- 14.1. Bosch retains all right, title and interest in and to the Products supplied until payment for the Products supplied has been paid in full. The Purchaser warrants that the Products shall be kept free from any lien, notarial bond or other right or retention or charge.
- 14.2. Bosch bears the risk of loss or damage in and to the Products until delivery and while in transit from Bosch's warehouse or shipping point to the place designated by the Purchaser for delivery. The Purchaser assumes the risk of loss and damage to and in the Products upon delivery of the Products.

### 15. Shipment

- 15.1. In the absence of any agreement to the contrary all deliveries or shipments are Delivered At Place (DAP) and the "Destination Landside Charges" are excluded but payable by the Purchaser.
- 15.2. Direct Shipment
  - 15.2.1. The Purchaser may request that Bosch ship an Order directly to any location designated by the Purchaser. Bosch in its sole discretion may agree to such a request at a nominal charge inclusive of transportation charges, provided that the Purchaser furnishes Bosch with shipping instructions at least 10 (ten) days prior to shipment from Bosch's warehouse.
  - 15.2.2. Direct shipments shall be collected by the Purchaser's designated warehouse or freight forwarder. Unless specified in the Purchase Order, Bosch shall select the mode of shipment and the carrier. The Purchaser shall be responsible for and shall pay all shipping, freight, and insurance charges, which charges Bosch may require the Purchaser to pay in advance.
- 15.3. Partial Shipment
  - 15.3.1. Unless the Purchaser clearly advises Bosch to the contrary in writing, Bosch may make partial shipments of an Order, to be separately invoiced and paid for when due. Delay in the delivery of any partial shipment shall not relieve the Purchaser of its obligation to accept the remaining deliveries, unless agreed with Bosch in writing.
- 15.4. Shipment - General
  - 15.4.1. Claims for incomplete or incorrect delivery must be made by the Purchaser to Bosch in writing, within 2 (two) working days after the date on which the Products are delivered and the delivery confirmation signed by the Purchaser or any third party designated by the Purchaser.
  - 15.4.2. Claims for incomplete or incorrect delivery will not be accepted by Bosch if they are not submitted within 2 (two) working days of the date on which the delivery confirmation is signed by the Purchaser. The submission of a claim for incomplete or incorrect delivery does not mean that Bosch accepts liability under the claim but means only that Bosch will investigate the claim.
  - 15.4.3. If Products are delivered to the Purchaser incorrectly and not in accordance with a Bosch Order Confirmation, the Products must be returned to Bosch in a saleable condition for the account of Bosch, must be properly marked and must be returned with any Documentation supplied in respect of those Products.
  - 15.4.4. One set of Documentation shall be sent to the Purchaser, free of charge, upon delivery of the relevant Products.

### 16. Delivery Schedule & Delays

- 16.1. Bosch shall endeavour to notify the Purchaser of the anticipated delivery date for an Order.
- 16.2. Bosch shall endeavour to notify the Purchaser in writing of any delay to the anticipated delivery date.
- 16.3. The rescheduling of delivery by the Purchaser may only occur by mutual agreement in writing between Bosch and the Purchaser. Once an Order is complete and ready for delivery, from Bosch's warehouse, Bosch will deliver the Order or the Purchaser must collect the Order within 2 (two) days of the date of Completion and no further delays requested by the Purchaser will be permitted. If the Purchaser does not accept delivery

of an Order within this period, the Purchaser will be deemed to have cancelled the Order and will be subject to cancellation penalties.

### 17. Limited Warranty

- 17.1. Product Specific Limited Warranty (Blue Tools, with a few exemptions, have a 1 year warranty, for further info on Dremel, measuring tools and accessories, please go to [www.bosch-professional.com/2a/en](http://www.bosch-professional.com/2a/en).
  - 17.1.1. In addition to the warranty that is provided for in this clause 17.1 the Purchaser and/or End-User may have certain statutory warranties in terms of the laws of the country in which the Purchaser is located against Bosch. These statutory warranties may be different from the warranty that is given by Bosch in terms of this Agreement. Aside from any warranty that cannot by law be excluded or limited contractually, this warranty is the only warranty that is given by Bosch in relation to the Products and all other warranties, express or implied, including warranties against latent or patent defects, are excluded.
  - 17.1.2. For the applicable period after the date on which a Product is delivered to a Purchaser, Bosch will at its sole and absolute discretion, replace, repair or give credit for any Product that, in Bosch's judgment, has a defect in material or workmanship. The Product must be returned, transportation charges prepaid, to Bosch with Bosch's prior permission and return authorization number.
  - 17.1.3. If Bosch's examination of a returned Product does not disclose a defect in material or workmanship on a Product claimed to be defective, the Purchaser or End-User must pay Bosch's established charges for unpacking, testing, and repackaging the Product for reshipment to the Purchaser or End-User.
  - 17.1.4. Where a Product is repaired or replaced by Bosch, the original warranty period provided for in clause 17.1.1 is not extended. Repairs on spares replaced are warranted for 90 (ninety) days on receipt of the repaired Product by the End-User or the Purchaser, or for the balance of the original warranty period, whichever is longer.
  - 17.1.5. Any Products that are supplied to a Purchaser where Bosch has expressly indicated that the Products are "end-of-life" are specifically not subject to the warranty provided for in this clause 181. All such products are sold "as is", except insofar as statutory warranties that cannot be limited or excluded by contract are applicable.
  - 17.1.6. Where the Purchaser or End-User returns a defective Product in terms of this warranty, the Purchaser is not entitled to cancel the Order or claim a price reduction in respect of the Product unless Bosch is unable to supply a replacement Product or to correct the defect, even by modifying the Product in question, or unless the repair or replacement is ineffective.
  - 17.1.7. This warranty does not apply in respect of a Product that has been modified or repaired by an unauthorized party or misused, or not used in accordance to operating instructions or if the installation and handling instructions were not complied with.
  - 17.1.8. This warranty does not apply to ordinary wear and tear to a Product or damage due to mishandling or abuse or misuse. In particular, Bosch assumes no liability for excessive stressing, unsuitable operating material and for any alteration of the state or the operating mode of a Product due to improper storage, climatic, chemical, and electrical or other influences not provided for in this Agreement or the operating/handling instructions.
- 17.2. **Bosch Determination of Product Content**
  - 17.2.1. Bosch reserves the right at any time without liability or prior notice to:
    - 17.2.1.1. Determine the contents of each Product, including its specifications, features, and functions, as well as any documentation or related materials and to change or terminate any of the specifications, features or functions of any Product;
    - 17.2.1.2. Discontinue distribution of any or all Products in some or all markets or through some or all channels of distribution; or
    - 17.2.1.3. Change or terminate the level or type of support or service that Bosch makes available for each Product.
  - 17.2.2. Any change or discontinuance of a Product shall be indicated by an addition to or deletion from Bosch's Price List.
    - 17.2.2.1. The Purchaser may cancel any Orders for discontinued Products without liability. In such cases, the Purchaser is not required to pay any cancellation penalties.
- 17.3. Product Liability
 

The Purchaser shall indemnify and hold harmless Bosch for damages or expenses resulting from any claim, suit or proceeding for product liability brought against Bosch in respect of a defective, hazardous or unsafe Product whether in terms of consumer protection law or otherwise, to the extent that the harm suffered by the claimant is caused by any act or omission on the part of the Purchaser or its employees or agents, including, but not limited to, any representation made by the Purchaser or its employees or agents as to the qualities or properties or usages of any Product or any failure to provide (contrary to any instructions or guidelines given by Bosch) proper instructions or a proper warning in relation to the manner in which a Product must be used or any hazards associated with the Product.
- 17.4. Additional Protection
  - 17.4.1. If, within any 6(six)-month period, 5% (five percent) or more of any Product supplied during that period, while within the warranty period specified in this Agreement, exhibits defects of the same kind and nature, and such defects are the result of faulty design or workmanship on the part of Bosch or defects in materials arising from any cause for which Bosch is responsible, Bosch will compensate, or render assistance to the Purchaser as follows:
    - 17.4.1.1. Delivery of replacement Products to the place designated by the Purchaser;
    - 17.4.2. This additional protection is subject to the following conditions:
      - 17.4.2.1. The particulars concerning the failure of the Products that are alleged or found to be defective must be furnished to Bosch in writing within 2 (two) weeks of the Purchaser's discovery of such defect;
      - 17.4.2.2. The defects identified by the Purchaser shall be subject to Bosch's verification;
      - 17.4.2.3. No Products that are alleged or found to be defective may be disposed of by the Purchaser for at least 12 (twelve) weeks after Bosch receives the written particulars concerning such defects;
    - 17.4.3. The defective products must be returned to Bosch by the Purchaser, freight payable at destination, if Bosch so requests.
  - 17.5. Exclusive Remedy
    - 17.5.1. Except to the extent prohibited by law, the remedies provided for in this clause 17 are



the only remedies of the Purchaser and, insofar as the Purchaser's agreement with any customer or End-User provides, any customer of a Purchaser, as well as their successors and assigns, for any defect or nonconformity in the Products.

17.6. Limitation of Liability

17.6.1. Except to the extent prohibited by law, Bosch shall not be liable to the Purchaser for damages based on any defect or hazard in a Product or harm caused by a Product. Except to the extent prohibited by law, in no event shall Bosch be liable for the cost of procuring substitute products or for any special, consequential or incidental damages or losses whatsoever. Bosch shall not be liable for any indirect, special or consequential damages including, without limitation, lost profits, costs of delay, any failure of delivery or liability to third Parties arising from any source even if those damages were foreseeable.

18. Return of Products

18.1. Other than as is specifically provided for in these Terms & Conditions in relation to defective Products which are covered by Bosch warranties, or to the extent prohibited by law, Products may only be returned by a Purchaser to Bosch, with the prior written consent of Bosch and in terms of Bosch's Return Policy. Where Bosch gives such consent, the Products must be returned, carriage paid if Bosch so requests, to Bosch undamaged in the original factory-sealed packing which packaging must also be undamaged.

18.2. Provided that inspection by Bosch reveals that the Products are in a saleable condition, which decision shall rest solely with Bosch, credit will be passed to the Purchaser for the Products returned.

18.3. The Purchaser remains liable for the Product until it has been returned and Bosch has performed the inspection referred to in clause 18.2. The Purchaser must supply proof of return to Bosch.

18.4. Should a Product be returned to Bosch by the Purchaser without the prior written consent of Bosch, Bosch will store the Product at the Purchaser's sole risk and a reasonable charge for such storage shall be levied. The Purchaser will remain liable for the Product while it is being stored.

19. Rights and Obligations of a Bosch Authorised Distributor

19.1. A distributor relationship is a relationship whereby the Purchaser sells, markets and distributes Bosch Products on a non-exclusive basis for its own account and has limited use of the Bosch Trademarks and Trade names as set out in clause 20.

19.2. A Purchaser shall not automatically be regarded as a distributor of Bosch and Bosch will authorise the distributor as a Bosch distributor when deemed, in the sole and exclusive opinion of Bosch, to have the required ability, adequate resources, know-how, qualifications, training and experience to act as a Bosch distributor.

19.3. The Purchaser shall be appointed as an authorised distributor for a period of 1(one) year only whereafter the distributor relationship will terminate, unless Bosch extends the authorisation for a further period, in its sole and absolute discretion. Bosch reserves the right to grant a Purchaser a longer period to act as a Bosch authorised distributor in its sole and absolute discretion. After the distributor relationship terminates, the Purchaser (i) will not do anything which could lead others to conclude that the agreement with Bosch is still in force; and (ii) will not make any further use of Trademarks by immediately removing any and all names, brand names, marks and other logos.

19.4. A Purchaser shall not be entitled to demand from Bosch to be appointed as an authorised distributor.

19.5. Bosch and the Purchaser shall agree on the Products which are to be sold by the Purchaser from time to time. Products will be contained in a Product list which Bosch may amend from time to time as deemed necessary.

19.6. The price paid for the Products by the Purchaser shall be in accordance with Bosch's list prices as determined by Bosch and made available to the Purchaser from time to time. Pricing and payment shall be subject to this agreement and deviation must be reduced to writing and signed by an authorised person within Bosch.

19.7. The Purchaser must prepare and submit a business report to Bosch once per year (or more often as may be required by Bosch) setting out details of sales developments, compliance with agreed sales targets, demand creation, market developments relevant to Bosch and the Products and (other) marketing activities.

19.8. The Purchaser shall ensure that no activity undertaken by the Purchaser, its owners, partners, directors or managers shall impinge upon the reputation of Bosch or any of its authorised distributors.

19.9. During the term of the agreement, the Purchaser shall: (i) keep its books and records in accordance with generally applicable and internationally recognized accounting principles and practices; and (ii) accurately record all transactions which relate to the agreement between Bosch and the Purchaser.

19.10. The Purchaser must be able to give competent local support to end-customers and after-sales service, including the facilitation of processing of any warranties applicable in terms of the Products. End-customers shall be directed to use only authorised contract partners of Bosch operating a Bosch Service Centre for repairs and servicing of Products.

19.11. The Purchaser acknowledges and agrees that the relationship between the Purchaser and Bosch is not that of a partnership, joint venture relationship, principal and agent, contractor and sub-contractor or franchisor and franchisee. Bosch and the Purchaser are independent and acting for their own accounts and neither is authorized to bind or make any commitment or representation, express or implied, on behalf of the other party unless authorized to do so by the other party in writing.

19.12. The rights and obligations under the agreement may not be ceded or transferred to a third party without the express written consent of Bosch. No sale of the business of the Purchaser or change in shareholding may occur which includes the rights set out herein without the express written approval of Bosch.

20. Confidential Information and Data, Intellectual Property Rights and Trademarks

20.1. Use of Trademarks and Trade Names where Purchaser is an authorised Distributor

20.1.1. No right, title or interest in, or to any trademarks, trade names, slogans, labels and designs used by either Bosch or the Purchaser is transferred by either Party to the other in terms of this Agreement. The Purchaser may, in connection with the promotion and sale of the Products pursuant to the terms of this Agreement, refer to Bosch's applicable trade names or trademarks provided that all such references are in conformance with Bosch's requirements regarding such use, as such requirements

are communicated to the Purchaser in writing from time to time by Bosch. No use is permitted without the express written consent of Bosch and after termination or upon instruction by Bosch, the Purchaser shall remove Trademarks and Trademarks or Trade Names immediately from its business operations.

20.2. Proprietary Information and Data Protection of Information of customers

20.2.1. Each Party acknowledges that it may be furnished with or may otherwise receive or have access to information or data or material that relates to products (including Products), pricing of products, software, research development, inventions, processes, techniques, designs or technical information and data, customers or business partners and marketing plans of the other Party (the "Proprietary Information").

20.2.2. Each Party agrees to preserve and protect the confidentiality of the Proprietary Information at all times and not to disclose same to third parties.

20.2.3. Any personal data may only be used for the purpose it was obtained and used with the express consent of the data subject. The Purchaser shall take all reasonable precaution to protect personal data in its possession and shall comply with all data protection laws at all times.

20.2.4. Despite any other provisions of this Agreement, the requirements of this clause 20 shall survive termination of this Agreement.

20.3. No Copying

20.3.1. Without the prior written consent of Bosch, the Purchaser shall refrain from copying or reverse engineering any Product, or disassembling, decompiling, translating, or modifying a Products or any documentation with the purpose of copying or reverse engineering.

20.4. Notification

20.4.1. The Purchaser shall promptly notify Bosch of any infringement of intellectual property of Bosch, specifically the presence of counterfeit goods in the market. The Purchaser shall not be complicit in dealing or selling counterfeit products.

21. Force Majeure

21.1. Neither Party will be deemed to be in default of this Agreement to the extent that performance of its obligations, or attempts to cure any breach, are delayed or prevented by reason of circumstance beyond its reasonable control ("Force Majeure event"), including without limitation: fire, natural disaster, earthquake, accident or other acts of God or unforeseen plant breakdowns or stoppages, provided that the Party seeking to delay its performance gives the other written notice of any such Force Majeure event within 15 (fifteen) days after the discovery of the Force Majeure event, and provided further that such Party uses its best efforts to cure the Force Majeure event.

21.2. If there is a Force Majeure event, the time for performance or cure will be extended for a period equal to the duration of the Force Majeure event. This clause 21 is not applicable to any payment obligations of either Party.

21.3. Any Force Majeure event or events beyond Bosch's control which may affect the timely fulfillment of an Order, including delays by Bosch's, transportation problems and operational breakdowns (plant breakdowns or stoppages), labor disputes, shortage of materials and energy, acts of governments and import and export restrictions, shall entitle Bosch to postpone the delivery date or where such an event make it impossible for Bosch to fulfill an Order, Bosch has the right to cancel all or a part of the Order without any liability to the Purchaser whatsoever.

22. Settlement of Disputes

22.1. Each Party acknowledges and agrees that, if there is any breach of this Agreement, including, without limitation, unauthorized use or disclosure of Confidential or proprietary information or other information of the other Party, the non-breaching Party will suffer irreparable injury that cannot be compensated by money damages and therefore will not have an adequate remedy at law. Accordingly, nothing in this clause 22 shall preclude either Party from seeking interim and/or urgent relief from a court of competent jurisdiction.

22.2. In the case of any non-payment by a Purchaser, Bosch may at its election follow the mediation and arbitration procedures referred to in clause 22.3 and 22.4 or institute proceedings in a court of competent jurisdiction in Nigeria.

22.3. Mediation

22.3.1. Subject to clause 22.2, any dispute arising out of or in connection with this Agreement, including any question regarding its interpretation, existence, validity or termination must first be referred to mediation.

22.3.2. The mediation will be held in Lagos, Nigeria.

22.3.3. Either Party may demand mediation by serving on the other Party a written statement of the dispute, controversy, or claim, and the facts relating to it, in reasonable detail.

22.3.4. The Parties shall agree on the mediation procedure and a mediator. There will be 1 (one) mediator.

22.3.5. If within thirty (30) days of the demand for mediation, the Parties have not agreed upon a mediator and commenced mediation, the matter will be referred to arbitration as provided for in clause 22.4.

22.3.6. If, within forty-five (45) days of the demand for mediation the matter has not been resolved to the satisfaction of both Parties, then the matter will be referred to arbitration as provided for in clause 22.4.

22.4. Arbitration

22.4.1. In the circumstances referred to in clause 22.3.5 or 22.3.6 and except where another procedure is by law or in terms of this Agreement required or permitted to be followed, all disputes arising out of, or in connection with this Agreement, including any question regarding its interpretation, existence, validity or termination, shall be settled by arbitration.

22.4.2. The parties may agree on the arbitration procedure and on the arbitrator, If the Parties cannot agree within 20 (twenty) days of the end of the period referred to in clause 22.3.5 or 22.3.6, the arbitration shall be conducted in terms of one Arbitrator who shall mutually appointed by the Parties and in accordance with the rules of the Nigerian Institute of Chartered Arbitrators ("NICArb").

22.4.3. Unless agreed otherwise, the arbitration shall be administered by the Parties.

22.4.4. The arbitration shall be held in Lagos, Nigeria and the language to be used in the arbitration proceedings shall be English. The arbitration proceedings and the outcome shall be confidential and may not be disclosed, except by order of court or agreement.

22.4.5. The provisions of this clause shall survive termination or expiration of this Agreement for any reason.





- 22.4.6. The expenses of arbitration shall be borne by the Party against whom the final decision is taken, or apportioned according to the decision of the arbitrator if there is a compromised decision. Judgment upon any award may be entered in any court of competent jurisdiction in Nigeria.
- 22.4.7. The expenses of arbitration shall be borne by the Party against whom the final decision is taken, or apportioned according to the decision of the arbitrator if there is a compromised decision. The arbitration award shall be final and judgment upon any award may be entered in any court of competent jurisdiction.
- 22.5. All notices from one Party to the other relating to any arbitration under this Agreement shall be in writing and shall be effective if given according to clause 29 below.

### 23. Cumulative Rights

- 23.1. Any specific right or remedy provided in this Agreement shall not be exclusive but shall be cumulative upon all other rights and remedies allowed under applicable law that cannot be limited or excluded by agreement.

### 24. Governing Law

- 24.1. This Agreement shall be governed by the laws of Nigeria.
- 24.2. In the case of Agreements with Purchasers outside Nigeria, if any of the foregoing provisions of this Agreement are rendered invalid by the law of a Purchaser's country, it is agreed that such invalid provisions shall be replaced by such valid provisions which come closest to the spirit and purpose of the invalid provisions. To the extent necessary, the Purchaser undertakes to take all measures required to accomplish this objective.

### 25. Entire Agreement, Non-Waiver and Non-Variation

- 25.1. The Parties acknowledge that this Agreement expresses their entire understanding and Agreement, and that there have been no warranties, representations, covenants or understandings made by either Party to the other except such as are expressly set forth in this Agreement. The Parties further acknowledge that this Agreement supersedes, terminates and otherwise renders null and void any and all prior Agreements or contracts, whether written or oral, entered into between the Purchaser and Bosch with respect to the matters expressly set forth in this Agreement.
- 25.2. In the event of the Parties signing an additional agreement provided by the Purchaser and should a conflict arise between this Agreement and any such agreement, this Agreement shall take precedence.
- 25.3. The failure by either of the Parties to enforce any provision of this Agreement shall not affect in any way that Party's right to require performance of the provision at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the provision itself.
- 25.4. No agreement to vary or add to this Agreement shall be of any force or effect unless reduced to writing and signed by the authorised Contractual Representatives of the Parties to this Agreement.

### 26. Attorney Fees

- 26.1. If either Party is required to retain the services of any attorney to enforce or otherwise litigate or defend any matter or claim arising out of or in connection with this Agreement, then the successful Party shall be entitled to recover from the other Party, in addition to any other relief awarded or granted, all costs, including administrative costs, judicial and extra-judicial costs payable by the Customer.

### 27. Severability

- 27.1. If any provision of this Agreement is found invalid or unenforceable, the remainder shall remain valid and enforceable according to its terms. Without limiting the proviso, it is expressly understood and agreed that each and every provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages is intended by the Parties to be severable and independent of any other provision and to be enforced as such. Further, it is expressly understood and agreed that if any remedy under this Agreement is determined to have failed of its essential purpose, all other limitations of liability and exclusion of damages set forth in this section shall remain in full force and effect.

### 28. Cancellation and Suspension

- 28.1. Bosch may cancel the contract or any uncompleted part of it, if the Purchaser –
  - 28.1.1. commits a breach of any of the terms or conditions of the contract; or
  - 28.1.2. being an individual, is provisionally or finally sequestrated, or surrenders his estate; or
  - 28.1.3. being a partnership, the partnership is terminated; or
  - 28.1.4. being a company is placed under a provisional or final order of liquidation or judicial management or similar process; or
  - 28.1.5. compromise or attempts to compromise generally with any of the Purchaser's creditors; or
  - 28.1.6. fails to satisfy or take steps to rescind any judgment granted against it as required by the rules of the court who granting judgement.
- 28.2. Bosch's remedies under 28.1. shall not be exhaustive and shall be without prejudice and in addition to any other remedies it might have.
- 28.3. Upon termination of the contract for any reason whatever –
  - 28.3.1. all amounts then owed by the Purchaser to Bosch in terms of the contract shall become due and payable forthwith;
  - 28.3.2. Bosch may retake possession of any goods in respect of which ownership has not passed;
  - 28.3.3. Bosch shall be entitled to retain all moneys paid by the Purchaser to defray any damage claim it may have.
- 28.4. If any amount owed by the Purchaser is not paid on due date or if the Purchaser commits any other breach of the contract, then, without prejudice to any other right Bosch may have –
  - 28.4.1. it may immediately suspend the carrying out of any of its then uncompleted obligations until payment is made;
  - 28.4.2. it may terminate any credit facilities previously granted to the Purchaser;
  - 28.4.3. all amounts then owed by the Purchaser to the seller in terms of the contract or from any other cause whatever shall become due and payable forthwith.

### 29. Notices

- 29.1. All notices, demands or consents required or permitted under this Agreement shall be in writing and shall be delivered by hand or sent by registered mail to the respective Parties at the addresses set forth above or at such other address as such Party shall specify to the other Party in writing. The aforementioned address shall be the domicilium of the Parties for receiving legal notices. Any notice required or permitted to be given by the

provisions of this Agreement shall be deemed to have been received on the day it is delivered to that Party by registered mail with acknowledgment of receipt or by any commercial courier providing equivalent acknowledgment of receipt.

- 29.2. Notice given, or other documents sent (excluding invoices) in terms of the Agreement, must be in writing and will:
  - 29.2.1. if delivered by hand, be deemed to have been duly delivered on the first business day after the date of delivery;
  - 29.2.2. if posted by prepaid registered post be deemed to have been received by the addressee on the tenth business day following the date of such posting;

### 30. Notice and Domicilium

For the purpose of the Agreement the Parties respective addresses will be:

#### Bosch:

Robert Bosch Limited  
No. 2 Soji Adepegba Close, off Allen Ikeja, 101233 Lagos, NIGERIA

#### The Purchaser:

Company: \_\_\_\_\_

Address: \_\_\_\_\_

#### On behalf of the Purchaser (Contractual Representative):

Name and designation: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

#### The Witness:

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

#### On behalf of Bosch:

Name and Designation: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Irrespective of the actual signature dates, this Agreement and Terms & Conditions and all of its Annexures shall be deemed to have become effective and binding between the Parties retrospectively from the date of the first invoice.