



Beko US Inc.
Terms & Conditions of Builder Sale

1. **Entirety of Terms.** These Terms and Conditions of Builder Sale and the related Quotation (collectively, the “Terms”) and the Beko Authorized Retailer Agreement (the “Agreement”) between the parties, if any, are the only terms and conditions which govern the sale of products (“Products”) by Beko US Inc. (“Beko”) to the dealer listed on the Quotation (“Dealer”) for the builder sale identified on the Quotation (“Builder Project”). These Terms and the Agreement supersede all other terms and conditions, oral or written, and all other communications between the parties suggesting additional or different terms. These Terms represent the final and complete understanding of the transaction set forth on the Quotation and may be amended or cancelled only by mutual written agreement. Acceptance of the Quotation is expressly limited to these Terms. Any proposal for additional or different terms or any attempt by Dealer to vary these Terms is hereby deemed material and is objected to and rejected. No terms of any document or form submitted by Dealer, including any Dealer purchase order, shall be effective to alter or add to these Terms. In event of conflict between the Terms and the Agreement, the Terms shall control as it relates to this Quotation and Builder Project.
2. **Price.** Prices exclude all taxes (sales, use, excise, privilege, ad valorem, and other taxes, duties, tariffs and assessments now or hereafter imposed or levied) on the Products or manufacture/sale of such Products. If Beko pays any such taxes or charges, Dealer shall, upon demand, immediately reimburse Beko for such amounts.
3. **Payment Terms.** Payment terms shall be as set forth in the Agreement. If the parties do not have an Agreement, then all payments are due within 30 days from date of invoice, and time is of the essence for payment.

Dealer shall have no right to deductions, withholdings or set-off of any kind without the prior written consent of Beko. Late payments will bear interest beginning on its original due date at one percent (1%) per month or the highest commercial contract interest rate the law allows, whichever is less. In addition, if Buyer is 30 days or more past due on any amount owed, Beko reserves the right to hold shipment on any current or future orders. Dealer shall be liable for all costs and expenses related to Beko’s collection of past due amounts, including, without limitation, attorneys’ fees and costs. If, in Beko’s judgment, the financial condition of Dealer does not justify continuance on the terms of payment above, Beko may require full or partial payment in advance, otherwise adjust the terms, or cease to supply Dealer

4. **Delivery; Title; Risk of Loss.** Unless specifically agreed otherwise in these Terms, the delivery term shall be FOB Beko’s warehouse, though Beko will pay for standard transportation costs. While expected dates of delivery of Products are given in good faith, the same are not of the essence of or in any way terms of these Terms or representations of fact. All shipping dates given are approximate, and while effort is made to maintain schedules, Beko shall not be liable for any claim, loss, expense, or damage of any kind whatsoever for delays, or loss or damage in transit. Claims for loss or damage shall be made solely against the carrier.

Title to the Products shall transfer to Dealer upon the delivery of the Products per the delivery term. Risk in the Products shall transfer to Dealer upon delivery of the Products per the delivery term.

5. **Changes; Cancellation; Returns.** Once Beko has accepted the Purchase Order, Dealer may not change or cancel, in whole or in part, the Purchase Order, including but not limited to delivery dates, amounts, prices, designs or specifications, without Beko’s prior written consent. If Beko consents to such cancellations or changes, Beko may charge Dealer a cancellation/change fee of twenty percent (20%) for any Products cancelled or changed. Dealer may not return, in whole or in part, any



delivered Products without Beko's prior written consent. If Beko consents to such returns, Beko may charge Dealer a restocking fee of twenty percent (20%) for any returned Products.

6. Inspection; Acceptance. Dealer shall inspect Products within five (5) business days after delivery of Products and notify Beko in writing of any defects or any failure of the Products to conform to the requirements of the Terms. All claims by Dealer against Beko for nonconforming Products and claims for shortages in a shipment or damaged Products (other than claims to be made against the carrier) must be made in writing to Beko within five (5) business days after receipt of shipment or Dealer shall be deemed to have accepted such Products and any claims for nonconforming Products shall be waived.
7. Limited Warranties, Remedies. Beko provides a written warranty with each Product ("Product Warranty"). THE PRODUCT WARRANTY IS IN LIEU OF ALL OTHER WRITTEN OR UNWRITTEN, EXPRESS OR IMPLIED WARRANTIES, AND BEKO EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE OF THE PRODUCTS SUPPLIED.

Beko shall be under no liability for breach of the Product Warranty to the extent any damage or nonconformity is caused by: (i) improper installation, use, maintenance and/or service; (ii) modification or alteration by other than Beko; or (iii) unauthorized service or equipment, component, materials or parts supplied by or on behalf of Dealer or party other than Beko.

8. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, BEKO SHALL NOT BE LIABLE TO DEALER FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OR ANY OTHER LOSSES, DAMAGES OR EXPENSES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT BEKO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

IN NO EVENT SHALL BEKO BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE PRICE RECEIVED BY BEKO FOR THE PRODUCTS WITH RESPECT TO WHICH SUCH LIABILITY IS CLAIMED.

9. Insurance. Dealer will, at its own cost, maintain the following insurance: commercial general liability insurance covering Buyer's performance with combined single limits of at least \$2,000,000 per occurrence and in the aggregate; worker's compensation coverage as and in amounts required by applicable law, and automobile liability coverage with a combined single limit of \$1,000,000 from carriers that have AM Best ratings of at least A-VII (or the equivalent). Dealer will ensure Beko is named as an additional insured and, where permitted by law, that Dealer's carrier waives rights of subrogation against Beko. Dealer will provide evidence of coverage through Certificates of Insurance upon request.
10. Indemnification. To the fullest extent permitted by law, Dealer indemnifies, defends and holds Beko, its affiliates, and their respective, officers, directors, employees, Dealers, distributors, resellers, agents and representatives ("Indemnified Parties") harmless from any and all losses, damages, fines, penalties, claims, demands, lawsuits, settlements, and expenses (including reasonable legal fees and costs of enforcing indemnification hereunder) ("Losses") arising from or related to: (a) Dealer's use, misuse or disposal of Products or materials; (b) Dealer's non-compliance with any applicable law or regulations in connection with the Products or the Terms; (c) Dealer's breach of these Terms; (d) any actual or alleged negligent act or omission, or willful misconduct by Dealer related to the Products or these Terms; and (e) Products subjected to: (i) improper installation or storage; (ii) abuse or misuse;



(iii) abnormal operating conditions or applications or operating conditions or applications above the rated capacity of the Products; (iv) modifications made to all or part of the Products without the prior written consent of Beko; or (v) a use other than or varying in any degree from the specifications and Beko's instructions. In no event shall Dealer be required to indemnify Beko for any Losses caused solely by the negligence of Beko.

11. **Infringement.** Beko shall defend and indemnify Dealer from loss, claim, cost, expense or damage (including payment of reasonable attorneys' fees) suffered or incurred by Dealer and arising from any claim that the Products infringe on a third party's United States patent, but only to the extent caused by the Products and provided that Beko is notified promptly in writing of such suit and is given full authority, information and assistance by Dealer to defend or settle the suit. Notwithstanding anything to the contrary, Beko shall have no obligation to defend or indemnify Dealer if the claim is based on or is caused by any specification, material, information or instruction provided by or on behalf of Dealer; by Dealer's combination of the Products with materials not supplied by Beko; by Dealer's use of the Products other than as instructed by Beko or contemplated by these Terms; or by modifications to any item made by or on behalf of the Dealer in a manner that causes the infringement. In the event Beko reasonably deems any Products to infringe any such patent, Beko may, in its sole discretion, either license Dealer to use the infringing content, modify the Products so as not to infringe, or replace the Products with non-infringing Products.
12. **Intellectual Property.** All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights, trademarks, patents and applications therefor, and other information or intellectual property disclosed or otherwise provided to Dealer by Beko and all rights therein (collectively, "IP") are and will remain the property of Beko. Dealer shall have no claim to, nor ownership interest in, any IP and such information, in whatever form and any copies thereof, shall be promptly returned to Beko upon written request from Beko. Dealer acknowledges that no license or rights of any sort are granted to Dealer hereunder in respect of any IP, other than the limited right to use the Products purchased from Beko.
13. **Confidentiality.** All non-public or proprietary information of Beko, including all IP, quotations and pricing information, is confidential, solely for the use in performing hereunder and may not be disclosed, used or copied unless authorized by Beko in writing.
14. **Force Majeure.** Beko shall not be liable for any delay in or failure to perform due to any event or contingency beyond its reasonable control (an event of "Force Majeure"), including but not limited to, transportation shortages; inadequate or material increase in the cost of supply of equipment, merchandise, supplies, labor, material or energy; compliance with any law, ruling, order or regulation of any government or agency thereof; acts of nature; fires; strikes; epidemics; embargoes; war (whether declared or undeclared); or riot. Any delay resulting from such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable. If there is Force Majeure event or any scarcity of Products, Beko will allocate its available supply in its sole discretion.
15. **Termination.** Without prejudice to its other rights and remedies, Beko may terminate these Terms or suspend its performance thereunder, in whole or in part, without liability, if (i) Dealer fails to take delivery of or to pay for the Products as required herein; (ii) Dealer breaches these Terms; (iii) a petition initiating a proceeding under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Dealer; (iv) Dealer is insolvent or executes an assignment for the benefit of creditors; (v) a receiver is appointed for Dealer or any substantial part of its assets; or (vi) Beko is insecure with respect to Dealer's ability to perform and Dealer is unable to provide Beko with adequate assurance of its ability to perform within five days after Beko's request therefore. No



termination shall affect any accrued rights or obligations of either party as of the effective date of such termination.

16. Choice of Law, Venue. The Terms and all disputes arising out of or relating in any way to performance under the Terms will be governed by the laws of Illinois, excluding always the United Nations Convention of Contracts for the International Sale of Products and any choice of law rules that direct the application of the law of any other jurisdiction. Either party may bring suit in the courts (federal, national, state, provincial or local) having jurisdiction over the subject matter of the dispute that are located in Chicago, Illinois. Each party consents and agrees to the jurisdiction and venue of such courts and agrees that all disputes arising out of or relating in any way to performance under the Terms shall be resolved exclusively in such courts and those courts having appellate level review over the decisions and rulings of such courts.
17. Miscellaneous. All waivers by Beko shall be in writing. No delay or omission in the exercise of any right, power, or remedy of Beko hereunder shall impair such right, power, or remedy or be a waiver of any default or acquiescence therein. Dealer may not assign any of the amounts due or to become due and may not assign or subcontract any of the work to be performed under the Terms without the prior written consent of Beko. In case any one or more provisions contained in the Terms shall be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The section headings contained herein are not part of the Terms and are included solely for the convenience of the parties. If any term or provision of the Terms is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Terms or invalidate or render unenforceable such term or provision in any other jurisdiction. Provisions of the Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Terms. Nothing in the Terms and no action taken by the parties under the will constitute a partnership, joint venture or agency relationship between the parties.