

## Terms of Use of the BSH Supplier Portal

### 1. Scope

- 1.1 The BSH Hausgeräte GmbH, Carl-Wery-Straße 34, 81739 München (hereinafter "**BSH**") operates the internet-based BSH Supplier Portal (hereinafter "**SP**"). With the SP, the BSH provides a platform on which potential suppliers, service providers and other subcontractors (hereinafter referred to as the "Suppliers") to present their companies as well as their products and services in accordance with these Terms of Use. This allows BSH to increase its knowledge of an individual Supplier. These Terms of Use regulate the use of the SP by Suppliers but do not regulate the terms of any agreements concluded between the Suppliers and the ordering party.
- 1.2 By registering, the Supplier agrees to be bound by these Terms of Use. By registering, the Supplier confirms that it is acting as a business customer ("*Unternehmer*") in terms of § 14 of the German Civil Code ("*Bürgerliches Gesetzbuch*").
- 1.3 BSH performs its services under these Terms of Use and is authorized to extend the services offered on the SP but is not obliged to do so. BSH reserves the right to modify the services offered via the SP, to terminate the services or to offer different services.
- 1.4 After the confirmation of the registration the Supplier has access to the following services: Supplier Registration, Supplier Qualification, Supplier Collaboration (Update of Company Data, Exchange of Information) and Activity Management.

### 2. Registration and password

- 2.1 In order to guarantee the security of business transactions, access to and use of the SP is restricted to registered Suppliers. The Supplier has no right to be registered or included in SP.
- 2.2 Supplier assures that all of its employees registering and/or using the SP are entitled to act as the Supplier's authorized representative. In particular the Supplier shall notify BSH immediately if an employee's entitlement to act as the Supplier's authorized representative in relation to access to the SP is terminated.
- 2.3 When registering the Supplier must provide full and accurate information and should such information change over time, it shall notify BSH of such change without delay. All changes are subject to confirmation by BSH. BSH reserves the right to ask additional questions which may be of interest to BSH with regards to registration and assessment of the Supplier.
- 2.4 On completion of the registration process, the Supplier will receive a confirmation of its registration by e-mail after BSH has approved and cleared the Supplier to use the SP (hereinafter "**Clearing Date**"). Supplier cannot derive any claims against BSH on grounds of the confirmation of its registration.
- 2.5 At the same time the Supplier shall receive an organization ID and a password (also called "**log-in data**" below). On first log-in, the Supplier shall change the password provided by BSH to a password known only to the Supplier. The password has to meet the requirements stated on the SP. The log-in data allows the Supplier to view and modify its data (subject to confirmation by BSH).
- 2.6 The Supplier shall ensure that the log-in data is not accessible to third parties and shall be liable for all activities carried out using the log-in data, insofar as it cannot prove that the log-in data did not become known to third parties through any fault of its own. After each session, the user shall log off from the password-protected area. Should the Supplier become aware that third parties are misusing the log-in data, it is obliged to inform BSH without.
- 2.7 On receipt of notice pursuant to section 2.6, the BSH shall suspend access to the password-protected area under the Supplier's log-in data. Access will only be reactivated following the Supplier's separate application to the BSH or upon reregistration.

- 2.8 The Supplier shall ensure that it is capable of receiving e-mails under the e-mail address it supplies to the BSH. The Supplier should also ensure that the address information etc. which it has provided to the BSH is kept up-to-date.

### 3. Rights of use in relation to content, information and documentation

- 3.1 On the SP the BSH might provide the Suppliers with content, information and documentation. Use of this content, information and documentation is subject to these Terms of Use
- 3.2 If and to the extent BSH provides the Supplier with such information, BSH grants the Supplier a non-exclusive and non-transferable right to use the content, information and documentation provided on the SP to the extent agreed, or in the event of no such agreement, to the extent of the purpose intended by the BSH in making the same available.
- 3.3 The information, content and documentation are protected by copyright laws as well as by international copyright treaties and by other laws and conventions governing intellectual property rights. The Supplier shall observe such rights and in particular shall not remove any alphanumeric code, marks or copyright notices either from any information or documentation.
- 3.4 Some of the information, content and documentation published on the SP are subject to copyright of third parties.

### 4. Intellectual property

- 4.1 Notwithstanding the specific provisions of section 3 of these Terms of Use, information, brand names and other content of the SP must not be modified, copied, reproduced, sold, rented out, used, supplemented or otherwise exploited in any way without the prior written consent of the BSH.
- 4.2 Except for the rights of use and other rights expressly granted herein, no other rights shall be granted to the Supplier, especially in (including but not limited to) the company's name or industrial property rights, such as patents, brands or utility models, nor shall any duty to grant such rights be implied.

### 5. Duties of the supplier

- 5.1 While using the SP, the Supplier shall not:
- harm other persons, in particular minors, or infringe their personal rights;
  - offend public morality;
  - infringe any intellectual property right or any other proprietary right;
  - transfer any content containing a virus, a so-called Trojan Horse or any other programs which could damage the software;
  - enter, store or transmit hyperlinks or content to which the Supplier is not entitled, in particular in cases where such hyperlinks or content infringe confidentiality obligations or are illegal; or
  - distribute advertising or unsolicited e-mails (so-called "spam") or hoax warnings of viruses, defects or similar material, or solicit or request participation in any lottery, snowball system, chain letter, pyramid game or similar promotion; or
  - attempt to view data of other Suppliers which is not generally accessible in this SP; or
  - infringe the applicable laws and regulations.

**5.2** The Supplier shall at its own expense set up a properly functioning computer configuration and internet access (Microsoft Internet Explorer), which shall enable it to use the services offered on the SP. Details of which version number of Microsoft Internet Explorer is required will be found on the SP website. The BSH points out that optimal use of the SP may not be possible with other web browsers.

**5.3** The Supplier shall grant the BSH a non-exclusive, royalty-free, worldwide license to use, reproduce, edit, perform and display in full or in part content, e.g. catalog data and self-description provided by the Supplier to the BSH (hereinafter "**content**"). The BSH has the right to sublicense or assign the aforementioned rights to subcontractors. The Supplier guarantees that it is authorized to grant to the BSH the rights listed in this subsection.

**5.4** The Supplier shall provide the BSH with all necessary data and information in good time so that the BSH is able to properly fulfill its obligations arising from and relating to such agreement. For this purpose, the Supplier shall nominate a contact person who has the necessary information at his disposal and is able to take the decisions necessary to implement the agreement.

**5.5** The BSH shall accept no responsibility for the content provided by the Supplier. The BSH shall not check the content provided by the Supplier to the BSH e.g. catalog data for accuracy. The Supplier shall indemnify the BSH upon first request against all third-party claims against the BSH in connection with the content.

**5.6** The BSH may suspend access to the SP at any time if the Supplier breaches the obligations imposed by these Terms of Use and may delete all material and content relating to the breach. Expenses incurred by the BSH in so doing shall be billed to the Supplier.

## **6. Hyperlinks**

The SP might contain hyperlinks to the web pages of third parties. Third parties are also able to upload content onto the SP. The BSH accepts no liability for the contents of such web pages and does not make representations to the effect that such web pages or their content are its own, as the BSH does not control the information which is uploaded or available on such hyperlinked web pages and is therefore not responsible for the content and information provided there. The Supplier shall use such uploaded information and web pages entirely at his own risk.

## **7. General liability, viruses**

**7.1** Insofar as services are provided by the BSH free-of-charge, any liability for defects in quality or title in relation to the services, and in particular in relation to their accuracy and veracity, the infringement of any third-party file protection rights or copyrights, or their completeness and/or fitness for purpose, is excluded except in instances of willful misconduct, bad faith, personal injury or death.

**7.2** Any further liability of the BSH is excluded unless imposed by law, e.g. in cases of willful misconduct, gross negligence, personal injury or death, failure to ensure guaranteed characteristics, fraudulent concealment of a defect or in the event of a breach of fundamental contractual obligations. The damages in the event of a breach of fundamental contractual obligations shall however be limited to contractual foreseeable damages in the absence of willful misconduct or gross negligence.

**7.3** BSH is not responsible for the accessibility or operational capability of the SP. The BSH shall not be responsible for the Supplier's internet access. The BSH therefore excludes, insofar as is permitted by law, any liability for disruption to the performance of services under the terms of this agreement, where such disruption is caused by a lack of internet availability or by reduced internet availability.

**7.4** Although the BSH takes all steps to keep the SP free of computer viruses, the BSH cannot guarantee that it is virusfree. Before downloading any information, software or documentation the Supplier shall, for its own protection and to prevent viruses on the SP, take appropriate security measures and shall utilize a virus scanner. The Supplier

shall take all security measures and shall utilize a virus scanner in order to ensure that no viruses are uploaded onto the SP.

**7.5** The aforementioned provisions set out in this section 7 shall not operate to modify the burden of proof to the Supplier's disadvantage.

## **8. Changes to these Terms of Use**

**8.1** The BSH shall be entitled at any time to amend or update these Terms of Use with reasonable prior notice. Amendments or updates shall be notified to the Supplier in writing, by e-mail or in another appropriate form.

**8.2** Should the Supplier not be in agreement with the amendments or update, the Supplier objects in writing within four weeks of receipt of notice. Should the Supplier not object to the amendments within this time-period, the amendments shall be incorporated and shall come into effect as set out in the notice. The BSH shall make reference to this right in its notice to the Supplier.

**8.3** If the amendments or updates are required by law, the provision requiring prior notification of the Supplier and the Supplier's right to object shall no longer apply. Amendments and updates required by law shall not be grounds for claiming damages from the BSH.

## **9. Term of the agreement and termination**

**9.1** The Supplier shall be entitled to use the SP from the Clearing Date.

**9.2** Each party is entitled to terminate the entire contractual relationship under these Terms of Use extraordinarily and without notice by a registered letter in the event that, despite written warnings or threats of termination without notice by the terminating party, the other party to the agreement commits repeated or continuing breaches of fundamental contractual obligations.

## **10. Miscellaneous**

**10.1** The place of jurisdiction shall be Munich (city). Any agreement shall be governed exclusively by the law of the Federal Republic of Germany, to the exclusion of conflict of law provisions and the uniform UN Sales Convention (CISG).

**10.2** The BSH may assign this agreement with all rights and obligations to an undertaking affiliated to the BSH Home Appliances Group.

**10.3** Should any provisions of this agreement be or become ineffective or unenforceable in whole or in part, the validity of the remaining provisions shall remain unaffected. The ineffective or unenforceable provision shall be replaced by a corresponding provision which best reflects the intended economic purpose of the ineffective or unenforceable provision.