

BSH HOME APPLIANCES LIMITED– STANDARD TERMS & CONDITIONS - SERVICES AND WORKS

Your Unconditional Agreement: These Standard Terms and Conditions (“STC”) shall apply to and govern all transactions between You and BSH Home Appliances, Ltd. (“BSH”), for Your provision of services and/or works and deliverables to BSH, and shall control over any other document or agreement (including without limitation, oral or written, express or implied). These STCs govern the entire relationship (whether proposed, existing, contemplated, or in the future; collectively, the “Agreement”) between You and BSH. Any changes whatsoever You make hereto or on any other document will be automatically deemed null and void and of no effect, and BSH’s acceptance of services and/or works and deliverables, or BSH’s silence thereto, shall in no event be deemed acceptance of any such changes. Any amendment hereto must be made in writing and signed by BSH. **No Assignment:** You shall not assign, transfer or delegate to any person or entity any part of Your performance obligations owed to BSH; any attempt to do so shall be null and void, and give BSH the immediate right to terminate without liability or obligation whatsoever. **Price:** Prices specified shall be firm and complete as agreed between You and BSH. In no event shall payment be made, or invoices issued, prior to services rendered or acceptance of works and deliverables. Any provincial and federal excise, goods and services, sales and use taxes shall be stated separately on the invoices. BSH retains all rights to set-offs or holdback, and to impose standard fees, for cause (such as reasonable adjustments made for storage, non-conformity, defective goods, or rejection). **Payment:** Payment terms shall be net sixty (60) days. All cash discount shall be computed from the date of receipt by BSH of a correct invoice or works and deliverables, whichever is later. Any and all related customs duty drawback rights are automatically transferable from You to BSH (You shall immediately inform BSH of any such rights and supply such documents as may be required for BSH to obtain such drawback). The relevant Purchase Order number must be referenced by You on every invoice submitted to BSH. **Delivery: TIME IS OF THE ESSENCE.** All services and/or works and deliverables must be provided by the agreed date of delivery. **Delays:** In any event of delay in the services rendered hereunder (whether actual or foreseeable, and regardless of cause), You shall immediately notify BSH and shall communicate all relevant information to BSH. You shall be liable for any damages resulting from failure to make a complete, on-time delivery, except where such delay is due to causes beyond Your reasonable control. **Relationship of the Parties:** The relationship between You and BSH will be that of independent contractors. Nothing herein will be construed as creating or constituting a relationship of employer/employee, franchiser/franchisee, principal/agent, partnership, or joint venture, between You and BSH. You are not authorized to enter legal transactions on behalf of BSH. **Purchase Orders & Releases:** Purchase Orders and any Amendments thereto, are only valid in writing. Purchase Orders placed by EDI are valid without signature. If You fail to accept a Purchase Order within 14 calendar days of receipt, BSH reserves the right to revoke such Purchase Order. If You provide services BSH did not specifically order, You will be liable for all related costs. **Inspection & Acceptance:** Services shall be delivered in full conformance, and without deviance. Acceptance or rejection of the services and/or works and deliverables shall be made as soon as practicable after delivery, however, BSH’s failure to inspect, accept or reject works or deliverables shall not relieve You of any obligations or liability. Payments shall not constitute final acceptance. If BSH determines that Your works and deliverables are non-conforming and/or fail to comply with the agreement, You shall, at BSH’s option, and Your expense and within a reasonable period of time provide services and delivery conforming works and deliverables. If You fail to remedy the items of non-conformance within a reasonable period, BSH may rescind the contract or reduce amounts owed to You. **Changes:** Changes (including without limitation specifications, and/or delivery schedules) may only be made with the prior written notice or consent of BSH. Should any change increase or decrease the cost or the time required for production of services, You shall immediately notify BSH and make an equitable adjustment in the purchase price or delivery schedule, or both. All services shall be provided in accordance with the latest changes approved by BSH. BSH reserves the right to modify a scope of services prior to the services being rendered, with any change in pricing subject to subsequent confirmation by BSH. **Termination:** Either party may terminate this Agreement at any time upon notice, subject to the fulfillment by You of any outstanding Purchase Orders (but in no event whatsoever shall BSH have any obligation or liability beyond paying for then-outstanding Purchase Orders). **Warranties:** In addition to all implied warranties, You warrant that all services and/or works and deliverables covered hereunder will be merchantable, free from defects in material and workmanship, fit for their intended purpose, and that they will fully conform to all applicable specifications, drawings, samples and descriptions; in the event of any breach hereof, You will (in BSH’s sole discretion, and at Your sole expense) either credit BSH, or replace, repair, or correct any such goods. Any warranties, representations and guarantees, shall run to BSH, and shall survive any inspection, delivery, acceptance, or payment by BSH of or for the goods. BSH MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITH REGARD TO YOUR EXPECTED BUSINESS VOLUME OR PROFIT. **BSH’s Property:** All tools, equipment, documents, or other material of every description furnished to You by BSH or for which You have been reimbursed by BSH, including any replacements thereof and any materials affixed or attached thereto shall be the sole, exclusive personal property of BSH. Any BSH-property in Your possession shall at all times be properly maintained by You, shall be appropriately marked to establish BSH’s ownership, shall not be co-mingled with Your property or of any third party, shall not be moved from Your premises without BSH’s prior written approval, and shall be held at Your expense and risk of loss. Upon BSH’s request, You will sign and file a Financing Statement or other similar documentation, affirming Yourself as a mere “Consignee” and/or “Bailee” (in BSH’s sole discretion) to secure title of such property solely and exclusively in BSH. Such property shall be subject to removal at BSH’s written request in which event You shall redeliver such property in the same condition as originally received by You, reasonable wear and tear excepted, all at Your expense. BSH shall have the right to enter upon Your premises at all reasonable times to inspect such property and Your records with respect thereto. You agree not to use any designs, tools, patterns, drawings, materials, or other information or equipment furnished by BSH to You in the manufacture or design of any goods for any customer and further agree not to use or disclose to any third party any confidential or proprietary information of BSH which you come into contact with by virtue of the Agreement. You must immediately inform BSH of any tool loss or damage, and of significant wear and tear, so that replacement tooling may be manufactured and implemented without jeopardizing BSH’s on-going demands. You shall bear all cost and liability for any damages resulting from delayed notification or failure to so notify. **Patents:** You agree to indemnify and hold harmless BSH (including its customers and distributors) against all liability, loss, and expense (including attorneys’ fees) by reason of any claim, action, or litigation arising out of any alleged or actual, direct or contributory infringement of patents, inventions, trade secrets, copyrights, trade dress and all other intellectual property rights, arising from the services, purchase, use or sale of works and deliverables provided by You. In case the purchase, use or sale of said works and deliverables, or any part thereof, is held to constitute infringement or is enjoined, You shall, at Your own expense, procure for BSH the right to continue the unrestricted purchase, use, distribution and sale of such works and deliverables, or, upon BSH’s written approval, modify such works and deliverables so they are wholly non-infringing. If this order involves experimental, development or research activities, including engineering related thereto, all information developed in the course thereof shall be owned by BSH and be deemed confidential and proprietary information of BSH, whether patented or not, and You shall fully cooperate (and cause Your employees to cooperate) in executing any documents and taking any other actions necessary or convenient to patent or otherwise perfect or protect for the sole and exclusive benefit of BSH any inventions conceived, developed or reduced to practice in performance of this purchase order/scheduling agreement. If this order does not involve such experimental, development or research activities, but works and deliverables are produced in accordance with drawings or specifications furnished by You, You hereby grant to BSH an irrevocable, non-exclusive and royalty-free license to make, have made, use and sell any improvements in the works and deliverables which is conceived, developed, or reduced to practice by You, as part of the consideration hereunder, so that BSH’s business will have continuity without interruption. **Defects/Hazards:** In any event You become aware (actual or constructive) of any hazard, danger or defect which could pose a danger to persons or property, You shall immediately notify BSH of such. In no event whatsoever shall BSH be restricted from fixing or recalling product that may (in BSH’s sole discretion) pose a danger to persons or property; in any such event of a fix or recall due to any defect or nonconformity, You shall be responsible for all related costs. **Law & Legal Compliance:** Each party shall comply with all laws, regulations, ordinances, or other governmental regulations now or hereafter applicable, and each party represents and warrants that it has the right and authority to enter into this Agreement. **Non-waiver:** In no event whatsoever shall any action, delay or omission waive any right of BSH at law or in equity. The laws of the province of Ontario, Canada, shall govern and control this Agreement. **Indemnification & Liability:** You shall indemnify and hold harmless BSH (including its officers, agents, employees, distributors, and affiliates), from and against any and all claims, losses, damages, liabilities, costs and expenses (including reasonable attorney fees and other expenses) arising out of your breach, negligence, willful misconduct, infringement, or which such parties may sustain or incur in connection with enforcement of these terms and conditions, or any other legal theory which may result in whole or part, from any act or omission on Your part. You shall carry comprehensive general liability insurance, including, contractual and product liability, with minimum limits reasonably acceptable to BSH, and shall, at BSH’s request, supply certificates of insurance evidencing such coverage. In no event whatsoever shall BSH be liable for consequential, incidental, indirect, punitive or special damages (including for loss of profits, data, business or goodwill), however caused including without limitation for breach of warranty, breach or repudiation of contract, detrimental reliance, tort, strict liability, failure of essential purpose or otherwise, and even if advised of the likelihood of such damages. **Safety:** All suppliers and suppliers’ representatives shall be required to observe all BSH safety regulations and to take the BSH safety training prior to entering the manufacturing facilities. **Confidentiality:** This Agreement, including its terms and conditions, shall be confidential. You acknowledge that in relation to the course of performing its obligations hereunder, it may receive information which is confidential and proprietary to the BSH (“Confidential Information”). Confidential Information includes all non-public business information of BSH in any format whatsoever (whether now known or hereafter devised), including without limitation business plans, new product development, planned advertising campaigns, planned pricing changes, financial and strategic planning documents, know-how, technical specifications, BSH research and market data, BSH’s finances and earnings, and other information unique and confidential to BSH. Confidential Information shall include without limitation that which is: (i) orally communicated; (ii) obtained by the receiving party through visual or aural observations while on the other party’s property; and (iii) all business records or materials, or copies thereof, including in any format whatsoever whether now known or hereafter devised. Confidential Information shall not include any information which: (a) becomes generally available to the public through no wrongful act of You; (b) which is already lawfully in Your possession and not subject to this Agreement or to any other agreement between the parties; (c) which is received from a third party through no wrongful act of the third party or You, and without restriction or breach of this Agreement; or (d) which is independently developed by You without reference to BSH’s Confidential Information. You shall not use or disclose or provide any Confidential Information to any third party and shall take all necessary measures to prevent such disclosure by its employees and agents. To the extent You have access to personal data, You shall comply with all privacy laws. **Open Source Software:** You warrant that your goods and/or services includes only Free and Open Source Software and provide all licenses necessary to use such software. **Harmful Software Code:** You will not (Yourself, nor authorize others to) install or utilize malicious data, code, monitoring capabilities, or software programs onto or within BSH’s computer systems (including its affiliates and representatives), including without limitation, spyware, or other surveillance programs, damaging codes, worms, “Trojan Horses,” or “time bombs,” or other destructive or harmful programs, or programs which violate BSH’s privacy rights or the privacy rights of BSH employees, customers, or vendors.