

SERVICE AGENT CONDITIONS

1. DEFINITIONS

In these Conditions:

Customer Service Representative means BSH's nominated customer service representative(s) made known to the Service Agent from time to time;

Agreement means the Service Request Job Card and these Conditions including any Schedules or Annexure to them;

Approvals means every licence, concession, permit, approval, authority and consent forming part of the Services or necessary to perform the Services in accordance with the Law;

Approved Products means the specific BSH Brands of BSH Products that the Service Agent is requested by BSH to conduct the Services on prior to being conducted;

BSH includes its agents, affiliates, successors and assignees.

BSH Approved Spare Parts means original, new spare parts supplied by BSH for the BSH Products;

BSH Authorised Service Agents means specialised service providers that are required to be qualified, experienced and trained to service and repair the BSH Products and specifically authorised by BSH to provide the Services for the BSH Products;

BSH Brands means Bosch, Siemens, Gaggenau and Neff and will also include all home appliances carrying a brand name under which BSH is selling / marketing or has previously sold / marketed within Australia;

BSH Products means home appliances sold and marketed by BSH within Australia under the BSH Brands;

Business Day means Monday to Friday inclusive excluding gazetted public holidays in Victoria;

Commencement Date has the meaning given in Schedule A, Item 1;

Confidential Information means any trade secret, financial, business, confidential or other information or data, whether technical or commercial in nature, belonging to or concerning the business operations or affairs of, or otherwise relating to, the other party or any corporation related thereto, their customers or any other business organisations (or any one of them) acquired by virtue of its relationship with the other party;

Consumer(s) means end-users that purchase a BSH Product:

(a) in Australia through a BSH authorised Australian retailer / distributor; and

(b) that is compliant with the Law and Standards in the State / Territory where the Product is situated when requiring Services, unless otherwise agreed by BSH in writing prior or as required by Law;

Designation has the meaning given in clause 2.1;

End Date means the date specified in Item 2 of Schedule A;

Intellectual Property Rights means all statutory and other rights in respect of all artwork, patents, trade marks, service marks, trade names, technology, processes, products, circuit layouts, registered designs, design rights, copyright, inventions, improvements, works, trade secrets, ideas, concepts and know-how which are conceived, created or developed by the Service Agent solely or jointly with another in providing the Services;

Law means any applicable laws, statutes, rules, codes, regulations, by-laws, orders, awards, Approvals and proclamations relating to the Service Agent, the Services, the Products and the Relevant Area including the *Competition and Consumer Act 2010 (Cth)*, the *Privacy Act 1988 (Cth)* and laws relating to health, safety and environment, as applicable;

Non-Warranty Services means any services other than the Warranty Services;

Personnel means employees, agents, sub-contractors, consultants (including employees of those sub-contractors and consultants), directors, officers and sub-licensees (and anyone acting on behalf of or at the direction of that party);

Product Warranty means the warranty provided by BSH with the applicable Approved Product copies of which are available by contacting BSH or by going to the relevant brand website i.e. www.bosch-home.com.au ; www.siemens-home.bsh-group.com/au ; <http://www.neff.com.au/> and www.gaggenau.com/au (as applicable to the Agreement) and specifically excludes any extended warranty unless provided by BSH or approved by BSH in writing prior;

Records means all originals and reproductions of reports, correspondence, information and documents, service manuals, technical information, specifications, which originate or are developed / provided for the provision of the Services;

Repair Cost Thresholds means the amounts specified in Item 6 of Schedule A;

Services means Warranty Services and / or Non-Warranty Services for Approved Products as determined by BSH and specified in the Service Request Job Card or otherwise notified by BSH in writing prior to being undertaken;

Service Fee means the applicable fee specified in Schedule A, Item 3;

Service Request Job Card means the job card sent by BSH to the Service Agent requesting the Services;

Standards means any applicable standards in the Relevant Area relating to the Products or the Service Agent's provision of the Services;

Term has the meaning given in clause 2.2; and

Warranty Services means those warranty obligations which BSH has agreed to meet under the Product Warranty or as required by Law and specifically excludes any extended warranty unless provided by BSH or approved by BSH in writing prior.

2. TERM AND DESIGNATION

2.1 The parties acknowledge and agree that the Service Agent is appointed as a non-exclusive and independent "BSH Authorised Service Agent" (or such other term as agreed by BSH e.g. "Bosch Authorised Service Agent") (**Designation**) and is granted the right to identify itself as such in accordance with the conditions outlined in clause 14.2.

2.2 the Agreement commences on the Commencement Date and will continue until the End Date unless terminated prior in accordance with the Agreement (**Term**).

3. TERMINATION

3.1 BSH may terminate the Agreement by providing the Service Agent with five days written notice if:

- (a) the Service Agent fails to perform, or breaches a term or condition of the Agreement, and fails to remedy that breach or failure to perform within five days of BSH requesting the breach or failure to perform be rectified;
- (b) the Service Agent assigns, transfers or sub-contracts its rights or obligations under the Agreement to a third party without the prior, express written approval of BSH;
- (c) the Service Agent disposes of the whole or any substantial part of its assets, operations or business other than in the ordinary course of its business; or
- (d) there is a change in the direct or indirect beneficial ownership or control of the Service Agent.

3.2 BSH may terminate the Agreement with immediate effect if:

- (a) the Service Agent commits wilful misconduct, or fraud, or is negligent, or is dishonest in connection with the provision of the Services under the Agreement;
- (b) the Service Agent ceases to carry on business;
- (c) Not Used;
- (d) the Service Agent ceases to be able to pay its debts as they become due;
- (e) any step is taken to enter into any arrangement between the Service Agent and its creditors;
- (f) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, an administrator or other like person of the whole or any part of the Service Agent's assets or business; or
- (g) any representation or warranty made in the Agreement or in any certificate, statement or other document delivered in connection with the Agreement is, or proves to have been incorrect in any material respect without a satisfactory reason being provide to BSH (to be determined by BSH acting reasonably).

3.3 This Agreement may be terminated with or without cause by either party by providing the other party with five days written notice of its intention to do so.

4. CONSEQUENCES OF EVENTS OF DEFAULT OR TERMINATION

Upon termination of the Agreement the Service Agent must:

- (a) promptly, without charge, return any Records and any other goods, materials or equipment that were supplied to the Service Agent by BSH or arranged for the Service Agent by BSH;
- (b) pay any monies owed to BSH within seven days of the date of termination; and
- (c) Not Used.

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5. DUTIES AND RESPONSIBILITIES OF THE SERVICE AGENT

The Service Agent must, in accordance with the Law and Standards:

- 5.1 provide the Services in accordance with the Agreement in respect of the Approved Products:
 - (a) Not Used;
 - (b) so long as proof of purchase / ownership of the Approved Product has been verified by BSH and the Service Agent prior to the Services being undertaken;
 - (c) only after BSH has issued a Service Request Job Card to the Service Agent; and
 - (d) so long as the Approved Products are compliant with the relevant Standards and the Law for the location within which they are installed or to be installed (e.g. the Service Agent must not repair independently imported appliances that lack the required certifications, approvals etc. required for the location within which they are installed or to be installed);
- 5.2 represent BSH and the BSH Brands in an efficient and professional manner at all times when dealing with BSH and Consumers so as to uphold and maintain the BSH Brands;
- 5.3 notify BSH promptly if the Service Agent is requested by BSH to conduct Services to an Approved Product that the Service Agent is not authorised to conduct Services to under the Agreement;
- 5.4 at its sole cost, employ Personnel that are suitably skilled, trained, experienced and qualified and ensure that they hold all current applicable licenses and certifications required by Law to carry out the Services in the Relevant Area;
- 5.5 notify BSH prior to repairing, where it is anticipated that the total cost of the Services may exceed the Repair Cost Thresholds so that BSH may make a judgement as to whether or not to direct the Service Agent to repair, or alternatively BSH may elect to replace the relevant Approved Product;
- 5.6 promptly provide to BSH a detailed report if the Service Agent is unable to rectify the issues with a Consumer's BSH Product during the first attendance. The report must state the errors / issues diagnosed, the Service Agent's recommended actions and estimated time for a follow up attendance;
- 5.7 use only BSH Approved Spare Parts when conducting the Services both during and after the warranty period stated in the Product Warranty in order to maintain product safety, quality and reliability of operation and in so doing avoid the risk of adversely impacting BSH's and the BSH Brands' reputation in the market-place and must not re-use parts, have them reconditioned etc.;
- 5.8 clearly tag, identify and keep all faulty BSH Approved Spare Parts charged to BSH as "warranty replacement" for a period of ninety days and to permit BSH (or its nominee) to conduct an audit at the Service Agent's premises of such BSH Approved Spare Parts during that period with twenty-four hours prior notice and cooperate with BSH should it wish to collect the faulty BSH Approved Spare Parts charged to BSH as "warranty replacement" within the ninety days;
- 5.9 utilise such tools, information and systems in order to effectively and efficiently identify Approved Product part numbers, repair information and other information required to provide the Services to Consumers effectively and efficiently;
- 5.10 charge a fair and reasonable market price for the Services provided to Consumers outside of Product Warranty so as to not adversely impact BSH's reputation in the market-place;
- 5.11 provide to BSH upon request any and all relevant information relating to Consumers and Services carried out by the Service Agent and the Service Agent also agrees to co-operate with BSH in collecting Consumer satisfaction data by distributing a "Customer Satisfaction Survey" to Consumers as may be requested by BSH;
- 5.12 maintain a permanent place of business in a building and at a location which the Service Agent has obtained all necessary Approvals and is legally permitted to use for the business of conducting the Services, which services customers by telephone and in person and stores BSH Approved Spare Parts in a safe and proper manner;
- 5.13 not alter, obscure, remove, conceal or otherwise interfere with the marking or name plates or other indication of the source of origin of the Approved Products;
- 5.14 ensure that its Personnel are trained in order to conduct the Services to BSH Products in accordance with the Agreement; and
- 5.15 promptly notify BSH if the Service Agent becomes aware of any 'out of the ordinary', ongoing repeat failures or other unusual behaviour or performance of BSH Approved Spare Parts or BSH Products to assist BSH to manage such issues proactively.
- 5.16 In addition to providing the Services in respect to Approved Products, the Service Agent may be requested to provide additional services to BSH under the Agreement in which case the scope of any additional services to be provided, and the fees payable to the Service Agent in respect of such services, will be agreed in writing between the parties prior to the provision of those services by the Service Agent.

6. GENERAL OBLIGATIONS OF THE SERVICE AGENT

The Service Agent must:

- 6.1 treat all information received by, or discussed with BSH, as confidential and not communicate such information in any written, verbal, or electronic form without the prior written consent from BSH. The Service Agent will undertake all necessary and reasonable action to safeguard BSH Confidential Information from third parties and will use that information solely for the purpose of performing its obligations under the Agreement;
- 6.2 use the BSH name and the BSH Brands for the sole purpose of performing its obligations under the Agreement;
- 6.3 indemnify and hold harmless BSH, its agents, employees, distributors and dealers from any claims, demands, damages, expenses (including legal fees), legal actions and losses arising out of, or resulting from, or in connection with, any breach by the Service Agent of its duties or obligations under the Agreement, including negligence in or omission in performing its obligations under the Agreement or contravention of Law;
- 6.4 not make any false, misleading or fraudulent claims or comments in relation to BSH, the BSH Brands, the BSH Products or Services, or any claims or comments that are disparaging or that may damage the reputation or standing of BSH, the BSH Brands, the BSH Products or Services;
- 6.5 not incur any liability on behalf of BSH or in any way pledge or purport to pledge BSH's credit or accept any order or make any contract binding on BSH without BSH first approving of such arrangement in writing;
- 6.6 promptly bring any improper or wrongful use of BSH's Intellectual Property Rights which come to the Service Agent's attention, to the attention of BSH and will use all reasonable endeavours to safeguard the Intellectual Property Rights and interests of BSH;
- 6.7 perform its obligations under the Agreement with due care and skill and in accordance with all applicable laws, regulations, orders and rules with which the Service Agent is legally required to comply;
- 6.8 provide Consumers with written proof of work carried out and costs charged e.g. job card specifying the rates, charges, parts replaced, duration of work etc.;
- 6.9 at the request of BSH supply to BSH reports or other information relating to the Service Agent's dealings pursuant to the Agreement;
- 6.10 act diligently in conducting the Services and as a Service Agent to BSH including, but not limited to, assessing Consumer's claims for Services under Product Warranty or the Law;
- 6.11 Not Used; and
- 6.12 obtain BSH's written consent prior to the use of any BSH Intellectual Property Rights for example, but not limited to, in any documentation published, posted online, in any form of advertising conducted or by any other means used by the Service Agent.

7. DUTIES AND RESPONSIBILITIES OF BSH

BSH will:

- 7.1 reimburse the Service Agent for Services to Approved Products by paying the applicable Service Fee to the Service Agent in accordance with Schedule A, Item 4;
- 7.2 reimburse the Service Agent for the first / original visit to the Consumer's premises only in accordance with the rates set out in Schedule A, Item 3 "Service Call" and any further visits or travel required by the Service Agent to complete the relevant Services are not claimable from BSH;
- 7.3 reimburse the Service Agent for undertaking the Services for labour as applicable in accordance with the rates set out in Schedule A, Item 3 "Labour";
- 7.4 subject to BSH approving the Services being performed outside the Relevant Area prior to them being performed, reimburse the Service Agent for reasonable travel charges where the Services are performed outside the Relevant Area at the rate specified in Schedule A, Item 3 "Remote Travel Rate";
- 7.5 reimburse the Service Agent for sundry items at the rate specified in Schedule A, Item 3 "Reimbursement for Sundry Items";
- 7.6 sell the Service Agent BSH Approved Spare Parts at the prices specified in Schedule A, Item 5 "Discounted BSH Approved Spare Parts" on the condition that:
 - (a) all BSH Approved Spare Parts are sold to the Service Agent under BSH's Terms of Delivery and Sale (available at www.bosch-home.com.au); and
 - (b) BSH Approved Spare Parts used for Warranty Services must be claimed back by the Service Agent and must be clearly documented on the warranty job sheet specified / provided by BSH. The amount of reimbursement will include a handling / stocking fee payable to the Service Agent and calculated in accordance with Schedule A, Item 3 "Reimbursement for BSH Approved Spare Parts used for Warranty Services"; and
- 7.7 refuse payment for any Services where BSH Approved Spare Parts have not been used or such Services have not been approved by BSH prior to being undertaken, unless specifically approved by BSH in writing prior.

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8. VERIFICATION OF PRODUCT WARRANTY CLAIMS

- 8.1 The Service Agent will verify with the Customer Service Representative **all** requests for Product Warranty made by a Consumer in connection with an Approved Product prior to performing any Warranty Services.
- 8.2 The Service Agent will reject all Product Warranty claims if the requested Warranty Services are not covered by the terms of the Product Warranty for the relevant Product, except in such cases that BSH has specifically approved otherwise in writing prior requesting that the Service Agent conduct Warranty Services to the relevant Approved Product regardless of the Product Warranty. Typically, but not always or only, Warranty Services would not be provided when:
- (a) an Approved Product is out of the specified Product Warranty period;
 - (b) the Consumer is responsible for the Product's defect or failure to operate normally;
 - (c) the Approved Product is operating within manufacturing specifications; or
 - (d) unauthorised attempts to repair the Approved Product have been made.

9. SERVICE AGENT JOB RESPONSE TIME

BSH may request details from the Service Agent to verify the Service Agent's response time and the Service Agent must promptly provide such details to BSH.

10. WARRANTIES

- 10.1 Subject to any additional warranty required to be provided by the Service Agent under Law e.g. but not limited to the *Competition and Consumer Act 2010 (Cth)*, the Service Agent warrants that for a period of ninety days from the date that the relevant Services were performed, the Approved Product will be free from defects or omissions in performance, workmanship and materials and will remain in good working order and operating condition, in so far as the specific Services performed are concerned (**Service Guarantee**) and that the Service Agent will promptly rectify, at its sole cost, any failures in the Service Guarantee.
- 10.2 If a Spare Part used for Services fails within the ninety day Service Guarantee period, or if the Approved Product requires Service for a different fault within the ninety day Service Guarantee period or due to the Law (as determined by BSH prior), the Service Agent will be permitted to charge BSH an additional Service Fee in accordance with Schedule A. Any fault that reoccurs within the ninety day Service Guarantee period that is attributable to the Service Agent's acts or omissions in performance or workmanship will be repaired at the Service Agent's sole cost.
- 10.3 The Service Agent will not have any claim for payment against BSH for Non-Warranty Services. Non Warranty Services performed by the Service Agent must be charged to the Consumer at fair and reasonable industry standard rates for services of a similar nature.
- 10.4 The Service Agent must provide the Services:
- (a) safely in accordance with the Law and Approvals;
 - (b) promptly,
 - (c) diligently; and
 - (d) in a proper, workmanlike and professional manner at all times.
- 10.5 The Service Agent warrants that:
- (a) it has informed itself of BSH's requirements for the provision of the Services to Consumers for the Approved Products pursuant to the Agreement; and
 - (b) the Service Agent has the specific skills, qualifications, experience, Personnel and resources to provide the Services for the Approved Products in accordance with the Agreement.
- 10.6 The Service Agent will at its sole cost comply with, and ensure that the Services comply with, the Law and Standards and that all necessary Approvals (including any condition or requirement under them) have been obtained.
- 10.7 The Service Agent will notify BSH promptly of any matter which may materially affect the performance by the Service Agent of its obligations under the Agreement.

11. QUALITY ASSURANCE

- 11.1 The Service Agent will maintain a high standard of quality in the performance of those Services.
- 11.2 The Service Agent will use technically competent, experienced, qualified and trained Personnel to perform the Services.

12. NON-ASSIGNMENT, TRANSFER and SUB-CONTRACTING

The Service Agent must not assign, transfer, sub-contract or otherwise dispose of any of its rights or obligations under the Agreement without the prior written consent of BSH, which may be withheld or provided conditionally as determined by BSH.

13. INDEMNITIES

- 13.1 BSH will not be responsible for the acts, omissions or defaults of the Service Agent or its Personnel, nor, to the extent permitted by law, will BSH be liable for any claim, loss, damage, cost or expense (whether arising under statute, from negligence, personal injury, death, property damage or infringement of third party rights or otherwise) arising from any act, matter or thing done, or permitted or omitted to be done, by the Service Agent or its Personnel pursuant to, in default of or in connection with the Agreement.
- 13.2 The Service Agent indemnifies and must keep indemnified BSH against all such claims, loss, liability, damage, cost or expense which may be incurred or sustained by BSH arising from any act, matter or thing done, or permitted or omitted to be done, by the Service Agent or its Personnel pursuant to, in default of or in connection with the Agreement except to the extent caused or contributed to by BSH.

14. STATUS OF SERVICE AGENT

- 14.1 Nothing contained in the Agreement will create an employer / employee, joint venture, partnership or agency relationship between BSH and the Service Agent and neither party will represent that it is the employer / employee, joint venturer, partner or agent of the other party.
- 14.2 During the Term the Service Agent will be entitled to describe itself utilising the Designation but must not describe itself as an employee of, partner of, or joint-venturer with BSH or the BSH Brands, or by its conduct or words indicate the existence of any employer / employee, partnership or joint venture relationship with BSH or the BSH Brands.

15. CONFIDENTIALITY

- 15.1 Each of the parties undertakes to and agrees with the other that it will not disclose at any time, either during the term of the Agreement or thereafter, any Confidential Information without first obtaining that party's written consent, which may be given on such conditions as that party thinks fit, except where such disclosure is specifically required by law or has become public knowledge by reason of any event other than the default of the disclosing party.
- 15.2 The operation of this clause 15 will survive the termination of the Agreement.

16. GOODS AND SERVICES TAX

- 16.1 In this clause 16 and the rest of the Agreement, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* has the meaning given to it in that Act.
- 16.2 If a party makes a supply under or in connection with the Agreement in respect of which GST is payable, the consideration for the supply but for the application of this clause 16.2 (**GST exclusive consideration**) is increased by the amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- 16.3 If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for, the loss, cost or expense and then increased in accordance with clause 16.2.
- 16.4 A party need not make payment for a taxable supply made under or in connection with the Agreement until it receives a valid tax invoice for the supply to which the payment relates.

17. WAIVER

- 17.1 The failure of a party at any time to require any performance by the other party of a provision of the Agreement will not affect in any way the full right of the waiving party to require that performance subsequently.
- 17.2 The waiver by either party of a breach of a provision will not be deemed a waiver of all or part of that provision or any other provision or of the right of that party to avail itself of its rights subsequently.
- 17.3 No right under the Agreement will be deemed to be waived unless it is in writing signed by the party granting the waiver and will be effective only to the extent specifically set out in that waiver.

18. SEVERABILITY

- 18.1 If any provision of the Agreement is held invalid, unenforceable or illegal for any reason, but is capable of being read down, it will be read down to the extent necessary to render it binding and enforceable.
- 18.2 If any provision of the Agreement is capable of being read down, then such word or words or, if required, the whole provision will thereupon be severed and

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the remainder of the Agreement will otherwise remain in full force and effect.

19. NOTICES

- 19.1 A notice, demand, consent, approval or communication under the Agreement (**Notice**) must be:
- (a) in writing, in English and signed by a person duly authorised by the sender; and
 - (b) hand delivered or sent by prepaid post or facsimile to the recipient's address for Notices specified in the Agreement, as varied by any Notice given by the recipient to the sender.
- 19.2 Subject to clause 19.3, a Notice given in accordance with clause 19.1 takes effect when taken to be received (or at a later time specified in it), and taken to be received:
- (a) if hand delivered, upon delivery;
 - (b) if sent by pre-paid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside of Australia); or
 - (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight business hours after the transmission, the recipient informs the sender that they have not received the entire Notice.
- 19.3 If the delivery, receipt or transmission is not on a Business Day or is after 5:00PM on a Business Day, the Notice is taken to be received at 9:00AM on the next Business Day.

20. INSURANCE

20.1 Insurance of plant and equipment

- (a) The Service Agent must take out and maintain, for the Term, an insurance policy to cover the plant and equipment owned by or in the possession, custody or control of the Service Agent (other than plant and equipment entrusted to the Service Agent by BSH) which is used or intended to be used for the purpose of performing the Agreement
- (b) The insurance cover required in accordance with clause 20.1 (a) must be for an amount not less than the replacement value at the time of loss or damage of such plant and equipment.

20.2 Insurance of Motor Vehicles

- (a) The Service Agent must ensure that any motor vehicles used pursuant to the Agreement are insured, for the Term, in respect of damage to property or death or bodily injury arising from their use.
- (b) The insurance cover required under clause 20.2(a) must be for an amount not less than \$20 million and any compulsory third party insurance cover must be for an amount not less than the amount required by law.

20.3 Public and products liability insurance

- (a) The Service Agent must take out and maintain, for the Term, a public and products liability insurance policy against liability to any third party (including BSH) for:
 - (i) death or bodily injury to, and
 - (ii) loss and destruction of, and damage to, property of,any person as a result of any act, matter or thing done, permitted or omitted to be done by the Service Agent or its Personnel pursuant to or in connection with the Agreement.
- (b) The public and products liability insurance policy must be for an amount not less than \$20 million per occurrence and, in the case of products liability, in the aggregate for each 12 month period of insurance.

20.4 Workers compensation insurance

The Service Agent must take out and maintain for the Term insurance covering liability, whether at common law or under any statute relating to worker's compensation or employer's liability, arising from death or personal injury to the Service Agent's Personnel in connection with the performance of the Agreement for an amount not less than the minimum statutory requirements.³

20.5 Other insurance

In addition to the insurances specified in clauses 20.1 to 20.4, the Service Agent must take out and maintain all additional insurances required by Law in order to perform the Agreement.

20.6 Sub-contractors' insurance

The Service Agent must ensure that its sub-contractors (if any) take out and maintain insurance containing like terms and cover (to the extent applicable) to that required under clause 20.

20.7 Miscellaneous

- (a) The Service Agent must pay all premiums and other costs incurred by the Service Agent in connection with insurance which it is obliged to effect under the Agreement.
- (b) The Service Agent will be responsible for any excess or deductible in respect of any claim made under any policy of insurance required under this clause 20.
- (c) The Service Agent must ensure that each insurance policy specified in clause 20, except for statutory insurances, is:
 - (i) taken out with a reputable insurer; and
 - (ii) on terms specified in the Agreement or, if not so specified, provides a reasonable and appropriate level of cover having regard to the risks assumed by the parties in relation to the performance of the Agreement.
- (d) On request by BSH the Service Agent will provide to BSH evidence of insurance required under this clause 20. However, for the avoidance of doubt, acceptance or otherwise of such evidence of insurance must not limit or affect the Service Agent's obligations pursuant to clause 20 or otherwise
- (e) If any event occurs which may give rise to a claim under any policy to be taken out by the Service Agent under clause 20, then the Service Agent must notify BSH within 14 days of that event and ensure that BSH is kept fully informed of any subsequent actions and developments concerning the relevant claim.
- (f) The taking out of insurance pursuant to clause 20 does not limit the liabilities or obligations of the Service Agent under other provisions of the Agreement.

21. USE OF TRADEMARKS

- 21.1 The Service Agent acknowledges that the Trade Marks are the property of BSH Hausgeräte GmbH of Munich and / or its affiliates (**BSH-D**) who has granted BSH the right to use them in the distribution of the BSH Products.
- 21.2 Subject to this clause 21, BSH grants the Service Agent a personal, non-transferable, royalty free, non-exclusive right to use the Trade Marks in the Relevant Area and for the Term in connection with the provision of the Services only to the extent necessary to perform the Services in accordance with the Agreement.
- 21.3 The Service Agent must observe all reasonable directions notified to it by BSH regarding the manner in which the Service Agent uses the Trade Marks.
- 21.4 The Service Agent must not make any references to BSH-D, BSH, subsidiaries or related bodies corporate to BSH-D, Bosch or Siemens, or to the Trade Marks, on the Service Agent's stationery, promotional or sales material, website or other electronic medium or printed material without the prior written approval of BSH.
- 21.5 The Service Agent must only use the Trade Marks in designs, formats or any other layouts or forms approved in advance by BSH.
- 21.6 Upon termination of the Agreement for any reason whatsoever, the Service Agent must immediately cease to use in any manner whatsoever the Trade Marks and the names Bosch and Siemens, as well as any other trade marks in which BSH has any rights which the Service Agent has been authorised to use by BSH.
- 21.7 In this clause 21, **Trade Marks** means each trade mark (both registered and unregistered), trade mark application, service mark, sign and trade name applied to a BSH Product or the packaging and accompanying items and materials for a BSH Product.

22. MISCELLANEOUS

- 22.1 The Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties and will govern the parties' agreement to the entire exclusion of all other terms or conditions.

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- 22.2 No other terms or conditions endorsed upon, referred to, delivered with or contained in the Service Agent's quotation, acknowledgement or acceptance of order, specification, invoice or other correspondence or document will form part of the Agreement and the Service Agent waives any right which it otherwise might have to rely on such terms and conditions.
- 22.3 The Agreement may not be supplemented or modified in any way except by a document in writing signed by the Service Agent and by an authorised representative of BSH.
- 22.4 The Agreement is governed by and construed in accordance with the laws of Victoria, Australia and the parties submit to the non-exclusive jurisdiction of the courts of Victoria.
- 22.5 Each party must do or cause to be done all such acts or things necessary to give effect to this Agreement.
- 22.6 The Agreement may be executed in any number of counterparts. All counterparts will constitute one instrument.

SCHEDULE A

Item 1	Commencement Date	The date that BSH sends the relevant Service Request Job Card to the Service Agent.
Item 2	End Date	30 days after BSH pays the Service Agent for the relevant Services.

Item 3	Service Fee (clauses 7.2 – 7.6)	
Service Call (clause 7.2)		
Bosch, Neff, Siemens		\$70.00 (exc. GST)
Gaggenau		\$90.00 (exc. GST)
Labour - each consecutive 15 minutes (clause 7.3)		\$20.00 (exc. GST)
Remote Travel Rate - for Services performed outside the Relevant Area (clause 7.4)		To be agreed in writing by the parties prior to being incurred or charged by the Service Agent.
Reimbursement for Sundry Items - e.g. gas / welding materials used for Warranty Services (clause 7.5)		Reimbursed by BSH at cost charged to Service Agent
Reimbursement for BSH Approved Spare Parts used for Warranty Services (clause 7.6(b))		Service Agent Purchase Price plus 10% handling fee (exc.GST)

Note: BSH may vary its rates from time to time, and will notify the Service Agent if, and when, the rates are varied by providing no less than 30 day's notice.

Item 4	Service Fee Payment Terms (clause 7.1)
<p>BSH will pay the relevant Service Fee after the Service Agent performs the relevant Services, within sixty days of BSH receiving a request for payment from the Service Agent, subject to the Service Agent providing BSH full and complete information pertaining to the Services carried out as may be requested by BSH including those details specified in the Service Request Job Card.</p> <p>BSH will issue the Service Agent with a Recipient Created Tax Invoice (RCTI) after receiving the information.</p> <p>Note: <i>BSH will issue the Service Agent with a Recipient Created Tax Invoice (RCTI) after receiving the information specified above in this Item 4. Claims made more than sixty days after the Services were performed may be rejected by BSH.</i></p>	

Item 5	Discounted BSH Approved Spare Parts
Discounted BSH Approved Spare Parts (clause 7.6)	20% off current BSH List Price (exc.GST)

Item 6	Repair Cost Thresholds (clause 5.5)
Approved Products that are either:	
(a) Small appliances and vacuum cleaners; <u>or</u>	\$200.00 (exc. GST) to repair including parts labour.
(b) Washing machines, clothes dryers, gas and electric cook tops, microwave ovens, range-hoods, dishwashers, electric wall ovens, refrigerators and coffee machines	\$500.00 (exc. GST) to repair including parts labour.