

VW/cp/VWB00047 16042018 (4)

WARRANTY TERMS AND CONDITIONS

IN THIS AGREEMENT THERE ARE CERTAIN CLAUSES OF SIMILAR FONT AND COLOUR TO THIS TEXT WHICH CONTAIN PROVISIONS THAT MAY HAVE THE EFFECT OF (I) LIMITING THE RISK OR LIABILITY OF BSH OR OF ANY OTHER PERSON AND/OR (II) MAY CONSTITUTE AN ASSUMPTION OF RISK OR LIABILITY BY YOU AND/OR (III) MAY IMPOSE AN OBLIGATION ON YOU TO INDEMNIFY BSH OR ANY OTHER PERSON FOR ANY CAUSE AND/OR (IV) MAY BE AN ACKNOWLEDGEMENT OF ANY FACT BY YOU. THESE PROVISIONS ARE VERY IMPORTANT AND YOU MUST ENSURE THAT YOU READ THEM CAREFULLY AND THAT YOU UNDERSTAND THEM CLEARLY.

1. DEFINITIONS & INTERPRETATION

1.1 Unless such meaning is inconsistent with the context, the following terms shall, throughout this **BSH WARRANTY**, have the meanings respectively ascribed to them, namely:

1.1.1 “**AUTHORIZED SERVICE PERSONNEL**” means the staff authorized by **BSH**, who have been sufficiently trained to repair the **PRODUCT(S)**, and as are appointed and/or accredited as such by **BSH** from time to time;

1.1.2 “**AUTHORISED SERVICE CENTRE**” means the place of repair as appointed and/or approved by **BSH** from time to time;

1.1.3 “**BSH**” means **BSH HOME APPLIANCES (PTY) LTD** (Registration Number: 1985/05742/07);

1.1.4 “**BSH WARRANTY**” means this agreement and any annexures, schedules and/or amendments thereto;

1.1.5 “**COMMENCEMENT DATE**” means the date upon which the **CUSTOMER** purchases the **PRODUCT(S)**;

1.1.6 “**CPA**” means the Consumer Protection Act, 86 of 2008 (as amended);

1.1.7 “**CUSTOMER**” means the person who purchases **BSH’S PRODUCT(S)** from a reseller and/or distributor, who is authorised by **BSH** or any of its related companies to do so;

1.1.8 “**EXTENDED WARRANTY PERIOD**” means the defined time period in which certain **PRODUCT(S)** have an extended warranty for purposes of this **BSH WARRANTY**, as set forth in clause 7 below;

1.1.9 “**PRODUCT(S)**” means the products of **BSH**, which form part of the subject matter of this **BSH WARRANTY**;

1.1.10 “**STANDARD WARRANTY PERIOD**” is the period in which this **BSH WARRANTY** applies, and which differs depending upon the type of **PRODUCT** specified in clause 7 as read with Appendix 1 hereto.

1.2 In this **BSH WARRANTY** unless the context otherwise requires –

1.2.1 The singular shall import and include the plural and vice versa;

1.2.2 Words indicating natural persons shall import and include juristic persons;

1.2.3 Clause headings are for reference only and do not affect interpretation;

1.2.4 Where any number of days is prescribed in this **BSH WARRANTY**, they shall be calculated exclusive of the first day and inclusive of the last day unless the last day falls on a Saturday, Sunday or public holiday. On such day the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;

1.2.5 The rule of construction that this **BSH WARRANTY** shall be interpreted against the party responsible for the drafting or preparation of this **BSH WARRANTY** shall not apply. The same applies to the schedules or annexures.

1.3 This **BSH WARRANTY** constitutes the whole agreement between **BSH** and the **CUSTOMER** as to the subject matter hereof and no agreements, representations or warranties between **BSH** and the **CUSTOMER** other than those set out herein are binding on **BSH** and the **CUSTOMER**.

1.4 No addition to or variation, consensual cancellation or novation of this **BSH WARRANTY** and no waiver of any right arising from this **BSH WARRANTY** or its breach or termination shall be of any force or effect unless reduced to writing and signed by **BSH** and the **CUSTOMER** or their duly authorised representatives.

1.5 This **BSH WARRANTY** shall be governed by the laws of the Republic of South Africa, and accordingly, any dispute concerning the validity, existence, interpretation, rectification, breach or termination or any dispute arising out of this agreement, their avoidance, interpretation, rectification, breach or termination, shall be determined according to the laws of the Republic of South Africa.

2. CONSUMER PROTECTION ACT 68 OF 2008

2.1 If the **CPA** is applicable, the provisions of the **CPA** will be applied and take precedence where they contradict any provision of this **BSH WARRANTY**.

2.2 Nothing in this **BSH WARRANTY** is intended to or must restrict, limit or avoid any rights or obligations, as the case may be, created for either **BSH** or the **CUSTOMER** in terms of the **CPA**.

3. GENERAL

3.1 The **BSH WARRANTY** is confined only to the first purchase of the **PRODUCT(S)** and shall not be transferable to any subsequent purchase thereof.

3.2 It is hereby brought to the attention of the **CUSTOMER** that all **PRODUCT(S)**, which are subject to an **EXTENDED WARRANTY PERIOD** require that such warranty be activated on **BSH'S** online portal. These **PRODUCT(S)** are clearly defined in Appendix 2, as attached hereto.

3.3 The **BSH WARRANTY** period (both **STANDARD WARRANTY PERIOD** and **EXTENDED WARRANTY PERIOD**) starts from the **COMMENCEMENT DATE**.

3.4 The **BSH WARRANTY** covers only manufacturing defect(s) in material and workmanship that may arise from the normal operation and usage of the **PRODUCT(S)**, as prescribed in the operating manual of each respective **PRODUCT(S)**. The **CUSTOMER** specifically acknowledges that no warranty cover shall exist in instances where the **PRODUCT(S)** is stored, operated and/or utilised out of specification. This shall include (but not be limited to) any type of pest, rodent and/or insect infestation.

3.5 Repairs, installations and removal of the **PRODUCT(S)** shall only be carried out by **AUTHORIZED SERVICE PERSONNEL**, failing which this **BSH WARRANTY** shall be void.

3.6 Repairs and replacements of parts shall be at the discretion of the **AUTHORISED SERVICE PERSONNEL** only. **BSH'S** obligation under this **BSH WARRANTY** shall be limited to repair and providing replacement of defective parts only. It is hereby clarified that after the **STANDARD WARRANTY PERIOD**, visiting charges will be applicable for all visits and the same will be borne by the **CUSTOMER**. In the event that the **PRODUCT(S)** needs to be transported to the **AUTHORISED SERVICE CENTRE** for repair during the **EXTENDED**

WARRANTY PERIOD, the transportation charges from and to the place of installation shall be solely borne by the **CUSTOMER**.

3.7 The **CUSTOMER** shall provide a reasonable, sufficient and safe working space to access the **PRODUCT(S)** for the required service. The **CUSTOMER** is liable to move away all blocking objects or move the **PRODUCT(S)** to an appropriate location with electricity / gas/ water supply and drainage for testing of the **PRODUCT(S)**.

3.8 In the event that the repair cannot be completed at the **CUSTOMER'S** premises, the company reserves the right to remove the **PRODUCT(S)** from the **CUSTOMER'S** premises and to take them to its **AUTHORISED SERVICE CENTRE** and **BSH** shall return the same after repair.

3.9 In the event that the **PRODUCT(S)** are installed beyond municipal limits of the jurisdiction of **BSH'S AUTHORISED SERVICE CENTRE**, all expenses incurred in transportation of the **PRODUCT(S)** or parts thereof from and to **BSH'S AUTHORISED SERVICE CENTRE**, as well as expenses incurred on deputing of service personnel/technician towards conveyance and other incidental expenses, will be borne by the **CUSTOMER**.

3.10 Any repairs to the **PRODUCT(S)** and/or the replacement of any spare part, this shall only be warranted for the remaining **WARRANTY PERIOD**.

4. REPRESENTATION AND WARRANTIES

4.1 As from the **COMMENCEMENT DATE** hereof, **BSH** warrants that the **PRODUCT(S)** supplied in terms of the agreement shall be of **BSH'S** standard quality and are reasonably suitable for the purposes for which they are generally intended. In the event that defects are discovered in the **PRODUCT(S)** supplied (that were present at the **COMMENCEMENT DATE**), **BSH** shall within its own discretion either remedy the defect or supply defect free replacement **PRODUCT(S)**.

4.2 All **PRODUCT(S)** sold by **BSH** shall not be sold as "fit for any specific purpose" unless so agreed upon in writing.

4.3 The **CUSTOMER** bears the burden of proof that such defects were in fact present at the **COMMENCEMENT DATE**. In this regard, the notification requirements referred to in clause 5.1 shall be *prima facie* proof as to whether the **PRODUCT(S)** were defective at the **COMMENCEMENT DATE**.

4.4 Should defects be found without the require notification in terms of clause 5.1, the **CUSTOMER** shall bear the burden of proof to show that the defects were caused as a result of use for the designated purpose and that the **PRODUCT(S)** were utilised/operated as per the operating instructions and/or manual.

4.5 **BSH** makes no other warranty of any kind, express or implied, including without limitation, any warranty of merchantability, or non-infringement. **BSH** specifically makes no warranties as to any services or as to compliance with laws, regulations, standards and/or conventions including any related to the environment or to the packaging, labelling and/or transport of hazardous **PRODUCT(S)**. No warranty shall apply to shipping damage, damage caused by improper installation, **PRODUCT(S)** that have been modified or altered in any way, damage caused by corrosion, abrasion, or severe temperatures, or **PRODUCT(S)** that have been subjected to improper maintenance, abuse, misuse, abnormal usage, storage, insect, pest and/or rodent damage, or accident.

4.6 THE **CUSTOMER** WARRANTS THAT HE/SHE SHALL FULLY COMPLY WITH ALL LABEL DIRECTIONS FOR THE HANDLING, STORAGE, POSSESSION OR USE OF THE **PRODUCT(S)** HEREUNDER AND THE **CUSTOMER** AGREES THAT HE/SHE SHALL INDEMNIFY AND HOLD **BSH** HARMLESS FROM ALL CLAIMS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) OF PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM ANY NEGLIGENCE, RECKLESSNESS OR WILFUL MISCONDUCT ON THE PART OF THE **CUSTOMER** OR FROM ANY FAILURE OF THE **CUSTOMER** TO COMPLY WITH THE TERMS OF THIS **BSH WARRANTY**.

4.7 Specifications, illustrations and the like remain the property of **BSH** and may only be used for the purpose specified in the agreement and must be returned upon the request of **BSH**.

4.8 NO LIABILITY FOR DAMAGES WILL BE ATTRIBUTED TO **BSH** RESULTING FROM UNSUITABLE OR IMPROPER USE, IMPROPER ASSEMBLY AND IMPROPER COMMISSIONING OR HANDLING BY THE **CUSTOMER** OR BY THIRD PARTIES, NORMAL WEAR AND TEAR OR PREMATURE EROSION DUE TO THE NATURE OF THE MATERIAL OR THE NATURE OF ITS USE, IMPROPER OR NEGLIGENT HANDLING OR STORAGE, IMPROPER MAINTENANCE, DEFECTIVE CONSTRUCTION WORKS, UNSUITABLE BUILDING GROUND, EXPOSURE TO THE ELEMENTS, DAMAGE CAUSED BY INSECTS OR SIMILAR PESTS, CHEMICAL, ELECTRO-CHEMICAL OR ELECTRICAL INFLUENCES UNLESS **BSH** IS RESPONSIBLE FOR SUCH INFLUENCES.

5. RETURN OF PRODUCTS

5.1 THE PRECONDITIONS OF THE WARRANTY RIGHTS (CLAIMS BASED ON DEFECTS) OF THE **CUSTOMER** IN TERMS OF THIS **BSH WARRANTY** IS THAT THE **CUSTOMER** INSPECTS THE **PRODUCT(S)** UPON RECEIPT WITHOUT UNDUE DELAY AND GIVES WRITTEN NOTICE OF

ANY VISIBLE DEFECTS AFTER THE INSPECTION, SPECIFYING THE DEFECT. NOTIFICATION MUST BE GIVEN TO **BSH'S CALL CENTRE** WITHIN A PERIOD OF 3 (THREE) BUSINESS DAYS OF DELIVERY.

5.2 A PRECONDITION OF THE WARRANTY RIGHTS (CLAIMS BASED ON DEFECTS) OF THE **CUSTOMER** IN TERMS OF THIS **BSH WARRANTY** IS THAT THE **CUSTOMER** NOTIFIES **BSH** WITHIN 3 (THREE) DAYS OF THE DISCOVERY OF ANY LATENT (HIDDEN) DEFECTS OF THE **PRODUCT(S)**.

5.3 In the event that the **CUSTOMER** complies with clauses 5.1 and 5.2 above, and **BSH** is satisfied that the **PRODUCT(S)** are defective or do not conform to the specification or other description of the **PRODUCT(S)** on the invoice, then **BSH** shall, at **BSH'S** sole election, replace such **PRODUCT(S)** or repair such defective parts of the **PRODUCT(S)**.

5.4 Except insofar as any statute provides to the contrary the undertakings contained in the preceding paragraphs of this clause are given *in lieu* of and to the exclusion of all conditions, warranties and representations whether express or implied by statute or otherwise as to the quality of the **PRODUCT(S)** or their fitness for any particular purpose or otherwise and **BSH** shall have no liability in respect of the **PRODUCT(S)** save as provided in clause 5.3.

5.5 To enable **BSH** to perform all rework and replace all parts **BSH** deems necessary, the **CUSTOMER**, upon consultation with **BSH**, shall allow enough time and afford sufficient opportunity to **BSH** to remedy the defects. SHOULD THE **CUSTOMER** FAIL TO DO SO, **BSH** SHALL BE RELEASED FROM ANY LIABILITY OR CONSEQUENCES ARISING THERE FROM. Only in urgent cases involving endangering of the operational safety and/or to prevent unreasonably serious damage - in which case the **CUSTOMER** shall notify **BSH** immediately - shall the **CUSTOMER** be entitled to either remedy the defect itself or have such defect remedied by third parties and to demand compensation from **BSH** for the expenses incurred.

5.6 SHOULD THERE BE AN ALLEGATION THAT ANY **PRODUCT(S)** ARE UNSAFE, INSUFFICIENT AND/OR DEFECTIVE; **BSH** SHALL NOT BE LIABLE FOR ANY HARM CAUSED WHERE SUCH ALLEGED UNSAFE CHARACTERISTIC, FAILURE, DEFECT OR HAZARD DID NOT EXIST IN THE **PRODUCT(S)** AT THE TIME AT WHICH THEY WERE SUPPLIED TO THE **CUSTOMER** BY **BSH**. THEREFORE IF NO SUCH NOTIFICATION IS RECEIVED IN TERMS OF CLAUSE 5.1 ABOVE, IT WILL BE REGARDED AS *PRIMA FACIE* PROOF THAT NO DEFECTS WERE PRESENT AT THE **COMMENCEMENT DATE** AND THAT THE **PRODUCT(S)** WERE RECEIVED IN GOOD ORDER.

5.7 The **CUSTOMER** may not however return to **BSH** any **PRODUCT(S)** for any reason whatsoever unless:-

5.7.1 The **CUSTOMER** and **BSH** have agreed thereto in writing to such return and to the conditions of such return;

5.7.2 the **PRODUCT(S)** are being returned in accordance with the provisions of clause 5.1 above;

5.7.3 the **PRODUCT(S)** were intended to satisfy a particular purpose communicated to **BSH** prior to the purchase thereof and have been found not to satisfy the purpose for which they were intended, within 7 (Seven) days of delivery and **BSH** has been notified of this within that time period.

5.7.4 the **CUSTOMER** was not permitted to inspect the **PRODUCT(S)** upon delivery thereof; or

5.7.5 the **CUSTOMER** is exercising its right to cool-off in terms of section 16 of the Consumer Protection Act 68 of 2008 as amended.

6. FORCE MAJEURE

BSH shall be under no obligation or deemed to be in default for any delay or failure in performance resulting from causes beyond its reasonable control (e.g. strikes, floods, earthquakes etc.), such as events, which may cause or attribute to a delay in servicing due to non-availability of spare parts and / or accessories.

7. TIME PERIOD OF WARRANTY

SIEMENS Vacuum
Cleaners :
VSQ8MSA332
VSQ5X1238
VSZ7330

1ST year full warranty
(parts and labour)

2nd-10th year functional
parts, labour charge will
be determined - payable
by customer

Valid from 15 June 2019