



## Terms and Conditions for SMA Warranty Contracts

### Art. 1: Applicability and General Provisions

- (1) The terms and conditions set out in these "Terms and Conditions applicable to the SMA Limited Warranty Contracts" (hereinafter "Terms and Conditions") shall form an integral part of the SMA Limited Warranty Contract. The SMA Limited Warranty Contract is hereinafter referred to as "Contract". These Terms and Conditions apply exclusively to the Contract. Terms and conditions of the Customer do not apply.
- (2) The Contract applies exclusively to the specific device(s), for which the Contract has been concluded.
- (3) The Contract does not affect any statutory warranty obligation of the device seller and the corresponding statutory warranty rights of the buyer.
- (4) This Contract does not confer a guarantee of durability nor does it include any device ability.
- (5) The scope of obligations under the Contract differs depending upon whether the Customer has decided to contract for the ACTIVE-Contract or for the COMFORT-Contract. Details of SMA's obligations under the respective Contract-versions are defined below.

### Art. 2: Contracting Parties

- (1) The contracting parties are SMA Solar Technology AG (hereinafter "SMA") and the owner of the device with whom the Contract has been concluded (hereinafter "Customer").
- (2) SMA reserves the right to have the obligations specified in this Contract performed by SMA authorized partners.

### Art. 3: Contract Eligibility

The only persons eligible to raise claims under this Contract are the Customer and SMA. In the event SMA is obliged to reimburse the installer according to the provisions as stated below, only the installer has the right to claim this reimbursement directly from SMA. Other persons are not authorized to assert claims against SMA under this Contract. However the Customer may appoint a third party to raise its claim under the Contract. Assigning and/or transferring these rights to persons other than the Customer is not permitted.

### Art. 4: Term of the Contract

The term of the Contract (hereinafter "Contract period") starts from the agreed start date and lasts for the agreed period. After the end of the Contract period, the Contract automatically ends. In case no specific start date has been agreed, the Contract starts from the expiration of the SMA Limited Factory Warranty or an existing limited warranty.

### Art. 5: Scope of Obligations Covered under the ACTIVE-Contract

#### I. Geographic Scope of Application

The obligations under ACTIVE-Contract are rendered worldwide.

#### II. Specification of Obligation

- (1) The Contract covers the costs incurred for repairs and/or replacement parts during the defined Contract period as part of and in accordance with the conditions stipulated herein from the date the Contract period begins. If a device becomes defective during the defined Contract period, SMA will (at the discretion of SMA)
  - send a replacement device of equivalent value with regard to product type or kVA power class, or
  - repair the defective device on-site (repair works by SMA or a service partner appointed by SMA) (when SMA reasonably concludes that the geographical area in which the system is operated is deemed too risky to render on-site services, SMA's obligations to render these services for said area are suspended for the period in which such risk is reasonably deemed to exist), or
  - repair the defective device at SMA's premises (repair works by SMA or a service partner appointed by SMA).
- (2) The Customer must accept a replacement device of equivalent value with regard to product type and age or kVA power class even if it has cosmetic defects that do not affect energy production or safety compliance. SMA will, at its option, use new and/or equal to new condition parts of original or improved design in the repair or replacement of the Customer's device.

- (3) SMA is not obliged to render any obligations under the Contract - ACTIVE which are not expressly stated in the Contract. In particular, without limitation, the Customer may not claim for any damages unless SMA has negligently breached its obligations under the Contract.

### III. Specific Information if SMA chooses to Send a Replacement Device

If SMA decides to send a replacement device,

- SMA will at its discretion either send in advance a replacement device (or send a replacement device after prepayment of the value of the replacement device and the costs of delivery), or send a replacement device after receipt of the defective device. As required by SMA, the Customer must return the defective device at its own risk in a packaging that is suitable for its transportation to an address defined by SMA that will be located within the same country that the replacement device is shipped from. The costs for removal and replacement of the device, as well as the transportation costs for sending the replacement device and returning the defective device (including, but not limited to, export certifications, inspections, and customs duties) are to be borne entirely by the Customer. However, if the device is installed in an **SMA Primary Support Country**, (see table below), the costs for transportation, export certifications, inspections, and customs duties for replacement and returned devices will be borne by SMA.
- SMA will retain ownership of the delivered replacement device until it receives the defective device.
- If SMA has decided to request from the Customer the prepayment of the value of the replacement device before delivery of the replacement device, SMA will refund to the Customer the amount received by the Customer as prepayment of the value of the replacement device once the Customer has returned to SMA the defective device and this defective device does not have any further defects not previously made known to SMA.
- Should the Customer return the defective device more than thirty (30) calendar days after receipt of the replacement device, then SMA has the right to charge the Customer for the cost of administering the overdue RMA (Return Material Authorization) account. Return items will not be accepted without a valid RMA number obtained from SMA that is clearly displayed on the returned items packaging.

### IV. Specific Information if SMA chooses to Repair a Device On-site

If SMA decides to repair the defective device on-site (repair by SMA or a service partner appointed by SMA), then SMA will bear the costs for materials and labor to repair the device as well as the costs for removal and replacement of the part or replacement device, provided however that the device is installed at ground level or a safely accessible level roof top. No other costs – including, but not limited to, transportation, export certifications, inspections, customs duties, costs to safely access devices installed on slanted rooftops, or for lift equipment, travel or accommodation costs, the costs of the Customer’s own employees, or the costs of third-parties that have not been authorized by SMA – are covered by the Contract. However, if the device is installed in an **SMA Primary Support Country** (see table below), SMA will also bear costs for transportation, export certifications, inspections, customs duties for replacement and returned parts or devices.

### V. Specific Information if SMA chooses to Repair a Device at SMA’s Premises

If the device is to be repaired at SMA’s premises, the Customer must remove the defective device and send it for repair to SMA in Kassel, Germany at its own risk in a packaging that is suitable for the transportation. Once the device has been repaired at SMA’s premises, SMA will return the repaired device to the Customer. The costs for removal and replacement of the device, as well as the costs for sending the device to SMA’s facilities in Kassel, Germany and returning it to the Customer including, but not limited to, transportation costs, export certifications, inspections, and customs duties are to be borne entirely by the Customer. However, if the device is installed in an **SMA Primary Support Country**, (see table in Art. 5 VII. below), SMA will bear the costs for transportation, export certifications, inspections, and customs duties for the returned and repaired device.

### VI. Specific Information on the Coverage of Other Costs

SMA will inform the Customer of any costs that are to be borne by the Customer (including, but not limited to, replacement device value, transportation, export certifications, inspections, customs duties, travel, or accommodation) and/or that require payment to SMA in advance of the repair action. The repair will be performed depending on the Customer’s consent to bear these costs.

### VII. SMA Primary Support Countries

SMA Primary Support Countries are the following countries, however excluding their associated islands and overseas territories:

Australia	Canada	Chile	China	EU Countries	India	Vatican City
Japan	Jordan	Liechtenstein	Malaysia	Mexico	Monaco	New Zealand
Philippines	San Marino	South Africa	South Korea	Switzerland	Taiwan	Thailand
Turkey	United Arab Emirates	United States of America	Brazil	Israel		

## **Art. 6: Scope of Obligations Covered under the COMFORT-Contract**

### **I. Geographic Scope of Application**

The obligations under the COMFORT-Contract are only rendered if the relevant device is operated in a primary support country.

### **II. Specification of Obligation**

- (1) Unless otherwise stated in Art. 6 I. and hereinbelow, the scope of obligations under the COMFORT-Contract cover all obligations applicable to the ACTIVE-Contract. In addition, if a device becomes defective, SMA (at its sole discretion) will either
  - after repossessing the defective device, reimburse the installer for exchanging the defective device with the replacement device provided by SMA (in this case SMA is pledged to pay a service rebate per replaced inverter to the installer, this service rebate is a fixed rate, the amount of this service rebate can be asked at SMA's local service hotline), or
  - exchange the defective device with an replacement device free of charge.
- (2) SMA is not obliged to render any obligations under the COMFORT-Contract which are not expressly stated in the Contract. In particular, without limitation, the Customer may not claim for any damages unless SMA has negligently breached its obligations under the Contract.

## **Art. 7: Scope of Obligations Covered under the FLEX-Contract**

### **I. Specific Information regarding the Conclusion of the FLEX-Contract**

- (1) For the conclusion of the FLEX-Contract, the Customer has to choose between the ACTIVE-Contract according to Art. 5 or the COMFORT-Contract according to Art. 6 of these Terms and Conditions. This choice determines the scope of the obligations of the FLEX-Contract according to Art. 7 II.
- (2) The FLEX-Contract can be concluded until the expiry of the tenth year from commissioning of the device concerned.
- (3) SMA expressly reserves the right to conclude the FLEX-Contract with the Customer only after a prior examination of the device concerned.

### **II. Specification of Obligation**

- (1) Unless otherwise stated in Art. 7 I. and hereinbelow, the scope of obligations under the FLEX-Contract covers all obligations applicable to the ACTIVE-Contract (Art. 5) or the COMFORT-Contract (Art. 6).
- (2) SMA is not obliged to render any obligations under the FLEX-Contract which are not expressly stated in the Contract. In particular, without limitation, the Customer may not claim for any damages unless SMA has negligently breached its obligations under the Contract.

### **III. Specific Information regarding the Payment Method and Contract Period**

- (1) The Customer's payment for the FLEX-Contract is made annually.
- (2) If SMA or the Customer has not exercised their right of termination pursuant to Art. 7 IV., the Contract will be renewed annually for one year. The SMA Extended Warranty FLEX runs until the end of the 20th year, at the latest, from commissioning of the device.

### **IV. Specific Information regarding the Right of Termination**

In deviation from Art. 4 of these Terms and Conditions, either party can terminate the FLEX-Contract in whole or for individual inverters without cause by giving three (3) months' notice by the end of a contract year.

## **Art. 8: Exclusions**

- (1) The Customer may only assert claims under the Contract if the device has been installed and commissioned in line with the manufacturer's installation manual that applies to the device in question. If damage has been sustained to any structurally altered devices that were not altered at the request of SMA, the costs incurring in order to repair the damages, regardless of whether these structural changes were cause of these damages, are not covered by this Contract. SMA will inform the warranty claimant in advance about this costs.
- (2) Further, SMA is not obliged to render any obligations under the Contract if the defect is due to any of the following circumstances, unless SMA has caused such circumstances
  - the failure to observe the user, installation, operation, and/or maintenance manuals, and/or the protocols and/or requirements therein
  - the improper handling, transportation, storage, or repackaging
  - the incorrect installation or incorrect commissioning
  - modifications, changes or attempted repairs not authorized by SMA

- the insufficient ventilation of the device and any consequential thermal damages
- corrosion due to exposure to aggressive atmospheres or environmental conditions outside the scope of design
- the failure to observe the applicable safety regulations (UL, CSA, VDE, IEC, etc.)
- the incorrect use or inappropriate operation (including, but not limited to, improper forced shutdown, improper DC ratio)
- the use of battery types not certified for operation with SMA battery inverters
- Sunny Island and Sunny Boy Storage inverters that exceed 20,000 operating hours-at-full-load (hours-at-full-load defined as AC discharge and AC charge energy over the full operation time divided by the devices rated power)
- accidents, external influences
- force majeure, examples include, but are not limited to: overvoltage, lightning strikes, floods, fires, earthquakes, storm damage, and pest damage

### **Art. 9: Items which are expressly not covered by the Contract**

The following items are expressly not covered by the Contract:

- All items not originally sold by SMA including, but not limited to, installed cables, controllers, (rechargeable) batteries, Current Transformers (CT), Voltage Transformers (VT), and communications devices
- Consumables and parts of the device which are subject to regular wear and tear (including, but not limited to, varistors, surge arresters, string fuses, ESS handles, filters, (rechargeable) batteries, or overvoltage protection devices)
- Cosmetic or finish defects which do not directly influence energy production, or degrade form, fit or function

### **Art. 10: Impact of Warranty Coverage on the (Remaining) Contract Period**

If the entire device is replaced under this Contract, the remainder of the Contract period will be transferred to the replacement device. If device components are replaced or repaired under this Contract, the components used will be covered by the same remainder of the Contract period as the repaired device.

### **Art. 11. Default of Payment**

If the Customer fails to meet his or her payment obligations punctually, SMA is entitled to refuse to provide the services owed under this Contract until the Customer has met all the agreed payment obligations and the Customer shall be called upon to make the payment due within a 14-day deadline. After expiration of the 14-day deadline, SMA reserves the right to terminate this Contract with immediate effect. Notice of termination must be submitted in writing. If SMA does not terminate this Contract as described above, SMA shall be entitled to provide the Customer with the services owed under this Contract not earlier than four (4) weeks after the Customer has fulfilled all of his or her payment obligations.

As long as Customer's payment obligations have not been met in due time, SMA shall be entitled to default interest.

While Customer is in default, he or she is responsible for all negligence. Customer is liable for performance in the case of chance as well, unless the damage would have occurred even if performance had been made in good time.

### **Art. 12: Procedure to Exercise Rights under this Contract**

- (1) The Customer must notify SMA of a device fault or defect within the Contract period. To determine if the device is covered by the Contract, the Customer must - in addition to the requirements stated below - submit a copy of the commissioning report which must include the serial number of the defective device. SMA reserves the right to request a copy of other documents including, but not limited to, the purchasing invoice. SMA only accepts documents in the following languages: Arabic, Czech, Dutch, English, French, German, Greek, Hindi, Italian, Japanese, Mandarin, South Korean, Spanish, and Thai. A certified translation in one of the mentioned languages will also be accepted. The type label on the device must be completely legible. If the aforementioned requirements are not fully met, SMA is not obliged to perform any obligations under the Contract.
- (2) SMA's service is available by accessing SMA's Online Support at [www.SMA-Solar.com](http://www.SMA-Solar.com) under the heading "SERVICE & SUPPORT". The Customer or their electrically qualified representative must report a failure to their local SMA Service Center using the following procedure as described below.
  - Proper fault diagnosis may require a qualified service technician to be at the SMA device location and equipped with a quality digital AC/DC voltmeter and required tools as specified in SMA device manual.
  - The on-site qualified service technician may be asked to take voltage measurements and provide error codes from the inverter.
  - Additional information may be required, including, but not limited to:
    - Type designation

- Installation site
  - Original date of commissioning
  - PV array configuration
  - Battery manufacturer and battery type
  - Description of any modifications that have been performed on the inverter
- Safely remove any interface option modules from the inverter to be returned, and retain them for reinstallation on the replacement device.
  - SMA will provide instructions for proper return or disposal of the defective device.
  - If no failure is found when the device is tested by the SMA Service Repair Department, the Customer may be charged an inspection fee and transportation costs.

(3) If and to the extent services are to be rendered by SMA free of charge in accordance with this Contract, these are only free of charge if and to the extent the course of action is agreed with and confirmed in writing by SMA in advance. Written documents and electronic messages, including, but not limited to, fax or e-mail, satisfy the requirement that confirmation be given in writing. All costs incurred by the Customer to exercise its rights under this Contract shall be borne by the Customer.

### **Art. 13: Final Validity**

- (1) The rights mentioned in this Contract reflect the exclusive rights of the Customer in accordance with this Contract. No other claims – including, but not limited to, claims for compensation for direct or indirect damage caused by the defective device, claims for compensation for costs arising from disassembly or installation, and/or loss of power production or profits – arise out of this Contract. In particular, without limitation, the Customer may not claim for any damages unless SMA has negligently breached its obligations under the Contract. If the Customer requests unnecessary or unjustified service work and/or RMA replacements under this Contract, SMA shall be entitled to invoice the Customer for the costs incurred as a result.
- (2) Except as expressly provided otherwise herein, any claims for damages and reimbursement of expenses the Customer may have out of or in connection with this Contract, regardless of legal ground, including breach of duties arising from the contractual obligation and tort, shall be excluded. This also applies to claims arising from faulty contract conclusion.
- (3) Art. 13 (2) shall not apply to damages arising from the law on product liability or in cases of intent or gross negligence on part of SMA or its agents, nor to damages due to loss of life, personal injury or impairment of health or malicious concealment of a defect or due to the breach of essential contractual obligations. Compensation for a material breach of contract shall, however, be limited to the foreseeable damage in standard contracts, except in the case of liability for wrongful intent or gross negligence or due to injury to life, body or health. Material contractual obligations are those the fulfillment of which allows for the proper execution of the contract in the first place and the adherence to which the contractual partner can continuously trust.
- (4) The liability exemptions and limitations for SMA shall also apply to the personal liability of the employees, representatives and agents of SMA.
- (5) The above provisions shall not involve a change in the burden of proof to the detriment of the Customer.

### **Art. 14: Applicable Law and Place of Jurisdiction**

- (1) All claims arising from or in connection with this Contract are subject to German law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). However, if the customer is a consumer as defined in Art. 6 of Regulation (EC) No 593/2008 and SMA have (i) either pursued our commercial or professional activities in the country where the consumer has his habitual residence, or (ii) by any means, directed such activities to that country or to several countries including that country, and (iii) this Contract falls within the scope of such activities, then the choice of German law as stated in Art. 14 (1) sentence 1 of this Contract does not have the result of depriving the consumer of the protection afforded to him by provisions that cannot be derogated from by agreement by virtue of the law of the country where the consumer has his habitual residence.
- (2) Kassel, Germany, is the exclusive place of jurisdiction for all disputes arising from or in connection with this Contract provided that the customer is a Merchant, a legal entity under public law or special assets under public law.
- (3) In the event the claimant is a consumer, whose residence or habitual residence is in the European Union or in Countries which are contracting parties to the Agreement on the European Economic Area, the following shall apply: SMA is principally in favor to attend a dispute settlement procedure at the General Consumer Conciliation Body of the Centre for Conciliation in Germany: Allgemeine Verbraucherschlichtungsstelle des Zentrums für Schlichtung e.V., Straßburger Str. 8, 77694 Kehl.

**For more information, please visit the “Service” section of our website at [www.SMA-Solar.com](http://www.SMA-Solar.com)**