



# Module Warranty Terms and Conditions

---

## Ten Year Limited Materials and Workmanship Warranty

FSLR Development (South Africa) Pty. Ltd., (registration number: 2011/118787/07) (“**First Solar**”) warrants (the “**Ten Year Limited Materials and Workmanship Warranty**”) that its FS Series 3 Black Plus, FS Series 4, and FS Series 4A Module (as applicable, the “**Product**”) will be free from defects in materials and workmanship under normal use, installation, operation and service for a period of ten (10) years from the earlier of (i) the date of transfer of title to the Product from First Solar (or an affiliate thereof) to the original owner or (ii) six (6) months following the date of shipment of the Product from First Solar’s (or its affiliate’s) manufacturing facility (such earlier date, the “**Warranty Start Date**”), provided the Product is installed, used, operated, and serviced in accordance with both the applicable First Solar FS Series Module User Guide (PD-5-200), (the “**User Guide**”) and the System Design and Application document (PD-2-303, the “**SDA**”).

If the Product is determined to be in breach of the foregoing Ten Year Limited Materials and Workmanship Warranty, First Solar will, at its sole discretion, select one of the following exclusive remedies: (i) repair or replace the Product under the terms of its Return Policy in effect on the date of claim; or (ii) refund the then current market price of the Product (or its successor). Any such replacement Product utilized by First Solar pursuant to clause (i) of this paragraph shall have (individually, in the case of a single Product utilized to effect such replacement, or in the aggregate, in the case when multiple Products are utilized to effect such replacement) a nominal power output rating no less than the nominal power output rating of the defective Product being replaced, as reduced by applying a degradation factor equal to 0.7% for each year (and prorated for any partial year) that has elapsed since the first anniversary of the Warranty Start Date of the defective Product being replaced (where such reduction is hereby referred to as the “**Degradation Factor**”). Any such refund utilized by First Solar pursuant to clause (ii) of this paragraph shall be based on the then current market price as determined by First Solar for a panel with a nominal power output rating subject to the Degradation Factor.

## Twenty-Five Year Limited Power Output Warranty

First Solar additionally warrants (the “**Twenty-Five Year Limited Power Output Warranty**”) that for a period of twenty-five (25) years, commencing on the Warranty Start Date, the actual power output of each Product during the applicable one-year period set forth in the left column of the table below “Power Output Warranty Year” shall be no less than the corresponding “Minimum Power Output” set forth in the right column in the table below (and then, in each case, subject to a measurement tolerance of three percent (3%), (the “**Measurement Tolerance**”), irrespective of any nameplate power output tolerance stated in any relevant datasheet for the Product), provided the Product is installed, used, operated, and serviced in accordance with both the User Guide and the SDA.



Power Output Warranty Year*	Minimum Power Output (in each case, as a percentage of the nominal power output rating)
1	97.0%
2	96.3%
3	95.6%
4	94.9%
5	94.2%
6	93.5%
7	92.8%
8	92.1%
9	91.4%
10	90.7%
11	90.0%
12	89.3%
13	88.6%
14	87.9%
15	87.2%
16	86.5%
17	85.8%
18	85.1%
19	84.4%
20	83.7%
21	83.0%
22	82.3%
23	81.6%
24	80.9%
25	80.2%

\*One year period starting on the Warranty Start Date and subsequently each anniversary thereof during the relevant Warranty Period.

---

For purposes of the Twenty-Five Year Limited Power Output Warranty, the power output measurements of the Product shall be carried out in accordance with the conditions described in International Electrotechnical Commission standard 61646 (“**Standard Test Conditions**”), as tested at the Product lead wires and provided that, in each case, power output shall be measured and normalized to Standard Test Conditions using a method and laboratory approved by First Solar.

If the Product is determined to be in breach of the foregoing Twenty-Five Year Limited Power Output Warranty, First Solar will, at its sole discretion, select one of the following exclusive remedies: (i) repair or replace the Product under the terms of its Return Policy in effect on the date of claim; (ii) provide supplemental Product; or (iii) refund the then current market price of the Product (or its successor) as determined by First Solar. Any such replacement Product utilized by First Solar pursuant to clause (i) of this paragraph shall have (individually, in the case of a single Product utilized to effect such replacement, or in the aggregate, in the case when multiple Products are utilized to effect such replacement) a nominal power output rating no less than the nominal power output rating of the defective Product being replaced, as reduced by applying the Degradation Factor. Any such refund utilized by First Solar pursuant to clause (iii) of this paragraph shall be based on the then current market price for a panel with a nominal power output rating subject to the Degradation Factor as determined by First Solar.

### **Warranty Exclusions and Limitations**

First Solar is not responsible for, and the Ten Year Limited Materials and Workmanship Warranty and the Twenty-Five Year Limited Power Output Warranty each exclude defects or failures caused by:

- (i) normal wear and tear;
- (ii) the devices or structures on which the Product is mounted; and/or
- (iii) any external scratch, stain or mold that occurs after delivery of the Product to the original owner.

In addition, the Ten Year Limited Materials and Workmanship Warranty further excludes cosmetic variations or weathering of glass or glass coatings that do not cause the Product to fail to meet its warranted power output rating pursuant to the Twenty-Five Year Limited Power Output Warranty.

In addition to the other exclusions set forth herein, First Solar is not responsible for damage to the Product due to lightning, fire, flood, and other acts of God, power or voltage surges, improper handling (including operation, maintenance and installation), physical abuse, negligence in transportation and storage or other events that are reasonably beyond the control of First Solar.

The Ten Year Limited Materials and Workmanship Warranty shall commence on the Warranty Start Date and shall expire on the date that is ten (10) years after the Warranty Start Date (the “**Ten Year Limited Materials and Workmanship Warranty Period**”). The Twenty-Five Year Limited Power Output Warranty shall commence on the Warranty Start Date and shall expire on the date that is twenty-five (25) years after the Warranty Start Date (the “**Twenty-Five Year Limited Power Output**”).

---

**Warranty Period**”). No claim may be made: (1) under the Ten Year Limited Materials and Workmanship Warranty at any time after the expiration of the Ten Year Limited Materials and Workmanship Warranty Period; and (2) under the Twenty-Five Year Limited Power Output Warranty at any time after the expiration of the Twenty-Five Year Limited Power Output Warranty Period.

### **Warranty on Repaired, Replaced, or Supplemental Product**

For the avoidance of doubt, the limited warranties set forth above (collectively, the “**Limited Warranties**”) will be granted in respect of any repaired, replacement, or supplemental Product furnished to owner pursuant to the terms and conditions set forth in this document (these “**Module Warranty Terms and Conditions**”), and the period for the Limited Warranties granted in respect of such repaired, replaced, or supplemental Product will be the balance of the warranty period for the Ten Year Limited Materials and Workmanship Warranty and Twenty-Five Year Limited Power Output Warranty remaining in respect of the Product that was repaired or replaced.

### **Limitation of Remedies**

**THE REMEDIES SET FORTH ABOVE ARE THE SOLE AND EXCLUSIVE REMEDIES FOR ANY BREACH OF THE LIMITED WARRANTIES BY FIRST SOLAR.** These exclusive remedies shall not be deemed to have failed their essential purpose so long as First Solar is willing and able to provide any one of the exclusive remedies applicable to the Limited Warranties set forth herein.

### **Transfer of Warranty**

The original owner of the Product (and each subsequent owner of the Product) may assign the Limited Warranties upon the transfer of title to the Product by such owner, and the warranties will continue in effect for the remainder of the applicable periods set forth above, provided that at the time of such transfer of title and assignment of the Limited Warranties (i) First Solar is notified by the new owner of such title transfer and assignment in writing signed by both the party transferring title to the Product and the party to which title to the Product is transferred, including an acknowledgement by the assignee that it accepts to be bound by the terms and conditions hereof; (ii) the site registration is updated by the new owner to identify the party to which title to the Product is transferred; (iii) the Product remains deployed in accordance with SDA-controlled location and design parameters, and continues to be operated and maintained in accordance with the User Guide; (iv) First Solar will not bear any costs and expenses associated with such transfer and assignment; and (v) the new owner or transferee of the Product (x) is a juristic person with an asset value or annual turnover in excess of ZAR2,000,000 (two million South African Rand) or such other amount as may be prescribed by the minister from time to time and (y) not a "Consumer" as defined under the Consumer Protection Act, 2008 (the "CPA") or otherwise subject to the CPA.

### **Return Policy**

Notice of any alleged breach of warranty must be provided to First Solar within a reasonable time after owner discovers or should have discovered the alleged breach. Any claims under these

---

Limited Warranties must be submitted to First Solar or its authorized reseller on a Return Request Form (PD-5-702), not later than the expiration of the applicable warranty periods set forth above, with a description of the claimed defect, evidence of the claimed defect, the Product serial number, and an invoice indicating the date of transfer of title to the Product to the original owner. The owner may be required to supply additional original commercial documentation to facilitate the export and import of the Product to First Solar, as required by First Solar or its authorized representative. No return of Product will be accepted for the purpose of evaluating a claim unless (i) First Solar or its authorized representative has issued a Return Material Authorization (PD-5-701, the “RMA”) for the return and evaluation of the claimed defect, and (ii) upon the request of First Solar or its authorized representative, First Solar or its authorized representative is provided commercially reasonable access to the Product at its place of installation or storage for inspection and analysis of the claimed defect. The owner of the Product undertakes to execute any and all documents and take any and all measures necessary for the export and import of the Product to and from First Solar.

If the claimed defect is accepted by First Solar, First Solar will, at its expense and in accordance with the RMA, arrange for the repair, replacement, supplement or refund of the Product (or its successor), as the case may be. **THESE MODULE WARRANTY TERMS AND CONDITIONS, INCLUDING THE RETURN POLICY, SPECIFICALLY EXCLUDES ANY EXPENSE ASSOCIATED WITH THE REMOVAL, RETURN PACKAGING, OR REINSTALLATION OF THE PRODUCT.** If the claimed defect is denied by First Solar, First Solar shall not be responsible, and owner shall reimburse First Solar for, any expense associated with the analysis, transportation, inspection, or testing of the Product. In the event Product has been shipped to First Solar for evaluation of the claimed defect, and the claimed defect is denied, First Solar is not responsible for the packaging and transportation costs (if any) associated with return of such Product to its owner. In the event a claimed defect is denied and owner does not arrange for removal (at its cost) of the Product from First Solar’s warranty inspection center within 30 days, and owner does not have a Recycling Services Agreement in place with First Solar or an affiliate thereof, then First Solar may charge owner, and owner shall pay to First Solar within thirty (30) days of receipt of an invoice, an amount equal to (i) the actual and reasonably substantiated costs incurred by First Solar (or its affiliates) related to the transportation, inspection, handling and recycling of such Product; plus (ii) ten percent (10%) of such costs. The original owner of the Product (and any subsequent owner of the Product that accepts an assignment of these Module Terms and Conditions) and First Solar (the “Parties”) have agreed that the charges described in this paragraph are a reasonable and appropriate measure of the costs that First Solar and/or its affiliates would incur in connection with transporting, inspecting, handling and recycling each such Product and do not represent a penalty.

### **Disclaimer of Warranties and Limitation of Liability**

**EXCEPT AS EXPRESSLY SET FORTH ABOVE, FIRST SOLAR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR USE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL FIRST SOLAR OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS, LOSS OF ANY EXISTING OR ANTICIPATED REVENUES, LOSS OF ANTICIPATED**

---

**SAVINGS, LOSS OF BUSINESS OR BUSINESS OPPORTUNITIES, LOSS OF GOODWILL, LOSS BY REASON OF SHUTDOWN OR NON-OPERATION, INCREASED EXPENSE OF OPERATION, BORROWING OR FINANCING, LOSS OF USE OR PRODUCTIVITY, INCREASED COST OF CAPITAL, OR DAMAGE TO REPUTATION, ARISING, DIRECTLY OR INDIRECTLY, FROM THE SALE OR USE OF ANY PRODUCT, WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, INDEMNITY, CONTRIBUTION, TORT (INCLUDING NEGLIGENCE), DELICT, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT FORESEEN OR FORESEEABLE BY ANY PARTY. UNDER NO CIRCUMSTANCES SHALL THE LIABILITY OF FIRST SOLAR OR ANY OF ITS AFFILIATES FOR NONCONFORMING PRODUCTS EXCEED THE PURCHASE PRICE PAID TO FIRST SOLAR OR ITS AFFILIATE FOR THE PARTICULAR PRODUCT INVOLVED, PLUS REASONABLE SHIPPING EXPENSES. THE RIGHTS AND LIMITATIONS HEREIN SHALL LEAVE UNAFFECTED ANY LEGAL RIGHTS EXISTING UNDER MANDATORY APPLICABLE LAWS.**

These Module Warranty Terms and Conditions constitute the entire agreement of the Parties regarding warranties (including the Limited Warranties) and these Module Warranty Terms and Conditions supersede any prior written or oral communications with respect to the subject matter and cannot be changed except by written agreement signed by authorized representatives of the Parties.

### **Governing Law**

These Module Warranty Terms and Conditions (including the Limited Warranties) shall be governed by and construed in accordance with the laws of the Republic of South Africa, without regard to the conflicts of law provisions thereof to the extent such principles or rules would require or permit the application of the laws of another jurisdiction. The Parties agree that in no event shall the United Nations Convention on Contracts for the International Sale of Goods (CISG) apply to or govern these Module Warranty Terms and Conditions (including the Limited Warranties).

### **Dispute Resolution**

Should any dispute or claim arise out of, or relating to, these Module Warranty Terms and Conditions (including the Limited Warranties), including the breach, termination or invalidity thereof ("**Dispute**"), the Parties shall refer such Dispute to their respective heads of management who shall use all reasonable endeavours to resolve the Dispute amicably within a period of 5 (five) business days from the date on which the Dispute arose (or such longer period as may be agreed between the Parties).

If the Dispute is not resolved amicably within the period contemplated above, either Party shall be entitled to refer the Dispute to arbitration on written notice to the other Party. The Parties may agree on the arbitration procedure and on the arbitrator and, failing agreement within 5 (five) business days of the written notice referring the Dispute to arbitration, the arbitration shall be conducted in accordance with the Association of Arbitrators (Southern Africa) Rules in force at the time of the Dispute. The appointing authority in terms of the Association of Arbitrators (Southern Africa) Rules shall be the Association of Arbitrators (Southern Africa).

Unless agreed otherwise in writing by the Parties, the arbitration shall be administered by the Parties and the number of arbitrators shall be 1 (one). The place of the arbitration shall be

---

Sandton, Johannesburg. The governing procedural law of the arbitration shall be the law of South Africa. The arbitrator shall have the same remedial powers as a court of law in South Africa would have were it adjudicating the Dispute. The arbitrator shall deliver an award together with written reasons within 30 (thirty) days from the date upon which the arbitration ends. The decision of the arbitrator shall be final and binding.

Nothing in this paragraph shall preclude a Party from seeking interim or urgent relief from a court of competent jurisdiction.

Any arbitration under these Module Warranty Terms and Conditions shall be confidential, and the Parties, and their agents and the arbitrators shall not disclose to any non-party the subject of the arbitration, any information about the arbitration or the substance of the proceedings thereunder, except as may be required by applicable law or governmental authority, for insurance purposes, or as necessary to protect or pursue a legal right, or enforce these Module Warranty Terms and Conditions to arbitrate or any award hereunder.