



# Terms and Conditions for SMA Limited Warranty Contracts

Valid from November 23, 2022

## Art. 1: Applicability and General Provisions

- (1) The terms and conditions set out in these “Terms and Conditions for 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 SMA Limited Warranty Contract.

The ACTIVE and COMFORT Contract variants can be concluded for a period of 5, 10 or 15 years. Both Contract variants must be concluded prior to the warranty period expiring pursuant to the SMA Limited Factory Warranty. However, the warranty period of the factory warranty together with the acquired extended warranty must not exceed 15 or 20 years, respectively, depending on the product. This information can be found on the warranty extension order form or on the datasheet for the device. SMA expressly reserves the right to conclude an ACTIVE- or COMFORT-Contract with the Customer only after a prior examination of the device concerned.

**The following applies to the products SUNNY BOY STORAGE: SBSX.XVL-10, SBSX.X-10, SUNNY BOY: SBX.XVL-40, SBX.XAV-41, SUNNY TRIPOWER: STPX.X-3AV-40:**

The Contract variants *ACTIVE* and *COMFORT* can be concluded for a duration of 5 or 10 years provided the Customer performed a proper product registration within 12 months after commissioning or the invoice date for the first warranty claimant on the SMA homepage (<http://www.my.sma-service.com/s/product-registration>) for the device(s) for which the Contract is to be valid and the commissioning or the invoice date for the first warranty claimant takes place after October 1, 2021. The Contract variants *ACTIVE* and *COMFORT* can only be concluded for the years 11 – 20 of the devices after commissioning or the invoice date for the first warranty claimant. However, the warranty period of the factory warranty together with the acquired extended warranty must also not exceed 15 or 20 years respectively, depending on the product. Further information can be found on the warranty extension order form or on the datasheet for the device.

Provided the Customer did not perform a product registration within 12 months after commissioning or the invoice date for the first warranty claimant with the effect of extending the factory warranty to 10 years after commissioning or the invoice date for the first warranty claimant, the purchase of an *ACTIVE*- or *COMFORT*-Contract is not possible. In this case, the Customer has the option of purchasing a *FLEX*-Contract according to Art. 7 of these Terms and Conditions.

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

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

The scope of obligations of the *ACTIVE*-Contract are provided in the following **SMA Active Support countries**, however excluding their associated islands and overseas territories:

Argentina	Bangladesh	Belize	Brazil	Chile
Costa Rica	Columbia	El Salvador	Guatemala	Honduras
India	Israel	Indonesia	Jordan	Japan
Malaysia	Mexico	Myanmar	Namibia	Nicaragua
Pakistan	Panama	Philippines	San Marino	Singapore
South Africa	Sri Lanka	Taiwan	Thailand	Turkey
Ukraine	United Arab Emirates	Vatican City	Vietnam	

### **II. Specification of Obligations**

- (1) Within the *Active*-level, the Contract covers the costs incurred for a replacement device of equivalent value in regard of product type, kVA power class or age as well as its shipping and the return of the defective device during the defined Contract period as part of and in accordance with the conditions stipulated herein from the date the Contract period begins. Alternatively, SMA reserves the right to repair the defective device at SMA's premises or, in exceptional cases, have it repaired on site by a service partner appointed by SMA.
- (2) The Customer must accept a replacement device of equivalent value with regard to product type or 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) In any case, SMA also reserves the right to reimburse an appropriate market value specified by SMA of the defective device (which is determined by SMA based on the market value that the device would have if it were not defective) for products with SMA Limited Factory Warranties greater than 5 years, and therefore to satisfy the warranty obligations.

- (4) 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. Special Information on the Shipping of a Replacement Device**

If SMA decides to send a replacement device,

- SMA will at its discretion send a replacement device that has an equal value in terms of product type, kVA power class or age to the Customer or to a different delivery address communicated in advance by the Customer. The replacement device will be sent either in advance (or after requested prepayment of the value of the replacement device and the delivery costs) or after receipt of the defective device. Provided the Customer was trained by SMA to perform an assembly replacement independently, SMA reserves the right to send an assembly in place of a replacement device. As required by SMA, the Customer must return the defective device or defective assembly 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 or the assembly is shipped from. The costs for transport or shipping of the replacement device or the assembly as well as the costs for return transport (export certifications, inspections, and customs duties) are to be borne by SMA.
- SMA will retain ownership of the delivered replacement device or assembly until it receives the defective device or the defective assembly.
- If SMA has decided to request from the Customer the prepayment of the value of the replacement device or the assembly before delivery of the replacement device or the assembly, SMA will refund to the Customer the amount received by the Customer as prepayment of the value of the replacement device or the assembly once the Customer has returned to SMA the defective device or the defective assembly and this defective device or defective assembly does not have any further defects not previously made known to SMA.
- Should the Customer return the defective device or the defective assembly more than thirty (30) calendar days after receipt of the replacement device or the assembly, 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 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 the SMA repair center concerned at his own risk in a packaging that is suitable for the transportation. Once the device has been repaired SMA will return the repaired device to the Customer. The costs for returning the defective device as well as for returning it to the Customer (transportation costs, export certifications, inspections, and customs duties) are to be borne by SMA.

### **V. 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.

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

### I. Geographic Scope of Application

The scope of obligations of the COMFORT-Contract\* is provided in the following **SMA Comfort Support countries**, however excluding their associated islands and overseas territories:

Austria	Andorra	Australia	Belgium	Bulgaria
Canada	Croatia	Czech Republic	Denmark	Estonia
Finland	France	Germany	Greece	Hungary
Italy	Latvia	Lithuania	Liechtenstein	Luxembourg
Malta	Monaco	Netherlands	New Zealand	Poland
Portugal	Republic of Ireland	Romania	Slovakia	Switzerland
South Korea	Spain	Sweden	Slovenia	United Kingdom
United States of America	West Cyprus			

\*Sunny Boy5.5-JP and STP50-JP-40 may be eligible for cashback based on Comfort contract.

### II. Specification of Obligations

- (1) Unless otherwise stated in Art. 5. 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
- replace the defective device or defective assembly on site or have it replaced by 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)
  - and, in the event that an installer performs the exchange using the replacement device or, if applicable, the assembly, provided by SMA, will credit the installer with a service discount upon receipt of the defective device or assembly. The service discount is calculated per replaced inverter or per replaced assembly; this is a fixed amount that may be inquired from the SMA Service Line.
- (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.

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

If SMA decides to repair the defective device or, if applicable, the defective assembly on site (replacement 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, as well as the costs for transportation, export certifications, inspections, and customs duties for parts replaced or returned or for devices. No other costs – including, but not limited to 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 and are not borne by SMA.

## **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 or the invoice date for the first warranty claimant of the device concerned (this does not apply to Japan).
- (3) SMA expressly reserves the right to conclude the FLEX-Contract with the Customer only after a prior examination of the device concerned.
- (4) If there was a period not covered by the factory warranty, claims against SMA from the FLEX-Contract can be asserted only for defects and repairs of which the cause occurred after signing of the Contract. The Customer must prove that the devices covered by the Flex-Contract were in a fault-free condition when the Contract was signed. If this proof is not provided, the performance obligation by SMA only begins 3 months after the start of Contract.

### **II. Specification of Obligations**

- (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 FLEX-Contract runs until the end of the 20th year, at the latest, from commissioning or the invoice date for the first warranty claimant 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 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.)
  - incorrect use or inappropriate operation (including, but not limited to, improper forced shutdown, improper DC ratio)
  - 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, fans, 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, 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 undamaged and 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" (this does not apply for Japan). 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 event numbers (error codes) from the inverter.
  - Additional information may be required, including, but not limited to:
    - model type number
    - 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: Instructions for Consumer Customers Concerning Right of Withdrawal**

**If the customer is a consumer, i.e. a natural person who concludes a legal transaction for purposes that are not primarily related to their commercial or self-employment activities, they have a right of withdrawal.**

### **I. Right of Withdrawal**

The Customer has the right to cancel this Contract within fourteen days without giving reasons. The withdrawal period is fourteen days from the day on which the Customer signed the Contract. To exercise the right of withdrawal, the Customer must inform **SMA Solar Technology AG Sonnenallee 1, 34266 Niestetal, Tel. +49 561 9522-0, Fax +49 561 9522-100, info@SMA.de** by means of a clear declaration (e.g., a mailed letter, a fax or an e-mail) of their decision to withdraw from this Contract. The Customer can use the attached sample withdrawal form for this purpose, but it is not mandatory.

To comply with the withdrawal period, it is sufficient that the Customer sends the notification of the exercise of the right of withdrawal before the end of the withdrawal period.

### **II. Consequences of Withdrawal**

If the Customer withdraws from this Contract, SMA is obliged to refund all payments received from the Customer, including delivery costs (with the exception of additional costs resulting from the fact that the Customer chose a different type of delivery than the cheapest standard delivery offered by SMA), immediately and at the latest within fourteen days from the day on which SMA received notification of the Customer's withdrawal from this Contract. For this refund, SMA



will use the same means of payment that the Customer used for the original transaction, unless expressly agreed otherwise with the Customer; in no event will the Customer be charged for this refund. SMA is entitled to refuse the refund until SMA has received the returned goods, or until the Customer provides proof that the goods have been sent back, whichever occurs first.

If the Customer requested the services to commence during the period in which the Customer still has the right to withdraw, the Customer is obliged to pay SMA an amount commensurate with the services already performed up to the point in time at which the Customer informed SMA that they are exercising their right to withdraw from this Contract, taking into account the total scope of the contractually agreed services.

### III. Sample Withdrawal Form

If a Customer wants to withdraw from the Contract, this form can be filled out and sent to SMA.

- To: SMA Solar Technology AG, Sonnenallee 1, 34266 Niestetal, Germany; Tel. +49 561 9522-0, Fax +49 561 9522-100, info@SMA.de:
  - I/we (\*) hereby withdraw from the SMA Limited Warranty Contract concluded by me/us (\*) for purchase of the following goods (\*) / provision of the following service (\*)
  - Ordered on (\*) / received on (\*)
  - Name of the consumer(s)
  - Address of the consumer(s)
  - Signature of the consumer(s) (only if sent by hard copy)
  - Date

(\*) Exclude if not appropriate.

### Art. 15: 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)**