

First Solar Limited Warranty Terms and Conditions - Module

First Solar, Inc. ("First Solar") hereby provides the limited "Workmanship Warranty" and "Power Output Warranty" (collectively "Limited Warranties") as more fully described below ("Warranty Terms and Conditions").

1. Limited Warranties

a. Workmanship Warranty

i. Beginning on the date ("Warranty Start Date") that First Solar or its Affiliate ships the First Solar Series 6 Module (as applicable, "Product") from the factory to the original owner, First Solar warrants that the Product will be free from defects in materials and workmanship under normal use, installation, operation and service ("Workmanship Warranty"). The Workmanship Warranty expires 12.5 years from the Warranty Start Date ("Workmanship Warranty Period"). This limited Workmanship Warranty does not warrant a specific power output of the Product, which are exclusively covered by the limited "Power Output Warranty" in Section 1.b., below.

ii. Upon determination by First Solar of a valid claim under the Workmanship Warranty, First Solar will, at its sole discretion, select one, or a combination, of the following exclusive remedies:

1. repair or replace the Product in accordance with the terms of Section 6 below; or
2. refund the "Degraded Value" of the Product, calculated as follows:
 - (i) the then-current regional market price per Wdc reported for comparable quality product in utility-scale applications at the time of the claim (not to exceed original purchase price), multiplied by
 - (ii) one minus the "Degradation Factor" (as defined in Section 1.c., below).

b. Power Output Warranty

i. Beginning on the Warranty Start Date, First Solar warrants that the actual power output of each Product will be no less than the Product's "Minimum Power Output" ("Power Output Warranty").

ii. The "Minimum Power Output" is equal to 98% of the nominal power output stated on the Product's label, reduced by the Degradation Factor.

iii. The Power Output Warranty expires 30.5 years from the Warranty Start Date ("Power Output Warranty Period").

iv. To validate a claim under the Power Output Warranty, First Solar (or an Affiliate or agent thereof) will conduct a power output measurement of the Product tested at the Product lead wires. The power output will be measured at Standard Test Conditions (a light spectrum of AM 1.5, an irradiation of 1000 W/m², and a cell temperature of 25 degrees C) in accordance with International Electrotechnical Commission (IEC) 61215-2:2016 MQT06.1 using a stabilization method and laboratory approved by First Solar, and the measurement will account for tolerances in accordance with EN 50380:2003.

v. Upon determination by First Solar that a claim under the Power Output Warranty is valid, First Solar will, at its sole discretion, select one, or a combination, of the following exclusive remedies:

1. repair or replace the Product in accordance with the terms of Section 6, below ; or
2. provide supplemental Product; or
3. provide a refund calculated as follows: (Minimum Power Output less actual peak power output of the Product) multiplied by the then-current regional market price per Wdc reported for comparable quality product in utility-scale applications at

the time of the claim (not to exceed original purchase price), then less any prior refund provided under the Power Output Warranty with respect to such Product.

vi. Where First Solar provides a refund under the Power Output Warranty for a specific Product, after an initial valid Power Output Warranty claim, owner may only submit one subsequent Power Output Warranty claim during the remaining term of the Power Output Warranty Period with respect to such Product.

c. Any replacement Product provided by First Solar will have (individually, in the case of a single Product provided as replacement, or in the aggregate, in the case where multiple Products are provided as replacement) a nominal power output rating no less than the nominal power output rating of the Product being replaced, reduced by applying a "Degradation Factor" equal to 0.5% for each year (and prorated on a monthly basis for any partial year) that has elapsed since the first anniversary of the "Degradation Start Date" (as defined below) of the Product being replaced.

d. The "Degradation Start Date" means the date that is 6 months from the Warranty Start Date.

e. The number of replacement Products that may be provided by First Solar under the Limited Warranties need not be identical to the number of defective Products being replaced, unless First Solar and the owner agree that the provision of a lesser or greater number of Products would be unreasonably burdensome upon the owner. Replacement Products may be products of the same or of a compatible successor type, but must be new and unused.

f. Notwithstanding the express remedies stated under each of Sections 1(a)(ii) and 1(b)(v), and without otherwise restricting First Solar's discretion as to which remedy to provide under these Warranty Terms and Conditions, as long as it is commercially reasonable, during the first 2 years of the applicable warranty period, First Solar will repair or replace any nonconforming Product under the Limited Warranties as opposed to providing a refund.

2. Warranty Exclusions and Limitations. First Solar is not responsible for, and will assume no liability under the Limited Warranties for, defects or failures caused by:

- a. Failure to install, use, operate, and service the Product in accordance with both the applicable First Solar FS Series Module User Guide, including any referenced documentation (collectively, the "User Guide") and the First Solar Global Site Registration form (the "Site Registration");
- b. Normal wear and tear;
- c. Any external scratch, stain or mold that occurs after such Product is delivered to the original owner;
- d. The devices or structures on which the Product is mounted;
- e. Any defect that does not have an adverse appreciable impact to basic functionality of the Product;
- f. Cosmetic variations, changes in appearance (whether visible or detectable via advanced diagnostics, i.e., electroluminescence, infrared, etc.), or weathering of glass, glass coatings, or thin film solar cells that do not cause the Product to fail to meet its warranted power output rating under the Power Output Warranty; or
- g. Damage to the Product due to lightning, fire, flood, and other natural occurrences, power or voltage surges, improper handling (including opera-

tion, maintenance and installation), physical abuse, negligence in transportation or storage or other events that are reasonably beyond the control of First Solar; except that the Limited Warranties do not exclude damage to the Product in the form of mechanical load- or impact-induced breakage of the thin film solar cells (also known as cracking, micro-cracking, or micro-fracturing) caused by an event that does not break, chip, fracture, or otherwise damage the top glass or back glass of the Product.

No claim may be made under the Workmanship Warranty or the Power Output Warranty at any time after the expiration of their respective applicable warranty period.

3. **Warranty on Repaired, Replaced, or Supplemental Product.** These Warranty Terms and Conditions will apply to any repaired, replacement, or supplemental Product provided to owner under the Limited Warranties and will be effective for the balance of the original applicable warranty period for such Product.
 4. **Limitation of Remedies.** *The remedies set forth in these Warranty Terms and Conditions are the sole and exclusive remedies for any non-conforming Product or for any breach of the Limited Warranties by First Solar.* These exclusive remedies will 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.
 5. **Transfer of Warranty.** Subject to the following, and upon written notice to First Solar, the owner of the Product may transfer these Warranty Terms and Conditions to a subsequent owner to whom owner has transferred title to the Product:
 - a. The Limited Warranties will continue in effect for the remainder of the original applicable warranty periods set forth above.
 - b. The written notice must: (i) be signed by the transferor and transferee; (ii) include an acknowledgment by the transferee that it has received and agrees to be bound by these Warranty Terms and Conditions (including an acknowledgment that it has received an actual copy of these Warranty Terms and Conditions, including information regarding the Liability Cap); (iii) provide information about the transferee sufficient to update the Site Registration; (iv) confirm the Product remains deployed in accordance with the Site Registration; and (v) confirm the Product continues to be operated and maintained in accordance with the User Guide.
 - c. First Solar will not bear any costs and expenses associated with the transfer of these Warranty Terms and Conditions.
 6. **Return Policy**
 - a. Any claims under the Limited Warranties:
 - i. Must be submitted to First Solar within a reasonable time after owner discovers or should have discovered the alleged nonconformance.
 - ii. Must be submitted to First Solar on a claim form, 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, a copy of the valid Site Registration, and evidence of the Warranty Start Date and the applicable warranty period's expiration.
 - b. With respect to a remedy provided by First Solar under these Warranty Terms and Conditions, the owner must execute any and all documents, take all measures necessary and pay any and all taxes, duties, or customs charges related to the import or export of any Product.
 - c. First Solar will not accept return of the Product to evaluate a potential warranty claim unless:
 - i. First Solar has issued a return material authorization (the "RMA"), and
 - ii. upon First Solar's request, First Solar is provided commercially reasonable access to the Product at its place of installation or storage for inspection and analysis of the claimed defect.
 - d. Upon First Solar's request, the owner of the Product, at its sole cost and expense, must remove and ship the Product to First Solar for evaluation, freight pre-paid, and in accordance with First Solar's module return packaging, storage, and shipping guidelines.
 - e. If the claimed defect is accepted by First Solar, First Solar will provide one of the remedies described in Section 1.a.ii or Section 1.b.v (as applicable) at its sole cost and expense, including the cost of the return shipping of the repaired, replaced, or supplemental Product to owner. Owner must install the replacement Product at its sole cost and expense.
 - f. If the claimed defect is subsequently denied by First Solar:
 - i. First Solar will not be responsible, and owner must reimburse First Solar for any reasonable costs and expenses associated with the analysis, transportation, inspection, or testing of the Product.
 - ii. First Solar is not responsible for the packaging and transportation costs (if any) associated with return of the Product to owner.
 - iii. In the event owner does not arrange for removal (at its cost) of the Product from First Solar's warranty inspection center within 30 days after First Solar's denial of warranty coverage, and owner does not have a recycling services agreement in place with First Solar, then (in addition to the costs and expenses described in Section 6(f)(i) above), First Solar will charge owner, and owner will pay to First Solar, an amount equal to the actual and reasonably substantiated costs incurred by First Solar related to the storage, handling and recycling of such Product, plus 10% of such costs, as overhead.
 - iv. Owner must pay First Solar any charges or reimbursement under this Section 6(f) within 30 days of receipt of First Solar's invoice. First Solar may charge interest on any delinquent and unpaid balance at the rate equal to the lesser of (i) 1.5% per month, or (ii) the maximum amount allowable by law.
 - g. The owner, including any subsequent owner to whom these Warranty Terms and Conditions are transferred, agrees the charges described in this Section 6 are reasonable and appropriate and do not constitute a penalty.
 - h. A reference to First Solar under this Section 6 includes Affiliates, and authorized representatives or agents of First Solar.
7. **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 non-infringement. In no event will First Solar, or its Affiliates, be liable for any incidental, consequential, special, or indirect damages, including loss of profits, loss of revenues, or loss of use, even if informed of the possibility of these damages. To the extent permitted by law, these limitations and exclusions will apply regardless of whether the liability arises from breach of contract, warranty, tort (including negligence), or by operation of law. Under no circumstances will First Solar's, or any of its Affiliates', liability exceed the purchase price paid for the particular Product giving rise to the claim ("Liability Cap"). Nothing in these Warranty Terms and Conditions will limit or exclude First Solar's, or an Affiliate's, liability for death, personal injury, fraud, or for any other liability which cannot be validly limited or excluded by law.*
8. **General**
 - a. "Affiliate" means any corporation or other business entity (a) controlling, (b) controlled by, or (c) being under common control with, First Solar from

time to time, with "control" meaning direct or indirect ownership of 50% or more of the voting securities or voting interest in such corporation or other business entity).

- b. If any provision of these Warranty Terms and Conditions is determined to be unlawful or unenforceable in any respect, such illegality or unenforceability will not affect any other provision hereof and these Warranty Terms and Conditions will be construed as if the unlawful or unenforceable provision were not included herein.
- c. These Warranty Terms and Conditions constitute the entire agreement of the parties regarding warranties and these 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.
- d. These Warranty Terms and Conditions are governed by and construed in accordance with the laws of the State of New York, without regard to its conflicts of law provisions to the extent such principles or rules would require or permit the application of the laws of another jurisdiction. In no event will the United Nations Convention on Contracts for the International Sale of Goods (CISG) apply to or govern these Warranty Terms and Conditions.
- e. Any claim, dispute, or controversy arising out of or in connection with these Warranty Terms and Conditions will be finally settled through litigation in the state or federal courts sitting in New York County, New York. Each Party irrevocably submits to the exclusive jurisdiction of such courts (or, if such courts do not have or decline to exercise such jurisdiction, then any United States federal court of competent jurisdiction) and waives any jurisdictional defense that such litigation is brought in an inconvenient forum. ***Further, each party irrevocably waives, to the fullest extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of or relating to these Warranty Terms and Conditions.***