

Guarantee provisions

A. Product guarantee

S:FLEX GmbH, Reinbeker Weg 9, 21029 Hamburg (hereinafter referred to as „S:FLEX GmbH“) sets the highest standards on the quality of its products. These are manufactured while observing the highest quality requirements. S:FLEX GmbH (guarantor) grants its customer as direct contractual partner (guarantee) the following product guarantee in accordance with the appropriate agreement:

Under the requirements stipulated in these guarantee provisions, the guarantor grants the guarantee for a period of 10 years beginning with the transfer of risk that the metal components of the racking systems are free of material and processing defects. Excepted from this guarantee are wear parts.

This **product guarantee** shall apply to the S:FLEX racking systems.

B. Guarantee provisions

1. Guarantee services

In case of a guarantee claim according to the guarantee provisions below and in the event that a racking systems shows a defect within the agreed guarantee period, then the racking system – provided that this is not impossible or disproportionate – shall at our discretion:

- be repaired on our premises
- be exchanged by a replacement racking system of an equivalent type and age.

In the event that the type of racking system is no longer produced at the date of the guarantee claim, the guarantor shall reserve the right to supply a different type of racking system, which differs in size, form, color or similar. The remaining period of the original guarantee period shall apply to replaced or repaired racking systems.

The transport or dispatch of the racking systems from and to the guarantor may only be made with the prior consent of the guarantor. If the guarantor agrees to the measure intended, then the guarantor shall bear the transport or dispatch costs resulting from the carrying out of said measure.

2. General guarantee provisions

2.1 This guarantee shall only establish claims made by our direct contractual partner, via whom all guarantee claims are to be settled. Claiming on a guarantee on the part of third-parties shall only be possible if we have provided written consent beforehand.

2.2 This guarantee shall apply irrespective of statutory guarantee claims or non-contractual claims. This guarantee is an independent, voluntary and free service on the part of the guarantor, and shall have no influence on the quality agreements made between the seller and purchaser.

2.3 This guarantee shall apply within the European Union or within a third country, in which the racking system was first placed on the market by the guarantor, except the USA and Canada.

2.4 Guarantee claims can only be asserted within the respective guarantee period applicable. An extension of the guarantee period – for whatever legal reason – shall be excluded.

2.5 If the guarantee is an entrepreneur, prerequisite for asserting guarantee claims is, that he has properly fulfilled his examination and notification obligations in accordance with § 377 German Commercial Code (HGB).

3. Liability limitations and liability waivers

3.1 The prerequisite for the assertion of claims arising from the guarantee shall be an appropriate and professional application, installation, maintenance and use of the racking systems under normal conditions of use. Furthermore, the observance of the installation, maintenance and operating instructions, including the safety guidelines and warnings referred to therein shall also be a prerequisite for the assertion of claims arising from the guarantee. The guarantee claim shall not extend to parts subject to wear.

3.2 A guarantee claim does not apply in case of damages or impairments of the product:

- if the product has not been transported, installed, assembled, checked, repaired or operated in accordance with the recognized rules of engineering.
- if the product was not appropriately stored before or during the installation.
- if the product has not been used or operated in accordance with the technical specifications agreed or used contrary to its intended use.
- if the product has been exposed to extraordinary environmental influences or force majeure (lightning strike, hail, fire, storm, natural catastrophe, etc.) or vandalism or theft.
- if corrosion, for example, as a consequence of oxidizing metal combinations at a photovoltaic field (e.g. chemical reactions with copper), has occurred.
- if the load-bearing capacity of a roof structure or floor before the installation of the racking systems does not correspond to the recognized rules of engineering and was not ensured in accordance with the applicable technical standards.
- if the roof structure or floor does not correspond to the requirements/specifications laid down in the installation instructions for the respective product.

- if adjustments or changes have been carried out on the product or its accessories
- without the explicit permission of S:FLEX GmbH.
- if the product has not undergone maintenance/servicing by qualified personnel on an annual basis.
- if the original S:FLEX accessories or spare parts or other components have not been used.

3.3 The guarantee claim shall not apply to decorative defects, i.e. minor deviations from the required quality, which are not relevant for the value and intended use.

3.4 The guarantor shall not be liable for delays or services arising from this guarantee due to force majeure, war, warlike conditions, strikes, epidemics, fire, flooding or other comparable circumstances outside the scope of liability of the guarantor.

3.5 Claims exceeding the rights specified in the guarantee provisions, in particular for compensation for direct or indirect damage, particularly in relation to lost profit as well as damages arising from business interruptions or from dismantling, inspection, disposal, new installation or the transport of the defect products as well as the product to be delivered, shall not be included within the scope of the guarantee. In particular, the total scope of liability shall be limited to the purchase price payable by the customer for the product.

3.6 The aforementioned liability limitations shall not apply to claims

- for damages caused as a result of willful or grossly negligent conduct on the part of our statutory representatives or vicarious agents,
- caused as a result of ordinary negligence, if and to the extent the guarantor, its statutory representatives or vicarious agents have breached a material contractual obligation (so called cardinal duty), fulfillment of which is essential for due and proper performance of the relevant agreement and compliance with which may reasonably be relied upon by the customer.
- for damages resulting from injury of life, limb or health, for which we, our statutory representatives or vicarious agents are responsible
- resulting out of a compelling statutory strict liability, particularly, arising from the German Product Liability Law.

4. Procedure in the event of filing a complaint

4.1 In the event of a guarantee claim, immediately contact:

S:FLEX GmbH	Telephone: +49 (0)40 18 15 46 13
Reinbeker Weg 9	Telefax: +49 (0)40 18 15 46 14
21029 Hamburg	Email: info@sflex.com

Please note that components, which are the subject of a complaint, cannot be accepted by S:FLEX GmbH without prior notification by telephone.

4.2 Please have the following information at hand for the telephone call:

- Your name and address as well as a telephone number where we can contact you,
- The model name of the racking system,
- The town/city and address where the racking systems are installed,
- The date of installation,
- The project-related technical documentation,
- A complete listing of the malfunctioning observed as well as any other information, which can be helpful to the analysis,
- Proof of purchase.

4.3 Staff members of S:FLEX GmbH will inform you concerning the further steps and provide you with your individual complaint number, under which you can receive information on the processing of your complaint. Please always specify this complaint number in future correspondence or in the subsequent processing of your complaint.

4.4 Insofar as you are requested by S:FLEX GmbH staff to send specific documents within the framework of the complaint processing, please send them by post or telefax to the address specified in Clause 4.1.

5. Final provisions

5.1 Rights arising from and in relation to this guarantee shall be subject to the laws of the Federal Republic of Germany without recourse to the UN Purchase Law.

5.2 Unless otherwise agreed and insofar as the requirements laid down in §§ 38 German Code of Civil Procedure (ZPO) apply, the head office of the contractor, or alternatively – at his own discretion, the branch of the contractor specified in the order, shall be the agreed exclusive place of jurisdiction as a matter of principle. We shall also be entitled to bring action against the customer in the court competent for his place of business.

5.3 The language of the guarantee shall be German. In the event that there are contradictions between the foreign language and German version of the guarantee, the German version shall prevail.

5.4 Should any of the provisions contained in these guarantee provisions be ineffective, then the validity of the remaining provisions shall hereby remain unaffected. The ineffective provision shall be deemed to be replaced by that provision, which comes nearest to the will of the parties and the commercial purpose of the contract.

Release: 2015/02/2