

## **MITREX INC. WARRANTY**

This document sets forth the terms and conditions of Mitrex Inc.'s warranty coverage applicable to commercial/industrial solar cladding products purchased from Mitrex Inc. ("Mitrex"). The limited warranties provided hereunder represent the exclusive warranties provided by Mitrex with respect to the structural and functional integrity of its commercial/industrial solar cladding products and replaces any and all other written or oral representations and warranties which may otherwise be applicable (subject to any mandatory overriding statutory warranties, rights and remedies which may apply in your jurisdiction) and/or which may have been made to you by any person or entity whatsoever. Warranties herein are not valid unless, and may not be modified in any fashion except by a written modification, signed by an authorized corporate officer of Mitrex. Please note that any third-party Contractor utilized by you for any purpose whatsoever, is not an employee or representative of Mitrex, and accordingly, has no authority to sign or make any changes or modifications to Mitrex's limited warranties. If you have questions about your coverage under there limited warranties herein, please contact Mitrex directly for assistance.

### **TWENTY-FIVE (25) YEAR LIMITED PRODUCT WARRANTY**

1. Mitrex hereby warrants to the Customer that, subject to the terms, conditions, limitations and exclusions set out herein, Mitrex warrants its Products (as defined below) to be free from substantial defects in manufacturing and workmanship for the duration of 25 years (the "Product Warranty Term").
2. The effective date of the Limited Product Warranty shall be the date of installation or \_\_\_\_ days after delivery by Mitrex to the Customer, whichever date is earlier (the "Product Warranty Effective Date"). Hereafter, this warranty is consequentially effective for a 25 year period from the Product Warranty Effective Date.
3. In the event any Product is determined by Mitrex to have a manufacturing defect which diminishes the functionality of the Mitrex System (as defined below) during the Product Warranty Effective Term, Mitrex will, at its sole discretion, either repair or replace any defective Product, without cost to the Customer, only as necessary to restore the Mitrex System to its functioning condition, all as more fully and particularly outlined below. The repaired or replaced Products shall remain subject to this Limited Product Warranty for the remainder of the Product Warranty Term only. This Limited Product Warranty coverage is only available if the Products have been installed and assembled in a good and workmanlike manner in accordance with the conditions for said coverage set out herein and provided further that a defect is not the result of an otherwise excluded cause as set out below (Conditions and Exclusions).
4. Mitrex's obligations and the coverage hereunder shall be limited to the reasonable costs for labour and materials required to repair or replace any defective Products and restore the Mitrex System to a functioning condition only: provided, however, that Mitrex will not be responsible for the costs of repairing, replacing or relocating any non-Product (defined below), or other materials supplied and/or manufactured by any company other than Mitrex. Mitrex shall have no obligation

regarding the aesthetic condition or appearance of any components of the Mitrex System arising from its repair or replacement hereunder. Any costs arising from the failure of any non-Product, or costs associated with repair or replacement of non-Product due to warranty related work, is excluded from Mitrex's obligation hereunder. Any warranties applicable to non-Products, whether or not they are used as a component of the Mitrex System, shall be provided by Mitrex to the Customer, if available, on behalf of the third-party manufacturer of such non-Products. For greater clarity, Mitrex does not warrant the physical integrity, capacity, workmanship, quality, and/or functionality of any non-product, whether or not purchased directly from Mitrex, which is used as a component of the Mitrex System.

### **TWENTY-FIVE (25) YEAR LIMITED PERFORMANCE WARRANTY**

5. The effective date of the Limited Performance Warranty provided herein shall be the date of installation or \_\_\_\_ days after delivery by Mitrex to the Customer, whichever date is earlier (the "Performance Warranty Effective Date"). Hereafter, this warranty is consequentially effective for a 25 year period from the Performance Warranty Effective Date.
6. Mitrex warrants that for a period of twenty-five years the Products (as defined below) will maintain a level of performance as set forth below (the "Performance Warranty Term"):
  - During the first year, Mitrex warrants the actual power output of the Products will be no less than **97%** of the labeled power output.
  - From **year 2 to year 25**, the actual annual power decline will be no more than **0.7%**; by the end of year 25, the actual power output will be **no less than 80%** of the labeled power output.
  - The actual power output of the Products shall be determined for verification using Standard Testing Conditions only. The actual power output measurement shall be either carried out by a Mitrex facility or by a Mitrex recognized third-party testing institute. Testing equipment uncertainty will be applied to all actual power output measurements.

### **DEFINITIONS**

7. There are many terms in this Limited Product Warranty and Limited Performance Warranty that have specific meanings. For your convenience, some of the terms are listed below:
  - a. "Building" means the commercial/industrial structure upon which the Mitrex System will be or have been installed.
  - b. "Customer" means any person, company or other legal entity that purchases Products from Mitrex to install/set up the Mitrex System in their Building.
  - c. "Mitrex System" all products, non-products collectively purchased by the Customer to set up Mitrex's solar cladding system in their Building to meet their Building's energy supply requirements.
  - d. "Product" or "Products": means the commercial/industrial products manufactured and/or supplied by Mitrex and utilized as part of the Customer's energy supply requirements. For the purposes of the Limited Product Warranty and Limited Performance Warranty, the terms

“Product” or “Products” apply only to Mitrex’s commercial/industrial solar cladding products and other components manufactured by Mitrex, to integrate and operate the Mitrex System within the Customer’s Building.

- e. “non-Product” means products that have been manufactured by third party manufacturers and supplied by Mitrex along with its Products to integrate the Mitrex System within the Customer’s Building for the satisfaction of the Customer’s energy supply requirements.
- f. “Purchase” or “Purchased” means the purchase of the Products covered by this Limited Warranty.
- g. “Contractor” means the person, company or other legal entity who was contracted by the Customer to install the Mitrex System on the building and who has met Mitrex’s registration requirements and is duly registered with Mitrex at the time of the installation of the Mitrex system. Notwithstanding such registration, Mitrex does not take responsibility for or warrant the workmanship of the Contractor with respect to the installation of any component of the Mitrex System.

## **CONDITIONS AND EXCLUSIONS**

- 8. Mitrex will have no obligation under any limited warranty herein until such time that Mitrex has been fully paid for all supplies and materials. If Mitrex has not been paid in full for all supplies and materials within \_\_\_\_ days of the delivery of all components of the Mitrex System, the limited warranties herein will be voided and Mitrex shall have no liability to any entity hereunder.
- 9. Coverage under this Limited Warranty is excluded or terminated, as the case may be:
  - a. If the Mitrex System has not been installed in a good and workmanlike manner in accordance with Mitrex’s published specifications at the time of installation, all other written instructions provided by Mitrex and all applicable Building codes; or
  - b. If the Products have been subject to negligence in transportation, handling, storage or use;
  - c. If the Products have been repaired or in any way altered or tampered with, without Mitrex’s written authorization;
  - d. If the Products have been subject to extraordinary salt or chemical exposure;
  - e. If the Products, or any other component of the Mitrex System have been moved from its original installation location.
  - f. the limited warranties do not apply to any deterioration in the appearance of the Products (including, without limitation, any scratches, stains, rust, or mold) or any other changes to the Products in appearance stemming from the normal wear and tear over time of Product materials. Also, no warranty claim may be made if the Product label, type or serial number of the applicable Products has been altered, removed or made illegible.
  - g. If the Mitrex System incorporates any product not manufactured by Mitrex or purchased from Mitrex, without prior written approval of Mitrex; or
  - h. If the Customer refuses Mitrex the right to access the Building for inspection or assessment purposes at any time and from time to time throughout the Term; or
  - i. If the Customer fails to maintain the Mitrex System and exercise reasonable care in maintaining the Mitrex System as would a prudent and diligent Customer and in

accordance with the preventive maintenance recommendations issued by Mitrex from time to time;

- j. If there is any substantial change in the use of the Building or a change in the technology associated with the processes carried on within the Building from those for which it was originally designed;
- k. Any failure resulting from an application that was not completed strictly in accordance with Mitrex's application (installation and assembly) instructions for the Products used as part of the Mitrex System;
- l. Any failure resulting from improper or faulty Building design or construction;
- m. Any failure resulting from structural defects, settlement, distortion, crackling, or failure of the substrate or surface where the Mitrex System is installed, or inadequate performance of products not manufactured or sold by Mitrex;
- n. Damage or defect to the Product that results from anything other than the flaw of the Product itself, including but not limited to, the Product having been damaged through mechanical means or exposed to toxic or harmful chemical substances;
- o. Any deterioration or damage to the Product caused by malicious mischief, vandalism, impact, misuse, abuse; or negligence in cleaning or maintenance;
- p. Any form of damage caused by direct and indirect influences that are generally known to affect the quality of the Products and/or the Mitrex System as a whole;
- q. The natural characteristics of the Product is NOT inclusive in this warranty and shall NOT be claimed as defect;
- r. Any damage to or compromise of the Mitrex System if the Building's structure is altered after initial installation of the Mitrex System, whether any such alteration is by structural additions, changes or replacement or overburden and other equipment installations, except where a written request has been sent to and written approval obtained from Mitrex in advance of such alterations or installation;
- s. Any damage resulting from the use of the Mitrex System as a recreational surface or for any other purpose for which the Mitrex System was not designed;
- t. Any damage resulting from standing water on, in or around the Mitrex System;
- u. Any damage resulting from infiltration or condensation of moisture in, through, or around walls, coping, building structure, underlayment or surrounding material where components of the Mitrex System are installed;
- v. Failure or damage to the Mitrex System resulting from the Customer's failure to exercise reasonable care in maintaining the Mitrex System;
- w. Any damage caused by natural disasters or Acts of god including but not limited to lighting, gale, hurricane, tornado, tempest, hailstorm, ice storm, earthquake, flood, fire, explosion; impact of foreign objects, regardless of source; civil insurrection, war, riot, or vandalism; or for any cause for which standard insurance policies may provide coverage;
- x. Any damage resulting from exposure to chemicals, including but not limited to radiation exposure, greases, solvents, oils, or other chemicals;
- y. Any damage due to animals, birds, pests, vermin, or their waste products (e.g. bird droppings/guano);

- z. Any damage resulting from the improper or insufficient ventilation of either the area where the Mitrex System is installed;
  - aa. Any damage resulting from the abuse or mistreatment of the Products or any other component of the Mitrex System;
  - bb. Costs relating to the removal of any asbestos present in the area where the Mitrex System is installed;
  - cc. Costs or damage resulting from the failure of any party to report to Mitrex on a timely basis regarding any suspected damage to the Mitrex System; and
  - dd. Costs incurred for repair or replacement of any materials incorporated into the Mitrex System by the Customer that are not authorized in advance in writing by Mitrex.
10. Mitrex reserves the right to discontinue or modify any of its Products without notice to the Customer and shall not be liable to the Customer as a result of any modification or discontinuance. Should such modification or discontinuance occur, Mitrex's obligation under the limited warranties herein will be for product of like kind and quality only. Mitrex will have no liability in the event that replacement material may vary in colour in comparison to the original product, whether as a result of product changes, normal weathering or otherwise.
11. This Limited Product Warranty and the Limited Performance Warranty are the exclusive warranties and remedies provided by Mitrex and is the only recourse for recovery for the Customer should there be a valid claim under the abovementioned warranties. All other claims, including, without limitation, for regular wear, changed appearance or aesthetic condition are excluded and are otherwise not covered by Mitrex. Should the Customer accept coverage under the limited warranties herein, the Customer agrees that no right of subrogation shall be transferred to a party who seeks to recover from Mitrex any damages, costs or other amounts not covered by said warranties.
12. The unenforceability of any provision stated herein will not affect the enforceability of any other provision herein, which will remain in full force and effect.

### **RETURN POLICY**

13. The Customer must inspect all components of the Mitrex System supplied by Mitrex immediately upon receipt of same. Defects reported from such inspection might only be claimed prior to installation of the Mitrex System; thereafter, Mitrex shall not be responsible for any defects to any Product. Any concealed defects must be claimed immediately upon discovery, the right to claim such concealed defects will, at any rate, expire at the end of the Product Warranty Term. Mitrex must be given reasonable opportunity to inspect any component of the Mitrex System prior to any requested alternation or repair.
14. If protective film is applied onto surface of any Products before delivery, the Customer shall remove all the films within \_\_\_\_\_ days counting from the date of receipt of the Products. If the

Customer fails to remove the films within this time frame, Mitrex shall hold NO responsibility for any damage /defect caused by such protective films.

15. In case any Product is found not to be in conformity with the conditions of the warranties herein, Mitrex reserves the right / authority and/or option to adjust the quality of its Product by either refinishing, replacing or repairing the defective component of the Product at their cost. If any original component of the Product is no longer available, Mitrex will either substitute a Product or component of equal value and quality or refund the purchase price of the defective Product or component only. The warranty period applicable to any refinished, repaired, or replaced panels shall be from the same duration applicable to the original delivered and/or installed product. For the purpose of service quality satisfaction in accordance with Mitrex's specified standard, Mitrex, at its sole discretion, will refund the Customer with the original purchase price if Mitrex is unable to ameliorate such non-conformity by repairing or replacing of the defected Mitrex panels so claimed by the Customer.

## **REMEDIES**

16. In respect of the **Twenty Five (25) Year Limited Product Warranty**, if Mitrex verifies in its reasonable judgment that the Products fail to conform to the terms of the Limited Product Warranty set forth herein, Mitrex, at its option, will provide one of the following remedies: 1) repair the Products; 2) replace the Products with new products whose labeled power wattages equal to or exceed the Warranted Wattages of replaced Products (the Warranted Wattages is defined as the contracted power wattages of the Products minus the permissible accumulated degradation); or 3) provide a refund of the fair market value of the Products assessed based on the Warranted Wattages at the time of claim.
17. In respect of the **Twenty-Five (25) Year Limited Performance Warranty**, if Mitrex verifies in its reasonable judgment that the Products fail to conform to the terms of the Limited Performance Warranty set forth herein, Mitrex, at its option, will provide one of the following remedies: 1) repair the Products; 2) replace the Products with new products whose labeled power wattages equal to or exceed the Warranted Wattages of replaced Products; 3) provide additional Products to make up the wattage difference between the actual measured power output wattages of the Products and the Warranted Wattages; or 4) provide a refund of the fair market value of the wattage difference between the actual measured power output wattages and the Warranted Wattages. All remedies under this limited warranty statement shall be calculated based upon the Warranted Wattages of the Products at the time of first reporting of the warranty claim.
18. Mitrex will not accept any return of Products without Mitrex's prior written authorization to the customer. Once accepted, Mitrex will cover reasonable transportation costs (except for insurance, any taxes, duties, demurrages, or any other costs and expenses related to custom clearance or Customer's failure to cooperate) for shipping the Products under a claim back from the Customer to a designated location of Mitrex, and for shipping the additional, repaired or replacement

Products to the original installation location. If Mitrex opts for repair as the remedy, Mitrex shall cover reasonable material and labor costs related to the repair.

19. In any event, the costs and expenses for the removal, installation, and/or reinstallation of the Products, including fees, levies, taxes or other financial duties due in relation to any applicable electronic waste disposal regulation, shall remain with the Customer, unless otherwise agreed to by Mitrex in writing. Mitrex will not pay any cost of any fees, levies, taxes or other financial duties imposed on the remedies implemented by Mitrex or imposed on the Products subject to such remedies, that are due to regulatory, government or judicial decisions not existing at the time of purchase of the affected Products. Any repair or replacement of the affected Products shall not increase the applicable warranty period. The warranty period for replaced or repaired Products is the remainder of the warranty for the affected Products.
20. Mitrex reserves the right to deliver a similar product (of similar size, color, shape, and/or power output) in replacement of the affected Products if production of the affected Products is discontinued or such product is otherwise unavailable. Unless instructed by Mitrex otherwise, the Customer shall dispose of Products in accordance with all local applicable regulations on electronic waste treatment and disposal at its own cost. Products having been replaced shall not be sold, reworked or reused in any way, unless expressly authorized by Mitrex.

#### **LIMITED TRANSFERABILITY**

21. This Limited Product Warranty and Limited Performance Warranty are collectively transferrable only once and only by the original Customer, subject to;
  - a. Mitrex providing its consent, in its sole discretion to the transfer of the above-noted warranties;
  - b. The Customer notifying Mitrex in writing at least 30 days prior to any transfer of ownership and/or management of the Building to a third party (the "Transferee"), requesting Mitrex's consent and paying Mitrex's transfer fee of \_\_\_\_\_ plus applicable taxes; and
  - c. The transferee signing Mitrex's standard form of Acknowledgement and Assumption Agreement of the Customer's responsibilities under the Limited Warranty.
22. The Term (being the remainder thereof) and all other terms of the Limited Warranty shall remain unchanged, save that the Limited Product Warranty and Limited Performance Warranty shall thereafter be non-transferable. Upon consent and transfer, the Transferee shall be required to comply with all obligations of the Customer under this Limited Warranty.

#### **CUSTOMER'S RESPONSIBILITIES**

23. If the Customer wants to make a claim hereunder, the Customer or Transferee shall notify Mitrex in writing by certified mail within **30 days** following the discovery of the potentially warranted defect. The Customer shall provide free access to the Building for agents or employees of Mitrex to inspect the area, and to make whatever investigations or examinations they may consider

appropriate. Failure to provide such access, or failure to report potentially warranted defects within **30 days** of their discovery, shall render this Limited Warranty null and void.

### **CLAIM PROCESS**

24. If the Customer believes that it has a justified claim covered by the limited warranties set forth above, then the Customer shall submit such claim in writing **without undue delay**, with supporting information including but not limited to description of the claimed defect, associated serial numbers, purchasing invoices and proofs, to Mitrex within the applicable warranty periods specified above to the following address, or such future address as Mitrex may provide from time to time:

**Mitrex Inc.**

**41 Racine Road, Etobicoke, ON M9W 2Z4**

**Email: [contracts@mitrex.com](mailto:contracts@mitrex.com)**

Upon receipt of such written claim, Mitrex may seek further verification of the Customer's claim at its sole discretion. The Customer is obligated to allow Mitrex to inspect the defect remotely or at the Building location, to further verify the Customer's claim.

### **WARRANTY ASSIGNMENT**

25. This Limited Warranty is transferrable to a party taking legal title to the Products, provided that the Products remain installed in their original installation location.

### **DISPUTE RESOLUTION**

26. In case of any dispute related to warranty claims, such dispute shall be referred to and finally resolved pursuant to the governing law clauses and dispute resolution procedures under the purchase agreement between the Customer and Mitrex.

### **NOT INDEPENDENT WARRANTIES**

27. The Customer has the right to pursue claims under each of the warranties set forth above; provided that if claims arise under multiple limited warranties from a single defect, then if Mitrex remedies that defect as set forth above, Mitrex shall be deemed to have resolved all applicable warranty claims arising from that defect.

### **SEVERABILITY**



28. If a part, provision or section of this Limited Product Warranty and Limited Performance Warranty, or their application to any person or circumstance is held invalid, void or unenforceable, such holding shall not affect this Limited Product Warranty and Limited Performance Warranty and all other parts, provisions, clauses or applications shall remain, and, to this end, such other parts, provisions, clauses or applications of this Limited Product Warranty and Limited Performance Warranty shall be treated as severable.

## **DISCLAIMERS**

29. The limited warranties set forth herein are in lieu of and exclude all other express or implied warranties, including but not limited to warranties of merchantability and fitness for a particular purpose or application, and all other obligations on the part of Mitrex unless such other warranties and obligations are agreed to in writing by Mitrex. Some jurisdictions limit or do not permit disclaimers of warranty, so this provision may not apply to the customer in such jurisdictions.

## **LIMITATION OF LIABILITY**

30. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MITREX HEREBY DISCLAIMS, AND SHALL HAVE NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR, DAMAGE OR INJURY TO PERSONS OR PROPERTY OR FOR OTHER LOSS OR INJURY RESULTING FROM ANY CAUSE WHATSOEVER ARISING OUT OF OR RELATED TO ANY OF ITS PRODUCTS OR THEIR USE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL MITREX BE LIABLE TO THE CUSTOMER, OR TO ANY THIRD PARTY CLAIMING THROUGH OR UNDER THE CUSTOMER, FOR ANY LOST PROFITS, LOSS OF USE, OR EQUIPMENT DOWNTIME, OR FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND, HOWSOEVER ARISING, RELATED TO THE PRODUCTS, EVEN IF MITREX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
31. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MITREX'S AGGREGATE LIABILITY, IF ANY, IN DAMAGES OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE PRICE PAID TO MITREX BY THE CUSTOMER FOR THE PRODUCT IN THE CASE OF A WARRANTY CLAIM.
32. THE CUSTOMER ACKNOWLEDGES THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE AN ESSENTIAL ELEMENT OF THE AGREEMENT BETWEEN THE PARTIES AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE PURCHASE PRICE OF THE PRODUCTS WOULD BE SUBSTANTIALLY DIFFERENT. SOME JURISDICTIONS LIMIT OR DO NOT PERMIT DISCLAIMERS OF LIABILITY, SO THIS PROVISION MAY NOT APPLY TO THE CUSTOMER IN SUCH JURISDICTIONS. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON THE EXCLUSION OF DAMAGES SO THE ABOVE

LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO THE CUSTOMER IN SUCH JURISDICTIONS.

33. THE CUSTOMER MAY HAVE SPECIFIC LEGAL RIGHTS OUTSIDE THIS WARRANTY, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM PROVINCE TO PROVINCE OR COUNTRY TO COUNTRY. THIS LIMITED WARRANTY DOES NOT AFFECT ANY ADDITIONAL RIGHTS YOU HAVE UNDER LAWS IN YOUR JURISDICTION GOVERNING THE SALE OF CONSUMER GOODS.

**NOTE**

For Products covered by Mitrex's limited warranty, please refer to our product lists published on our website at: \_\_\_\_\_ as such list is updated from time to time.

The installation and handling of Mitrex's Products requires professional skills and should only be performed by qualified professionals. Please read the safety and installation instructions before using the Products.

Mitrex holds the right to amend the provisions, clauses or applications of this Limited Warranty from time to time without notice; however such changes would not be retrospective.

Mitrex Inc: \_\_\_\_\_ Date: \_\_\_\_\_