

# SMARTDC™ LIMITED WARRANTY - US

## LIMITED WARRANTY

This limited warranty (the "**Warranty**") is provided by FLO Services USA Inc. d/b/a FLO Charging Solutions USA Inc. in California, with a mailing address at 2800 Rue Louis-Lumière, Suite 100, Québec (Québec) G1P 0A4, Canada ("**FLO**").

**1. Products.** The product covered by this Warranty is the **FLO SmartDC™ Direct Current Fast Charger (DCFC)** (the "**Product**"). Some additional products may be sold or packaged with the Product and may have separate warranty terms that apply in which case those separate warranty terms will govern those products.

**2. Limited Warranty.** Subject to the terms and conditions of this Warranty, including the warranty exclusions and disclaimers set forth below, the Product is warranted to (i) be free of any claim of ownership by third parties, (ii) be free from defects in material and workmanship and (iii) function in accordance with FLO's technical specifications, including the Installation Guide and any technical specifications provided at the time of purchase and any service communications (the "**Product Specifications**"). This Warranty only applies to the original purchaser named in the original purchase invoice for a Product from FLO or from a distributor or value-added reseller authorized by FLO (the "**Purchaser**"). For clarity, if a Product is sold by a distributor or value-added reseller authorized by FLO, the distributor or value-added reseller is not the Purchaser and the Warranty applies to the original purchaser named in the invoice issued by the distributor or value-added reseller authorized by FLO. The Warranty may not be transferred and shall only apply to a Purchaser located in the United States.

**3. Warranty Period.** This Warranty is valid for a period of one (1) year from date of Product commissioning or from the date that is six (6) months following the date of Product shipment to the Purchaser from FLO or a distributor or value-added reseller authorized by FLO, whichever occurs first (the "**Warranty Period**"). NO WARRANTIES SHALL APPLY AFTER THE EXPIRATION OF THE APPLICABLE WARRANTY PERIOD UNLESS PURCHASER HAS PURCHASED AN EXTENDED WARRANTY FROM FLO OR A DISTRIBUTOR OR VALUE-ADDED RESELLER AUTHORIZED BY FLO.

**4. Extended Warranty.** Through the purchase of an extended warranty (the "**Extended Warranty**") the Purchaser may extend the Warranty Period for successive one (1) year periods following the expiration of the original Warranty

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Period (such extended term purchased by the Purchaser, the "**Extended Warranty Period**"). If an Extended Warranty is purchased, the total Warranty Period may not exceed five (5) years and any Extended Warranty must be purchased at the time the Product is purchased. During the applicable Extended Warranty Period, the terms and conditions of this Warranty, including all limitations and exclusions, shall continue to apply in full force and effect and the expression "Warranty Period" shall include the Extended Warranty Period.

**5. Limited Remedies.** If the Purchaser makes a claim for Warranty service in accordance with Section 6, FLO will attempt to diagnose any issues during the Warranty Period remotely. If an on-site inspection by FLO is required, Purchaser shall pay then-current labor rates for travel time to the Purchaser's site (the "**To Site Travel Costs**"). Prior to any inspection, FLO will provide Purchaser with a quote for any To Site Travel Costs payable by Purchaser and Purchaser's acceptance of FLO's quote is a condition to FLO's obligations relating to such inspection. FLO shall be responsible for on-site labor costs of FLO during inspection, unless FLO determines that the issue that is the basis of the claim is not covered by the Warranty, in which case such on-site labor costs shall be paid by Purchaser at FLO's then-current labor rates, which will be communicated to the Purchaser prior to intervening. If a Product is found by FLO after inspection to be defective or to not function in accordance with the Product Specifications during the Warranty Period, FLO's sole obligation under this Warranty is limited to performing one of the following actions, at FLO's sole and absolute discretion:

- a) **Repair.** If FLO repairs a Product under this Warranty, FLO shall pay for standard or ground parts shipping within Canada and the United States, the cost of replacement parts and on-site labor costs necessary to repair the Product. The Purchaser shall pay applicable To Site Travel Costs. Prior to any repair, FLO will provide Purchaser with a quote for any such To Site Travel Costs payable by Purchaser and Purchaser's acceptance of FLO's quote is a condition to FLO's obligations relating to such repair. All repaired Products, including any replaced parts, are warranted only for the remainder of the Warranty Period, prolonged only by the period during which the Product was being repaired. The Purchaser acknowledges that replacement parts or Products may be remanufactured or reconditioned parts that offer substantially similar functionality. All parts that are replaced shall become FLO's sole and exclusive property and must be

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returned to FLO, if requested, at FLO's expense. Notwithstanding FLO's obligations with respect to part replacement or repair, if a Product is physically disconnected from civil and/or electrical infrastructure during a repair, Purchaser shall be responsible for the costs of any on-site labor related to such disconnection and reconnection of the repaired Product (i.e. the full Charging Station) to civil and electrical infrastructure (each of which shall be performed upon the Purchaser's approval of applicable To Site Travel Costs and any other applicable charges.)

- b) **Replacement.** If FLO replaces a Product, FLO shall be responsible for the cost of shipping the Product to the Purchaser's site (standard or ground shipping only), so long as the site is in the United States. All replaced Products are warranted only for the remainder of the Warranty Period, prolonged only by the period during which the Product was being replaced. All Products that are replaced shall become FLO's sole and exclusive property and must be returned to FLO if requested, at FLO's expense. Purchaser shall be responsible for the costs of removal of the replaced Product and installation of the replacement Product (each of which shall be performed upon the Purchaser's approval of applicable To Site Travel Costs and any other applicable charges.)
- c) **Reimbursement.** Should FLO, during the Warranty Period, notify the Purchaser that it can no longer repair a Product defect that would otherwise be covered by the Warranty, FLO shall have the right to buy back the Product at the following price: (i) the price paid by the Purchaser; minus (ii) the price paid by the Purchaser prorated by the number of full years elapsed since the purchase of the Product by the Purchaser divided by the total number of years of the Warranty Period. For example, if a Product was purchased with a base Warranty Period of one (1) year and an Extended Warranty Period of two (2) years, and it was re-purchased after the second year from the date of purchase, then FLO would pay the Purchaser one third (1/3) of the original purchase price, plus applicable tax. For the avoidance of doubt, any Product bought-back by FLO under this subsection becomes the sole property of FLO, and must be returned to FLO at FLO's cost. Purchaser is responsible for providing proof of the purchase price, failing which FLO may determine the purchase price based on the Product's Manufacturer's Suggested Retail Price.

**6. Warranty Claim Procedure.** Any claim under this Warranty must be made via

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FLO Customer Service at [service@flo.com](mailto:service@flo.com) to obtain a Return Material Authorization ("RMA") number. As part of the RMA process, the Purchaser may be asked to provide information regarding the Product such as condition, model/serial number and proof of purchase. If FLO requires any parts to be sent for testing, FLO will provide a shipping label that will cover mailing costs associated with transporting such parts within Canada and the United States only to FLO for evaluation. Alternatively, FLO may conduct on-site evaluation, as further set out above. Customer Service contact information is available at [www.flo.com](http://www.flo.com). Any parts of a Product or Products determined to be ineligible for service under this Warranty will be returned, repaired or replaced at the discretion of the Purchaser and upon the Purchaser's approval, at FLO's then-current labor rates and charges.

**7.Exclusion of Warranty.** This Warranty will be invalid and will not apply unless maintenance service of the Product is performed by FLO and paid for by Purchaser and is conducted on the following basis, based on whichever time or event occurs first, and, for the avoidance of doubt, which events or times reset following each maintenance session: (i) every year (starting at shipping of the product); or (ii) every three hundred (300) hours of use. Hours of use shall be measured based on the Product's on-board data collection as provided to FLO's cloud-based database. This Warranty is voided unless the Product is installed or uninstalled according to the applicable Product Specifications by a qualified and currently licensed electrician. Repairs, alteration or disassembly must be performed by FLO. This Warranty does not apply where the original Product identification (e.g. serial number, logos, copyright notices and trademarks) has been removed, altered or degraded. Without in any way limiting the exclusions under this Warranty, the Warranty also does not apply to any damage to a Product resulting from: (i) improper site preparation, maintenance (including, without limitation, damage resulting from the use of pressure washers or abrasive tools or maintenance products) or installation, neglect (including, without limitation, damage caused by snow or ice buildup), abuse, vandalism or improper use of the Product including any use that is not in accordance with the applicable Product Specifications; (ii) normal wear and tear, cosmetic or superficial damage, normal aging, scratches, stains, dents or exterior fading; (iii) acts of God, accidents (including, without limitation, damage caused by a vehicle), fire or exposure to any other hazard

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(including extreme electromagnetic field or any acts of nature such as earthquakes, tornados, floods, vermin, biological infestations, snow, lightning, etc.); (iv) exposure to conditions or inputs or operation of the Product outside the tolerances specified in the Product Specifications; or (v) any other reason beyond FLO's control (including, without limitation, damage resulting from the use of charging adapters not manufactured by an automotive OEM). The cost of replacement (parts and on-site labor) of the recharge cables/connectors assembly is covered only (a) during the Warranty Period and (b) in proportion to the actual number of operating cycles of the Product at the time of the claim, divided by the projected useful life of ten thousand (10,000) operating cycles for the Product, which number will not change regardless of the length of any Warranty Period, including any Extended Warranty Period included therein. For security and continued certification purposes, the recharge cables/connectors assembly must be replaced as a whole if any of its individual components is defective. The paint finish on the Product is not covered by this Warranty. FLO will not cover costs associated with shipping parts of the Product or any replacement Product outside of Canada or the United States and additional shipping and handling, as well as export or import duties that may apply to such shipments, will be at the Purchaser's sole expense.

**8. DISCLAIMERS.** OTHER THAN AS SET OUT IN THIS WARRANTY, FLO DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE PRODUCTS. Some states or jurisdictions do not allow the exclusion of express or implied warranties so the above exclusions may not apply to the Purchaser. IF ANY IMPLIED WARRANTY CANNOT BE DISCLAIMED UNDER APPLICABLE LAW, THEN SUCH IMPLIED WARRANTY SHALL BE LIMITED IN DURATION TO THE WARRANTY PERIOD DESCRIBED ABOVE. NO WARRANTIES APPLY AFTER THE EXPIRATION OF THE WARRANTY PERIOD. Some states or jurisdictions do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to the Purchaser.

FLO DOES NOT WARRANT THAT THE PRODUCTS OR RELATED SERVICES WILL BE ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION.

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**9. LIMITATION OF LIABILITY.** IN NO EVENT SHALL FLO BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY NATURE (EVEN IF THE ADVENT OF SUCH DAMAGE WAS KNOWN OR COULD HAVE BEEN KNOWN BY FLO) OR ANY CAUSE OF ACTION IN CONNECTION WITH PRODUCT MALFUNCTION OR IN CONNECTION WITH THE PRODUCTS, THEIR PURCHASE, THEIR HANDLING, INSTALLATION OR USE BY THE PURCHASER AND/OR ANY PERSON AUTHORIZED BY THE PURCHASER RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION OR UNDER ANY OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF USE; LOSS OF REVENUE; LOSS OF ACTUAL OR ANTICIPATED PROFITS (INCLUDING LOSS OF PROFITS ON CONTRACTS); LOSS OF THE USE OF MONEY; LOSS OF ANTICIPATED SAVINGS; LOSS OF BUSINESS; LOSS OF OPPORTUNITY; LOSS OF GOODWILL; LOSS OF REPUTATION; OR LOSS OF OR DAMAGE TO OTHER EQUIPMENT OR PROPERTY, SUCH AS AN AUTOMOBILE. IN NO EVENT SHALL FLO'S AGGREGATE LIABILITY FOR ALL CLAIMS RELATED TO THE PRODUCTS AND RELATED SERVICES EXCEED THE PURCHASE PRICE PAID BY THE PURCHASER FOR THE PRODUCTS. THE REMEDIES IN THIS WARRANTY ARE THE PURCHASER'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO DEFECTIVE OR NON-CONFORMING PRODUCTS. THIS WARRANTY GIVES THE PURCHASER SPECIFIC LEGAL RIGHTS AND THE PURCHASER MAY ALSO HAVE OTHER LEGAL/STATUTORY RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION. THESE LIMITATIONS OR EXCLUSIONS OF LIABILITY MAY NOT AFFECT SUCH OTHER LEGAL/STATUTORY RIGHTS.

**10. Conflict of Terms.** In the event of a conflict between any provision of this Warranty and any provision in any applicable sales agreement issued by FLO, the sales agreement issued by FLO governs.

**11. Miscellaneous.** No Product reseller, agent or employee is authorized to make any modification, extension or addition to this Warranty. If any term is held to be illegal or unenforceable, the remaining terms shall not be affected or impaired. FLO reserves the right to subcontract the performance of its warranty obligations to qualified subcontractors in its sole discretion.

**12. Governing Law and Arbitration.** Where the Purchaser is located in the United States (as evidenced by the Product "Ship To" address or, if this address is unavailable, by other reasonable indication that the Purchaser is located in the United States, as determined by the tribunal once constituted), this Warranty is

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governed by and construed exclusively by the laws of the state of New York without giving effect to the conflict of laws principles applicable therein and any controversy or claim arising out of or relating to this Warranty that is not resolved by negotiation, including the validity, existence or the breach hereof, shall be determined exclusively by final and binding confidential arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. The number of arbitrators will be one and the place of arbitration will be New York, New York and the language of the arbitration will be English. Except as may be required by law, neither Party nor its representatives may disclose the existence, content or results of any arbitration related to this Warranty, including the content of any documents exchanged within the arbitration proceedings, without the prior written consent of the other Party.

### NO CLASS PROCEEDINGS

You agree that all claims will be brought on an individual basis, and that no class or representative actions are permitted. **BY AGREEING TO ARBITRATION, YOU ARE GIVING UP THE RIGHT TO LITIGATE A DISPUTE IN COURT BEFORE A JUDGE OR JURY OR TO HAVE A DISPUTE HEARD AS A CLASS ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR IN ANY OTHER PROCEEDING IN WHICH ANY PARTY ACTS OR PROPOSES TO ACT IN A REPRESENTATIVE CAPACITY.** If this arbitration agreement is found to be unenforceable in the courts of New York, then any action will be filed, and that venue properly lies, only in the state or federal courts located in New York, New York, and you consent and submit to the personal jurisdiction of such courts for the purposes of litigating such action.

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