

PLEASE READ THESE TERMS OF SERVICE (“AGREEMENT”) CAREFULLY. THE TERMS HEREIN APPLY TO ALL QUOTES AND ORDER FORMS (“ORDERS”) PROVIDED BY, AGREED UPON, OR RECEIVED BY FRACSUN LLC (“FRACSUN”, “WE”, OR “US”) AND ARE THE EXCLUSIVE BINDING AGREEMENT BETWEEN THE PARTIES REGARDING THE SERVICES PROVIDED, UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING BY FRACSUN AND YOU. THE ACCEPTANCE OF ANY OR ALL OF THE ORDERS IS CONDITIONAL UPON YOUR ASSENT TO THE TERMS OF THIS AGREEMENT HEREIN. FRACSUN HEREBY REJECTS ALL PROVISIONS CONTAINED IN COMMUNICATIONS FROM YOU THAT CONFLICT WITH OR ARE INCONSISTENT WITH THE TERMS OF THIS AGREEMENT CONTAINED HEREIN. YOU AGREE THAT (1) YOU HAVE READ AND AGREE TO BE BOUND BY THIS AGREEMENT, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH FRACSUN, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT PERSONALLY OR ON BEHALF OF THE ENTITY YOU REPRESENT, AND TO BIND THAT ENTITY TO THIS AGREEMENT. THE TERM “YOU” REFERS TO THE INDIVIDUAL OR LEGAL ENTITY, AS APPLICABLE, THAT WAS DIRECTED TO THIS AGREEMENT. IF YOU ARE AGREEING TO THIS AGREEMENT ON BEHALF OF AN ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE AUTHORITY TO AGREE ON BEHALF OF SUCH ENTITY. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT HEREIN, YOU MUST NOT ACCESS OR USE THE SERVICES. FRACSUN AND YOU MAY BE REFERRED TO INDIVIDUALLY AS A “PARTY” AND COLLECTIVELY AS THE “PARTIES”. THE EFFECTIVE DATE SHALL BE THE DATE OF THE PARTIES EXECUTION OF AN ORDER.

PLEASE NOTE THAT THESE TERMS ARE SUBJECT TO CHANGE BY FRACSUN IN ITS SOLE DISCRETION AT ANY TIME.

When changes are made, Fracsun will make available the updated Agreement at: <https://fracsun.com/downloads> (the “Website”). We will also update the “Last Updated” date at the top of the webpage. If we make any material changes, and you have registered with us to create an Account (as defined in Section 1.6 below) we may also send an email to you at the last email address you provided to us. Any changes to this Agreement will be effective immediately for new users of the Services and will be effective thirty (30) days after posting notice of such changes on the Website for existing users. Fracsun may require you to provide consent to the updated Agreement in a specified manner for further use of the Services to be permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you shall stop using the Services. Otherwise, your continued use of the Services constitutes your acceptance of such change(s).

In addition, your use of certain services may be subject to additional terms (“Supplemental Terms”) and such Supplemental Terms will be presented to You for your acceptance when you sign up to use the supplemental service. If this Agreement are inconsistent with the Supplemental Terms, the Supplemental Terms shall control with respect to such supplemental service. The Supplemental Terms will be incorporated into this Agreement.

1. OVERVIEW

1.1 Our Service. Fracsun offers a hosted service that integrates with the individual items of hardware that have been provisioned to access Fracsun's cloud and imported into Fracsun's systems. Our services includes hardware devices (each, a "Device" or "ARES") to perform various Internet of Things related tasks and functions to compile, analyze, and display data from the Device(s) on a hosted web service (the "Service"). Fracsun may, in its sole discretion, charge fees in connection with certain services and may limit the number of Events that may be performed. As used herein, an "Event" means any HTTP/HTTPS request made by the Service to ARES, including without limitation, via webhooks or integrations or any discrete message sent via integrations, websockets or server sent event (SSE) streams by the Service to any third party service(s).

1.2 Device Policy. You are solely responsible and liable for each ordered Device. Fracsun does not provide installation services for the Devices. You agree to be responsible and liable for the proper installation of each Device and any damage (material or personal) that may occur to your photovoltaic array or any other surrounding property. By using the Fracsun Devices, you do so solely at your own risk.

1.3 Hosted Service. Fracsun is not responsible for the accuracy, reliability, availability, effectiveness, or correct use of information you receive through the Service. The Service may change from time to time or vary by geographic location. Soiling and weather data may be unavailable, inaccurate, or incomplete. Use of the Service should not replace your good judgment and common sense.

1.4 Monitoring. You agree to provide us with access to your photovoltaic array, data and other materials related to your use of the Service as reasonably requested by us to verify your compliance with this Agreement.

1.5 Refusal of Service. Fracsun will have the right, in its sole discretion, to refuse to permit your use of the Service with a particular photovoltaic array or any other system. Unless Fracsun states otherwise, such rejection will not terminate this Agreement with respect to any Service. Fracsun will have no liability to you for such refusal.

1.6 Accounts.

(a) Accounts. In order to use certain features of the Service, you must register for an account with Fracsun (an "Account").

(b) Registration Information. You represent and warrant that: (i) all required registration information you submit is truthful and accurate; and (ii) you will maintain the accuracy of such information. Fracsun may suspend or terminate your Account if you breach any of the terms of this Agreement. You are responsible for maintaining the confidentiality of your Account login information and are fully responsible for all activities that occur under your Account. You agree to immediately notify Fracsun of any unauthorized use, or suspected unauthorized use of your

Account, or any other breach of security. Fracsun will not be liable for any loss or damage arising from your failure to comply with the above requirements.

2. LICENSED USES AND RESTRICTIONS

2.1 Access Grant. Subject to your compliance with this Agreement, we grant you a limited, non-exclusive, non-assignable, non-transferable license to internally use and access (i) the hosted Services solely as necessary to use in conjunction with the authorized use of the Devices; (ii) the Devices to analyze soiling data of your photovoltaic array site at a location as set forth in an Order; and (iii) the documentation in conjunction with your authorized use of the Services (“Documentation”). All other uses of the Services are strictly prohibited.

2.2 Delivery. Fracsun shall provide access to the hosted Service via electronic transfer after the Effective Date. For the purposes of this Section 2.2, tangible media shall include, but not be limited to, any tape disk, compact disk, card, flash drive, or any other comparable physical medium. Except as agreed upon in writing by the parties, the Device(s) shall be shipped by regular mail (or as otherwise agreed upon in an Order) and shall be deemed accepted upon being made available to you. For the avoidance of doubt, all fees associated with shipping and custom formalities, including, import and export, are your sole responsibility. In the event that you desire, Fracsun will arrange transport and you will pay for freight and handling charges.

2.3 Restrictions. You agree that you will not, and will not assist, permit, authorize, or enable others to do any of the following without our express written consent: (i) reverse engineer or decompile the Service or the Devices or any component thereof, or attempt to create a substitute or similar service through use of or access to the Service or the Devices, unless this is expressly permitted or required by applicable law; (ii) copy, rent, lease, sell, transfer, assign, sublicense, or alter any part of the Service or the Devices, or accompanying Documentation (collectively, the “Fracsun Properties”); (iii) use Fracsun’s name to endorse or promote any product; (iv) use the Fracsun Properties for any illegal, unauthorized, or otherwise improper purposes, or in any manner which would violate this Agreement; (v) remove any legal, copyright, trademark, or other proprietary rights notices contained in or on the Fracsun Properties; (vi) use the Fracsun Properties in a manner that, as determined by Fracsun, in our sole discretion, exceeds reasonable request volume, constitutes excessive or abusive usage, or otherwise fails to comply or is inconsistent with any part of the Fracsun Properties; or (vii) imply any, affiliation, sponsorship, or endorsement by Fracsun.

2.4 Usage Limitations. We may utilize technical measures to prevent over-usage and stop usage of the Service by a Device after any usage limitations are exceeded or suspend your access to the Service with or without notice to you.

3. OWNERSHIP

3.1 Ownership. As between you and Fracsun, Fracsun owns all right, title and interest in and to the Fracsun Properties including without limitation all intellectual property rights. Except for the license granted in Section 2.1 (Access Grant), this Agreement grants you no right, title, or

interest in any intellectual property owned or licensed by us. You agree to abide by all applicable proprietary rights laws and other laws, as well as any additional copyright notices and restrictions contained in this Agreement. By use of our Services, you agree to grant Fracsun access and use of data collected by Devices installed at your locations. Fracsun may use data collected by said Devices to analyze regional soiling data and provide this data in aggregated form or non-personally identifiable form to third parties. At no time will Fracsun provide third parties with information that will enable the third parties to identify the device, location, or customer specific origin of this data. Fracsun will provide analysis to third parties in a format as to obscure the customer specific origin or owner of the data.

4. RELATIONSHIP

4.1 Marketing. We may publicly refer to you, orally or in writing, as a licensee and customer of Fracsun and We may publish your name and logo on the Fracsun Website or promotional materials without prior written consent. You grant us all necessary rights and licenses to do so.

4.2 Support. Fracsun may provide you with reasonable support, upgrades, or modifications for the Service at our discretion. Fracsun may terminate the provision of such support or modifications to you at any time without notice or liability to you.

4.3 Independent Development. You acknowledge and agree that Fracsun may be independently creating applications, content and other products with the use of data collected by Device(s) installed at one or more of your properties. Nothing in this Agreement will be construed as restricting or preventing Fracsun from creating and fully exploiting such applications, content and other items, without any obligation to you. If you elect to provide us with any comments, suggestions, or feedback related to our Service, you assign all right, title and interest in and to such comments, suggestions and feedback to us, and acknowledge that we will be entitled to use, implement and exploit any such feedback in any manner without restriction, and without any obligation of accounting, or compensation or other duty to account.

5. FEES AND PAYMENT TERMS

5.1 Subscription Fees. The fees payable by you for the Service license and the applicable term (“Subscription Term”) will be set forth in each Order (“Subscription Fees”). The Subscription Fees for the first year of the Subscription Term includes the fees for the (1) year Device warranty. The Subscription Fees shall be paid in advance on an annual basis as set forth in the initial Order. At any time during a Subscription Term, you may increase your order by ordering additional Devices or Events (“Usage Parameters”) and, upon Fracsun’s acceptance of such Order, you shall pay the Subscription Fees for such increase, pro-rated for the remainder of your then-current Subscription Term, and such Order shall renew concurrently with your then-current Subscription for a period equal to your initial Subscription Term.

5.2 Payment Terms. All payments shall be made in the currency of, and within the borders of the United States. You will pay taxes, shipping duties, withholdings, back withholdings and the like; when Fracsun has the legal obligation to pay or collect such taxes, the appropriate amount shall be paid by you directly to Fracsun. You will reimburse Fracsun for all reasonable travel and

other related expenses incurred by Fracsun in its performance hereunder; provided, however, that such expenses shall have been pre-approved by you.

6. TERM AND TERMINATION

6.1 Term. Subject to termination as set forth herein, the Subscription Term of this Agreement will commence on the Effective Date and will continue for as long as the Services are being provided to you under this Agreement. The initial Subscription Term shall be for one (1) year as set forth in an Order and automatically renew for successive Subscription Terms equal in duration to the initial Subscription Term unless either party notifies the other party in writing, not less than sixty (60) calendar days before the expiration of the then-current Subscription Term, that such party does not wish to renew the Service license for an additional Subscription Term.

6.2 Termination. Either party may terminate this Agreement immediately without further notice if the other party breaches its obligations under this Agreement and does not remedy such breach within thirty (30) calendar days of the date on which the breaching party received written notice of such breach from the non-breaching party. Fracsun may terminate this Agreement within ten (10) days' notice of your non-payment of the Subscription Fees.

6.3 Effect on Termination. Upon termination of this Agreement: (i) all rights and licenses granted will terminate immediately; (ii) any and all payment obligations, if any, will be due; and (iii) within ten (10) calendar days of such termination, each party shall destroy or return all Confidential Information of the other party in its possession or control, and will not make or retain any copies of such information in any form, except that the receiving party may retain one (1) archival copy of such information solely for purposes of ensuring compliance with this Agreement.

6.4 Deletion of Data. Fracsun will use reasonable efforts to delete your Account (or any part thereof), upon termination of this Agreement, or upon request.

6.5 Survival. Sections 3 (Ownership), 4.3 (Independent Development), 5 (Fees and Payment Terms), 6.5 (Survival), and 7 (Confidentiality) through 11 (General) will survive any termination of this Agreement.

7. CONFIDENTIALITY

7.1 Confidentiality. "Confidential Information" means any proprietary information received by the other party during, or prior to entering into, this Agreement that a party should know is confidential or proprietary based on the circumstances surrounding the disclosure including, without limitation, the Service and any non-public technical and business information. Confidential Information does not include information that (i) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving party; (ii) is rightfully known by the receiving party at the time of disclosure without an obligation of confidentiality; (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (iv) the receiving party rightfully obtains from a third party without

restriction on use or disclosure. You and Fracsun agree to maintain the confidentiality of Confidential Information. The receiving party of any Confidential Information of the other party agrees not to use such Confidential Information for any purpose except as necessary to fulfill its obligations and exercise its rights under this Agreement. The receiving party shall protect the secrecy of and prevent disclosure and unauthorized use of the disclosing party's Confidential Information using the same degree of care that it takes to protect its own confidential information and in no event shall use less than reasonable care. The receiving party may disclose the Confidential Information of the disclosing party if required by judicial or administrative process, provided that the receiving party first provides to the disclosing party prompt notice of such required disclosure to enable the disclosing party to seek a protective order. Upon termination or expiration of this Agreement, the receiving party will, at the disclosing party's option, promptly return or destroy (and provide written certification of such destruction) the disclosing party's Confidential Information.

8. WARRANTY

8.1 Device Warranty. Fracsun provides a one (1) year warranty on the Devices as set forth in the warranty policy found here <https://fracsun.com/downloads>.

9. DISCLAIMER AND LIABILITY

9.1 Disclaimer. EXCEPT AS SET FORTH IN SECTION 8.1, THE SERVICE AND THE DEVICES ARE PROVIDED "AS IS," "WHERE IS," "WITH ALL FAULTS" AND WITH NO WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND. FRACSUN EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, SECURITY, TITLE AND/ NON-INFRINGEMENT. SOME ASPECTS OF THE FRACSUN PROPERTIES ARE EXPERIMENTAL AND HAVE NOT BEEN TESTED IN ANY MANNER. WE DO NOT REPRESENT, WARRANT, OR MAKE ANY CONDITION THAT THE FRACSUN PROPERTIES ARE FREE OF INACCURACIES, ERRORS, BUGS, OR INTERRUPTIONS, OR ARE RELIABLE, ACCURATE, COMPLETE, OR OTHERWISE VALID. WE ARE NOT RESPONSIBLE FOR OUTAGES OR ERRORS IN THE FRACSUN PROPERTIES ATTRIBUTABLE TO THIRD PARTIES OR OUTAGES IN THIRD PARTY INTEGRATED SERVICES. WE ARE ALSO NOT RESPONSIBLE FOR ANY CONTENT OR OTHER MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES, ALL OF WHICH IS OBTAINED AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE THAT RESULTS FROM USE OF THE FRACSUN PROPERTIES INCLUDING, BUT NOT LIMITED TO, ANY DAMAGE TO YOUR COMPUTER SYSTEM OR TO YOUR PHOTOVOLTAIC ARRAY OR INSTRUMENTATION. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH OR FROM OUR SERVICES WILL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THIS AGREEMENT. THE DEVICE WARRANTY OFFERED BY FRACSUN SHALL BE NULL AND VOID TO THE EXTENT THE ISSUE IS ATTRIBUTABLE TO IMPROPER INSTALLATION OR IF YOU FAIL TO FOLLOW THE PROPER INSTRUCTIONS

PROVIDED EITHER ORALLY OR IN THE DOCUMENTATION OR USE THE SERVICES FOR ANY PURPOSE OTHER THAN AS PROVIDED UNDER SECTION 2.1.

9.2 Limitation of Liability. FRACSUN WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, SPECIAL, OR RELIANCE DAMAGES RELATED TO THIS AGREEMENT OR THE SERVICE OR THE DEVICES. CONSEQUENTIAL DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES AND LOST BUSINESS OPPORTUNITIES, WHETHER YOU WERE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES. IN NO EVENT WILL FRACSUN'S AGGREGATE LIABILITY UNDER THIS AGREEMENT OR RELATED TO THE SERVICE OR THE DEVICES EXCEED THE AMOUNTS PAID BY YOU TO FRACSUN DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE ACT(S) GIVING RISE TO LIABILITY HEREUNDER.

9.3 SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES AND SO THESE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU. THE PARTIES HAVE NEGOTIATED THIS AGREEMENT WITH DUE REGARD FOR THE BUSINESS RISK ASSOCIATED WITH THE ARRANGEMENTS DESCRIBED IN THIS AGREEMENT.

10. INDEMNIFICATION. You will defend, indemnify and hold harmless Fracsun and its affiliates, and their respective directors, officers, agents, licensors, and other partners and employees from and against any third-party claim arising from or in any way related to your use of the Service or the Devices, or your breach of any obligation herein, including any liability or expense arising from all claims, losses, damages (actual and consequential), suits, judgments, litigation costs and attorneys' fees, of every kind and nature.

11. GENERAL.

11.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between you and Fracsun and governs your use of the Fracsun Properties. If, through accessing or using the Fracsun Properties, you utilize or obtain any product or service from a third party, you may additionally be subject to such third party's terms and conditions applicable thereto.

11.2 Relationship of Parties. The Parties hereto are independent contractors. Nothing in this Agreement will be deemed to create an agency, employment, partnership, fiduciary, or joint venture relationship between the Parties. Neither Party is the representative of the other Party for any purpose and neither Party has the power or authority as agent, employee, or in any other capacity to represent, act for, bind, or otherwise create or assume any obligation on behalf of the other Party for any purpose whatsoever.

11.3 Governing Law. This Agreement will be governed in accordance with the laws of the State of California without reference to its conflicts of law principles. The Parties agree that the

exclusive jurisdiction of any actions arising out of this Agreement will be in the state or federal courts, as applicable, located in San Luis Obispo County, California.

11.4 Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such term or provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

11.5 Assignment. Neither Party may assign this Agreement or any of its rights or obligations hereunder, to a third party without the other Party's written consent, except that a Party may assign this Agreement without such consent as a consequence of a merger, consolidation, reorganization, or sale of substantially all of its assets or of the business. Any assignment in violation of the foregoing is null and void. This Agreement inures to the benefit of and is binding upon the Parties hereto and their successors and assigns.

11.6 Waiver. Failure to enforce or a waiver by either Party of one default or breach of the other Party will not be considered to be a waiver of any subsequent default or breach.

11.7 Notices. All notices required or permitted hereunder will be in writing, delivered personally, by email, or by nationally recognized overnight courier (e.g., FedEx) at the Parties' respective addresses. All notices will be deemed effective upon personal delivery, or when received if sent by email or overnight courier. You agree that Fracsun may send any privacy or other notices, disclosures, reports, documents, communications and other records regarding the Service (collectively, "Notices") in electronic form to: (1) the email address that you provided during registration, or (2) by posting the Notice on the Service. The delivery of any Notice is effective when posted to the Service or sent by Fracsun (whichever first occurs), regardless of whether you read the Notice when you receive it or whether you actually receive the delivery. You can withdraw your consent to receive Notices electronically by canceling your Account provided there are no refunds of any kind. You must give notice to us in writing via email to info@Fracsun.com or another address otherwise expressly provided.

11.8 Force Majeure. Neither party will be liable to the other for failure to fulfill obligations hereunder if such failure is due to causes beyond its control, including acts of God, earthquake, fire, flood, embargo, catastrophe, sabotage, utility or transmission failures, governmental prohibitions or regulations, national emergencies, insurrections, riots or war.