

SunSpec Alliance

APSuite Service Activation Agreement

In order to activate and use the APSuite Service, you must accept these terms and conditions. If you are entering into this agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions.

- **1. Definitions**

As used in this Agreement: "SunSpec Alliance" or "We," and the terms "us" or "our" refer collectively to SunSpec Alliance, a non-profit trade alliance, having its principal place of business at 4040 Moorpark Avenue, Suite 110, San Jose, CA 95117. "User" or "You" means the individual person, company or legal entity or its employees, representatives, consultants, contractors or agents who are authorized to use the Service. "Service" means the APSuite service, provided by SunSpec Alliance at <https://APSuite.SunSpec.org>, to which You are being granted access under this Agreement. "Agreement" means this online agreement terms and any materials available on the SunSpec Alliance website that are specifically incorporated by reference. Such online materials may be updated by SunSpec Alliance from time to time. "Plant Data" means any data, information or material provided or submitted by you to the Service in the course of using the Service. "Term" means the contract term for which access is granted by SunSpec Alliance to the Service. Privacy,

- **2. Privacy, Security and Data Sharing Policies**

2.1. You agree to SunSpec Alliance's privacy, security and security policies that may be viewed at <http://www.SunSpec.org> and which are incorporated by reference into this Agreement.

2.2. Consent to Internet Access. You consent to our collection of certain data ("Plant Data") regarding your renewable energy system, and to our use of your internet access systems to transmit Plant Data to us. Plant Data will relate to your renewable energy system(s), the performance and efficiency of your renewable energy system(s), environmental data such as weather conditions, cost of operations and maintenance procedures, and the internet protocol address for your internet access.

2.3. Disclosure of Data. You consent to SunSpec Alliance's use and disclosure of anonymized information that is derived from Plant Data. For example, but without limitation, we may disclose anonymized information to banks involved in lending to the solar industry, to other APSuite service subscribers, or to governmental agencies so long as no personally identifiable information is included in the disclosure.

- **3. License Grant**

SunSpec Alliance hereby grants you a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to

the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by SunSpec Alliance.

- **4. Use Guidelines & Restrictions**

4.1. You may use the Service only for internal business purposes and shall not:

- license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make available to any third party the Service or the Content in any way; or
- send or store material containing viruses, worms, Trojan horses or other harmful or malicious code, files, scripts, agents or programs; or
- interfere with or disrupt the integrity or performance of the Service or the data contained therein; or
- attempt to gain unauthorized access to the Service, or to any SunSpec Alliance website that is accessible to you or other users, or SunSpec Alliance's related systems or networks; or
- "spoof" or impersonate another SunSpec Alliance user or provide false identity information to gain access to or use the Service.

4.2. You are responsible for all activity occurring under your accounts and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with your use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data.

- **5. Account Information and Data**

SunSpec Alliance does not own any data, information or material that you submit to the Service in the course of using the Service ("Plant Data"). You, not SunSpec Alliance, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Plant Data.

- **6. Charges and Fees**

The Service described herein is provided free of charge.

- **7. Data Storage**

SunSpec Alliance will provide storage for up to five years of online data history subject to the other provisions of this Agreement.

- **8. Term and Termination**

The Term of this Agreement is for one year. The Term will automatically renew for successive periods of one year each, unless either party elects not to renew by giving written notice.

- **9. Representations & Warranties**

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. SunSpec Alliance represents and warrants that it will

provide the Service on a best efforts basis. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service.

- **10. Indemnification General Indemnity**

You will indemnify, defend and hold SunSpec Alliance and its officers, directors, employees, shareholders, agents, successors and assigns, harmless from and against any claim, demand, lawsuit, cause of action or losses of any nature whatsoever, suffered or incurred by SunSpec Alliance or any of them, arising out of, or in connection with (a) Your improper or illegal use of any data that are obtained as a result of the Service; (b) the misuse of the Service by You, your Affiliates, your Customers or your agents; or (c) the use of any other hardware or software by You.

- **11. Disclaimer of Warranties**

11.1. SUNSPEC ALLIANCE AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE.

11.2. SUNSPEC ALLIANCE AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT: • THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; OR • THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; OR • ANY STORED DATA WILL BE ACCURATE OR RELIABLE; OR • THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; OR • ERRORS OR DEFECTS WILL BE CORRECTED; OR • THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

11.3. THE SERVICE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY THE SUNSPEC ALLIANCE.

- **12. Limitation of Liability**

IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY YOU FOR THE SITE AND SERVICE IN QUESTION IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. EXCEPT FOR CLAIMS ARISING FROM WRONGFUL USE OR DISCLOSURE OF INTELLECTUAL PROPERTY OR BREACH OF THE LICENSES GRANTED IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE

OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- **13. Modification to Terms**

SunSpec Alliance may modify the terms and conditions of this Agreement, or its policies that are incorporated by reference herein, at any time. You are responsible for regularly reviewing this Agreement and you can always review the most updated version online at <http://www.SunSpec.org>. If You continue to use the Service, you will be deemed to have accepted any modifications to the terms of this Agreement and any policy that is incorporated by reference into it.

- **14. General**

14.1. This Agreement will be governed by and construed in accordance with the laws of the State of California. The exclusive venue for the resolution of any dispute will be the California Superior Court Santa Clara County or the United States District Court Northern District of California and each party hereby consents to the exclusive jurisdiction of such courts.

14.2. This Agreement constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement.

14.3. If any provision of this Agreement is construed to be invalid or unenforceable, such provision will be eliminated or, if possible, modified as necessary to make the provision enforceable and to effect the parties' original intent as closely as possible, and the remaining provisions will remain in effect.

14.4. The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

14.5. Force Majeure. If, for any reason beyond the reasonable control of a party, including, without limitation, acts of God, earthquakes, floods and other insurrections, strikes, transportation conditions, labor or material shortages, riots or fires, such party is unable to perform in whole or in part its obligations set forth in this Agreement, such party will be relieved of those obligations to the extent it is so unable to perform and such inability to perform, so caused, will not make such party liable to the other party; provided that the party unable to perform has notified the other party of such inability within one week of the onset of such inability.

- **15. Questions or Additional Information**

If you have questions regarding this Agreement, send e-mail to info@SunSpec.org