

TERMS AND CONDITIONS

1. Definitions

- 1.1. Opsun Systems inc. (“Opsun”) is a Solar PV racking manufacturer capable of, namely but not limited to, manufacturing aluminum racking solution for PV panels and/or offering consulting services for design (the “Product”).
- 1.2. The Client is the legal person or entity trading or otherwise contracting with Opsun to receive goods or services in relation with a Project.
- 1.3. **Building Code data** means any information relevant to the design and engineering of a system in accordance to a building code, for any jurisdiction. Without restricting the preceding, Building Code includes information on location, building height, importance factor if applicable or function in general, building composition, materials, age, construction, wind speed, snow pressure, exposure factor, proximity to water or hills, roof membrane composition and type and age.
- 1.4. **Project** means any design and engineering, or any services, including manufacturing and delivery when applicable, undertaken by Opsun on behalf of Client regarding a solar PV development or construction project.

2. General

- 2.1. By purchasing goods or services from Opsun, or by generally contracting with Opsun, Client and any affiliate, successor, employee, representative or parent company agrees to be bound by the present Terms and Conditions, at the exclusion of any Client’s Terms and Conditions.
- 2.2. The present Terms and Conditions also apply if a client uses the online software platform offered by Opsun to design and optimize racking for solar systems.

3. **Information accuracy.** Client is responsible of the accuracy of the information given to Opsun and Opsun gives no warranty and takes no responsibility for any type of failure or delay or costs resulting from a wrong or inaccurate or incomplete information provided by Client regarding any aspect of the Project, namely but not limited to, Building Code Data.

4. Engineering Billing and Extras:

- 4.1. Opsun shall provide a cost estimate at the beginning of the Project, assuming an effective progression of design and engineering based on client’s choices.
- 4.2. Any change or deviation in any design criteria or any Building Code Data, shall be charged to Client at Opsun hourly rate.
- 4.3. More precisely, any redesign or rework of any plan, calculation or simulation having to be redone because of a change in Client’s information or instruction after such work has been completed shall be billed to client.
- 4.4. Opsun shall have the right to modify or increase any price or quantity after such Engineering being completed, should such Engineering work demonstrate the need to add or change the Product originally quoted.
- 4.5. **Restamp.** Should plans need to be stamped again after any modification arising from Client, Client shall be billed the appropriate amount for the P. Eng. stamp.

5. **Withholding material.** Opsun shall have the right to refuse, or to delay, the delivery any Product and/or Services to a Client as long as Client has outstanding payments.

6. **Space rental.** When an order is available and Client does not take delivery within 30 days of Opsun’s written notice to this effect, client shall be liable to pay 2\$/ft² of used floor space per month as a storage fees.

7. **Material Return.** All orders can only be cancelled at Opsun’s entire discretion, within 30 days of the order’s availability. When cancellation are accepted, a restocking fee of 20% shall be charged to Client. All custom-built part cannot be refunded and shall be entirely paid by client.

8. **Cosmetic damages.** Opsun declares that cosmetic damages or discoloration to rails and components may arise before or during transport, and Opsun shall not replace any Product for cosmetic reasons, unless the structural integrity of the Opsun Product is threatened, and Opsun does not warrant or guarantees against cosmetic damages of its products, unless specifically agreed upon in writing, and unless Client requested by writing and paid appropriate fees to cover such Cosmetic protection (extra protection crates).

9. **Extra packaging.** Opsun shall not be liable for any damage of the goods sold to Client, namely any dents, bending, or breaking of aluminum rails or components, unless Client asked for, and paid appropriate fees for, extra packaging (such as wooden crates).

10. **No responsibility for indirect and consequential damages.** Opsun shall not be liable for any consequential or indirect damages in relation with any Project and/or Product. Without limiting the preceding, Opsun shall not be responsible for any damage arising from delays in delivery, or any failure to deliver, such as, namely but not limited to, losses in relation with employees or workers incapable of working because of delays in delivery, or any loss in relation with equipment rental, such as lifts or cranes, because of a delay in delivery, unless client states that time of delivery is of the essence, and Opsun makes specific guarantees by writing regarding a timely delivery.

11. **Absolute limit in liability.** In any and all situations, Opsun expressly limits its liability, and Client accepts such limitation, to the value of the Product purchased by Client, and client agrees to return the Product sold by Opsun should it claim liability against Opsun. No claim in liability against Opsun shall be made until Client has returned all Product sold.

12. **Choosing Proper Transport.** Client is responsible to choose the proper size and type of transport appropriate to a Project in a given location (i.e. flatbed Vs dry van, length of truck, etc.) and Client shall pay any and all fees in relation with any additional delivery required if a transport can’t reach the Project’s site for any reason. Client should be aware that some transport cannot navigate some part of some cities (i.e. flatbeds in narrow streets).

13. **No responsibility for physical harm on Site.** Opsun shall not be liable for any physical harm, direct indirect or consequential, caused while employees use the Opsun product, such as, but not limited to, cuts from aluminum rails. Opsun declares that it’s Product can be sharp and Client shall take all reasonable measures to avoid harm while using the Opsun Products.

14. **Client’s responsibility to have read and understood plans.** Client is responsible to read and understand all plans and instructions supplied by Opsun prior to the Project start, and shall address any concerns, questions, missing or incomplete information, or missing hardware from such plans to Opsun prior to the project start.

15. **Client’s responsibility to follow plans.** Client is responsible to follow all Opsun instructions, either written or verbal, and shall be responsible to commission the Opsun Products. Client is responsible to, namely, but not limited to, follow all installation steps on the Opsun drawings, and follow all torque requirements from such drawings. Should client require any form of warranty in regards to the proper installation and commissioning of the Opsun Product, Client is responsible to request an inspection from Opsun and to pay Opsun the appropriated associated fees. Opsun’s commissioning guidelines are available upon request.

16. **Damage to property.** Opsun shall not be responsible for any damage to the property where the Project is installed, namely but not limited to, roof damage by friction of the Opsun product over time, and/or roof leaking following the installation of anchors.

17. **Incorrect delivery.** Client is responsible to request and obtain a packing slip from Opsun and verify the integrity, quantity and quality of each part of the Opsun Product within 72 hours of its delivery. Should Opsun ship the wrong Product, in whole or in part, or the incorrect quantity of a part of the Product, Client shall advise Opsun by writing within 72 hours of delivery, and return the incorrect parts, and Opsun shall deliver replacement or additional parts. Opsun shall not be responsible for any direct, indirect or consequential damages regarding a wrong part or incorrect count in delivery, namely but not limited to, loss in relation with salary of employees or workers or rental of equipment.

18. **Litigation.** Any litigation arising from, or in relation with the Opsun Product directly or indirectly, shall be heard exclusively by the appropriate courts in the jurisdiction of the province of Québec, Canada, district of Quebec, and the parties chose the laws of Québec, Canada, for any such litigation, at the exclusion of any other forum or any other laws, and Client waves the application of the defense of *forum non conveniens*.

19. **Severability.** Should one or many of the sections of the present Terms and Conditions be declared inapplicable or unlawful for any reason, the other sections of the present Terms and Conditions shall be considered independent and maintained in place.

20. **Interest.** All overdue accounts shall be charged interest at the rate of 2% per month, 24% annually.

21. **Successors.** The present Terms and Conditions shall bind the parties and their assignees, legal successors, employees, officers and affiliate companies. No party shall assign the present document to any third party without the written consent of the other party.