

Photonic Sentry and PFMD Web App Terms of Use

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PLEASE READ THESE TERMS BEFORE USING THIS SITE AND THE SERVICES PROVIDED BY PHOTONIC SENTRY.

These terms of use ("Terms of Use") apply to the products, services, software, platform, data analysis tools, visualizations, and websites (collectively, "Services") provided by Photonic Sentry and all of our affiliates (collectively, "Photonic Sentry"). Photonic Sentry.com and PFMD.net are provided by Photonic Sentry, LLC. The Services are the property of Photonic Sentry and its licensors. BY USING OUR SERVICES, YOU AGREE TO BE BOUND BY THESE TERMS OF USE AS WELL AS THE PHOTONIC SENTRY PRIVACY POLICY (also available for review on these websites). If you are using our Services as the employee or agent of an organization, you are agreeing to these Terms of Use on behalf of that organization. If you do not agree, do not use the Services.

The paid website Services are offered and available to users who are 18 years of age or older. By using any of the Photonic Sentry websites and the Services, you represent and warrant that you are of legal age to form a binding contract with Photonic Sentry and meet the eligibility requirements. If you do not meet these requirements, you must not access or use the Services.

Photonic Sentry reserves the right, at its sole discretion, to change, modify, add or remove portions of these Terms of Use at any time without notice to you. You should check the Terms of Use periodically for changes. Your continued use of the Services following the posting of revised Terms of Use means that you accept and agree to the changes. If at any time you find these Terms of Use unacceptable or IF YOU DO NOT AGREE TO THESE TERMS OF USE, DO NOT USE THE SERVICES. As long as you comply with these Terms of Use, Photonic Sentry grants you a personal, non-exclusive, non-transferable, and non-sublicensable right to use the Services.

1. Photonic Sentry Services

Photonic Sentry provides the Services as a convenience and also as a tool for researchers collecting information using the Photonic Fence Monitoring Device ("PFMD"). The Services and tools contained therein are provided for convenience and are not guaranteed to be accurate.

2. Trial Offers, Auto-Renewals, Free and Paid Accounts

To ensure uninterrupted service and to enable you to conveniently add additional user accounts, Photonic Sentry or its billing providers (which may not be affiliated with Photonic Sentry) may store your payment details on file. If we are unable to charge your designated payment method for any reason, we reserve the right to suspend your paid membership until we receive payment and a working designated payment method for future payments. Please note that it is your responsibility to maintain current credit card or alternate billing information on file with Photonic Sentry or its billing service provider.

Users who have signed up for a free account will have limited functionality which may vary depending on the basis on which the free account was provided. In such cases, the free account's functionality may be limited.

Photonic Sentry may also make available trial offers for the limited use of the Services (a "Trial Offer") to new customers who may also provide a valid payment instrument, such as a credit card or other payment method. If you choose to start a Trial Offer, you will automatically join the paid membership you have chosen at the end of the Trial Offer and you authorize Photonic Sentry to charge your payment method on a recurring basis, as applicable. If you wish to use additional Services or sign up additional users or change the types and privileges of users beyond those included in the Trial Offer, you may be asked to separately purchase those Services or to upgrade to a paid membership for such users prior to the end of the Trial Offer period. Photonic Sentry may automatically charge you at the end of the trial or for a membership renewal unless you notify us that you want to cancel your membership prior to the date the Trial Offer period ends.

3. Privacy Policy; Use, Transmission and Disclosure of Private Information

A complete statement of Photonic Sentry's current Privacy Policy can be found *here*<LINK>. Photonic Sentry's Privacy Policy is expressly incorporated into this Agreement by reference.

When you open an account to use or access certain portions of the Services, you must provide complete and accurate information as requested on the registration form. You will also be asked to provide a user name and password. You may not use a third party's account, user name or password at any time. You agree to notify Photonic Sentry immediately of any unauthorized use of your account, username and password. Photonic Sentry will not be liable for any losses you incur as a result of someone else's use of your account or password.

In connection with the use of certain Photonic Sentry products or services, you may be asked to provide personal information. You are advised and should understand that Photonic Sentry may need to transmit this information to a third party in order to provide the Services, and you therefore grant Photonic Sentry a worldwide, royalty-free, nonexclusive, and fully sublicensable license to use, distribute, reproduce, modify, publish and translate this personal information solely for the purpose of enabling your use of the Services. Because internet transmissions are never completely private or secure, in using the Services you acknowledge that any message or information you send via the Services may be read or intercepted by others, even if there is a special notice that a particular transmission (for example, credit card information) is encrypted. We strive to prevent loss and theft of data, but we cannot guarantee it and will not be liable for it in any way.

You grant permission for Photonic Sentry to use your private information including information and data provided in the course of accessing and using the Services and information you provide in the account setup and management processes in connection with providing Services to you. You acknowledge and agree that Photonic Sentry may preserve this information as well as disclose it (including your identity) if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to accomplish any of the following: (1) to comply with legal process, applicable laws or government requests; (2) to enforce these Terms of Use; (3) to respond to claims that any content violates the rights of third parties, is offensive or intended to accomplish an illegal purpose; (4) to protect the rights, property, or personal safety of Photonic Sentry, its users, other individuals, or the public; (5) in connection with any investigation or complaint regarding your use of the Services; (6) to identify, contact or bring legal action against someone who may be causing injury to or interference (either intentionally or unintentionally) with Photonic Sentry's rights or property, or the rights or property of visitors to or users of the Services, including Photonic Sentry's customers.

4. Ownership

All websites, text, documents, databases, data, graphics, user interfaces, visual interfaces, photographs, trademarks, service marks, logos, sounds, music, artwork and computer code (collectively, "Content"), including but not limited to the design, structure, selection, coordination, expression, user interface, "look and feel" and arrangement of such Content contained in the Services is owned, controlled or licensed by or to Photonic Sentry and its affiliates, and is protected by trade dress, copyright, patent and trademark laws, and various other intellectual property rights and unfair competition laws. None of the Services or the contents thereof may be copied, reproduced, republished, downloaded, uploaded, posted, displayed, transmitted or distributed in any way except through the proper use of the Services and nothing in the Services or on the Photonic Sentry websites shall be construed to confer any license under any of Photonic Sentry or its licensors or affiliates' intellectual property rights, whether by estoppel, implication or otherwise, except as explicitly permitted herein.

5. Links to Other Sites

The Services and the Photonic Sentry websites may contain links to other independent third-party Web sites ("Linked Sites"). These Linked Sites are provided solely as a convenience to our visitors and users. Such Linked Sites may not be under Photonic Sentry's control, and Photonic Sentry is not responsible for and does not endorse the content of such Linked Sites, including any information or materials contained on such Linked Sites. You will need to make your own independent judgment regarding your interaction with these Linked Sites.

6. License to Use

Photonic Sentry grants you a personal, non-exclusive, non-transferable and non-sublicensable license to use our Services for your own personal or your business's use, but never for resale or redistribution. Except as otherwise permitted as part of the Services, you acknowledge and agree that you have no right to modify, edit, copy, reproduce, create derivative works of, reverse engineer, alter, enhance or in any way exploit any of the Services or the Content therein in any manner, except for modifications to the data visualizations made possible by the tools provided in the Services for your authorized use as part of the Services. You will not remove any copyright notice from any part of the Services or Content downloaded or used as part of the Services.

7. Termination of Services and Access Restriction

Photonic Sentry reserves the right in its sole discretion at any time without prior notice to downgrade or terminate your access to the Services and to the data stored therein for any reason or no reason, including without limitation, any violation of these Terms of Use. Photonic Sentry reserves the right in its sole discretion at any time without prior notice to take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Photonic Sentry websites and Services. If Photonic Sentry elects to terminate your account, Photonic Sentry will provide you with notice to your registered email address. Photonic Sentry also reserves the right to modify or discontinue, either temporarily or permanently, any part of its Services or to remove any Content without notice. The Services may also be suspended or unavailable at times due to maintenance, errors, or failures of Photonic Sentry or service providers on which Photonic Sentry depends – in other words, the site may be down just when you want to look at the data stored therein. That's unfortunate, but

the reality of the world in which we all live. You agree that Photonic Sentry will not be liable to you or to any third party for any modification, suspension, or discontinuance of your membership in the Services or loss of access to the Content or the information stored as part of the Services on either a temporary or permanent basis.

We have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Photonic Sentry websites. YOU WAIVE AND AGREE TO HOLD PHOTONIC SENTRY HARMLESS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY PHOTONIC SENTRY DURING, OR TAKEN AS A CONSEQUENCE OF, INVESTIGATIONS BY PHOTONIC SENTRY OR LAW ENFORCEMENT AUTHORITIES.

8. Disclaimers

PHOTONIC SENTRY DOES NOT PROMISE THAT THE SERVICES OR ANY CONTENT, ELEMENT OR FEATURE OF THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ANY DEFECTS WILL BE CORRECTED, OR THAT YOUR USE OF THE SERVICES WILL PROVIDE SPECIFIC RESULTS. YOUR USE OF THE WEBSITES, THEIR CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITES IS AT YOUR OWN RISK. THE SERVICES AND THE FORMS AND CONTENT CONTAINED THEREIN OR UTILIZED THEREIN OR UTILIZED AS A PART THEREOF ARE DELIVERED ON AN "AS-IS" AND "AS-AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. PHOTONIC SENTRY CANNOT ENSURE THAT ANY FILES OR OTHER DATA YOU UPLOAD TO OR DOWNLOAD FROM THE SERVICES WILL BE FREE OF VIRUSES OR CONTAMINATION OR DESTRUCTIVE FEATURES.

TO THE FULLEST EXTENT PROVIDED BY LAW, PHOTONIC SENTRY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF ACCURACY, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. PHOTONIC SENTRY DISCLAIMS ANY AND ALL LIABILITY FOR THE ACTS, OMISSIONS AND CONDUCT OF ANY THIRD PARTIES IN CONNECTION WITH OR RELATED TO YOUR USE OF ANY PHOTONIC SENTRY SERVICES. YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE OF THE SERVICES. YOUR SOLE REMEDY AGAINST PHOTONIC SENTRY AND ITS AFFILIATES FOR DISSATISFACTION WITH THE SERVICES OR ANY DATA, DOCUMENT, ELEMENT OR CONTENT FOUND THEREIN IS TO STOP USING THE SERVICES OR ANY SUCH CONTENT, DATA, DOCUMENT OR ELEMENT. THIS LIMITATION OF REMEDIES IS A PART OF THE BARGAIN BETWEEN THE PARTIES.

The above disclaimer applies to any damages, liability or injuries caused by any failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction of or unauthorized access to, alteration of, or use of the Services, whether for breach of contract, tort, negligence or any other cause of action. Photonic Sentry is not an insurer and provides no insurance to users of the Service against any sort of loss.

9. Limitation of Liability

EXCEPT WHERE PROHIBITED BY LAW, IN NO EVENT WILL PHOTONIC SENTRY BE LIABLE TO YOU FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR

PUNITIVE DAMAGES, INCLUDING LOST PROFITS, EVEN IF PHOTONIC SENTRY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IF, NOTWITHSTANDING THE OTHER PROVISIONS OF THESE TERMS OF USE, PHOTONIC SENTRY IS FOUND TO BE LIABLE TO YOU FOR ANY DAMAGE OR LOSS WHICH ARISES OUT OF OR IS IN ANY WAY CONNECTED WITH YOUR USE OF THE SERVICES, PHOTONIC SENTRY'S TOTAL LIABILITY SHALL IN NO EVENT EXCEED THE TOTAL OF ANY SUBSCRIPTION OR SIMILAR FEES YOU HAVE PAID WITH RESPECT TO ANY SERVICE OR FEATURE OF THE SERVICES IN THE TWELVE MONTHS PRIOR TO THE DATE OF THE INITIAL CLAIM MADE AGAINST PHOTONIC SENTRY.

Some jurisdictions do not allow limitations of liability, so the foregoing limitation may not apply to you.

10. Indemnity

You agree to indemnify, defend and hold harmless Photonic Sentry, its officers, directors, members, shareholders, predecessors, successors in interest, employees, agents, subsidiaries and affiliates and its affiliates' predecessors' and successors in interest's officers, directors, members, shareholders, employees, and agents from any demands, losses, liability, claims, damages, judgments, awards or expenses (including attorneys' fees), made against Photonic Sentry by any third party due to or arising out of or in connection with these Terms of Use or your use of the Services.

11. Violation of These Terms of Use

You agree that Photonic Sentry may, in its sole discretion and without prior notice, terminate your access to the Services and/or block your future access to the Services if we determine that you have violated these Terms of Use or other agreements or guidelines which may be associated with your use of the Services. You also agree that any violation by you of these Terms of Use will constitute an unlawful and unfair business practice, and will cause irreparable harm to Photonic Sentry, for which monetary damages would be inadequate, and you consent to Photonic Sentry obtaining any injunctive or equitable relief that Photonic Sentry deems necessary or appropriate in such circumstances. These remedies are in addition to any other remedies Photonic Sentry may have at law or in equity.

If Photonic Sentry takes any legal action against you as a result of your violation of these Terms of Use, Photonic Sentry will be entitled to recover from you, and you agree to pay, all reasonable attorneys' fees and costs of such action, in addition to any other relief granted to Photonic Sentry. You agree that Photonic Sentry will not be liable to you or to any third party for termination of your access to the Services as a result of any violation of these Terms of Use.

12. Governing Law; Dispute Resolution

You agree that all matters relating to your access to or use of the Services and these Terms of Use and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), will be governed by the laws of the United States and by the laws of the State of Washington, without giving effect to any choice or conflict of law provision or rule (whether of the State of Washington or any other jurisdiction). You agree to the personal jurisdiction of and venue in the state and federal courts in King County, Washington, and waive

any objection to such jurisdiction or venue. In the event of any controversy or dispute between Photonic Sentry and you arising out of or in connection with your use of the Services, the parties shall attempt, promptly and in good faith, to resolve any such dispute. If we are unable to resolve any such dispute within a reasonable time (not to exceed thirty (30) days), then either party shall be free to pursue any right or remedy available to them under applicable law through these designated courts.

13. Void Where Prohibited

Although the Services are accessible worldwide, not all features, products or services discussed, referenced, provided or offered by Photonic Sentry are available to all persons or in all geographic locations, or appropriate or available for use outside the United States. Photonic Sentry does not make any representation as to the propriety of using the Photonic Sentry Service in any particular country or jurisdiction. Photonic Sentry reserves the right to limit, in its sole discretion, the provision and quantity of any feature, product or service to any person or geographic area. Any offer for any feature, product or service made as part of the Services is void where prohibited. If you choose to access the Services from outside the United States, you do so on your own initiative and you are solely responsible for complying with applicable local laws.

14. Miscellaneous

If any of the provisions of these Terms of Use are held by a court of competent jurisdiction to be void or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these Terms of Use, consistent with the remainder of these Terms of Use remaining in full force and effect. These Terms of Use and our Privacy Policy constitute the entire agreement between you and Photonic Sentry with regard to your use of the Services, and any and all other written or oral agreements or understandings that may have existed or which you may believe to exist between you and Photonic Sentry with respect to such use are hereby superseded and cancelled. Photonic Sentry will not accept any counteroffers to these Terms of Use, and all such offers are hereby categorically rejected. Photonic Sentry's failure to insist on or enforce strict performance of these Terms of Use shall not be construed as a waiver by Photonic Sentry of any provision or any right it has to enforce these Terms of Use, nor shall any course of conduct between Photonic Sentry and you or any other party be deemed to modify any provision of these Terms of Use. These Terms of Use shall not be interpreted or construed to confer any rights or remedies on any third parties.

15. Feedback and Information

All feedback, comments, requests for technical support, and other communications relating to the Websites should be directed to customers@photonic Sentry.com<LINK>.

Any feedback you provide on or about the Photonic Sentry websites or regarding the Services shall be deemed to be non-confidential. Photonic Sentry shall be free to use such feedback and other information you may provide on an unrestricted basis, including using it as the basis for changes to or the creation of additional products or services, without any compensation to you whatsoever.