

Sunhillo Corporation

GSA End-User Software License Agreement

This End-User Software License Agreement (this "AGREEMENT") is a license agreement between the Ordering Activity under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document (the "LICENSEE" or "Ordering Activity") and the GSA Multiple Award Schedule Contractor, Sunhillo Corporation ("SUNHILLO"), in which you are granted a license to use certain SUNHILLO software products in return for your acceptance of the terms and conditions set forth herein. You should read this AGREEMENT carefully before opening this package or extracting the software from the media. Both parties executing a negotiated purchase order in writing that incorporates this Agreement constitutes your acceptance of this AGREEMENT. If you do not agree with the terms of this AGREEMENT, you should promptly return the complete package, with any media unopened, to SUNHILLO or your supplier.

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6.2. SUNHILLO's permission for such transfer will require, at a minimum, that the party to whom the LICENSEE proposes to transfer the SOFTWARE license agrees to be unconditionally bound by the terms of this AGREEMENT (as a LICENSEE) and that the original LICENSEE terminates all rights under this AGREEMENT and retains no full or partial copies of the SOFTWARE.

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8. Export

LICENSEE may not export or re-export the SOFTWARE in any form without the appropriate U.S. and/or foreign government licenses.

9. Warranty

9.1. SUNHILLO warrants that the SOFTWARE, or the SOFTWARE portion of system products will, at the time of shipment and for a period of one (1) year thereafter, perform substantially in conformance with SUNHILLO's applicable published specifications or with LICENSEE's specifications as accepted by SUNHILLO in writing and will be supplied on media which is free of defects in material and workmanship.

9.2. Written notice of nonconformance must be received by SUNHILLO within the warranty period and should include a detailed description of the failure or non-conformity. Notices of non-conformity will be forwarded to SUNHILLO's engineering department for analysis and correction. Corrections will be included in a future scheduled maintenance release of the SOFTWARE.

- 9.3. SUNHILLO'S SOLE OBLIGATION UNDER THIS WARRANTY SHALL BE, AT SUNHILLO'S OPTION, TO REFUND THE LICENSE FEE, REPAIR, OR REPLACE THE SOFTWARE. IN NO EVENT SHALL SUNHILLO'S LIABILITY TO LICENSEE OR TO ANY OTHER PARTY FOR BREACH OF THIS WARRANTY EXCEED THE LICENSE FEE PAID TO SUNHILLO FOR THE NONCONFORMING SOFTWARE.
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- 9.5. SUNHILLO does not warrant that the SOFTWARE, alone or when integrated with other components not supplied by SUNHILLO, will meet LICENSEE's requirements, or that the operation of the SOFTWARE will be uninterrupted or error free, or that the SOFTWARE will inter-operate with other components not supplied by SUNHILLO.
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- 9.7. This warranty excludes all costs of shipping, customs clearance and related charges outside the United States.
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12. Termination

12.1. LICENSEE may terminate this AGREEMENT in accordance with the Federal Acquisition Regulation procedures for Government termination for breach or convenience.

12.2. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, SUNHILLO shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

12.3. Upon termination, the original master and all copies of the SOFTWARE, including manuals and other documentation, must be destroyed and/or returned to SUNHILLO, and SUNHILLO shall have the right to receive from LICENSEE a certificate attesting to the return or destruction of the same.

12.4. Reserved.

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13.2. SOFTWARE releases provided by SUNHILLO to LICENSEE to correct non-conformities may contain updates, upgrades, and enhancements in addition to the corrected SOFTWARE. LICENSEE may not activate or use such updates, upgrades, or enhancements unless specifically authorized to do so under additional license.

14. General

- 14.1. Any changes in the terms and conditions contained herein must specifically be agreed to in writing by an authorized representative of both parties before becoming binding on either party.
- 14.2. If any provision of this AGREEMENT is held to be unenforceable, the enforceability of the remaining provisions shall in no way be affected or impaired.
- 14.3. SUNHILLO's failure to exercise any of its rights under this AGREEMENT shall not constitute a waiver or forfeiture of such rights.
- 14.4. This AGREEMENT, along with any exhibits or schedules thereto, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), supersedes all prior agreements and understandings, oral or written, between SUNHILLO and LICENSEE and is intended as the complete and exclusive statement of this AGREEMENT. In the event of a conflict between this Agreement and a Negotiated Purchase Order, the Purchase Order shall control.
- 14.5. Reserved.
- 14.6. Reserved.
- 14.7. This AGREEMENT will be governed by and construed in accordance with the Federal laws of the State of the United States.

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