

AVOCADO SOFTWARE LICENSE TERMS

These license terms are an agreement between Ordering Activity under GSA Schedule contracts identified in the Order (“you”) and Avocado Systems Inc. They apply to the software named above and any Avocado services or software updates (except to the extent such services or updates are accompanied by new or additional terms, in which case those different terms apply prospectively and do not alter your or Avocado’s rights relating to pre-updated software or services).

IF YOU COMPLY WITH THESE LICENSE TERMS, YOU HAVE THE RIGHTS BELOW. BY EXECUTING A WRITTEN ORDER FOR THE SOFTWARE, YOU ACCEPT THESE TERMS. INSTALLATION AND USE RIGHTS.

General. You may install and use any number of copies of the software.

Third Party Software. The software may include third party applications that are licensed to you under this agreement or under their own terms. Even if such applications are governed by other agreements, the disclaimer, limitations on, and exclusions of damages below also apply to the extent allowed by applicable law.

SCOPE OF LICENSE. The software is licensed, not sold. Avocado reserves all other rights. Unless applicable law gives you more rights despite this limitation, you will not (and have no right to): work around any technical limitations in the software that only allow you to use it in certain ways; reverse engineer, decompile or disassemble the software; remove, minimize, block, or modify any notices of Avocado or its suppliers in the software; use the software for commercial, non-profit, or revenue-generating activities; use the software in any way that is against the law or to create or propagate malware; or share, publish, distribute, or lend the software, provide the software as a stand-alone hosted solution for others to use, or transfer the software or this agreement to any third party.

EXPORT RESTRICTIONS. You must comply with all domestic and international export laws and regulations that apply to the software, which include restrictions on destinations, end users, and end use.

SUPPORT SERVICES. Avocado is not obligated under this agreement to provide any support services for the software. Any support provided is “as is”, “with all faults”, and without warranty of any kind.

ENTIRE AGREEMENT. This agreement, and any other terms Avocado may provide for supplements, updates, or third-party applications, is the entire agreement for the software.

APPLICABLE LAW AND PLACE TO RESOLVE DISPUTES. The Federal laws of the United States govern the interpretation of this agreement, claims for its breach, and all other claims (including consumer protection, unfair competition, and tort claims), regardless of conflict of laws principles.

CONSUMER RIGHTS; REGIONAL VARIATIONS. This agreement describes certain legal rights. You may have other rights, including consumer rights, under the laws of your state, province, or country. Separate and apart from your relationship with Avocado you may also have rights with respect to the party from which you acquired the software. This agreement does not change those other rights if the laws of your state, province, or country do not permit it to do so.

Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or suit brought against the U.S. pursuant to its jurisdictional statute 28 U.S.C. § 516.

Notwithstanding the terms of the Federal, State, and Local Taxes Clause, the contract price excludes all State and Local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. Vendor shall state separately on its invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) to the contractor or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

The Anti-Assignment Act, 41 USC 6305, prohibits the assignment of Government contracts without the Government’s prior approval. Procedures for securing such approval are set forth in FAR 42.1204.

Vendor recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as “confidential” by the vendor.

This Agreement, together with the underlying GSA Schedule Contract, Schedule Pricelist, and Purchase Order(s), sets forth the entire agreement and understanding of the Parties relating to the object hereof and merges all prior discussions and agreements of the matter hereof between them. A negotiated purchase order would take precedence as the negotiated purchase order would demonstrate any changes to these terms to meet the ordering activity’s minimum needs.

Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).