

HUNTER ENGINEERING COMPANY END USER LICENSE AGREEMENT

Last Updated: February 1, 2019

1. Overview

This End User License Agreement ("Agreement") sets forth the terms and conditions on which Hunter Engineering Company ("Hunter", "we" or "us"), a Missouri corporation, grants the dealership, servicing facility, or other authorized purchaser of Hunter equipment ("you") with a license to use the software that is pre-installed on, or subsequently released by Hunter for, your Hunter equipment (the "Software").

PLEASE READ THIS AGREEMENT CAREFULLY, AS IT CONTAINS IMPORTANT INFORMATION REGARDING YOUR LICENSE RIGHTS, AND IMPORTANT DISCLAIMERS AND LIMITATIONS ON OUR LIABILITY. BY DOWNLOADING, INSTALLING OR USING THE SOFTWARE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT. YOU FURTHER REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ACCEPT THIS AGREEMENT ON BEHALF OF YOUR DEALERSHIP, SERVICING FACILITY, OR OTHER PURCHASING ENTITY.

If you are working with a Hunter authorized sales representative, service representative, or other third party to install your Hunter equipment, the Software, or any Update, you appoint such sales representative, service representative, or other third party to act as your agent for the purpose of accepting this Agreement on your behalf. You acknowledge that you have reviewed, understand, and are legally bound by this Agreement, notwithstanding your use of any such sales representative, service representative, or other third party.

2. Software License

During the term of this Agreement, subject to your compliance with the provisions hereof, Hunter grants you a limited, non-exclusive, non-transferable, non-sublicensable license to: (i) install the Software (only if not pre-installed), in object code form only, solely on the Hunter equipment for which Hunter has provided a corresponding license key; (ii) use the Software, as installed on such Hunter equipment, to operate the Hunter equipment in accordance with Hunter's accompanying end user documentation (as updated by Hunter from time to time, the "Documentation"); and (iii) retain a single copy of the Software, in object code form only, solely for back-up purposes. The foregoing license is strictly limited to use of the particular Software version, and those particular applications, modules, and features of the Software, for which you have been granted a license by Hunter and received a corresponding license key.

3. License Restrictions

You may not install or use the Software for any purpose other than as expressly authorized under Section 2. Without limiting the foregoing, you shall not, nor shall you authorize any other person or entity to: (a) install the Software on non-Hunter equipment, or on Hunter equipment for which you have not received a corresponding license key; (b) distribute, rent, lease, lend, sell, sublicense or otherwise make the Software available to any third party; (c) modify, adapt, alter, translate, or create derivative works of the Software; (d) use or permit use of the Software in or as part of a service bureau, timesharing, or outsourcing capacity; (e) attempt to deactivate, bypass, or otherwise circumvent the license key or other security measures for the Software; (f) reference, rely upon, or otherwise use the Software or the Documentation to develop a similar, alternative, or competing product or service; (g) use the Software in violation of any applicable laws or regulations; (h) remove or obscure any copyright, trademark, or other proprietary rights notices or designations on the Software, the Documentation, any user screens, or any copies thereof; or (i) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software, except where such reverse engineering is expressly permitted under applicable law, but then only to the extent that Hunter is not entitled to limit such rights by contract.

4. Your Responsibilities

You are responsible for: (i) selecting and maintaining all third party hardware, software, peripherals, and connectivity necessary to meet the system requirements for the Software; (ii) creating a restore point for your systems and backing up and verifying all data; and (iii) adopting reasonable measures to ensure the safety, security, accuracy and integrity of your equipment, facilities, systems, networks, and data. Hunter shall have no responsibility or liability arising out of or resulting in whole or in part from your failure or delay in performing any such responsibilities, nor for acts or omissions of third parties, Internet or telecommunications failures, or force majeure or other events beyond Hunter's reasonable control.

5. Updates; New Versions

From time to time, Hunter may release fixes, patches, or other updates to the Software ("Updates"). Updates may be issued by Hunter for general release, or may be restricted to eligible purchasers of Hunter equipment that are under a valid support contract, as determined by Hunter in its sole discretion. Updates, whether made available by Hunter or through a Hunter authorized sales representative or service representative, are licensed under this Agreement as part of the Software, and may require a separate and valid license key. Notwithstanding the foregoing or anything else to the contrary, Hunter reserves the right to release any new version of the Software under amended or alternative terms, which shall be controlling with respect to your installation and use of such new version.

6. Support

This Agreement does not include, and Hunter shall have no obligation under this Agreement to provide, any technical support, maintenance, or other professional services for the Software. If you are interested in purchasing a support plan for the Software, you

should contact a Hunter authorized sales representative or service representative and confirm that you are using a version of the Software that is supported by Hunter.

7. HunterNet

Your Hunter equipment may allow you to connect to and use HunterNet, Hunter's online business intelligence platform (including the HunterNet websites, applications, modules, interfaces, content, features, and functionality, "HunterNet"). HunterNet is not part of the Software, and this Agreement does not grant you any rights or license to use HunterNet. All use of HunterNet is subject to and governed by the separate HunterNet Terms of Service.

8. Third Party Software

The Software, or the Hunter equipment on which the Software is installed, may incorporate or be packaged for distribution with certain open source or third party drivers, libraries, routines, or other software components ("Third Party Software"). Third Party Software is licensed to you for use under and subject to the provisions of this Agreement, as supplemented by any accompanying open source and third party licenses, notices and disclaimers; provided, however, Hunter makes no warranties and assumes no obligations or liability for Third Party Software. Nothing contained in this Agreement is intended to impose any obligations or liability on any licensor of Third Party Software, nor to limit any license rights for a separate installation of Third Party Software that you may have under an applicable Third Party Software license.

9. License Key and Time-Out Capabilities

The Software, or the Hunter equipment on which it is installed, may contain certain license key, time-out, feature restriction, or similar capabilities. These capabilities may be employed (i) to limit use of the Software to the particular Software version, and those particular applications, modules, and features of the Software, for which you have been granted a license by Hunter, (ii) to disable the Software or restricted Software features, (iii) to facilitate license verification, audit, and compliance activities, and (iv) for other purposes as permitted or required by law. By installing or using the Software, you consent to the inclusion and employment of such capabilities as described herein, without restriction. Neither the inclusion of such capabilities, nor any errors in the provisioning or operation thereof, shall be construed to expand the scope or duration of your Software license, nor to waive any rights or remedies of Hunter in connection therewith.

10. Collection of Information

The Software may collect and automatically transmit to Hunter, its suppliers, or designees certain Software licensing, diagnostic, and usage information, such as equipment serial number, IP address, customer account, and Software version, installation, configuration, performance, and usage information. This information may be used to register the Software, activate, renew, and time-out license keys, inform you of Updates if and as they become available, improve the Software and other Hunter offerings, and facilitate Software license verification, audit, and compliance activities, as well as internally by Hunter, its suppliers, and designees for any purpose, in anonymized form for any purpose, and as otherwise permitted or required by law. By installing or using the Software, you consent to the collection, transmission, use, and disclosure of information as described herein, without restriction.

11. Transfer of Software to Purchaser of Hunter Equipment

If you sell or transfer your Hunter equipment to another dealership, servicing facility, or other purchasing entity, (a) you must also transfer the Software, as installed on the Hunter equipment, to the purchaser of the Hunter Equipment, and (b) in order to use the Software, the purchaser of the Hunter Equipment must agree to be legally bound by this Agreement. You may not retain or use the Software or your Software license key independent of the Hunter equipment, nor may you transfer the Software to any person or entity independent of the Hunter equipment. This Agreement and your license rights hereunder shall terminate automatically upon your sale, transfer, or other disposition of the Hunter equipment on which the Software is licensed to be installed.

12. Proprietary Rights

The Software is and shall be owned exclusively by Hunter, and we reserve all right, title, and interest therein, including without limitation all object code and source code, the program architecture, database structure, and coding methodology, the design, layout, and "look and feel", all versions and derivations, all enhancements, modifications, and improvements (even if requested or paid for by you), all goodwill associated therewith, and all copyrights, patent rights, trademarks, and other intellectual property and proprietary rights of any nature throughout the world embodied therein and appurtenant thereto. All rights not expressly granted to you by Hunter under this Agreement are reserved by Hunter and its suppliers. From time to time, you may provide Hunter with suggestions, ideas or other feedback concerning the Software or Hunter's other products or services. By providing feedback, you authorize us to act on (or choose not to act on) and commercialize such feedback without compensation or other obligation to you, and without proprietary, confidentiality, or other restrictions of any kind. "Hunter Engineering", "HunterNet", the Hunter Engineering logo, and any other trademarks or brands featured on the Software are protected trademarks and service marks of Hunter Engineering Company, its licensors, and suppliers. All rights reserved.

13. Software Warranty

For a period of ninety (90) days following the date the Software is first provided to you (either pre-installed or for installation, exclusive of any subsequent Updates), Hunter warrants that the Software, when properly installed and used by you in accordance with this Agreement, shall operate in substantial conformity with the material specifications set forth in Documentation. This Software warranty is separate from any warranties provided for the Hunter equipment, and does not create any additional rights or remedies or Hunter obligations or liability in connection therewith.

The foregoing Software warranty is subject to you notifying Hunter promptly, and in any event prior to the conclusion of the warranty period, of a breach of the foregoing warranty, and providing all information and assistance reasonably requested by Hunter in connection therewith. Upon receiving such timely notice, as Hunter's entire obligation and your sole and exclusive remedy, Hunter shall use commercially reasonable efforts to provide a workaround for or otherwise remedy the nonconformity, at no additional charge.

14. DISCLAIMER

EXCEPT FOR THE LIMITED SOFTWARE WARRANTY SET FORTH IMMEDIATELY ABOVE, THE SOFTWARE AND DOCUMENTATION ARE PROVIDED TO YOU UNDER THIS AGREEMENT "AS IS" WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND ALL USE IS AT YOUR OWN RISK. WITHOUT LIMITING THE FOREGOING, HUNTER AND ITS SUPPLIERS HEREBY DISCLAIM ANY IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT. HUNTER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY THIRD PARTY SOFTWARE. YOU ARE SOLELY RESPONSIBLE FOR THE SECURITY AND INTEGRITY OF YOUR NETWORK, SYSTEMS, AND DATA. THE SOFTWARE IS NOT INTENDED OR LICENSED FOR USE IN ANY HAZARDOUS OR HIGH-RISK ACTIVITY. HUNTER DOES NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE, OR MEET YOUR BUSINESS, TECHNICAL OR OTHER REQUIREMENTS. NO EMPLOYEE OR AGENT HAS AUTHORITY TO BIND HUNTER TO ANY REPRESENTATIONS OR WARRANTIES NOT EXPRESSLY SET FORTH IN THIS AGREEMENT.

15. LIMITATIONS ON LIABILITY

TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL HUNTER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE, OR SIMILAR DAMAGES OR LOSSES OF ANY KIND, OR FOR ANY LOSS OF BUSINESS, PROFITS, OR REVENUE, DAMAGE TO, LOSS, OR CORRUPTION OF DATA, OR BUSINESS INTERRUPTION OR DOWNTIME, ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SOFTWARE, YOUR ACCESS TO OR USE THEREOF, OR OUR PERFORMANCE OR NON-PERFORMANCE IN CONNECTION THEREWITH, EVEN IF WE HAVE BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL HUNTER'S TOTAL, CUMULATIVE LIABILITY FOR ANY AND ALL DAMAGES, LOSSES, CLAIMS, AND CAUSES OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SOFTWARE, YOUR ACCESS TO AND USE THEREOF, OR OUR PERFORMANCE OR NON-PERFORMANCE IN CONNECTION THEREWITH EXCEED THE SOFTWARE LICENSE AND SUPPORT FEES (IF ANY) PAID BY YOU TO HUNTER OR AN AUTHORIZED HUNTER SALES REPRESENTATIVE OR SERVICE REPRESENTATIVE FOR THE SOFTWARE IN THE TWELVE (12) MONTHS PRIOR TO THE ACCRUAL OF THE FIRST SUCH CLAIM OR FIVE U.S. DOLLARS (\$5), WHICHEVER IS GREATER.

THE LIMITATIONS ON LIABILITY IN THIS AGREEMENT ARE AN ESSENTIAL PART OF THIS AGREEMENT, SHALL APPLY REGARDLESS OF THE NUMBER OF INCIDENTS OR CLAIMS, AND REGARDLESS OF THE NATURE OF THE DAMAGE, LOSS, OR CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, INDEMNITY, OR OTHERWISE), AND SHALL BE VALID AND BINDING EVEN IF ANY REMEDY IS DEEMED TO FAIL OF ITS ESSENTIAL PURPOSE.

Some jurisdictions do not permit the disclaimer of certain warranties or exclusion of certain types of damages. To the extent that such a jurisdiction's law applies to this Agreement, you may have additional legal rights that cannot be disclaimed by contract, and in such event, the limitations on liability in this Agreement shall apply only to the extent permissible under applicable law.

16. Term; Termination

This Agreement and your license rights hereunder shall continue unless and until terminated as set forth herein, including as provided in the "Transfer of Software to Purchaser of Hunter Equipment" section above. Hunter may terminate this Agreement for cause if (i) you violate the license terms or restrictions for the Software, or (ii) you breach any other material provision of this Agreement and fail to cure such breach within ten (10) days after receiving notice thereof from Hunter, or (iii) you become or are declared insolvent, make a general assignment for the benefit of creditors, suffer a receiver to be appointed for you, enter into an agreement for the composition, extension or readjustment of all or substantially all of your obligations, file a voluntary petition in bankruptcy, or have an involuntary petition in bankruptcy filed against you, which petition is not dismissed with prejudice within sixty (60) days after the filing thereof.

Upon the expiration or termination of this Agreement for any reason: (a) your license to the Software shall automatically and immediately terminate; (b) you shall discontinue all use of the Software, (c) you shall promptly (within 5 days) destroy (or return to Hunter) any tangible copies of the Software and the Documentation in your possession; and (d) promptly following Hunter's email or other written request, you shall certify in writing to Hunter that you have complied with the foregoing requirements.

Sections 1, 3, and 8 through 17 of this Agreement shall survive the expiration or termination of this Agreement for any reason, and shall be binding on and inure to the benefit of the parties and their permitted successors and assigns.

17. Miscellaneous

Governing Law. This Agreement shall be governed and interpreted for all purposes by the laws of the State of Missouri, U.S.A., without reference to any conflict of laws principles that would require the application of the laws of a different jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (as enacted in any jurisdiction) do not and shall not apply to this Agreement, and are hereby specifically excluded.

Jurisdiction; Venue. Any dispute, action or proceeding arising out of or related to this Agreement shall be commenced in the state courts of St. Louis County, Missouri or, if proper and exclusive subject matter jurisdiction exists, the United States District Court for the Eastern District of Missouri. You hereby consent to the personal jurisdiction and exclusive venue of such courts and waive any objections thereto, including based on *forum non conveniens*; provided, however, the foregoing shall not prevent Hunter from obtaining injunctive or other non-monetary equitable relief in any court of competent jurisdiction.

Notices. All notices under this Agreement must be in writing and in the English language. Notices to you may be delivered by email, fax or postage prepaid registered or certified mail, return receipt requested, to the most current address on file. Notices to Hunter must be delivered by postage prepaid registered or certified mail, return receipt requested, to the attention of the General Counsel at Hunter's then-current corporate headquarters address.

Assignments. You may not assign this Agreement or any of your rights or obligations hereunder, in whole or in part, whether by operation of law or otherwise, without Hunter's prior written consent. Any attempted assignment in violation of the foregoing shall be null and void from the beginning and without effect. Hunter may assign this Agreement or any of its rights or obligations hereunder, in whole or in part, at any time and for any reason, including in connection with any merger, acquisition, reorganization, restructuring, liquidation, dissolution, or other transfer of all or any part all of Hunter's business or assets.

Relationship; Third Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to create any agency, employment, partnership, fiduciary or joint venture relationship between you and Hunter, or to give any third party any rights or remedies under or by reason of this Agreement; provided, however, the disclaimers and limitations on liability under this Agreement shall extend to Hunter, its shareholders, directors, officers, employees, independent contractors, agents, and affiliates, including without limitation Hunter authorized sales representatives and service representatives. All references to Hunter in connection with the foregoing shall be deemed to include such persons and entities as third party beneficiaries entitled to accept all benefits afforded thereby.

Equitable Relief. The Software and Documentation comprises the confidential and proprietary information of Hunter and its suppliers, and constitutes a valuable trade secret. You acknowledge that any breach of the license or ownership provisions of this Agreement would cause irreparable harm to Hunter, the extent of which would be difficult and impracticable to assess, and that money damages alone would not be an adequate remedy for such breach. Accordingly, in addition to all other remedies available at law and in equity, Hunter shall be entitled to obtain injunctive relief in any court of competent jurisdiction, without the necessity of posting a bond in connection therewith.

Audit Right. Promptly following Hunter's request, you agree to complete and return promptly any Software usage questionnaires issued by Hunter, and to provide Hunter and/or its designated auditor with reasonable access to your relevant facilities, systems, and records to verify that your use of the Software is in compliance with the provisions of this Agreement. All audits shall be conducted in a reasonable manner at Hunter's expense and shall occur no more than once annually; provided, however, if an audit reveals or Hunter reasonably suspects material non-compliance, Hunter may conduct additional audits until compliance is achieved. If an audit reveals material noncompliance by you, you shall reimburse Hunter for the reasonable costs of the audit, in addition to payment of any shortfall determined to be due and owing.

U.S. Government Restricted Rights. The Software and Documentation are licensed with RESTRICTED RIGHTS as "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation is licensed (if at all) to U.S. Government end users only as Commercial Items, and with only those rights as are granted to other licensees pursuant to this Agreement.

Export Control. The Software and underlying information and technology may not be accessed or used except as authorized by United States and other applicable law, and further subject to compliance with this Agreement. The Software may not be exported or re-exported into any U.S. embargoed countries, or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. You represent and warrant that you and your end users are not located in, under the control of, or a national or resident of any country or on any such list.

Interpretation. If any provision of this Agreement is determined to be unenforceable under applicable law, such provision shall be interpreted or amended by a court of competent jurisdiction to accomplish the objectives of such provision to the greatest extent possible under applicable law, or severed from this Agreement if such interpretation or amendment is not possible, and the remaining provisions of this Agreement shall continue in full force and effect. The captions and section headings in this Agreement are for reference purposes only, and shall not affect the meaning or interpretation of this Agreement. The term "including" means "including without limitation." The terms "herein," "hereunder," "hereto," "hereof," and similar variations refer to this Agreement as a whole, rather than to any particular section.

Amendment; Waiver. Except as provided in Section 5 (Updates; New Versions) this Agreement may be amended only by a written instrument signed by an authorized representative of Hunter. No rights shall be waived by any act, omission, or knowledge of a party, except by an instrument in writing expressly waiving such rights and signed by an authorized representative of the waiving party. Any waiver on one occasion shall not constitute a waiver on subsequent occasions.

Entire Agreement. This Agreement sets forth the entire agreement between you and Hunter with regard to the subject matter hereof, and supersedes all prior and contemporaneous proposals, agreements and understandings, whether written or oral, pertaining to the subject matter hereof. Any conflicting or supplementary terms proposed by you in any email, attachment, or other writing shall not be binding on us, and are hereby objected to and expressly rejected.