

## Agreements and Policies regarding KMSYS Worldwide's Connectivity/Application Software

If you have any questions, please contact our Customer Service Department at (770) 635-6350. A copy of this license agreement may be found by visiting KMSYS Worldwide's Web site at [www.kmsys.com](http://www.kmsys.com).

### License and Warranty Statement

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You may add users by paying for a separate software package for each user you wish to add. You may also add users by purchasing additional licenses, so long as the number of persons who are able to use the software is not more than the number of authorized users agreed to by contract or license. The number of authorized users is not increased if KMSYS Worldwide makes installation possible from more than one media.

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You may transfer all the software to another computer, provided that you first remove the software from the computer where originally installed. The person(s) using the transferred software may use it only in accordance with the copyright law, international treaty, and this statement. When you receive an upgraded version of the software as a result of initial or extended warranty, the upgraded version is a replacement of the earlier version and is not a new license. The upgraded version and the older version cannot be installed on two different computers and cannot be transferred separately. KMSYS Worldwide reserves the right to determine what constitutes an upgraded version of the software product. This software is subject to U.S. Commerce Department export restrictions and is intended for use in the country into which KMSYS Worldwide sold it. Except as provided in this statement, you may not transfer, rent, sublicense, time-share, or electronically transmit or receive the software, media, or documentation.

### Limited Warranty

KMSYS Worldwide warrants the physical media and physical documentation provided by KMSYS Worldwide to be free of defects in materials and workmanship for a period of sixty (60) days from the original purchase date. If KMSYS Worldwide receives notification within the warranty period of defects in materials or workmanship and determines that such notification is correct, KMSYS Worldwide will replace the defective media or documentation.

DO NOT RETURN ANY PRODUCT UNTIL YOU HAVE CALLED THE KMSYS WORLDWIDE CUSTOMER SERVICE DEPARTMENT AND OBTAINED A RETURN AUTHORIZATION NUMBER.

The entire and exclusive liability and remedy for breach of this limited warranty shall be limited to replacement of defective media or documentation and shall not include or extend to any claim for or right to recover any other damages, including but not limited to, loss of profit, data, or use of the software or special, incidental or consequential damages, or other similar claims, even if KMSYS Worldwide has been specifically advised of the possibility of such damages. In no event will KMSYS Worldwide's liability for any damages to you or any other person ever exceed the lower of the list price or the actual price paid for the package or the license to use the software, regardless of the form of the claim.

KMSYS WORLDWIDE SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL OTHER IMPLIED TERMS ARE EXCLUDED.

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### **Extended Warranty**

Upon expiration of the initial or any extended warranty period, the maintenance provisions may be renewed for a period of twelve (12) months at the then current maintenance rate. Should you decline or terminate extended maintenance services, and then elect to resume such services later, you agree to purchase extended maintenance for a period of twelve (12) months. Furthermore, you agree to pay KMSYS Worldwide an amount equivalent to the prorated portion of KMSYS Worldwide then current maintenance fee for the period between the end of the previous maintenance term and the starting date of the new maintenance term. When extending maintenance, maintenance must be paid on all copies purchased regardless of date(s) purchased. Should you wish to purchase maintenance on fewer licenses than the total number purchased, regardless of the date or dates purchased, with written permission from KMSYS Worldwide, you may:

- (a) Forfeit all licenses for which you do not wish to purchase maintenance;
- (b) Remove all forfeited copies of the software;
- (c) Certify in writing that you agree to the forfeiture of the licenses and that you have removed all copies.

During the Limited Warranty period and during any Extended Warranty term, KMSYS Worldwide will:

- Provide installation assistance. Such assistance will be provided from a KMSYS Worldwide location by means of telephone, electronic mail, facsimile or other means selected by KMSYS Worldwide;
- Make reasonable attempts to provide corrections or to supply emergency remedies for problems if the licensed software yields incorrect results and KMSYS Worldwide diagnoses the problem as a defect in a current, unaltered release of the software;

- Provide, at no cost, any known corrections or revisions pertaining to the current, unaltered software, as such corrections and revisions become known to KMSYS Worldwide;
- Provide you with modifications, improvements, and refinements to the software whenever such enhancements are not separately priced or marketed by KMSYS Worldwide.

Additional purchases of this software shall be limited to the version of the software originally agreed to by contract or license except when within the Limited Warranty or Extended Warranty periods.

KMSYS Worldwide shall not be responsible in any regard for any software that is modified by you. By modifying the software, you assume all risks.

You shall notify KMSYS Worldwide of the circumstances under which the software fails to perform in accordance with specifications and shall provide details sufficient for KMSYS Worldwide to diagnose or reproduce such failure. If, after investigation, KMSYS Worldwide shows that the reported problem was not caused by the software, the analysis services may be charged to you.

Any such services rendered by KMSYS Worldwide which are not part of the services KMSYS Worldwide is to perform under this license will be charged to you at KMSYS Worldwide's standard rates then in effect plus all reasonable out-of-pocket expenses, including but not limited to, lodging, transportation, and meals. A minimum charge of one (1) person-day will be assessed for such services rendered at your installation.

You shall assume full responsibility for the use of the software, documentation, modifications, corrections, and updates and for the establishment of proper machine configurations, audit controls, and operating methods. You shall install corrections, corrective versions, and revisions provided by KMSYS Worldwide. In order that KMSYS Worldwide may perform the above services, you agree to provide reasonable access to your facility and to personnel concerned with the operation of the software.

### **Restricted Rights Legend**

If this Product is acquired by or for the U.S. Government then it is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252 227-7013, or subparagraphs (c)(1) and (2) of the Commercial Computer Software – Restricted Rights at 48 CFR 52.227-19, or clause 18-52.227-86(d) of the NASA Supplement to the FAR, as applicable.

### **General Provisions**

This statement may be modified only in writing signed by you and an authorized officer of KMSYS Worldwide. If any provision of this statement is found void or unenforceable, the remainder will remain valid and enforceable according to its terms. If any remedy provided is determined to have failed of its essential purpose, all limitations of liability and exclusions of damages set forth in the limited warranty shall remain in effect. This statement shall be construed, interpreted, and governed by the laws of the State of Georgia, U.S.A. This statement gives you specific legal rights; you may have others that vary from state to state and from country to country. KMSYS Worldwide reserves all rights not specifically granted in this statement.

You acknowledge the international scope of the license granted hereunder and that the Products are subject to U.S. export laws and regulation, and agree to comply with such regulations of the United States Department of Commerce relating to the export of products

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You will not transfer, export, or reexport the Software Product(s), any related technology, or any direct product of either except in full compliance with the export controls administered by the United States and other countries and any applicable import and use restrictions. You agree not to export or reexport such items to anyone on the U.S. Treasury Department's lists of Specially Designated Nationals or the U.S. Commerce Department's Denied Persons List or Entity List, or to a prohibited country or denied party that the EAR and other governing bodies deems prohibited now or in the future, or for use with chemical or biological weapons, sensitive nuclear end-uses, or missiles. You represent and warrant that it is not located in, under control of, or a national or resident of any such country or on any such list. You understand that the foregoing obligations are U.S. legal requirements and agree that they shall survive any term or termination of this agreement.

(12 April 2007)