

# **Total SQL Statistics Software License Agreement**

PLEASE READ THE FMS SOFTWARE LICENSE AGREEMENT. YOU MUST AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT BEFORE YOU CAN INSTALL OR USE THE SOFTWARE.

IF YOU DO NOT ACCEPT THE TERMS OF THE LICENSE AGREEMENT FOR THIS OR ANY FMS SOFTWARE PRODUCT, YOU MAY NOT INSTALL OR USE THE SOFTWARE. YOU SHOULD PROMPTLY RETURN ANY FMS SOFTWARE PRODUCT FOR WHICH YOU ARE UNWILLING OR UNABLE TO AGREE TO THE TERMS OF THE FMS SOFTWARE LICENSE AGREEMENT FOR A REFUND OF THE PURCHASE PRICE.

## **OWNERSHIP OF THE SOFTWARE**

The enclosed software program ("SOFTWARE") and the accompanying written materials are owned by FMS, Inc. or its suppliers and are protected by United States copyright laws, by laws of other nations, and by international treaties. You must treat the SOFTWARE like any other copyrighted material except that you may make one copy of the SOFTWARE solely for backup or archival purpose, and you may transfer the SOFTWARE to a permanent storage device.

## **GRANT OF LICENSE**

The SOFTWARE is available in a single license or 5 license version. Contact FMS, Inc. to purchase additional licenses. Licenses are granted on a PER DEVELOPER basis. For each license, one designated developer can use the Software on one computer at a time.

## **USE AND REDISTRIBUTION RIGHTS**

This SOFTWARE license is for one user only and includes a Runtime License granting limited redistribution rights.

The Runtime Library Database is available to let you distribute applications that run the scenarios you created. FMS grants you the right to distribute the SOFTWARE's dynamic link library (DLL) on a non-exclusive, royalty free basis, provided that:

1. Each developer using the program owns a license of the SOFTWARE.
2. Your application adds substantial value to the SOFTWARE and is not a standalone statistical analysis program.
3. Your application does not attempt to replicate the interactive user interface of the SOFTWARE.

4. Your application is not a freeware or shareware product.
5. You only distribute the DLL file and no other SOFTWARE files.
6. If you claim a copyright, you must add a clause stating "Portions of this program are Copyright Total SQL Statistics from FMS, Inc." and do not claim ownership of the SOFTWARE.
7. You agree to indemnify, hold harmless, and defend FMS and its suppliers or contractors from and against any claims or lawsuits, including attorneys' fees, that arise or result from the use or distribution or other activities relating to your applications.

## **RESTRICTIONS**

Under no circumstances may you attempt to reverse engineer this product. You may not rent or lease the SOFTWARE, but you may transfer the SOFTWARE and the accompanying written materials on a permanent basis provided you retain no copies, the recipient agrees to the terms in this SOFTWARE License, and you have not distributed applications using the SOFTWARE. Ownership transfers must be reported to FMS, Inc. in writing.

## **TRANSFER OF LICENSE**

If your SOFTWARE is marked, "NOT FOR RESALE", you may not sell or resell the SOFTWARE, nor may you transfer the FMS Software license.

If your SOFTWARE is not marked, "NOT FOR RESALE", you may transfer your license of the SOFTWARE to another user or entity provided that:

1. You have not distributed applications including the SOFTWARE.
2. The recipient agrees to all terms of the FMS Software License Agreement.
3. You provide all original materials including software disks or compact disks, and any other part of the SOFTWARE's physical distribution to the recipient.
4. You remove all installations of the SOFTWARE.
5. You notify FMS, in writing, of the ownership transfer.

## **LIMITED WARRANTY**

If you discover physical defects in the media on which this SOFTWARE is distributed, or in the related manual, FMS, Inc. will replace the media or manual at no charge to you, provided you return the item(s) within 60 days after purchase.

**ALL IMPLIED WARRANTIES ON THE MEDIA AND MANUAL, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A**

PARTICULAR PURPOSE ARE LIMITED TO SIXTY (60) DAYS FROM THE DATE OF PURCHASE OF THIS PRODUCT.

Although FMS, Inc. has tested this program and reviewed the documentation, FMS, Inc. makes no warranty or representation, either expressed or implied, with respect to this SOFTWARE, its quality, performance, merchantability, or fitness for a particular purpose. As a result, this SOFTWARE is licensed "AS-IS", and you are assuming the entire risk as to its quality and performance.

IN NO EVENT WILL FMS, INC. BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE, OR INABILITY TO USE THIS SOFTWARE OR ITS DOCUMENTATION.

THE WARRANTY AND REMEDIES SET FORTH IN THIS LIMITED WARRANTY ARE EXCLUSIVE AND IN LIEU OF ALL OTHERS, ORAL OR WRITTEN, EXPRESSED OR IMPLIED.

Some states do not allow the exclusion or limitation of implied warranties or liability for incidental or consequential damages, so the above limitations or exclusions may not apply to you. This warranty gives you specific legal rights; you may also have other rights that vary from state to state.

## **U.S. GOVERNMENT RESTRICTED RIGHTS**

The SOFTWARE and documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the 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, as applicable.