

## **Agreements and Policies regarding KMSYS Worldwide's 2200 Software**

If you have any questions, please contact our Customer Service Department at (770) 635-6350.

### **Software License Transfer Fees and Machine Changes**

The software products licensed by KMSYS Worldwide, Inc. (herein referred to as KMSYS Worldwide), to our customers are licensed to a specific installation and system. A "license transfer fee" will be charged anytime customers modify their existing system configuration in such a way as to require KMSYS Worldwide to provide new license keys. Situations resulting in this fee include upgrading to a new machine or changing the EXEC site ID. The license transfer fee will be 5% of the current price of the software configuration for which new keys are required.

For example, if a customer has a five-year license for one copy of KMSYS Worldwide's software, the transfer fee, based upon a price of \$21,000, would be \$1,050 (US). The license transfer fee may be paid by credit card, or by sending a written purchase order by facsimile or mail, with payment due in full within thirty (30) days. KMSYS Worldwide will send a temporary 30-day key to allow time for processing the payment, and then when payment is received, a full key will be issued. If payment is not received in full within 30 days, and/or KMSYS Worldwide is requested to provide more than one (1) license key extension, additional transfer fees will be incurred.

### **Disaster Recovery License**

The KMSYS Worldwide's Software License Agreement allows customers to discontinue use of a licensed product at the designated customer installation and resume use of the product at another customer location with prior written approval from KMSYS Worldwide, and subject to a license transfer fee. In the event of a disaster, KMSYS Worldwide will furnish, during normal business hours, all necessary product license keys to permit the installation of the software at another location. For those customers who require more extensive disaster recovery preparation, KMSYS Worldwide offers the following discounted price for disaster recovery copies of the software. This offer is available only to companies who do not own or lease the disaster recovery equipment and do not have normal access to the disaster recovery system. The license fee is 10% of the product's current perpetual license fee. The expiration date of the license granted for the disaster recovery system will coincide with that of the original license and will be renewable annually at no additional cost upon renewal of maintenance for the original license. For example, if the current perpetual license price is \$15,000, the license fee for the disaster recovery system is \$1,500. No additional fees will be due so long as maintenance on the original license remains current. If maintenance is allowed to lapse, then the disaster recovery license expires. Note that the above discount is only available for software that is to be used exclusively for disaster recovery preparation and implementation. If the disaster recovery system is also used as a test system located at a different facility, the standard 20% multiple copy discount applies, and maintenance is a separate item with no discount.

If a customer requests a short-term (five (5) days or less) key for testing of any type, including disaster recovery, KMSYS Worldwide will provide one 5-day key to the customer at no charge. If the customer requires an extension beyond the initial five (5) days, we will charge the current one-year renewable license fee for that product divided by 12 for each month the customer requires the key.

## **Renewal of Maintenance**

If a customer whose maintenance has expired wishes to renew maintenance, the customer must pay an amount equivalent to the prorated portion of KMSYS Worldwide's then current maintenance fee for the period between the end of the previous maintenance term and the starting date of the new maintenance term, plus 12 months in advance in order to reinstate maintenance.

If a customer holds multiple perpetual licenses of the same KMSYS Worldwide's software and wishes to terminate maintenance on a specific system while continuing maintenance on the remaining systems, the customer must acknowledge in a signed post or facsimile that the software is no longer to be used on said system. If the customer elects to resume using the software, the customer agrees to purchase extended maintenance for a period of twelve (12) months and to pay KMSYS Worldwide an amount equivalent to the prorated portion of KMSYS Worldwide's then current maintenance fee for the period between the end of the previous maintenance term and the starting date of the new maintenance term.

## **Outsourcing**

The KMSYS Worldwide's Software License Agreement specifically states that the customer may not assign, sub-license, or otherwise transfer the agreement, the authorized license(s), or the product(s) without KMSYS Worldwide prior written consent. KMSYS Worldwide will not authorize assignment to a third-party outsourcing company.

If a customer is considering outsourcing KMSYS Worldwide's software to a third party and the customer wishes to continue using the software, the customer should consider the outlay for new software in its outsourcing cost estimate. The third-party outsourcing company must contract directly with KMSYS Worldwide for new licenses of the software. This rule applies even if the customer sells its system to a sub-contractor, then turns around and leases time back from that sub-contractor. Additionally, if a customer, who owns its system, and has KMSYS Worldwide's software on that system, leases time on that system to a third party, the third party lessee must purchase its own software licenses. On the other hand, if a customer owns its system, but hires a sub-contractor to operate the system, no new software licenses are required.

Specifically, when a copy of KMSYS Worldwide's software is purchased, it is licensed to one customer only, and that customer cannot sell, lease, give, or otherwise transfer use or ownership of that software license to any other party.

## **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.

## **Export Restrictions**

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 to effectively facilitate compliance with all applicable laws and regulations relating to the exchange or export of technology, including, without limitation, the Export Administration Act of 1979, as amended, and regulations thereunder and all future versions thereof. KMSYS Worldwide represents that the applicable Export Control Classification Number ("ECCN") for the Products are set forth on KMSYS Worldwide's web site at

<http://www.kmsys.com/exporting/>, and that by virtue of such classification, no export license is required for your export to and possession and use at your facilities located outside the United States (other than a prohibited country or denied party that the Export Administration Regulations ("EAR") and other governing bodies deems prohibited now or in the future), which use shall be in accordance with the terms of the Agreement.

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.