

SUPPLEMENTAL FILEMAKER SOFTWARE LICENSE FOR UPDATER SOFTWARE

IMPORTANT -- READ CAREFULLY: The updater software and documentation accompanying this License (“Software”) are subject to the terms and conditions of the software license for the applicable FileMaker software product (“Original Software”) which you previously licensed from FileMaker, Inc. and/or FileMaker International, Ltd. (collectively referred to as “FMI”), and the terms in this Supplemental FileMaker Software License for Updater Software. If any terms in this supplemental FileMaker Software License conflict with terms in the software license provided with the Original Software, then the terms of this supplemental FileMaker Software License shall control solely with respect to the Software.

BY INSTALLING, COPYING, DOWNLOADING, ACCESSING OR OTHERWISE USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS LICENSE AND THE APPLICABLE AGREEMENT UNDER WHICH YOU LICENSED THE ORIGINAL SOFTWARE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT INSTALL, COPY, DOWNLOAD, ACCESS OR OTHERWISE USE THE SOFTWARE.

NOTE: IF YOU DO NOT HAVE A VALID LICENSE FOR THE ORIGINAL SOFTWARE, YOU ARE NOT AUTHORIZED AND DO NOT HAVE THE RIGHT TO INSTALL, COPY, DOWNLOAD, ACCESS OR OTHERWISE USE THE SOFTWARE.

1. Limited Warranty. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FMI AND ITS LICENSORS PROVIDE YOU THE SOFTWARE “AS IS” AND WITH ALL FAULTS. FMI AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, CONDITIONS OR OTHER TERMS, EITHER EXPRESS OR IMPLIED (WHETHER COLLATERALLY, BY STATUTE OR OTHERWISE), INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES, CONDITIONS OR OTHER TERMS OF MERCHANTABILITY, SATISFACTORY QUALITY AND/OR FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE SOFTWARE AND ACCOMPANYING WRITTEN MATERIALS. FURTHERMORE, THERE IS NO WARRANTY AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SOFTWARE OR AGAINST INFRINGEMENT OF THIRD PARTY PROPRIETARY RIGHTS BY THE SOFTWARE. FMI DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY FMI OR AN FMI AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES, CONDITIONS OR OTHER TERMS THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THE TERMS OF THIS DISCLAIMER AND THE LIMITED WARRANTY UNDER THIS SECTION 1 DO NOT AFFECT OR PREJUDICE THE STATUTORY RIGHTS OF A CONSUMER ACQUIRING THE SOFTWARE OTHERWISE THAN IN THE COURSE OF A BUSINESS, NEITHER DO THEY LIMIT OR EXCLUDE ANY LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY FMI’S NEGLIGENCE.

2. Exclusion and Limitation of Remedies and Damages.

- (a) **Exclusion.** IN NO EVENT WILL FMI, ITS PARENT, SUBSIDIARIES, OR ANY OF ITS LICENSORS, DIRECTORS, OFFICERS, EMPLOYEES OR AFFILIATES OF ANY OF THE FOREGOING BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE) OR DIRECT LOSS OF BUSINESS, BUSINESS PROFITS OR REVENUE, WHETHER FORESEEABLE OR UNFORESEEABLE, ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE OR ACCOMPANYING WRITTEN MATERIALS, REGARDLESS OF THE BASIS OF THE CLAIM (WHETHER UNDER CONTRACT, NEGLIGENCE OR OTHER TORT OR UNDER STATUTE OR OTHERWISE HOWSOEVER ARISING) AND EVEN IF FMI OR A FMI REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

(b) **Limitation.** FMI'S TOTAL LIABILITY TO YOU FOR DAMAGES FOR ANY CAUSE WHATSOEVER NOT EXCLUDED BY SECTION 2(a) ABOVE HOWSOEVER CAUSED (WHETHER IN CONTRACT, NEGLIGENCE OR OTHER TORT, UNDER STATUTE OR OTHERWISE HOWSOEVER ARISING) WILL BE LIMITED TO THE GREATER OF U.S.\$5.00 OR THE MONEY PAID FOR THE SOFTWARE THAT CAUSED THE DAMAGES. THE PARTIES AGREE THAT THIS LIMITATION OF REMEDIES AND DAMAGES PROVISION SHALL BE ENFORCED INDEPENDENTLY OF AND SURVIVE THE FAILURE OF ESSENTIAL PURPOSE OF ANY WARRANTY REMEDY. THIS LIMITATION WILL NOT APPLY IN CASE OF DEATH OR PERSONAL INJURY CAUSED BY FMI'S NEGLIGENCE ONLY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE LIMITATION OF LIABILITY IN THIS SECTION 2 MAY NOT APPLY TO YOU. NOTHING IN THIS LICENSE AFFECTS OR PREJUDICES THE STATUTORY RIGHTS OF A CONSUMER ACQUIRING THE SOFTWARE OTHERWISE THAN IN THE COURSE OF A BUSINESS.

3. Export Law Assurances. You may not use or otherwise export or reexport the Software except as authorized by United States law and the laws of the jurisdiction in which the Software was obtained. In particular, but without limitation, the Software may not be exported or reexported (a) into (or to a national or resident of) any U.S. embargoed countries (currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria), or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Software you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.