

License Agreement

PASS License Agreement

Important: The PASS Power Analysis and Sample Size software program is licensed by NCSS, LLC to customers for their use only on the terms set forth below. Your purchase and use of PASS indicates your acceptance of these terms.

1. **LICENSE.** NCSS, LLC hereby agrees to grant you a non-exclusive license to use the accompanying PASS program subject to the terms and restrictions set forth in this License Agreement.
2. **COPYRIGHT.** PASS and its documentation are copyrighted. You may not copy or otherwise reproduce any part of PASS or its documentation, except that you may load PASS into a computer as an essential step in executing it on the computer and make backup copies for your use on the same computer.
3. **BACKUP POLICY.** PASS may be backed up by you for your use on the same machine for which PASS was purchased.
4. **RESTRICTIONS ON USE AND TRANSFER.** The original and any backup copies of PASS and its documentation are to be used only in connection with a single user. This user may load PASS onto several machines for his/her convenience (such as a desktop and laptop computer), but only for use by the licensee. You may physically transfer PASS from one computer to another, provided that PASS is used in connection with only one user. You may not distribute copies of PASS or its documentation to others. You may transfer this license together with the original and all backup copies of PASS and its documentation, provided that the transferee agrees to be bound by the terms of this License Agreement. PASS licenses may not be transferred more frequently than once in twelve months. Neither PASS nor its documentation may be modified or translated without written permission from NCSS, LLC.

You may not use, copy, modify, or transfer PASS, or any copy, modification, or merged portion, in whole or in part, except as expressly provided for in this license.

5. **NO WARRANTY OF PERFORMANCE.** NCSS, LLC does not and cannot warrant the performance or results that may be obtained by using PASS. Accordingly, PASS and its documentation are licensed "as is" without warranty as to their performance, merchantability, or fitness for any particular purpose. The entire risk as to the results and performance of PASS is assumed by you. Should PASS prove defective, you (and not NCSS, LLC nor its dealer) assume the entire cost of all necessary servicing, repair, or correction.
6. **LIMITED WARRANTY ON CD.** To the original licensee only, NCSS, LLC warrants the medium on which PASS is recorded to be free from defects in materials and faulty workmanship under normal use and service for a period of ninety days from the date PASS is delivered. If, during this ninety-day period, a defect in a CD should occur, the CD may be returned to NCSS, LLC at its address, or to the dealer from which PASS was purchased, and NCSS, LLC will replace the CD without charge to you, provided that you have sent a copy of your receipt for PASS. Your sole and exclusive remedy in the event of a defect is expressly limited to the replacement of the CD as provided above.

License Agreement

Any implied warranties of merchantability and fitness for a particular purpose are limited in duration to a period of ninety (90) days from the date of delivery. If the failure of a CD has resulted from accident, abuse, or misapplication of the CD, NCSS, LLC shall have no responsibility to replace the CD under the terms of this limited warranty. This limited warranty gives you specific legal rights, and you may also have other rights which vary from state to state.

7. **LIMITATION OF LIABILITY.** Neither NCSS, LLC nor anyone else who has been involved in the creation, production, or delivery of PASS shall be liable for any direct, incidental, or consequential damages, such as, but not limited to, loss of anticipated profits or benefits, resulting from the use of PASS or arising out of any breach of any warranty. Some states do not allow the exclusion or limitation of direct, incidental, or consequential damages, so the above limitation may not apply to you.

8. **TERM.** The license is effective until terminated. You may terminate it at any time by destroying PASS and documentation together with all copies, modifications, and merged portions in any form. It will also terminate if you fail to comply with any term or condition of this License Agreement. You agree upon such termination to destroy PASS and documentation together with all copies, modifications, and merged portions in any form.

9. **YOUR USE OF PASS ACKNOWLEDGES** that you have read this customer license agreement and agree to its terms. You further agree that the license agreement is the complete and exclusive statement of the agreement between us and supersedes any proposal or prior agreement, oral or written, and any other communications between us relating to the subject matter of this agreement.

Dr. Jerry L. Hintze & NCSS, LLC, Kaysville, Utah