

## QUMU MASTER SOFTWARE LICENSE SALES AND SUPPORT AGREEMENT

This Agreement (“Agreement”) is made as of the Effective Date by and between the Qumu Affiliate identified within the signature block (“QUMU”) and the individual or entity identified as “LICENSEE” within the signature block.

THIS LEGAL AGREEMENT STATES THE TERMS AND CONDITIONS UNDER WHICH LICENSEE MAY USE THE SOFTWARE. BY CLICKING ON THE ACCEPT BUTTON; IMPLEMENTING THE SOFTWARE; HAVING SOFTWARE IMPLEMENTED ON LICENSEE’S BEHALF; COPYING OR HAVING SOFTWARE COPIED ON LICENSEE’S BEHALF; USING OR HAVING SOFTWARE USED ON LICENSEE’S BEHALF; OR BY USING OR HAVING HARDWARE USED ON LICENSEE’S BEHALF, LICENSEE INDICATES THAT LICENSEE HAS READ AND UNDERSTANDS, AND AGREES TO BE BOUND BY, THE TERMS SET FORTH IN THIS AGREEMENT. IF SOFTWARE IS IMPLEMENTED, COPIED OR USED ON BEHALF OF LICENSEE, THE TERMS SET FORTH IN THIS AGREEMENT SHALL APPLY TO THE INDIVIDUAL OR ENTITY IMPLEMENTING, COPYING OR USING SOFTWARE ON BEHALF OF LICENSEE.

The Products are sold or licensed pursuant to a Sales Terms & Conditions and End User License Agreement (“EULA”) which may be found at [www.qumu.com/legal](http://www.qumu.com/legal), the terms of which are incorporated herein. If the terms of this Agreement and the terms of the EULA conflict, the terms of this Agreement supersede the terms of the EULA. Terms which are not included in Article I but capitalized herein shall have the meaning set forth in the EULA.

### **WITNESSETH:**

WHEREAS, QUMU or an Affiliate of QUMU owns certain Software and Hardware “Products” (as defined below);

WHEREAS, LICENSEE has independently approved and determined that the Products will meet the needs of LICENSEE; and

WHEREAS, LICENSEE desires to receive a license to use the Products listed in an Order Form

NOW THEREFORE, in consideration of the mutual benefits of the covenants and restrictions herein contained, QUMU and LICENSEE hereby agree as follows:

### **ARTICLE I: DEFINITIONS**

The following definitions shall apply to this Agreement and all schedules, exhibits and attachments to this Agreement:

1.01 -- “Access” and variants thereof mean to store data in; or retrieve data from; or otherwise approach or make use (directly or indirectly), through electronic means or otherwise, of the QUMU products.

1.02 -- “Affiliated Company” or “Affiliate” means a company that that is controlled by, controls or has common control with Qumu Corporation or a subsidiary of Qumu Corporation.

1.03 -- “Appliance” means a separate and discrete Hardware device with integrated software or firmware, on a LICENSEE’s premises, holding or housing QUMU’s intellectual property.

1.04 -- “Associate” means an employee of QUMU or an independent contractor hired by QUMU.

1.05 -- “Authorized Person” means LICENSEE or employees of LICENSEE who agree to maintain the confidentiality of Confidential Information and individuals or organizations who are authorized by QUMU to receive Confidential Information and who agree to maintain the confidentiality of such Confidential Information.

1.06 -- “Cancellation Notice” means a written notice sent by non-breaching party to breaching party that cancels this Agreement.

1.07 -- “Confidential Information” means all information concerning this Agreement, Software, Products, and the business and technical plans of QUMU which is disclosed by QUMU to LICENSEE or learned by LICENSEE.

1.08 -- For installation of Software on hardware owned by LICENSEE, “Delivery Date” means the date QUMU provides LICENSEE access to the Software by download. For Hardware (including Appliances), “Delivery Date” means the date the Hardware is shipped to LICENSEE.

1.09 -- “Documentation” means the Product user guides made available to LICENSEE.

1.10 -- “Effective Date” means the date the last party executes this Agreement.

1.11 -- “Hardware” means the tangible items listed in the Order Form.

1.12 -- “Implement” and variants thereof (including, but not limited to, the terms “Implementation”, “Implementing” and “Implemented”) mean to load, install or otherwise make use of the Software.

1.13 – “Made Available” means

- (a) for downloaded Software, LICENSEE has received written notification by e-mail or otherwise of the location with instructions to access the Software files.
- (b) for hosted service, LICENSEE has received written notification by e-mail or otherwise with instructions to access the service.

1.14 -- “Maintenance Release” means the object code for a Software release containing mostly error corrections and any corrections and updates to the associated documentation, generally made available by QUMU from time to time to its customers and indicated by a change in the digit to the right of the third decimal point (e.g., from version x.x.x.x to x.x.x.y).

1.15 -- “Maintenance Services” means services concerning Software as provided by QUMU to LICENSEE for the fees detailed in the Support/Upgrade Order Form.

1.16 - “Major Release” means the object code for a Software release containing significant new enhancements, features, and functionality and any corrections and updates to the associated documentation, generally made available by QUMU from time to time to its customers and indicated by a change in the digit to the left of the first decimal point (e.g., from version x.x.x to x.y.x or a change from version x.x.x to y.x.x).

1.17 – “Minor Release” means the object code for a Software release containing error corrections or minor enhancements, and any corrections and updates to the associated documentation, generally made available by QUMU from time to time to its customers and indicated by a change in the digit to the right of the second decimal point (e.g., from version x.x.x to x.x.y).

1.18 – “Order Form” means an order form attached to or referencing this Agreement.

1.19 -- "Product" means one or more of QUMU's proprietary products listed in an Order Form.

1.20 -- "Services" means services as requested by LICENSEE and detailed in an Order Form, Statement of Work or another document between QUMU and LICENSEE.

1.21 -- "Software" means the object code for the Software applications listed in an Order Form to be provided by QUMU to LICENSEE hereunder, including Minor Releases and Major Releases.

1.22 -- "Term" means a period of time commencing on the Effective Date and continuing until this Agreement is terminated or canceled under Article V.

1.23 -- "Third Party Technology" means third party software, hardware, peripherals, components, devices, equipment and technology used in connection with or related to Products.

1.24 -- "Unauthorized Access" means any access to Software except for the exclusive purpose of this Agreement and training employees of LICENSEE in the use of Software.

1.25 -- "Unauthorized User" means any individual who accesses Software except for: (1) employees of LICENSEE authorized by LICENSEE to access Software who agree to maintain the confidentiality of Confidential Information and (2) persons authorized by QUMU to access Software.

1.26 -- "Warranty Term" means a period of time commencing on the Delivery Date and ending on the date which is ninety (90) days thereafter for Software and one year thereafter for Hardware.

## **ARTICLE II: SOFTWARE PRODUCTS**

2.01 -- Grant of License: QUMU hereby grants to LICENSEE a non-exclusive and non-transferable license to use Software and the Documentation for the License Term, subject to the terms of this Agreement. License Terms for each Software Product is Perpetual unless otherwise stated in the respective Order Form.

2.02 -- Use Restrictions: LICENSEE shall prevent Unauthorized Users from accessing Software. LICENSEE shall prevent Unauthorized Access to Software. LICENSEE shall promptly inform QUMU of any and all Unauthorized Access (or suspected Unauthorized Access) and Unauthorized Users (or suspected Unauthorized Users) of which LICENSEE has knowledge or suspicion. Access to Software using third party products for purposes of manipulating, viewing, disclosing or using the internal structure of Software or for creating a database, data dictionary or data model not (1) with the knowledge and written consent of a QUMU authorized technical representative or (2) within the terms of the documentation for LICENSEE's use the Software, shall be deemed Unauthorized Access.

2.03 -- Laws and Regulations: LICENSEE shall comply with all applicable laws and regulations of the United States, the country in which LICENSEE is located or the Software is used, and any other country having jurisdiction.

2.04 -- End Use: LICENSEE hereby represents and warrants that Software is being licensed by LICENSEE for its own use and not for rental, leasing, resale, sublicensing, distribution, outsourcing, or offering service bureau services or Software as a Service purposes.

## **ARTICLE III: DELIVERY AND TRANSFER OF RISK OF LOSS**

3.01 -- Delivery of Software:

- (a) Software for Installation on hardware owned by LICENSEE -- The Software is provided to LICENSEE in electronic form for installation on computer systems

supplied by LICENSEE. LICENSEE is responsible for acquiring and maintaining the supplied computer systems in good working order and in compliance with QUMU's technical requirements. Software will be made available on a secure, password protected, web site for LICENSEE to access and download. QUMU will provide Minor Releases and Major Releases to the Software subject to the LICENSEE executing and remaining current per the terms of a Support and Upgrade Order Form.

- (b) Software installed on an Appliance – The Software is provided to LICENSEE pre-installed on QUMU supplied Hardware. QUMU provides a pass through warranty from the manufacturer of the Hardware. QUMU is responsible for assuring the Appliance, operating system and ancillary supporting technologies function properly when they leave QUMU's dock or other point of origin. QUMU will provide Minor Releases and Major Releases to the Software on the Appliance, subject to the LICENSEE executing and remaining current per the terms of a Support and Upgrade Order Form.
- (c) Hosted Service - The Software is provided to LICENSEE as a service accessible via a secure, password protected, web site. QUMU or its designated hosting partner is responsible for all hardware, software and system maintenance. QUMU will provide Minor Releases and Major Releases to the Software subject to the LICENSEE executing and remaining current per the terms of a Support and Upgrade Order Form.

### 3.02.--.Delivery of Hardware:

- (a) U.S. Shipments. The following terms apply to shipments of Hardware to a destination within the United States:
  - i. Unless otherwise agreed on an Order Form, Hardware will be shipped FOB Origin – Freight Prepaid. Freight charges will be added to LICENSEE's invoice for the Hardware purchased. LICENSEE is responsible for all insurance and for filing any claims with the carrier.
  - ii. If agreed, Hardware may be shipped FOB Origin – Freight Collect and LICENSEE is directly responsible for all shipping costs, insurance and for filing any claims with the carrier.
- (b) Non-U.S. Shipments. The following terms apply to shipments to a destination outside the United States:
  - i. Unless otherwise agreed on an Order Form, Hardware will be shipped FCA - QUMU's facility (Incoterms 2000). All charges for shipping or related costs after Hardware leaves QUMU's dock are to be paid by LICENSEE.
  - ii. LICENSEE is directly responsible for all shipping costs, insurance and for filing any claims with the carrier.
- (c) All Shipments of Hardware:
  - i. QUMU does not guarantee delivery on a specific date. Delivery schedules are estimates only and are based upon prompt receipt from LICENSEE and appropriate governmental authorities of all necessary information and documentation. Failure to deliver within the agreed schedule, for any reason, shall not entitle LICENSEE to terminate this Agreement or cancel the order, and does not form the basis for a claim for consequential, liquidated or other damages.

- ii. In the event QUMU determines it cannot deliver the full amount ordered, QUMU may allocate deliveries among the affected LICENSEES.
- iii. QUMU reserves the right to deliver in partial shipments or installments.
- iv. LICENSEE agrees that it shall be deemed to have waived any nonconformity which is discoverable upon visual inspection if such nonconformity is not reported to QUMU in writing within three (3) business days after delivery by the carrier, or reported orally to QUMU within three (3) business days and confirmed in writing within five (5) business days after delivery by the carrier.

3.03.--Transfer of Risk of Loss for Software: All risk of loss transfers to LICENSEE at the time the Software is Made Available to LICENSEE.

3.04.--Transfer of Risk of Loss for Hardware: All risk of loss or damage transfers to LICENSEE at the time of shipment from QUMU's dock or other point of origin.

#### **ARTICLE IV: PAYMENT**

4.01 – Price and Invoicing: LICENSEE shall pay the amounts listed on the applicable Order Form pursuant to the terms of the applicable invoice.

4.02 -- Costs: LICENSEE shall pay all third party costs incurred by QUMU in performing this Agreement. Such costs shall include (without limitation) freight and related insurance fees, travel, lodging, per diem, material and reproduction costs.

4.03 -- Taxes: LICENSEE shall pay any and all taxes attributable to this Agreement, to the transactions contemplated hereunder, and to the transactions performed by LICENSEE or third parties using the Products, including, without limitation, any applicable sales or use taxes. Notwithstanding the foregoing, LICENSEE shall not be responsible for paying any income taxes assessed against QUMU.

4.04 -- Late Fee: Any amount which is not paid when due may, at QUMU's option, be increased by a late charge equal to 1% of such unpaid amount for each month (or portion thereof) in which such amount is due and not paid, not to exceed the maximum rate allowed by applicable laws or regulations.

4.05 -- Charges for Services: Unless otherwise stated on the Order Form, Services shall be performed by QUMU on a time and materials or fixed fee basis at standard QUMU rates prevailing at the time such Services are rendered.

4.06.--. Electronic Payments: If LICENSEE purchases Products from QUMU by means of a QUMU provided electronic purchase or payment system, LICENSEE is responsible for maintaining the confidentiality of LICENSEE's account and password and for restricting access to LICENSEE's computer(s), and LICENSEE agrees to accept responsibility for all activities that occur under LICENSEE's account or password. QUMU will use commercially reasonable care to protect the confidentiality of LICENSEE's credit card or other financial information. LICENSEE is solely responsible for controlling the use or dissemination of any such information within or outside of its organization. QUMU SHALL HAVE NO RESPONSIBILITY WHATSOEVER UNDER ANY CIRCUMSTANCES WITH REGARD TO CREDIT CARD OR ANY OTHER FINANCIAL INFORMATION OF LICENSEE.

#### **ARTICLE V: TERMINATION**

5.01 -- Termination Limitations: This Agreement may only be terminated or canceled as provided under this Article.

5.02 -- Termination: This Agreement shall terminate as follows:

- (a) on the date specified on an Order Form,
- (b) if LICENSEE fails to make any payment within thirty (30) days after receiving written notice from QUMU that such payment is delinquent, QUMU may terminate this Agreement on written notice to LICENSEE at any time following the end of such thirty (30) day period; or
- (c) if either party becomes insolvent (i.e., becomes unable to pay its debts in the ordinary course of business as they come due) or makes an assignment of this Agreement for the benefit of creditors, the other Party may terminate this Agreement immediately upon written notice.

Products delivered under hosting arrangements are for specified time periods and may not be cancelled until the end of such agreed period.

5.03 -- Cancellation for Cause: If either party violates its obligations under this Agreement, the non-violating party may cancel this Agreement by sending a Cancellation Notice describing the noncompliance to violating party. Upon receiving such Cancellation Notice, violating party shall have thirty (30) days from the date of such notice to cure such noncompliance. If such noncompliance is not cured within the required thirty (30) day period, the non-violating party shall have the right to cancel this Agreement as of the thirty-first day after the date of the Cancellation Notice.

5.04 -- Return: Upon termination or cancellation of this Agreement, LICENSEE shall promptly remove (at LICENSEE's expense) all LICENSEE information and data stored in Software Products and return to QUMU the Software, the Documentation, any Hardware for which LICENSEE has not fully paid, and all materials provided by QUMU to LICENSEE hereunder, and shall provide QUMU with a certificate of compliance with this Section 5.04 signed by an authorized representative of LICENSEE. Notwithstanding the foregoing, LICENSEE shall be entitled to retain the then current version of Software obtained under a perpetual license and Appliances or Hardware purchased and paid for by LICENSEE.

## **ARTICLE VI: WARRANTY**

6.01 – Software Warranty: QUMU hereby represents and warrants to LICENSEE that (i) the Software, when delivered, and for a period of ninety (90) days thereafter, will perform in all material respects in accordance with QUMU's then current specifications or Documentation, (ii) that QUMU will use reasonable efforts, in accordance with standard software industry practice, to ensure that the Software, when delivered to LICENSEE, shall not contain a computer "virus" or other contaminant, including codes or instructions intended to delete, damage or disable LICENSEE's computer system, and (iii) that in providing the Software and in performing services hereunder, QUMU and its agents shall comply with applicable laws. QUMU's sole obligation under the limited warranties set forth in subsections (i) and (ii) is to use reasonable efforts to correct or replace any non-conforming Software once QUMU has been made aware of such non-conformance.

6.02 – Hardware Warranty: QUMU warrants Hardware against defects in materials and workmanship under normal use for the Warranty Term. If a hardware defect arises and a valid claim is received within the Warranty Term, at its option and to the extent permitted by law, QUMU will either

- (a) repair the defect at no charge, using new or refurbished replacement parts, or
- (b) exchange the Hardware with Hardware that is new or has been manufactured from new or serviceable used parts and is at least functionally equivalent to the original Hardware.

Neither this warranty nor the terms of any maintenance or support agreement apply:

- (a) to damage caused by use with non-QUMU products without the written permission of QUMU;
- (b) to damage caused by accident, abuse, misuse, flood, fire, earthquake, or other external causes;
- (c) to damage caused by operating the Hardware outside the permitted or intended uses;
- (d) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of QUMU or a QUMU Authorized Service Provider;
- (e) to Hardware that has been modified to alter functionality or capability without the written permission of QUMU;
- (f) to cosmetic damage, including but not limited to scratches, dents, and broken plastic on ports;
- (g) if any QUMU serial number has been removed or defaced; or
- (h) after the Warranty Term has expired.

**6.03 -- Third Party Warranties:** QUMU hereby assigns to LICENSEE the benefit of any and all manufacturer warranties for Third Party Technology and may cooperate (as mutually agreed by the parties) with LICENSEE in securing the benefit of any remedies available to LICENSEE under any such manufacturer warranty.

**6.04 -- Service Warranty:** Any Services provided by QUMU pursuant to this Agreement shall be performed on a reasonable efforts basis in a timely and professional manner, shall conform to the standards generally observed in the industry for similar Services and shall be subject to this Article VI. For any breach of this Service Warranty, LICENSEE's sole and exclusive remedy, and QUMU's entire liability, shall be the re-performance of the nonconforming Services. QUMU shall only have liability for such breaches of warranty if LICENSEE provides written notice of the breach to QUMU within thirty (30) days of the performance of the applicable Services.

**6.05 -- Disclaimer:** **THE WARRANTIES SET FORTH IN SECTIONS 6.01, 6.02 AND 6.04 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND QUMU HEREBY DISCLAIMS AND LICENSEE HEREBY WAIVES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY AND ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES OF MERCHANTABILITY.**

**6.06 -- Express Warranties:** LICENSEE hereby acknowledges and agrees that QUMU (including QUMU officers, employees, agents, directors, independent contractors, affiliates, distributors and successors) has not made or granted any warranties concerning the Hardware, the Services or the Software except as expressly set forth in this Article V.

**6.07 -- Third Party Claims:** If a final judgment of a court having jurisdiction is entered against LICENSEE upholding claims that Software violates a United States patent, copyright, trade secret or other proprietary rights of a third party in the United States, provided that LICENSEE (1) gives QUMU prompt written notice upon LICENSEE's knowledge of any such claim, (2) permits QUMU to answer and defend (at QUMU option) such claim or action and (3) provides QUMU with information, assistance and authority to assist QUMU in the defense of such claim or action. QUMU shall perform one or more of the following actions (as determined by QUMU) within 120 days of the date final judgment in favor of such third party's claim is rendered:

- (a) **Replacement:** Replace the Software with a non-infringing Software product of substantially equivalent functional and performance capability;
- (b) **Modification:** Modify the Software to avoid the infringement without substantially eliminating the functional and performance capabilities of Software;

- (c) Obtain Agreement: Obtain a license for use of the Software from the third party claiming infringement for use of the Software.

QUMU shall have the right to participate or assume the defense (as determined by QUMU), and LICENSEE shall permit and authorize QUMU to participate in or assume the defense, of any such claim or action through QUMU's legal counsel. The foregoing remedy does not apply and QUMU shall have no obligation in connection with or relating to any third party infringement claim in connection with or related to

- (a) LICENSEE's modification of Software;
- (b) LICENSEE's failure to use Software in accordance with the Documentation in effect;
- (c) LICENSEE's failure to use the most current release or version of Software;
- (d) LICENSEE's combination, interface, operation or use of Software with Third Party Technology not specifically authorized by QUMU in writing; or
- (e) QUMU compliance with designs, instructions, or specifications required by LICENSEE.

The remedies set forth herein are the sole and exclusive remedies of LICENSEE under this Agreement for any and all claims of indemnification relating to infringement. QUMU's obligations set forth in this Section shall not apply to Third Party Technology.

**6.08 -- Remedies:** THE EXCLUSIVE REMEDY OF LICENSEE FOR ANY REASON AND FOR ANY CAUSE OF ACTION WHATSOEVER IN CONNECTION WITH OR RELATING TO THIS AGREEMENT, THE SOFTWARE, THE HARDWARE OR THE SERVICES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE AND BREACH OF WARRANTY, SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF SUCH SOFTWARE OR HARDWARE, OR RE-PERFORMANCE OF SERVICES, ALL AS DETERMINED BY QUMU.

**6.09 -- Limitation of Damages:** Each of QUMU and LICENSEE shall not be liable to the other in connection with or relating to this Agreement, the Products, or any transactions involving the Products for any direct, indirect, lost profits, consequential, exemplary, incidental or punitive damages, regardless of the form of action, whether in contract or in tort, including breach of warranty and negligence, regardless of whether the other party has been advised of the possibility of such damages in advance or whether such damages are reasonably foreseeable. Notwithstanding anything herein to the contrary and except for third party claims, the liability of QUMU and LICENSEE for any reason and for any cause of action whatsoever in connection with or relating to this Agreement, the Products and any transactions involving the Products shall be limited to the fees paid for the use of the Products during the prior twelve (12) month period.

**6.10 -- Force Majeure:** Neither QUMU nor LICENSEE shall be liable for any failure to perform its obligations under this Agreement because of circumstances beyond its reasonable control, which circumstances include (without limitation) natural disaster; terrorism; riot; sabotage; labor disputes; war; acts or omissions of any government, governmental authority or third party; declarations of governments; transportation delays; power failure; computer failure; telecommunications failure; third party technology; or failure of a party to cooperate with the reasonable requests of the other party. QUMU shall not be liable for misuse of the Products by LICENSEE or a third party.

**6.11 -- LICENSEE Indemnification:** LICENSEE shall release, defend, indemnify and hold harmless QUMU (including its officers, directors, employees, affiliates, independent contractors, distributors, agents and successors) against any expense, loss, cost or liability (including, without limitation, interest, penalties, attorney fees and paralegal fees) arising from any and all claims, demands, damages or actions resulting from or related to:

- (a) LICENSEE's negligence or the acts (or any failure to act) of LICENSEE hereunder;



- (b) any breach by LICENSEE of the obligations of LICENSEE hereunder; or
- (c) investigation or defense of any of the above or in asserting QUMU's rights hereunder.

**6.12 -- Cooperation:** LICENSEE shall cooperate with QUMU by providing QUMU with information concerning Software or Hardware as may be requested by QUMU from time to time and by providing QUMU with access to the personnel, facilities, computers, computer Software and data of LICENSEE.

**6.13 -- Repossession:** If LICENSEE fails to pay the balance of the price when due (as provided in Section 4.01), and LICENSEE fails to make any payment within thirty (30) days after receiving written notice from QUMU that such payment is delinquent, QUMU shall have the right to require LICENSEE to promptly remove (at LICENSEE's expense) all LICENSEE information and data stored in Software Products and return to QUMU the Software, Documentation, Hardware, and all materials provided by QUMU to LICENSEE hereunder. If LICENSEE fails to return the Products, QUMU shall have the right to enter LICENSEE's facilities and to repossess the Software and Hardware without further notice. If any Event of Bankruptcy occurs before payment of the balance of the price when due (as provided in Section 4.01), QUMU shall be entitled to any and all remedies available to a secured creditor under the U.S. Bankruptcy Code and applicable state or federal law.

## **ARTICLE VII: INTELLECTUAL PROPERTY**

**7.01 -- Ownership and Title:** Title to Products and Software, including all ownership rights to patents, copyrights, trademarks and trade secrets therein or in connection therewith, shall be the exclusive property of QUMU.

**7.02 -- Confidential Information:** LICENSEE shall maintain the Confidential Information in strict confidence. LICENSEE shall not disclose Confidential Information except to Authorized Persons. LICENSEE shall not access, duplicate or use the Confidential Information except as otherwise permitted under this Agreement.

**7.03 -- Trade Secrets:** LICENSEE hereby acknowledges and agrees that the Confidential Information derives independent economic value (actual or potential) from not being generally known to, or readily ascertainable by,

- (a) other persons who can obtain economic value from its disclosure or use;
- (b) is the subject of reasonable efforts by QUMU under the circumstances to maintain its secrecy; or
- (c) is a trade secret.

**7.04 -- Reverse Engineering:** LICENSEE shall not reverse engineer Software and shall not allow Software to be reverse engineered.

**7.05 -- Copies:** LICENSEE may create copies of the Software for routine archival or backup purposes only. LICENSEE shall not copy Software and shall not allow the Software to be copied without the prior written consent of QUMU.

**7.06-- Modifications:** LICENSEE shall not modify the Software and shall not allow the Software to be modified without the prior written consent of QUMU. LICENSEE shall not use the Software or any materials incident thereto to develop computer the Software without the prior written consent of QUMU. If the Software is modified, such modifications shall be the sole and exclusive property of QUMU and QUMU shall own any and all rights, title and interests to such modifications and any resulting computer software, including (without limitation) any and all copyrights, patents and trade secrets therein or in connection therewith.

#### 7.07 -- U.S. Government Restricted Rights:

- (a) *Commercial Items.* The Software is a “Commercial Item,” as that term is defined at 48 C.F.R. Section 2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. Section 12.212 or 48 C.F.R. Section 227.7202, as applicable. Consistent with 48 C.F.R. Section 12.212 or 48 C.F.R. Sections 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items; and (b) with only those rights as are granted to all other end users pursuant to this Agreement. Unpublished rights are reserved under the copyright laws of the United States by Qumu, Inc., 1100 Grundy Lane, Suite 110; San Bruno, CA 94066, USA.
- (b) *U.S. Government Licensing of Qumu Technology.* LICENSEE agrees that when licensing QUMU Software for acquisition by the U.S. Government, or any contractor therefore, LICENSEE will license consistent with the policies set forth in 48 C.F.R. Section 12.212 (for civilian agencies) and 48 C.F.R. Sections 227-7202-1 and 227- 7202 -4 (for the Department of Defense). For U.S. Government End Users, QUMU agrees to comply with all applicable equal opportunity laws including, if appropriate, the provisions of Executive Order 11246, as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 USC 4212), and Section 503 of the Rehabilitation Act of 1973, as amended, and the regulations at 41 CFR Parts 60-1 through 60 - 60, 60-250, and 60-741. The affirmative action clause and regulations referenced in the preceding sentence shall be incorporated by reference in this Agreement.

7.08 -- Proprietary Notices: LICENSEE shall not remove, alter or obscure any copyright notices or other proprietary legends displayed by or used by QUMU in connection with or related to Software.

7.09 -- Trademarks: QUMU trademarks, trade dress, logos, trade names or insignia (“QUMU Marks”), including (without limitation) Software, are owned exclusively by QUMU. QUMU shall retain all rights, title and ownership interests in QUMU Marks.

7.10 -- Continuation: The terms and conditions of this Article VII shall survive termination and cancellation of this Agreement.

#### **ARTICLE VIII: MISCELLANEOUS**

8.01 -- Assignments; Merger or Acquisition of Licensee: LICENSEE may not assign, transfer, rent or re-license or otherwise transfer any of its rights or obligations under this Agreement, and any attempt at such assignment will be void without the prior written consent of QUMU. For purposes of this Agreement, “assignment” shall include

- (a) use of the Software for the benefit of any party to a merger, acquisition and/or other consolidation by, with or of LICENSEE, including any new or surviving entity that results from such merger, acquisition and/or other consolidation, and
- (b) use to provide outsourcing, service bureau, hosting services or training to third parties.

8.02 -- Public Announcement: All public announcements of the relationship of QUMU and LICENSEE under this Agreement shall require the prior written approval of QUMU and LICENSEE.

8.03 -- Entire Agreement: This Agreement and any Order Forms, and any other attachment or exhibit to this Agreement contain the entire understanding of the parties and supersede

- (a) previous verbal and written agreements between the parties and

- (b) LICENSEE's purchase order, order confirmation or other purchasing related document concerning the Products; and all conflicting terms of such verbal statement or document shall be of no force or effect.

In the event of a conflict between the terms of this Agreement and the terms of an Order Form, Statement of Work, or an attachment or exhibit to this Agreement, the terms of such Order Form, Statement of Work, attachment or exhibit shall prevail.

8.04 -- Amendments and Modifications: Alterations, modifications or amendments of a provision of this Agreement shall not be binding unless such alteration, modification or amendment is in writing and signed by QUMU and LICENSEE.

8.05 -- Severability: If a provision of this Agreement is rendered invalid, the remaining provisions shall remain in full force and effect. This shall not apply if it would be unreasonable for one of the parties to continue to be obligated under the terms of this Agreement.

8.06 -- Captions: The headings and captions of this Agreement are inserted for convenience of reference and do not define, limit or describe the scope or intent of this Agreement or any particular section, paragraph, or provision thereof.

8.07 -- Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.08 -- Governing Law:

- (a) For Qumu Ltd. Order Forms: This EULA and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the laws of England without reference to conflicts of law principles. Both parties waive their right to a jury trial. In the event of litigation arising out of this EULA, each party shall pay its own costs and expenses of litigation. Venue for any proceeding arising from or related to this EULA or the transactions contemplated shall be in the courts of London, England and the parties hereby consent to the exclusive personal jurisdiction of such courts. The LICENSEE irrevocably waives any objection to the jurisdiction of, or venue in, these courts and agrees that the acceptance of QUMU's Products or Services under this EULA constitutes doing business in England. The United Nations Convention for the International Sale of Goods shall not apply to this EULA, its execution, delivery or performance
- (b) For all other Order Forms: Unless an express definition herein or the context hereof otherwise requires, all terms used in this EULA which are defined in the Uniform Commercial Code, as adopted in the state of Minnesota, shall have the same definition and meaning for purposes of this EULA and all related transactions and documents. This EULA and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of the state of Minnesota, without reference to conflicts of law principles. Both parties waive their right to a jury trial. In the event of litigation arising out of this EULA, each party shall pay its own costs and expenses of litigation. Venue for any proceeding arising from or related to this EULA or the transactions contemplated shall be in the federal or state courts located in the state of Minnesota and the parties hereby consent to the exclusive personal jurisdiction of such courts. The LICENSEE irrevocably waives any objection to the jurisdiction of, or venue in, either of these courts and agrees that the acceptance of QUMU's Products or Services under this EULA constitutes doing business in the state of Minnesota. The United Nations Convention for the International Sale of Goods shall not apply to this EULA, its execution, delivery or performance.

8.09 -- Notice: Notices shall be in writing and shall be deemed delivered when delivered by commercial overnight delivery service, by courier, by Certified or Registered Mail with Return Receipt Requested, or by hand to the address set forth below for QUMU and to the address set forth on the Order Form for LICENSEE, or by e-mail acknowledged by a recipient authorized by the party receiving the e-mail. Notice shall be deemed given on the date of receipt, as evidenced in the case of Certified or Registered Mail by Return Receipt, or date of acknowledgment of e-mail.

QUMU:  
Att'n Chief Financial Officer  
510 1st Avenue North  
Suite #305  
Minneapolis, MN 55403

8.10 -- Waiver: Any waiver of a provision of this Agreement by QUMU shall not be binding unless such waiver is in writing and signed by an officer of QUMU. Waiver by QUMU of any breach of this Agreement shall not constitute waiver of any other breach. Any failure by QUMU to enforce a provision of this Agreement shall not constitute a waiver or create an estoppel from enforcing such provision.

8.11 -- Relationship of the Parties: It is agreed that the relationship of QUMU and LICENSEE is primarily that of licensor and licensee or seller and buyer respectively. Nothing herein shall be construed as creating a partnership, an employment relationship, or an agency relationship between the parties, or as authorizing either party to act as agent for the other. Each party shall maintain its separate identity.

8.12 -- Assurances: Each party hereby represents and warrants that all representations, warranties, recitals, statements and information provided to the other under this Agreement are true, correct and accurate as of the Effective Date to the best of its knowledge.

8.13 -- Litigation Expense: In the event of litigation arising out of this Agreement, each party shall pay its own costs and expenses of litigation.

8.14 -- Equitable Remedies: The parties hereby acknowledge that damages at law may be an inadequate remedy. Either party shall have the right of specific performance, injunction or other equitable remedy in the event of a breach or threatened breach of this agreement by the other party.

8.15 -- Import and Export Compliance: In connection with this Agreement, each party will comply with all applicable import, re-import, export, and re-export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control. For clarity, LICENSEE is solely responsible for compliance related to the manner in which LICENSEE chooses to use the Products, including the transfer and processing of LICENSEE's content or data and the provision of LICENSEE's content or data to any third party.

8.16 -- Foreign Corrupt Practices Act Compliance: LICENSEE represents and warrants that it is aware of and familiar with the provisions of the U. S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA") and its purposes, and will take no action and make no payment in violation of, or which might cause, LICENSEE or QUMU to be in violation of, the FCPA. LICENSEE further represents and warrants that no person employed by it in connection with the performance of its obligations under this Agreement is an official of the government of any foreign country, or of any agency thereof and that no part of any moneys or consideration paid hereunder shall accrue for the benefit of any such official. Notwithstanding anything to the contrary, if LICENSEE takes any action that could constitute a violation of the FCPA, QUMU may immediately terminate this Agreement and/or any Schedule issued hereunder. LICENSEE

also certifies that LICENSEE has in the last year, and that LICENSEE will continue to, strictly comply with the FCPA.

QUMU and LICENSEE have caused this Master License Sales and Support Agreement to be executed by their respective duly authorized representatives as of the Effective Date below.

LICENSEE: [LIST NAME OF LICENSEE]

QUMU: [LIST NAME OF QUMU ENTITY].

Signed:  \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_


Date: \_\_\_\_\_

Date: \_\_\_\_\_

# Qumu Order Form

This Order Form adopts and incorporates by reference the terms and conditions of the Qumu Sales Terms & Conditions and End User License Agreement which may be found at [www.qumu.com/legal](http://www.qumu.com/legal) or, if applicable, the fully executed sales agreement between QUMU and LICENSEE ("Agreement").

The effective date of this Order Form is the date executed by the last party to do so.

 <p style="text-align: center;"><b>Q.UMU</b><sup>®</sup> How business does video</p>		Quote #: <b>Rep Initials-20120101-001</b> Date: <b>1-Jan-13</b> Expires: <b>31-Jan-13</b>				
Currency: <b>USD</b> Presented To: <b>Customer Name</b> Title: <b>Title</b> Company Name: <b>Company Name</b> Street Address: <b>Address</b> City, State, Zip: <b>City, State, Zip</b> Territory: <b>America</b> Phone: <b>(###) ###-####</b> Fax: <b>(###) ###-####</b> Email: <b>email@email.com</b>		Prepared By: <b>Sales Rep</b> Email: <b>email@qumu.com</b> Phone:				
Sales Person		Maint. Level				
Sales Rep	Customer is responsible for all applicable taxes and shipping charges, including VAT.	Bronze				
		USD		USD		
Part #	Product Description	Unit Price	Qty	List Price	Discount %	Extended Price
<b>CAPTURE PRODUCTS</b>						
			-	-		-
			-	-		-
<b>MANAGEMENT PRODUCTS</b>						
			-	-		-
			-	-		-
<b>TECHNOLOGY INTEGRATION MODULES (TIMS) FOR VCC</b>						
			-	-		-
			-	-		-
<b>DISTRIBUTION PRODUCTS</b>						
			-	-		-
			-	-		-
<b>Options (Customer Support Services do NOT apply)</b>						
			-	-		-
			-	-		-
<b>Professional Services - Installation, Implementation, Integration and Consulting Services</b>						
			-	-		-
			-	-		-
			-	-		-
<b>Qumu Products Total (List)</b>						-
<b>Qumu Products Total (Net)</b>						-
<b>Customer Support Services Fees (12 Months Mandatory Pre-Payment)</b>						#REF!
<b>Implementation, Professional Services &amp; University Training Estimate</b>						-
<b>Professional Services Travel (Hotel, Flight) Estimate</b>						-
<b>Qumu (Subtotal)</b>						#REF!
<b>Appliance Sales tax (Subtotal)</b>						-
<b>Total Quotation</b>						#REF!
<b>Quotation</b>		<b>Qumu Customer Support Services Options</b>		<b>Total Payment for Term</b>		
Part #	Product Description	One Year Service	Two Year	Three Year	Four Year	Five Year Service
<b>Customer Support Services Fees</b>						
	Customer Support Services Fees	#REF!	#REF!	#REF!	#REF!	#REF!
<b>Total Customer Support Services Fees</b>						
<b>Contract Terms</b>						
	Non-cancellable.					
	Maintenance due at beginning of initial term then on anniversary date throughout term; discounts only for prepay of full amount.					

Note: Travel and expenses are billed as incurred  
 Note: QUMU will provide technical support, Maintenance Services, and Minor Releases and Major Releases to LICENSEE for the licensed Software as set forth at [www.qumu.com/sales-terms/legal](http://www.qumu.com/sales-terms/legal).

Notwithstanding any language to the contrary, subsequent to the initial maintenance support term, LICENSEE may extend maintenance support for annual renewal periods at the same rate (subject to an increase that will not exceed the published annual Consumer Price Index for Urban Consumers (CPI-U)) as that applied to covered products under the initial maintenance support term.

QUMU and LICENSEE have caused this Order Form to be executed by their respective duly authorized representatives as of the Effective Date below.

LICENSEE: [LIST NAME OF LICENSEE]

Signed:  \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

QUMU: [LIST NAME OF QUMU ENTITY].

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Qumu Services Terms

QUMU agrees to perform the Services outlined on a Statement of Work ("SOW") for LICENSEE, on the terms, indicated below.

## 1. Services

Other than as expressly set forth on an SOW, LICENSEE is not obligated to issue any additional orders for work by QUMU under the Order Form. Similarly, QUMU is not obligated to accept any additional orders for work. QUMU shall not commence Services under the SOW until the Order Form is signed and delivered by authorized representatives of both LICENSEE and QUMU.

In the event LICENSEE requests changes in the Services, QUMU shall evaluate each such request on a case by case basis and shall have no obligation with respect to such request until agreed to by an authorized representative of QUMU in writing. Such agreement by QUMU may be conditioned, among other things, on revised pricing, schedules and availability of an Associate.

## 2. Licensee Obligations

To facilitate provision of the Services by QUMU, LICENSEE will meet the obligations set forth in this paragraph 2. LICENSEE will reimburse QUMU for all costs incurred by QUMU as a result of LICENSEE's failure to meet such obligations. LICENSEE shall grant QUMU and QUMU's authorized representatives access, subject to LICENSEE's normal security restrictions, to all LICENSEE premises required for provision of the Services by QUMU and will arrange permitted access to third-party premises for the purpose of QUMU performing the Services required under the Agreement.

QUMU will comply with LICENSEE's reasonable rules and regulations for access. LICENSEE shall provide access to any standard tools and equipment, if available and required, to complete the Services. QUMU agrees to notify LICENSEE of any restrictions to access or authorizations required to perform services under the Agreement. Any delays or return visits resulting from lack of access or authorization to perform Services may, after appropriate prior notification to LICENSEE and at QUMU's option, be billed at QUMU's then-standard time and materials rate for the Services. LICENSEE shall provide necessary access to any equipment on LICENSEE premises necessary for the provision of the Services. LICENSEE shall provide QUMU's service representatives with access to electrical power, and other utilities.

## 3. Title to Work Product

Except as the parties may have otherwise provided in the SOW, QUMU shall own all rights associated with the results of QUMU's Services hereunder ("Work Product"). LICENSEE shall have the right to use all such Work Product solely in connection with the Software, as set forth under the License Agreement.

LICENSEE hereby assigns to QUMU all right, title and interest in and to all feedback, reports, designs, inventions, specifications and other materials developed under this Agreement regarding performance or improvement of the Software, and all modifications and derivative works of the Software developed under the Agreement, whether prepared by QUMU or LICENSEE, during the course of or as a result of the Agreement. All such reports, designs, inventions, specifications and other materials shall be QUMU's Confidential Information.



**4. Proprietary Technical Materials**

In connection with the Services, QUMU may provide LICENSEE with access to documentation, maintenance manuals, and drawings relating to the Software or Services (collectively, "Proprietary Technical Materials"). Any Proprietary Technical Materials that QUMU furnishes shall be in LICENSEE's possession pursuant only to a restrictive, nonexclusive and nontransferable license under which LICENSEE may use such Proprietary Technical Materials solely for the purpose of operating the Software and for no other purpose. All such Proprietary Technical Materials shall be QUMU's Confidential Information.

**5. LICENSEE may cancel specific Services for Convenience subject to the following cancellation fees:**

Receipt of Cancellation Notice	Fees Payable to Qumu
30 days or longer before the agreed starting date of the Services	No charge
Less than 30 days before the agreed starting date of the Services	25 % of the billing amount for all non-returnable materials and for all Associates for the full duration remaining, or until they can be reallocated, whichever amount is smaller
Less than 14 days before the agreed starting date of the Services	50 % of the billing amount for all non-returnable materials and for all Associates for the full duration remaining, or until they can be reallocated, whichever amount is smaller
Less than 7 days before the agreed starting date of the Services	100 % of the billing amount for all non-returnable materials and for all Associates for the full duration remaining, or until they can be reallocated, whichever amount is smaller

**6. Non-solicitation**

LICENSEE and QUMU acknowledge and agree that the employees, independent contractors and consultants of each party are a valuable asset to each party and are difficult to replace. Accordingly, LICENSEE and QUMU agree that, during the term of this Agreement and for a period of six (6) months after the completion of the Services, neither party will offer employment as an employee, independent contractor, or consultant to any employee, independent contractor or consultant of the other party.

**7. Charges and Payments**

Fees for the Services to be rendered by QUMU hereunder ("Fees") are set forth in an Order Form or SOW and shall be due and payable within thirty (30) days of the invoice date. Payment shall be made by LICENSEE to QUMU at the address QUMU designates on the invoice. All payments hereunder shall be in United States dollars. In addition to Fees, LICENSEE agrees to reimburse QUMU for its reasonable travel and other related out of pocket expenses (airfare, lodging, meals and ground transportation) actually incurred in connection with its provision of the Services hereunder.

Attach the SOW here