

Carahsoft Rider to Manufacturer Commercial Supplier Agreements
(for U.S. Government End Users)
Revised 20160504

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").

- 2. Applicability.** The terms and conditions in the attached Manufacturer's CSA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule Contract, GS-35F-0119Y, including, but not limited to the following:
 - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", defined as an entity authorized to order under Government contracts as set forth in Government Order 4800.2H ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

 - (b) Changes to Work and Delays.** Subject to General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of the GSAR and the FAR provisions shall take precedence.

 - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

- (d) Audit.** During the term of this CSA: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this CSA. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing termination or cancellation of the Manufacturer's CSA are hereby deemed to be deleted. Termination shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section (q) below or if such remedy is otherwise ordered by a United States Federal Court.
- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w)(1)(x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer's CSA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w)(1)(iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

(r) Limitation of Liability: Subject to the following:

Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

(s) Advertisements and Endorsements. Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

(t) Public Access to Information. Manufacturer agrees that the CSA and this Rider contain no confidential or proprietary information and acknowledges the CSA and this Rider will be available to the public.

(u) Confidentiality. Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).

Quantum Secure, Inc.: End-User License Agreement

This END-USER LICENSE AGREEMENT (“Agreement”) is entered into by and between Quantum Secure, Inc., a California Corporation with offices located at 100 Century Center Court, Suite 800, San Jose, CA 95112 (as referred to herein as “Licensor” or “Quantum Secure”) and Government Customer, as defined in the Carahsoft Technology Corporation (Carahsoft) Rider (as referred to herein as “You” or “Licensee”).

THIS AGREEMENT CONSTITUTES THE COMPLETE AGREEMENT BETWEEN YOU AND QUANTUM SECURE.

1. OWNERSHIP AND ADMINISTRATION OF SOFTWARE

1.1 Ownership and Title. As between the parties, Quantum Secure, and its licensors, own and shall retain all right, title, and interest in and to: (i) the Software including all intellectual property rights embodied therein; (ii) all of the service marks, trademarks, trade names, or any other designations associated with the Software; and (iii) all copyrights, patent rights, trade secret rights, and other proprietary rights relating to the Software. (iv) all “Derivative Work” described as work that is based upon or derived (whether directly or indirectly, or in whole or in substantial part) from product implementation or a copyrighted work, such as a revision, modification, enhancement, translation, portation, abridgment, correction, condensation, addition or expansion of or to the copyrighted work, or any form in which the copyrighted work may be recast, transformed or adapted, which represents an original work of authorship and, if prepared other than in accordance with an express license grant in this Agreement and other express terms of this Agreement, would constitute copyright infringement without limitation, all deliverables, computer programs (source, object and custom code), programming aids and tools, documentation, reports, data provided by Quantum, designs, concepts, know-how, and other information provided by Quantum, whether copyrightable / patentable or not.

1.2 Administration of Software. Quantum Secure may include on the media with the Software additional computer programs which are not currently licensed for use by Licensee. Inclusion of such additional computer programs in no way implies a license from Quantum Secure and access or use of such programs is strictly prohibited unless Licensee procures the right to use any such program and the applicable Enabler Code is provided thereto.

2. LICENSE GRANT

2.1 Grant. Quantum Secure grants to Licensee a nonexclusive, nontransferable, non sub-licensable, perpetual, unless terminated in accordance with the provisions of this Agreement, license (the “License”) to (i) use the Software installed in accordance with the Documentation and only on the licensed computer solely for its own internal operations; and (ii) move the Software temporarily in case of computer system malfunction. The License granted under this Agreement does not constitute a sale of the Software or any portion or copy of it. Licensee may not use the Software on more than one computer system unless otherwise specifically authorized by an explicit Software product, or additional licenses for additional computers are purchased. Rights not expressly granted are reserved by Quantum Secure.

2.2 Copies. Licensee may make copies of the Software provided that any such copy is: (i) created as an essential step in utilization of the Software according to this Agreement and is used in no other manner; or (ii) used for archival purposes to back up the licensed computers. All trademark and copyright notices must be reproduced and included on such copies. Licensee may not make any other copies of the Software.

2.3 Restrictions on use. Licensee shall not, and shall not aid, abet, or permit any third party to: (i) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms of the Software by any means whatsoever; (ii) remove any identification, copyright, or other notices from the Software; (iii) provide, lease, lend, use for timesharing or service bureau purposes; (iv) create a derivative

work of any part of the Software; or (v) develop methods to enable unauthorized parties to use the Software. If EC law is applicable, the restrictions in Section 3.3 (i) are limited so that they prohibit such activity only to the maximum extent such activity may be prohibited without violating the EC Directive on the legal protection of computer programs. Notwithstanding the foregoing, prior to decompiling, disassembling, or otherwise reverse engineering any of the Software, Licensee shall request Quantum Secure in writing, to provide Licensee with such information or assistance and Licensee shall refrain from decompiling, disassembling, or otherwise reverse engineering any of the Software unless Quantum Secure cannot or has not complied with such request in a commercially reasonable amount of time.

Licensee will not sell, assign or sub-license this license or sell or otherwise transfer the Software or Documentation (or any portion thereof) to any other party except to an affiliate of the Licensee and except with the written consent of Quantum Secure. Licensee will maintain the Software and Documentation (“Confidential Information”) in confidence and not disclose any data or other information contained in the Software or Documentation to any party, except for Licensee’s employees and agents who require access to the Software for the purposes of Licensee’s internal business and only for use in accordance with the terms of this License Agreement. Customer will not use the Software for the provision of time-sharing services to others.

2.4 OEM License. Quantum Secure may OEM or Resell certain software products from third party manufacturers and all such products are subject to strictly this license agreement.

2.5 Non Disclosure. Each party will implement appropriate measures, within each party’s reasonable discretion, to satisfy its obligation hereunder and, generally, will treat confidential information, including, but not limited to Software and Documentation, with the same degree of care and confidentiality which the recipient party of the confidential information provides for its own confidential information. Since unauthorized transfer, use or disclosure of the Software and Documentation and other confidential information would diminish their value to Quantum Secure and its suppliers or Licensee, as appropriate, who, may have no adequate remedy at law in the event the recipient of the confidential information materially breaches its obligations under this Agreement, the disclosing party may be entitled to seek injunctive relief, in addition to such other remedies and relief that would be available to them in the event of such a breach. Confidentiality requirements shall not apply to Confidential Information:

- a. Already known by the recipient party without an obligation of confidentiality,
- b. Publicly known or becomes publicly known through no unauthorized act of the recipient party,
- c. Rightfully received from a third party without obligation of confidentiality,
- d. Independently developed by the recipient party without use of the other party’s Confidential Information,
- e. Disclosed without similar restrictions by the owner of the Confidential Information to a third party (other than an affiliate or customer of the party owning the Confidential Information),
- f. Approved by the party owning the Confidential Information, in writing, for disclosure, or
- g. Required to be disclosed pursuant to a requirement of a governmental agency or law so long as the recipient party provides the other party with timely prior written notice of such requirement.

2.6 Purchase Orders. In the event of conflict between any purchase order, acknowledgment, or invoice and this Agreement, the conflict shall be resolved in accordance with General Services Administration Acquisition Regulation (GSAR) 552.212-4(s) Order of Precedence.

2.7 Updates. This section applies if the Software acquired is an update to the original Software (the “Update”). An Update does not constitute a legally licensed copy of the Software unless purchased as an Update to a previous version of the same Software. The Update may only be used in accordance with the provisions of this Agreement. The Update, together with the original Software, constitutes one (1) legally licensed copy of the Software.

3. SALES, MAINTENANCE AND SUPPORT

3.1 Attached Exhibit A describes the maintenance and support policies of Quantum Secure under this contract.

4. LIMITED WARRANTY

4.1 **Media and Documentation.** Quantum Secure warrants that if the media or documentations are damaged or physically defective at the time of delivery of the first copy of the Software to Licensee and if defective or damaged product is returned to Quantum Secure within ninety (90) days thereafter, then Quantum Secure will provide Licensee with replacements at no cost.

4.2 **Limited Software Warranty.** Subject to the conditions and limitations of liability stated herein, Quantum Secure warrants for a period of ninety (90) days from the delivery of the first copy of the Software to Licensee that the Software, as delivered, will materially conform to Quantum Secure's then current published Documentation for the Software. This warranty covers only problems reported to Quantum Secure during the warranty period. For customers outside of the United States, this Limited Software Warranty shall be construed to limit the warranty to the minimum warranty required by law. Quantum Secure makes no representations or warranties with respect to third party software and shall not be responsible for any loss of data or other errors resulting from the software's failure to perform.

4.3 **Remedies.** The remedies available to Licensee hereunder for any such Software which does not perform as set out herein shall be either repair or replacement, or, if such remedy is not practicable in Quantum Secure's opinion, refund of the license fees paid by Licensee upon a return of all copies of the Software to Quantum Secure. In the event of a refund this Agreement shall terminate immediately without notice.

4.4 **Virus or Malicious Code.** Quantum Secure warrants that it has exercised commercially reasonable measures to ensure Software does not harm, through virus or other malicious code, Licensee technology or network.

4.5 **Non-infringement.** Quantum Secure warrants that Software does not infringe on any third party intellectual property right and that Quantum Secure has title and authority to license the Software.

EXCEPT AS SET FORTH IN THIS SECTION 4, QUANTUM SECURE DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED WITH RESPECT TO THE SOFTWARE OR THE DOCUMENTATION OR THEIR OPERATION OR USE PROVIDED IN CONNECTION THEREWITH WILL BE UNINTERRUPTED OR IS ERROR FREE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR USE. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION DOES NOT APPLY IN SUCH STATES. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE.

5. LIMITATION OF LIABILITY

5.1 **Limited Liability.** QUANTUM SECURE AND ITS SUPPLIERS, EMPLOYEES, AGENTS, RESELLERS, OEM PARTNERS, DEALERS AND FRANCISEES WILL IN NO EVENT OTHER THAN GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR OTHER DIRECT OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION OR THE LIKE, DAMAGES FOR THE INABILITY TO USE EQUIPMENT OR ACCESS DATA) SUFFERED BY LICENSEE, ANY OF ITS EMPLOYEES OR AGENTS OR ANY OTHER PERSON ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SOFTWARE OR THE DOCUMENTATION, OR THE MAINTENANCE OR SUPPORT THEREOF AND BASED ON ANY THEORY OF LIABILITY INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF QUANTUM SECURE OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

Each party shall indemnify and hold harmless the other party, its respective employees, officers, directors, shareholders and agents (collectively, the "**Indemnitee**") and hold the Indemnitee harmless against any and all

losses, costs (including court costs and reasonable attorneys' fees), damages, settlements, suits, actions, expenses, liabilities, and claims sustained by the Indemnitee arising out of or resulting from any material breach by the indemnifying party of the terms and conditions of this Agreement.

Quantum Secure neither assumes nor authorizes any employee, agent, dealer or franchisee to assume for Quantum Secure any other liability in connection with the license, use of performance of the Software or Documentation.

Licensee is solely responsible for the selection of the Software to achieve Licensee's intended results, for the conformity of the computer on which the Software is run to Quantum Secure's specifications or requirements and for the maintenance of such computer in good working order and repair.

THE FOREGOING LIMITATIONS ON LIABILITY ARE INTENDED TO APPLY TO THE WARRANTIES AND DISCLAIMERS ABOVE AND ALL OTHER ASPECTS OF THIS EULA.

6. TERM AND TERMINATION

6.1 **Term.** The term of this Agreement is perpetual unless terminated in accordance with its provisions.

6.2 **Termination.** Either party may terminate this Agreement upon thirty (30) days written notice in the event of the breaching party's failure to cure breach within twenty (20) days of receipt of notice of breach from the non-breaching party.

6.3 **Termination for Convenience.** Licensee may terminate this Agreement and the SSA attached as Exhibit "A", without cause and without penalty, at any time upon the provision of sixty (60) days prior written notice to Quantum Secure of intent to terminate.

6.4 **Effect of Termination.** Upon termination of this Agreement, Licensee agrees to cease all use of the Software and to return to Quantum Secure or destroy the Software and all Documentation and related materials in Licensee's possession, and so certify to Quantum Secure. Except for the License granted herein and as expressly provided herein, the terms of this Agreement shall survive termination.

7. PAYMENT; TAXES

7.1 **Payment.** All undisputed amounts payable hereunder are due at net thirty (net 30) term, unless otherwise specified herein. Quantum Secure reserves the right to charge 1.5% / month late fee on any unpaid balance not reasonably disputed by Licensee.

7.2 **Increases.** Unless otherwise specified in this agreement, Quantum Secure's fees for maintenance services may be increased on each annual anniversary of the Effective Date provided that the fees after any such increase shall not exceed the lesser of: (i) five percent (5%) over the amounts charged in the preceding year, or (ii) United States CPI Index for the previous year. Notwithstanding the foregoing, price increases shall be in accordance with GSAR 552.216-70.

7.3 **Taxes.** Licensee agrees to pay all taxes levied upon the Software and any services based upon their use hereunder, exclusive, however, of taxes based on Quantum Secure's income, which taxes shall be paid by Quantum Secure.

8. U.S. GOVERNMENT RIGHTS

8.1 **Restricted Rights.** The Software and Documentation are provided with restricted rights. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraphs (b)(3)(ii) and (c) (1) (ii) of the Rights in Technical Data and Computer Software Clause of Department of Defense Federal Acquisition Supplement (DFARS) 252.227-7013 or in subparagraph (g) (3) (i) of Federal Acquisition Regulations (FAR) 52.227-14, Alternate III as applicable.

9. MISCELLANEOUS

9.1 Governing Law. This Agreement shall be governed by the laws of the State of California, as applied to agreements entered into and to be performed entirely within California between California residents, without regard to the principles of conflict of laws or the United Nations Convention on Contracts for the International Sale of Goods.

9.2 Export and Import Controls. Regardless of any disclosure made by Licensee to Quantum Secure of an ultimate destination of the Products, Licensee will not directly or indirectly export or transfer any portion of the Software, or any system containing a portion of the Software, to anyone outside the United States (including further export if Licensee took delivery outside the U.S.) without first complying with any export or import controls that may be imposed on the Software by the U.S. Government or any country or organization of nations within whose jurisdiction Licensee operates or does business. Licensee shall at all times strictly comply with all such laws, regulations, and orders, and agrees to commit no act which, directly or indirectly, would violate any such law, regulation or order.

9.3 Software Delivery: Quantum Secure delivers all software and documentation via electronic FTP download.

9.4 Assignment. Quantum Secure may assign or otherwise transfer any or all of its rights and obligations under this Agreement upon notice to Licensee in an event of change of control.

9.5 Sole Remedy and Allocation of Risk. Licensee's sole and exclusive remedies are set forth in this Agreement and applicable Federal law. This Agreement defines a mutually agreed-upon allocation of risk, and the License price reflects such allocation of risk.

9.6 Equitable Relief. The parties agree that a breach of this Agreement adversely affecting Quantum Secure's intellectual property rights in the Software may cause irreparable injury to Quantum Secure for which monetary damages may not be an adequate remedy and Quantum Secure shall be entitled to equitable relief in addition to any remedies it may have hereunder or at law.

9.7 No Waiver. Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision, nor will any single or partial exercise of any right or power hereunder preclude further exercise of any other right hereunder.

9.8 Severability. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible as so ordered by the Court/Board, and the remainder of this Agreement will continue in full force and effect.

9.9 Audit Rights. Quantum Secure shall have the right to periodically audit at times and in manners agreed to by Licensee (or to request a report from the Licensee which report will be due fifteen days from the written (letter or email) request from Quantum Secure) the total number of active identities (employees, contractors and physical access cardholders) managed by Quantum Secure software in the records of the Licensee during normal business hours and upon reasonable notice to the Licensee, to verify compliance with the licensing and payment provisions of this Agreement. Licensee shall not unreasonably deny Quantum Secure an opportunity to audit hereunder.

10. ENTIRE AGREEMENT

10.1 This Agreement sets forth the entire understanding and agreement between the parties and may be amended only in a writing signed by authorized representatives of both parties. No vendor, distributor, dealer, retailer, sales person, or other person is authorized by Quantum Secure to modify this Agreement or to make any warranty, representation, or promise which is different than, or in addition to, the warranties, representations, or promises made in this Agreement. No prior agreements, terms or preprinted purchase orders shall in any way modify, replace, or supersede the terms of this Agreement.

Exhibit A

Software Support Agreements (SSA) and Software Maintenance

Quantum Secure offers standard software system support coverage for all their products. This Agreement sets forth the terms and conditions under which Quantum Secure shall maintain its Software Products which have been properly purchased, licensed or sub-licensed to the Customer.

1.0 Maintenance of Software

Quantum Secure shall provide the following error- correction, bug fixing and software support services:

- (a) telephonic support during the defined days and hours of business operation as per below. Such support shall include consultation on the operation and utilization of the Software.
- (b) software error / bug correction services, consisting of Quantum Secure's using all reasonable efforts to design, code and implement programming changes to the Software, and modifications to the documentation, to correct reproducible errors therein so that the Software is brought into substantial conformance with the Specification.
- (c) copyrighted software patches, updates, new releases and new versions of the Software, including the PACS agents deployed along with other generally available technical material. Under this agreement, Quantum Secure will release the new PACS agent for the newer release of the PACS (Physical Access Control Systems) software within six months of the new version of that PACS being commercially available in the market by the PACS manufacturer.

The Licensee must inform Quantum Secure at least 90 days before any scheduled upgrades to the SAFE connected systems, such as PACS, IDMS, etc. for receiving appropriate software upgrade. In case Quantum Secure cannot get hold of the newer version of the PACS or any other software from the market / from the original manufacturers, then Quantum Secure will be allowed to develop the upgrade of its software against the copy of the new version of the PACS or any other software belonging to the Licensee.

In order to provide timely support under this support agreement, the Licensee must provide a convenient remote access authorization to Quantum Secure support team to the servers where Quantum Secure products are installed. Without an uninterrupted access to these servers, the support process may be delayed and could lead to longer time for problem diagnostics and resolution.

2.0 Exceptions

Quantum Secure Software Support Agreement does not cover operating systems, backup and/or restoration of the Quantum Secure SOFTWARE and/or associated data, reinstallation of the SOFTWARE on a different or repaired computer, SOFTWARE tampering in any form, accounting issues, Database issues, Internet connection issues, viruses, spy ware, networking issues, hardware or any other third party software or device issues. While we will do our best to help, support of these uncovered issues may incur additional charges on a per incident basis. Software updates does not cover any required data conversion; operating systems, hardware, additional training, government initiated changes which require software programming changes, pre-printed form layouts or the conversion and/or adaptation of any Licensee requested modifications or reports.

3.0 Term

This SSA will be for a period of one year from the first day of the following month the software installation at the Licensee's site begins or the 90 days from the shipment date, whichever comes first and shall be automatically renewed for additional one year terms. Licensee may terminate this SSA at any time without penalty upon sixty (60) days prior written notice to Quantum Secure. This SSA may also be terminated by Quantum Secure if the Customer defaults in the payment of any monies due under this SSA and fails to remedy the default within 15 days after written notice or in the event of a breach by Licensee of any other provision of this SSA.

4.0 Automatic Renewal

Renewing your SSA is one of the most cost-effective ways to protect your software investment. It saves you time, it saves you money, and it ensures your uninterrupted access to vital technical support and product upgrades - features that can make a real difference to your bottom line. Automatic or Continuous Renewal safeguards your Software License, Subscription and Support against unintentional lapses.

The Licensee agrees to automatic renewal of the SSA at its anniversary date or any such date agreed between the parties and will be invoiced based upon the current cost at the time of renewal.

Opting Not to Renew

Quantum Secure recommend all customers to renew their Software Support Agreement to take advantage of continuous product upgrades, research & development and telephonic technical support. But, if Licensee chooses NOT to renew its Software Support Agreement, it must serve thirty days notice of its intent to terminate the Software Support Agreement in writing to Quantum Secure prior to the end of the then running term. *If at a later date, the Licensee wish to reinstate its Software Support Agreement, it may do so by paying "Software Support Agreement Reinstatement" fees which is 10% of its current year's annual software maintenance cost. In addition, the Licensee will be required to pay all back costs owing Software Maintenance Fees for the entire period elapsed where the support was not in force.*

5.0 Fees & Payments

The support fees will be invoiced annually up to 30 days in advance of the renewal date and invoices are payable 30 days after receipt of invoice by the Customer. In the event that the agreement is not terminated at the end of a running one year term, the Customer is responsible for ensuring that the appropriate customer purchase order is sent to Quantum Secure, if your company requires a PO to pay the invoice.

Late payment of undisputed invoices after the due date on the invoice or after the start date of the new term may be subject to 1.5% per month late charges. The Support services and benefits are suspended upon the expiration of the current Software Support Agreement term if the payment is not received by that time.

Standard Service is our standard support coverage option. It provides telephone support and assistance from our Licensee Support Center during normal support hours (Mon – Fri, 9:00 a.m. – 5:00 p.m. PST) as well as software upgrades if and when available.

Responses to the Licensee's support issues require the Licensee to provide adequate information and documentation to enable Quantum Secure to recreate the problem. Quantum may notify the Licensee that the problem could not be recreated, located or identified, if such is the case. If the reported problem is unrelated to Quantum Secure's installed products, Quantum Secure may notify Licensee that the problem will not be resolved and the reason for this decision. Notwithstanding the provisions of this section, Quantum Secure makes no warranties that the Support Services provided hereunder will be successful in resolving all difficulties or problems or in diagnosing all faults.

Licensee must maintain a functional Internet connection and dial-in (or log in via VPN) capabilities during business hours for any on-line support. Licensee must make sufficient daily, weekly and monthly backups.

NOTE: It is our policy to support the current version of each software product and one full version back. All support calls for products not under Warranty or SSA are subject to T &M charges or will be directed to purchase a SSA.

More details on our support process is available via Quantum Secure published Customer Care documentation which is included (and is downloadable from your customer care site) with the shipment of your products.

The Licensee's Role

The provision of the error correction and support services described above shall be expressly contingent upon the Licensee's reasonable cooperation in providing all relevant information about the errors, promptly reporting any errors in the Software or related documentation to the Quantum Secure's Support Department, providing adequate remote access and not modifying the Software without the written consent from Quantum Secure.

6.0 Limitation of Liability

QUANTUM SECURE AND ITS SUPPLIERS, EMPLOYEES, AGENTS, RESELLERS, OEM PARTNERS, DEALERS AND FRANCISEES WILL IN NO EVENT OTHER THAN QUANTUM SECURE’S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION OR THE LIKE, DAMAGES FOR THE INABILITY TO USE EQUIPMENT OR ACCESS DATA) SUFFERED BY LICENSEE, ANY OF ITS EMPLOYEES OR AGENTS OR ANY OTHER PERSON ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SOFTWARE OR THE DOCUMENTATION, OR THE MAINTENANCE OR SUPPORT THEREOF AND BASED ON ANY THEORY OF LIABILITY INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF QUANTUM SECURE OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

Quantum Secure neither assumes nor authorizes any employee, agent, dealer or franchisee to assume for Quantum Secure any other liability in connection with the license, use or performance of the Software or Documentation.

Each party shall indemnify and hold harmless the other party, its respective employees, officers, directors, shareholders and agents (collectively, the "**Indemnitee**") and hold the Indemnitee harmless against any and all losses, costs (including court costs and reasonable attorneys' fees), damages, settlements, suits, actions, expenses, liabilities, and claims sustained by the Indemnitee arising out of or resulting from any material breach by the indemnifying party of the terms and conditions of this SSA.

Quantum Secure will undertake all reasonable efforts to provide technical assistance under this SSA and to rectify or provide solutions to problems where the Software does not function as described in the Software documentation, but Quantum Secure does not guarantee that the problems will be solved or that any item will be error-free. This SSA is only applicable to Quantum Secure’s Software running under the certified environments specified in the release notes for that product.

Software Support Agreements

Services	Standard
Telephone Support: Mon – Fri, 9:00 a.m. – 5:00 p.m. (PST)	X
If & when available, Software Maintenance and/or Enhancement Release Updates (Software Upgrades)	X

7.0 Software System Support

Standard Software Support Agreement (SSA) coverage, as listed, is in force for the customer after the initial warranty period. In addition, systems integrators opting to purchase support services on an “as needed” basis only, may do so at prevailing **Time and Materials Rates (T&M)**. Quantum Secure requires a signed Purchase Order prior to providing T & M support services. If the end user requires on-site installation of the software upgrades from Quantum Secure, then the end-user may do so at the prevailing time and material rates from Quantum Secure. Licensee will reimburse Quantum Secure for the actual cost of reasonable, documented travel and living expenses of the support representative, and pre-approved by Licensee for on-site activity outside of normal support.

8.0 Telephone Technical Support

During the Agreement, Quantum Secure will only accept service calls from the end –user or the employees of the Systems Integrator of Record for the specific installation to which the support inquiry relates. The standard technical support telephone number is (800) 776-3414. The preferred way to report issues is through our web site:

<http://support.quantumsecure.com/Login.asp>

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This SSA may be modified only in writing by authorized representatives of Quantum Secure, Inc. and the Customer.

NOTE: Quantum Secure does not guarantee defects will be fixed in any specific time duration due to the nature of software operating in a multi-vendor environment. It is the goal of Quantum Secure to deliver our best effort to satisfactorily resolve each incident using the best judgment under each circumstance.