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SOURCE-CODE SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("Agreement") is effective as of _____, 2002 (the "Effective Date") by and between MediaQ Incorporated having a place of business at 2975 San Ysidro Way., Santa Clara, California, 95051 ("MediaQ") and _____ ("Licensee").

RECITALS

- A. MediaQ has developed and owns device drivers, diagnostic tools, and applications for the Windows® CE and VxWorks operating systems interfacing to certain of MediaQ's silicon products.
- B. Licensee desires to develop a product containing MediaQ silicon product and to sell such product to third parties.
- C. Licensee further desires to obtain from MediaQ a license to the device drivers, diagnostic tools, and applications (the "Software") for the purpose of (i) integrating some or all of the Software into a product containing MediaQ silicon product, and (ii) distributing the object code version of the Software together with the product containing MediaQ silicon product to Customers, and MediaQ desires to grant such license.

NOW, THEREFORE, in consideration of the promises and covenants set forth herein and other good and valuable consideration and receipt and sufficiency of which is hereby acknowledged, MediaQ and Licensee agree as follows:

1 DEFINITIONS

- 1.1 "Confidential Information" means any business or technical information of either party that (a) is provided to the other party in connection with this Agreement, (b) is designated in writing as confidential, and (c) concerns the disclosing party's business, methods, systems, operations or technology. Confidential Information includes any Source Code for the Software. Confidential Information does not include any information that (a) is or becomes publicly available through no act, omission or fault of the receiving party, (b) was or is known to the receiving party without any obligation of confidentiality before being received from the disclosing party, (c) is disclosed to the receiving party by a third party not under any obligation of confidentiality owing to the disclosing party, or (d) is independently developed by the receiving party.

- 1.2 “Derivative Works” means for material subject to copyright protection, any derivative work (the term “derivative work” being used with the same meaning as in the Copyright Act of 1976, as amended) which is based on one or more pre-existing works of the Software.
- 1.3 “Intellectual Property Rights” means copyright rights (including, without limitation, the exclusive right to use, reproduce, modify, distribute, publicly display and publicly perform the copyrighted work), trademark rights (including, without limitation trade names, trademarks, service marks, and trade dress), patent rights (including, without limitation, the exclusive right to make, use and sell), trade secrets, moral rights, right of publicity, authors’ rights, contract and licensing rights, goodwill and all other intellectual property rights as may exist now and/or hereafter come into existence and all renewals and extensions thereof, regardless of whether such rights arise under the laws of the United States, or any other state, country or jurisdiction.
- 1.4 “MediaQ Product” means a MediaQ integrated circuit device such as the MQ-200 or similar product including feature super-sets and feature sub-sets.
- 1.5 “Licensee Product” means a system-level product produced for OEM or retail distribution.
- 1.6 “Object Code” means software code resulting from the translation or processing of source code by a computer into machine readable language or intermediate code, which thus is in a form that would not be convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.
- 1.7 “Software” means the software device drivers and utility programs as each is further described in Exhibit A (“MediaQ Software”) attached hereto.
- 1.8 “Source Code” means the human readable version, in whole or in part, of the Software. Source Code includes comments, utilities, lists, notes, instructions, data diagrams and related supporting technical documentation.

2 LICENSE

- 2.1 License Grants. MediaQ hereby grants to Licensee during the term of this Agreement a nonexclusive, nontransferable, worldwide license to:
- 2.1.1 Source Code. MediaQ hereby grants to Licensee a limited, non-exclusive, non-transferable license to use, modify, create derivative works of and compile the Software source code and derivative works thereof for the sole purpose of creating custom software and incorporating such software into a Licensee product containing a MediaQ Product. MediaQ shall remain the sole owner of all right, title, and interest in and to the Software source code and object code compiled from the Software source code, and all intellectual property rights associated therewith (including, without limitation, patent, trademark, copyright, trade secret, and any other proprietary rights). Licensee shall own any Derivative Works of the Software, subject to MediaQ’s ownership of the underlying Software source code and object code.
- 2.1.2 License to Duplicate and Distribute Sublicensed Software. Subject to the terms and conditions set forth herein, MediaQ hereby grants to Licensee a worldwide, non-exclusive, non-transferable, royalty-free license to reproduce and sublicense and distribute the Software in object code form with the applicable Licensee Product only in conjunction with a MediaQ Product.

- 2.1.3 Third Party Restrictions. Licensee shall use best efforts to keep the Software source code confidential, and not to disclose to any third party, directly or indirectly (including, but not limited to, through Licensee's employees, representatives, agents and independent contractors), the Software source code. Under no circumstances shall Licensee disclose or grant access to the Software source code to any third-party manufacturer.
- 2.1.4 No Other Rights. Licensee acknowledges that the Software source code and object code are the property of MediaQ. MediaQ grants to Licensee no license to any patents, copyrights, trade secrets, trademarks, or any other intellectual property rights, by implication, estoppel or otherwise, in the Software source code or object code other than as expressly set forth in this Agreement.
- 2.2 Proprietary Notice. Licensee hereby agrees to reproduce and embed in all copies or partial permitted copies of the Software and Documentation made pursuant to this Agreement, regardless of the form of media, the proprietary rights and copyright statement as found in the initial copies of the Software and Documentation for each release hereof provided to Licensee by MediaQ hereunder.
- 2.3 Confidentiality. Each party shall maintain the confidentiality of the other party's Confidential Information and shall not, without the other party's prior written consent (a) use such Confidential Information in any manner not authorized under this Agreement, or (b) disclose any such Confidential Information in any form to any person except (i) its employees or agents whose access is necessary in connection with the performance of this Agreement and (ii) sublicensees permitted under this Agreement to receive such Confidential Information. Each party shall employ reasonable procedures to maintain the security and confidentiality of Confidential Information, but employing no less than the degree of care as the party uses to protect the party's own information of a similar nature. Under no circumstances shall Licensee disclose or grant access to the Source Code of the Software to any third-party manufacturer without the prior written consent from MediaQ.
- 2.4 Ownership. MediaQ has and shall retain all Intellectual Property Rights in and to the Software, and to the Derivative Works created by or for MediaQ. Licensee shall obtain no rights in the Software except the license rights expressly set forth in this Agreement. Licensee shall retain all Intellectual Property Rights to the specific portion of the Derivative Work of the Software developed by Licensee, subject to the ownership of MediaQ in the underlying Software.
- 2.5 License Fee. The license fee for the Software will be \$ 0 .

3 MAINTENANCE, INSTALLATION AND SUPPORT

Maintenance, installation, technical support and training for the Software is not included with this Agreement. Maintenance is available under terms of MediaQ's then current Software Maintenance Agreement. Installation, technical support and training, where commercially offered by MediaQ, may be ordered under separate agreement at MediaQ's then current fees.

4 WARRANTY DISCLAIMER

LICENSEE UNDERSTANDS AND AGREES THAT THE SOFTWARE IS PROVIDED "AS IS", AND MEDIAQ DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED WITH REGARD TO ALL SOFTWARE TO BE PROVIDED BY MEDIAQ UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD PARTY PROPRIETARY RIGHTS .

5 LIMITATION OF LIABILITY

MEDIAQ'S LIABILITY ASSUMES NO LIABILITY UNDER THIS AGREEMENT. IN NO EVENT WILL MEDIAQ BE LIABLE FOR ANY LOSS OF DATA, LOST PROFITS, COST OF PROCUREMENT OF SUBSTITUTE TECHNOLOGY OR SERVICES OR FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING FROM THE USE OF THE SOFTWARE OR OTHERWISE ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE. THIS LIMITATION WILL APPLY EVEN IF MEDIAQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSEE ACKNOWLEDGES THAT THE ABSENCE OF LICENSE FEE REFLECTS THIS ALLOCATION OF RISK. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

6 TERM AND TERMINATION

6.1 Term. This Agreement is effective for a period of six (6) years from the Effective Date

6.2 Termination. This Agreement may be terminated immediately upon notice in writing:

6.2.1 By either party if the other party is in material breach of any of its obligations under this Agreement and fails to remedy the breach for a period of thirty (30) days after a written notice from the other party which specifies the material breach.

6.2.2 Upon the effective date of the termination of this Agreement (the "Termination Date"):

(a) End-Users shall be permitted the continued and uninterrupted use of the Software at the then-current revision level possessed by such End-Users;

(b) Licensee shall, within thirty (30) days of the Termination Date, return to MediaQ all copies of the Object Code and Source Code version of the Software and any Derivative Works thereof, the Documentation and any other MediaQ Confidential Information or destroy the same, and provide written confirmation of such destruction to MediaQ within ten (10) days of such destruction;

(c) The licenses granted to Licensee hereunder shall terminate on the Termination Date and Licensee shall discontinue use, reproduction, distribution, display and sublicensing of the Software; and

(d) The parties agree that their respective obligations under Sections 2. ("License"), 4 ("Warranty Disclaimer"), 5 ("Limitation of Liability"), 6. ("Termination"), 7.2 ("Notices") and 7.3 ("Governing Law and Venue") shall survive any termination of this Agreement.

7 MISCELLANEOUS

7.1 Assignment. This Agreement, and the rights and obligations of a party hereunder, may not be assigned, voluntarily or by operation of law, by Licensee without the prior written consent of the MediaQ, which consent shall not be unreasonably withheld. Any such attempted assignment shall be void. Notwithstanding the foregoing, Licensee may assign this Agreement to a subsidiary or affiliate of Licensee provided such subsidiary or affiliate shall agree in writing to be bound by all the terms and conditions of this Agreement to the same extent Licensee is bound. MediaQ may assign this Agreement upon notice to Licensee.

7.2 Notices. All notices between the parties shall be in writing and shall be sent to the address of the appropriate party indicated on the first page of this Agreement or to such other address as may have

been substituted by written notice and shall be effective upon receipt. Any notices given shall be deemed to have been received as follows: if sent by facsimile or other form of recorded communication, when transmitted; if sent by certified or registered mail, on the date of delivery as shown on the return receipt; if sent by an overnight delivery service or by personal delivery, on the date delivered.

- 7.3 Governing Law; Forum Selection. This Agreement is governed by the laws of the State of California, as applied to contracts made and to be performed in California. All disputes arising out of this Agreement shall be subject to the exclusive jurisdiction and venue of the state and federal courts within Santa Clara County, California, and the parties consent to the personal and exclusive jurisdiction of these courts.
- 7.4 Severability. If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severed from this Agreement and shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 7.5 Waiver. The waiver of, or failure to enforce, any breach or default hereunder shall not constitute the waiver of any other or subsequent breach or default.
- 7.6 Attorneys' Fees. In any action to interpret or enforce this Agreement, the prevailing party shall be awarded all court costs and reasonable attorneys' fees incurred.
- 7.7 Relationship of the Parties. Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The relationship between the parties shall at all times be that of independent contractors. Neither party shall have authority to contract for or bind the other in any manner whatsoever. This Agreement confers no rights upon either party except those expressly granted herein.
- 7.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Entire Agreement. This Agreement sets forth the entire Agreement between the parties and supersedes any and all prior proposals, agreements, and representations between them, whether written or oral. This Agreement may be changed only by mutual agreement of the parties in writing

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

“MediaQ”

“Licensee”

MediaQ, Inc.

By: _____

By: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

EXHIBIT A

SOURCE AND OBJECT CODE SOFTWARE FOR WINDOWS® CE AND VXWORKS

1. CPU configuration settings
2. OS specific configuration settings
3. Utilities and application software
4. OS specific device drivers
5. API drivers

For one or more of the following MediaQ products:

- MQ200
- MQ11XX
- MQ2074

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