

Customer Order Form

Symbolic Sound Corporation
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 Champaign, IL 61825-2549 USA
 Telephone: (217) 355-6273
 Facsimile: (217) 355-6562
 E-mail: info-kyma@SymbolicSound.com

Shipping Address

Tel: _____ Fax: _____
 Email: _____

Billing Address

Tel: _____

Est. Ship Date _____ Ship Via _____ As Per _____ Referral _____
 UPS Blue or Expedited

Description	Quantity	Unit Price	Amount
Basic Kyma System (includes Capybara-320, Kyma FireWire i/f, software, book) Please circle one: Macintosh or Windows Please circle one: Desktop or Rack-mount		3470.00	
Capybara-320 Expansion Card		595.00	
Four Channel Audio I/O Expansion		995.00	
Capybara Flight Case		300.00	
Capybara Carrying Case		75.00	
Kyma X Revealed! book		35.00	

Method of Payment

Check (in US funds drawn on a US bank)
 American Express Card Number: _____
 Master Card Exp: _____
 Discover
 Visa
 Other: _____

Subtotal \$
Illinois Sales Tax (7.75%)
Illinois residents only
Shipping and Insurance

Total \$

Notes
 These commodities, technology or software were exported from the United States in accordance with Export Administration Regulation. Diversion contrary to U.S. law prohibited.

TERMS AND CONDITIONS:

- All amounts shown are U.S. dollars; payment is accepted in U.S. dollars only. Payment for this order will be accepted by check, money order, wire transfer, or credit card (Visa, MasterCard, American Express). It is understood that the buyer will be responsible for any miscellaneous costs including any import or value-added taxes, inspection and consular invoice fees.
- CUSTOMER'S SIGNATURE BELOW (WHETHER ORIGINAL, COPIED, OR FAXED BACK) INDICATES CUSTOMER HAS READ AND AGREES WITH THE TERMS AND CONDITIONS ON THE REVERSE HEREOF. THESE TERMS AND CONDITIONS APPLY TO THIS ORDER AS WELL AS ALL SUBSEQUENT ORDERS FOR ADDITIONS, MODIFICATIONS OR CHANGES IN THE SYSTEM CONTAINING THE PRODUCTS.

Customer Signature: _____ Date: _____

IMPORTANT! In order to process this order we need this form **completely** filled out, including your signature and tel. number. Please return the **signed original** to Symbolic Sound by **mail** or **fax**, retaining a copy for your own records.

PURCHASE/LICENSE TERMS AND CONDITIONS

1. **Payment and Security.** **CUSTOMER** will pay **SYMBOLIC SOUND** in the amounts and at the times shown on the reverse side hereof. If payment by the **CUSTOMER** is not made at the time of submission of this purchase order and agreement to **SYMBOLIC SOUND**, **CUSTOMER** grants **SYMBOLIC SOUND** a security interest in the equipment and software and its proceeds and agrees to furnish **SYMBOLIC SOUND** duly signed financing statements covering the equipment and software and such other documents as **SYMBOLIC SOUND** requests in order to perfect and maintain the priority of its security interest in the equipment and software. If permitting by law, **CUSTOMER** authorizes **SYMBOLIC SOUND** to file financing statements covering the equipment and software unsigned by the **CUSTOMER**. This security interest also secures: (i) all sums advanced by **SYMBOLIC SOUND** to preserve, protect and perfect its security interest in the equipment and software; (ii) all costs, including attorney's fees, incurred in collection and enforcement of **CUSTOMER'S** obligations and duties hereunder; and (iii) all costs, including attorney's fees, incurred by **SYMBOLIC SOUND** in repossessing or other disposition of the equipment and software. Any amounts not paid by the **CUSTOMER** when due shall bear interest at the highest contract rate allowed by law from its due date until paid.

2. **Shipping and Delivery.** If the amounts shown on the reverse side hereof do not include the cost of shipping and delivery, the **CUSTOMER** agrees to pay **SYMBOLIC SOUND** promptly upon request, all costs of transportation, shipping, delivery and insuring the equipment and software for delivery. Delivery of the equipment and software to a common carrier or licensed trucker shall constitute delivery to the **CUSTOMER**, and the **CUSTOMER** shall bear all risk of loss or damage after such delivery.

3. **Software License.** Subject to the terms and conditions of this agreement, **SYMBOLIC SOUND** hereby grants to **CUSTOMER** a non-transferable, non-exclusive license to use the program software (and any updates, corrections or enhancements) solely in connection with the **CUSTOMER'S** use of **SYMBOLIC SOUND'S** Sound Computation System ("System") by the **CUSTOMER**. The program software shall remain the property of **SYMBOLIC SOUND**, and shall be held in confidence by the **CUSTOMER**, and shall not at any time be made available or disclosed by the **CUSTOMER** in any form to any person or entity. The **CUSTOMER** is authorized to copy the program software onto a permanent storage device (disk drive). The **CUSTOMER** is authorized to make two copies of the program software for back-up or archival purposes. Each authorized copy shall include in readable format any and all confidential, proprietary and copyright notices and markings contained on the original provided by **SYMBOLIC SOUND**. The program software may be used by no more than one person on one central processing unit at a time. All rights not specifically granted in this license are reserved by **SYMBOLIC SOUND**.

This program software license is effective from the date received by the **CUSTOMER** and will continue from the earliest of fifty (50) years from its effective date, or until the original disks and all back-up copies are returned by the **CUSTOMER** to **SYMBOLIC SOUND**, or until the **CUSTOMER** permanently erases or destroys all copies in **CUSTOMER'S** possession.

4. **Software License Conditions and Restrictions.** No copying of the software is permitted other than as stated herein. **CUSTOMER** shall not make or distribute copies of the software to others. The software contains trade secrets of **SYMBOLIC SOUND** and in order to protect them, the **CUSTOMER** agrees not to decompile, reverse engineer, disassemble or otherwise reduce the software to a human perceivable form. The **CUSTOMER** shall not alter or modify the software or create or prepare any derivative works or compilations from the software. The **CUSTOMER** shall not sublicense, lend, lease, rent, loan, resell for profit, distribute or transfer other rights in all or any portion of the software or any copy to third persons, except that the **CUSTOMER** may transfer the program software and all rights under this License to another party as a part of a transfer of **CUSTOMER'S** entire Sound Computation System, provided the transferee signs and accepts the terms and conditions herein and provided the **CUSTOMER** obtains written consent to transfer from **SYMBOLIC SOUND**.

5. **Manuals and Documentation.** **SYMBOLIC SOUND'S** user manuals and documentation contain trade secrets of **SYMBOLIC SOUND**, and in order to protect those trade secrets, **CUSTOMER** agrees that the contents of the manuals and documentation will be held in confidence, and that **CUSTOMER** will not at any time copy or make available or disclose said contents in any form to any third party.

6. **Proprietary Rights in Equipment and System Design.** **SYMBOLIC SOUND** retains for itself, and the **CUSTOMER** acknowledges that **SYMBOLIC SOUND** so retains, all proprietary rights in and to all designs, engineering details and other data pertaining to the System, its equipment and the software, and retains for itself the sole right to manufacture, lease or sell such System, equipment and software. **CUSTOMER** acknowledges that the equipment, its component parts and embedded software, contain proprietary trade secrets of **SYMBOLIC SOUND**, and **CUSTOMER** agrees to hold such trade secrets in confidence and agrees not to make the System, equipment or its design available to any third persons in any form. The **CUSTOMER** agrees not to alter, disassemble, reverse engineer or dismantle the equipment, nor remove or obscure any copyright, trademark or other proprietary notices contained on or within the equipment.

When **CUSTOMER** is no longer interested in using or maintaining the System or any equipment purchased from **SYMBOLIC SOUND**, **CUSTOMER** agrees to return to **SYMBOLIC SOUND** all such equipment and all component parts. In return, **SYMBOLIC SOUND** agrees that, upon receipt of such equipment and component parts from the **CUSTOMER** in operating condition, reasonable wear and tear excepted, **SYMBOLIC SOUND** will pay to the **CUSTOMER** a trade-in payment based on **SYMBOLIC SOUND'S** schedule of depreciated book value, exclusive of interest, taxes, shipping, freight and other incidental charges.

7. **Program Software Warranty.** **SYMBOLIC SOUND** warrants that the program software licensed to **CUSTOMER** will perform in substantial conformity with program specifications for a period of ninety (90) days after delivery to the **CUSTOMER**. As the exclusive remedy of the **CUSTOMER** under the program warranty, **SYMBOLIC SOUND** shall, while the warranty is in effect, correct or cure any warranted error or defect, or, at **SYMBOLIC SOUND'S** option, provide a new and warranted version of the software in exchange for **CUSTOMER'S** defective copy. **SYMBOLIC SOUND** is not obligated to correct, cure or otherwise remedy any error or defect in the software if the **CUSTOMER** has performed or obtained unauthorized maintenance on the software, or the software has been misused or damaged in any respect, or **SYMBOLIC SOUND** has not been notified of the existence and nature of such error or defect promptly upon its discovery by the **CUSTOMER**.

8. **Limited Equipment Warranty.** **SYMBOLIC SOUND** warrants, solely for the benefit of the **CUSTOMER**, that its equipment is free from defects in materials and workmanship on the date of delivery and will operate in substantial conformity with specifications for a period of one (1) year after delivery to **CUSTOMER**. During such period, **SYMBOLIC SOUND** will make or have made all corrections and modifications necessary to the equipment and each component or portion thereof, so the equipment will so operate; provided, however, that the **CUSTOMER** delivers any defective equipment to **SYMBOLIC SOUND** or its authorized service agent during the one (1) year period, packaged and shipped in its original container or equivalent, fully insured, with shipping charges prepaid by the **CUSTOMER**. **SYMBOLIC SOUND** may use remanufactured, refurbished or used parts and modules in making warranty repairs on equipment. **SYMBOLIC SOUND** is not obligated to correct, cure or otherwise remedy any error or defect in the hardware if the **CUSTOMER** has performed or obtained unauthorized maintenance or modification on the hardware, or the hardware has been misused or damaged in any respect, or **SYMBOLIC SOUND** has not been notified of the existence and nature of such error or defect promptly upon its discovery by the **CUSTOMER**.

9. **Disclaimer.** THE WARRANTIES AND REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHERS, ORAL OR WRITTEN, EXPRESS OR IMPLIED. ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXPRESSLY DISCLAIMED. **SYMBOLIC SOUND** EXPRESSLY DISCLAIMS ANY WARRANTY THAT ITS SYSTEM WILL MEET THE **CUSTOMER'S** PARTICULAR REQUIREMENTS. **CUSTOMER** HAS DETERMINED FOR HIMSELF OR HERSELF WHETHER THE SYSTEM MEETS HIS OR HER PARTICULAR PURPOSES.

10. **Limitation of Remedies and Damages.** **SYMBOLIC SOUND** IS NOT RESPONSIBLE OR LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY, OR UNDER ANY LEGAL THEORY, INCLUDING DAMAGES FOR LOST PROFITS OR LOST BUSINESS. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THESE LIMITATIONS MAY NOT APPLY TO YOU. IN ANY EVENT, THE TOTAL CUMULATIVE LIABILITY OF **SYMBOLIC SOUND** TO THE **CUSTOMER** FOR ALL CLAIMS WHATSOEVER RELATED TO THE SYSTEM, EQUIPMENT, SOFTWARE OR DOCUMENTATION, INCLUDING ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT OR STRICT LIABILITY, SHALL NOT EXCEED THE TOTAL AMOUNT OF ALL MONIES PAID TO **SYMBOLIC SOUND** BY THE **CUSTOMER** FOR THE SYSTEM, EQUIPMENT OR PROGRAM OUT OF WHICH THE CLAIM AROSE.

11. **Infringement.** **SYMBOLIC SOUND** agrees to defend, indemnify and save harmless **CUSTOMER** from and against any claims or actions based on the equipment's or software's infringement of a United States patent or United States copyright registered prior to the execution of this agreement, provided **CUSTOMER** gives prompt notification in writing of such claim or action and that **SYMBOLIC SOUND** has exclusive control over the defense or adjustment of any such claim or action. In the event that the equipment or software becomes or is likely to become the subject of a claim or action for infringement of any United States patent or copyright, **SYMBOLIC SOUND** may, or if a final decree in any such claim or action is rendered restraining **CUSTOMER'S** use of the equipment or software, **SYMBOLIC SOUND** shall, at its option and expense, (i) procure the right to use the equipment or software for the **CUSTOMER**; or (ii) replace or modify the equipment or software to eliminate such infringement; or (iii) take possession of the equipment or software and give **CUSTOMER** a credit therefor, based on **SYMBOLIC SOUND'S** schedule of depreciated book value. This paragraph states the entire liability of **SYMBOLIC SOUND** resulting from alleged or actual infringements of any patent or copyright by the equipment or software or by its operation. **SYMBOLIC SOUND** shall have no liability resulting from alleged or actual infringements of any patent or copyright based upon usage of the equipment or software in combination with machines, devices or processes not made or sold or licensed by **SYMBOLIC SOUND**, or operation in a manner for which the equipment or software was not designed.

12. **Force Majeure.** In no event shall **SYMBOLIC SOUND** be liable for any damage to or loss of the equipment or software or for any delay or failure to deliver, service, repair or replace any item of equipment or software because of difficulties or delays in obtaining materials, supplies or shipping space, carrier difficulties or delays, damages or loss in transit, accident, fire, theft, breakdowns, acts of God, government acts or inaction, malicious mischief, or any other contingencies of like or different character beyond **SYMBOLIC SOUND'S** reasonable control, whether or not presently occurring or contemplated by either party.

13. **Non-Waiver.** **SYMBOLIC SOUND'S** failure to insist upon the strict performance of this agreement or to exercise any right or remedy shall not be considered a waiver of **SYMBOLIC SOUND'S** rights to insist upon strict performance of this agreement or a waiver of any right or remedy with respect to any existing or subsequent breach or default; the election by **SYMBOLIC SOUND** of any particular right or remedy shall not be deemed to exclude any others; and any and all rights and remedies of **SYMBOLIC SOUND** shall be cumulative.

14. **Modification of Terms.** No waiver, change or amendment of any term or condition of this agreement is effective against **SYMBOLIC SOUND** unless made in writing and signed by an authorized official of **SYMBOLIC SOUND**. These terms and conditions constitute the entire agreement between **CUSTOMER** and **SYMBOLIC SOUND**. No additional or different terms or conditions, whether contained on a prior purchase order or otherwise proposed by **SYMBOLIC SOUND** or **CUSTOMER**, are binding on **CUSTOMER** or **SYMBOLIC SOUND**.

15. **Governing Law and Jurisdiction.** This agreement shall be governed by the laws of the State of Illinois and the United States of America. In the event **SYMBOLIC SOUND** prevails in instituting legal proceedings in connection with this agreement, it shall be entitled to recover its costs and expenses, including reasonable attorney's fees. **CUSTOMER** agrees that any and all legal actions instituted under or in connection with this agreement shall be filed in the Circuit Court of Champaign County, Illinois, or the Federal District Court for the area encompassing Champaign County, Illinois, and the **CUSTOMER** hereby consents to the exercise of jurisdiction over **CUSTOMER** by such court in any such claim or cause of action.

16. **Severability.** Should any part of this agreement be declared invalid or unenforceable, the validity and enforceability of the remainder of the agreement shall not be affected thereby.