

1 Defendant and that it is being agreed to as an efficient method and compromise in order to resolve  
2 disputed claims.

3 79. All Terms Subject to Final Court Approval. All amounts and procedures described  
4 in this Settlement Agreement herein shall be subject to final Court approval.

5 80. Execution of Necessary Documents. All Parties shall execute all documents  
6 reasonably necessary to effectuate the terms of this Settlement Agreement.

7 81. Binding Agreement. The Parties intend that this Settlement shall be fully  
8 enforceable and binding and that it shall be admissible and subject to disclosure in any proceeding  
9 to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise  
10 might apply under federal or state law.

11 **Representations and Warranties**

12 82. Plaintiffs represent and warrant that they have conducted diligence. Subject to the  
13 terms set forth herein, class counsel believes the settlement is fair and reasonable.

14 83. Defendant represents and warrants that the documents provided to Plaintiffs for  
15 purposes of their due diligence (a list of which is attached as Exhibit A) fully and fairly disclosed  
16 its financial status in respect of fiscal years 2017 and 2018 (through to August 31, 2018) and,  
17 where applicable, were prepared in accordance with GAAP.

18 84. Defendant further represents and warrants that it is not aware of, and has not failed  
19 to disclose, any event (e.g., sale of equity), occurrence, development, contracts, or assets which  
20 reasonably is or are expected to result in 1) Defendant's revenue increasing by more than 15%, or  
21 2) its earnings increasing by more than \$10,000,000 by December 31, 2019. For the avoidance  
22 of doubt, the relevant time periods are the calendar years 2018 and 2019, and the measurements  
23 shall be the extent of which calendar year 2019 revenues or earnings exceed those in calendar  
24 year 2018.

25 85. Defendant represents and warrants that it is not in negotiations with any third party to  
26 obtain debt or equity financing (incremental to Defendant's current third-party debt facility with  
27 ABN Amro) in excess of twenty-five million dollars (\$25,000,000). Notwithstanding the above,  
28 Defendant hereby confirms (and Plaintiffs hereby acknowledge Defendant advised them) that

1 Defendant is currently in a process seeking to obtain debt or equity financing up to (but no more  
2 than) twenty-five million dollars (\$25,000,000), and, if those discussions result in Defendant  
3 obtaining the financing of an amount equal or less than twenty-five million dollars (\$25,000,000),  
4 this will not constitute a breach of this representation and warranty and Plaintiffs will not claim  
5 that Defendant has breached the representation and warranty.

6 86. Should any of Defendant's representations and warranties in Paragraphs 83 or 85 turn out  
7 to have been incorrect as of the date of filing of Preliminary Approval, which shall occur no later  
8 than February 15, 2019, the settlement cap of \$10 million, set forth in Paragraph 32 of this  
9 Agreement, shall increase in accordance with the applicable calculation set out below in (a) &  
10 (c). Should any of Defendant's representations and warranties in Paragraph 84 turn out to have  
11 been incorrect as of one year after execution of this Settlement Agreement or December 31, 2019,  
12 whichever is earlier, the settlement cap of \$10 million, set forth in Paragraph 32 of this Settlement  
13 Agreement, shall increase in accordance with the applicable calculation set out below in (b). So  
14 long as Defendant complies with the cap raise as set out below in (a) – (c): (i) Plaintiffs agree  
15 that no action will be brought, no matter how styled, for breach of these representations and  
16 warranties; (ii) Plaintiffs will not claim in any manner that this provision changes the settlement  
17 cap to a fund; and (iii) consistent with Paragraph 35 of this Settlement Agreement, Plaintiffs  
18 acknowledge and will take no position contrary to the fact that this provision does not present an  
19 issue of reverter. The applicable calculations follow.

- 20 a) If the representation and warranty in Paragraph (83) above turns out to have been  
21 incorrect, then the Cap shall increase by \$1 million for each \$5 million by which  
22 either (i) Defendant's assets in the balance sheet were under-reported; (ii)  
23 Defendant's liabilities in the balance sheet were over-reported; (iii) Defendant's  
24 revenues in the P&L were under-reported; (iv) Defendant's cost of goods in the  
25 P&L were over-reported; or (v) Defendant's earnings were under-reported. These  
26 categories (i) – (v) are independent; subject only to the cap in Paragraph 90, and  
27 except as follows: to the extent an error in any of the categories (i) – (v) also  
28 contributes to an error in another category, (e.g. a change in reported revenue is

1 also reflected in a change in earnings), only one penalty adjustment shall apply.  
2 The applicable penalty adjustment shall be whichever is larger. For the avoidance  
3 of doubt, there shall be no double-counting.

4 b) If the representation and warranty in Paragraph (84) above turns out to be  
5 incorrect, then the cap shall increase by the greater of either (i) 15% of the amount  
6 of the increased revenues, or (ii) 25% of the amount of increased earnings, with  
7 such increases being measured as referred to in Paragraph 84 above. For the  
8 avoidance of doubt, the increase of either 15% in revenue or 25% in earnings, as  
9 applicable, shall apply only to amounts in excess of the 15% increase in revenue  
10 or \$10,000,000 increase in earnings referred to in Paragraph 84.

11 c) If the representation in Paragraph 85 above turns out to be incorrect, then the cap  
12 shall increase by 10% of the financing (or other capital) received by Defendant  
13 that exceeds twenty five million dollars (\$25,000,000).

14 87. Rhapsody will provide a quarterly update to Plaintiffs' Counsel as to Rhapsody's financial  
15 condition, consisting of (i) a profit and loss statement and (ii) a balance sheet statement as  
16 prepared in the ordinary course of Rhapsody's business; and, along with (i) & (ii), (iii) a  
17 representation and warranty, executed by the general counsel, CEO, or CFO, stating that  
18 Defendant has not breached any of the representations and warranties and that there are no events  
19 that would increase the Cap ("Quarterly Update"). In addition, Rhapsody will provide Plaintiffs'  
20 Counsel with FY18 and FY19 audited financials and the first quarter of FY20 unaudited financials  
21 (covering October through December 2019) once completed. These documents shall be subject  
22 to the "Highly Confidential – For Attorneys' Eyes Only" provisions of the previously entered  
23 Protective Order. The Quarterly Updates shall be delivered to counsel for Plaintiffs.

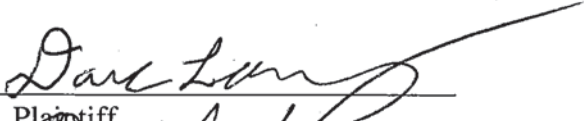
24 88. Any claims for breach of a representation or warranty and for a corresponding adjustment  
25 to the cap must be made in writing. Plaintiffs must provide the specific basis for the claim, and  
26 it must be sufficient to give Defendant notice of the specific facts plaintiffs are relying on for their  
27 claim. Any claim for an increase in the Cap that is disputed between the parties shall be submitted  
28 to Judge Corley, to whom the parties consent pursuant to 28 U.S.C. § 636.

1 89. Defendants shall provide Quarterly Updates until Defendant has complied with the  
2 obligations to provide financial reports set forth in Paragraph 87. The Defendant's obligation to  
3 provide Quarterly Updates shall expire upon the receipt by Plaintiff of the Last Quarterly Update.  
4 Plaintiffs shall have until 90 days following the Last Quarterly Update to assert any breach of the  
5 representations and warranties, as set forth in Paragraph 88. Thereafter, no such claim may be  
6 asserted in this action or elsewhere. Defendant shall cooperate on any and all reasonable and  
7 targeted requests by Class Counsel for information to verify compliance with this Settlement  
8 Agreement and accuracy of the Quarterly Updates ("Verification Requests"). Any disputes  
9 concerning Verification Requests shall be submitted to Judge Corley. Any delay in responding  
10 to Verification Requests shall extend the time for Plaintiffs to assert any breach of the  
11 representations and warranties as set forth herein.

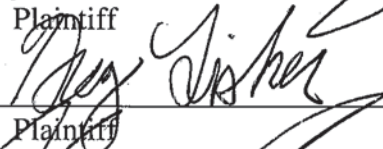
12 90. In no event shall the cap increase by more than \$10,000,000 (i.e., the cap shall not be  
13 higher than \$20,000,000) even if the individual breaches amount to more than an additional  
14 \$10,000,000 increase to the Cap. This Cap does not include the AAB or ARP amounts.  
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17 **READ CAREFULLY BEFORE SIGNING**

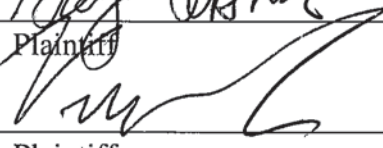
18  
19 Dated: January 16, 2019

By:   
Plaintiff

20  
21 Dated: January 16, 2019

By:   
Plaintiff

22  
23 Dated: January 16, 2019

By:   
Plaintiff

24  
25 Dated: January 16, 2019

By: \_\_\_\_\_  
Plaintiff

26  
27 Dated: January 16, 2019

By: \_\_\_\_\_  
Rhapsody International Inc.

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