

**INTERTEK TESTING SERVICES NA, INC
VENDOR HARDWARE TESTING AGREEMENT
RHAPSODY® READY PROGRAM**

This Vendor Hardware Testing Agreement ("Agreement") for Rhapsody is made this _____ day of _____, 20____, between _____ a _____ corporation, located at _____ ("Vendor"), and Intertek Testing Services, NA, Inc. a New York corporation with a place of business at 3933 US Route 11, Cortland, New York, 13045 ("Intertek")

Vendor's contact person for results is _____ . Vendor's telephone number: _____
Facsimile number: _____
E-mail Address: _____
Federal Tax ID: _____

WHEREAS, Rhapsody International Inc. ("Rhapsody") has authorized Intertek, a fully independent testing laboratory which is not affiliated with Rhapsody, to test the hardware products of independent hardware vendors to determine compatibility with Rhapsody; and

WHEREAS, this testing will identify those hardware products which meet minimum compatibility standards for Rhapsody and for which Rhapsody International Inc. may provide a "Rhapsody Ready Logo" (as defined below) to Vendor for use in connection with the marketing of a Vendor's hardware; and

WHEREAS, this Agreement will cover the testing of products set forth in each Addendum A which from time to time is executed by Intertek and Vendor pursuant to this Agreement; and

WHEREAS, each Addendum shall constitute a separate testing agreement on the terms and conditions stated herein and the terms and conditions set forth in this Agreement shall be incorporated by reference in each such Addendum.

NOW, THEREFORE, in consideration of the mutual promises and commitments made herein, the parties hereby agree that this Agreement together with each Addendum thereto will become a binding agreement between Vendor and Intertek and will constitute the entire set of terms and conditions upon which Intertek will perform the testing of Vendor's Hardware.

Hardware Defined. The term "Hardware" shall mean each of Vendor's hardware products for which an Addendum in the form of Addendum A hereto has been executed by both Vendor and Intertek. For Vendor's submitting a "sample device" for testing, Vendor understands that the testing executed by Intertek only applies to the sample device itself. No testing will be performed on other products such as the Development Tool, tools used to create the sample device, or other applications created by the same tool, etc. In each case, Vendor is submitting the Hardware to Intertek for testing of the Hardware's minimal compatibility with Rhapsody. Upon completion of the tests establishing that Vendor's Hardware meets compatibility tests ("Compatibility Standards") as defined by Rhapsody International Inc. may provide Vendor with a "Rhapsody Ready Logo" for use in the marketing of Vendor's Hardware.

Test Report. Upon Intertek's' completion of testing of Hardware submitted under this Agreement, Intertek will prepare a letter ("Test Report") reporting and grading the results of the testing of such Hardware. Obtaining any particular grade or result will not insure that Rhapsody International Inc. will grant to Vendor a "Rhapsody Ready Logo" for Vendor's Hardware.

Intertek Has No Control over Rhapsody International Inc. Compatibility Standards. Intertek performs tests based on Rhapsody International Inc.' testing parameters and compatibility standards. Intertek has no control over whether Rhapsody International Inc. will issue Vendor a "Rhapsody Ready Logo". Rhapsody International Inc. has reserved the right to refuse participation by any Vendor in the use of any trademark, licensing or compatibility program regardless of the test results determined by Intertek hereunder.

Please review the "HARDWARE AND SOFTWARE TESTING SERVICES TERMS AND CONDITIONS" below.

This Agreement is entered into effective as of the date of execution by Intertek as indicated below and as incorporated by reference in any Addendum hereto.

Vendor Name: _____

Intertek Testing Services NA, Inc

Name: _____

Howard Brunnings

Title: _____

General Manager

Signature: _____

Signature: _____

Date: _____

Date: _____

HARDWARE AND SOFTWARE TESTING SERVICES TERMS AND CONDITIONS

1.0 INTRODUCTION

These Terms and Conditions are incorporated into the Intertek Quote made and submitted to you. The party executing this document ("Client") indicates acceptance of this Quote as a contract between Client and Intertek which governs the performance of the stated services and the rights and obligations of the parties and that Intertek may proceed with the work.

2.0 PROPOSAL TERM

Unless otherwise stated in the Quote, this offer shall remain valid until accepted, but in no event for a period longer than thirty days from the date of the Quote.

3.0 CLIENT INFORMATION

Client represents that the information supplied by it or its agents to Intertek is accurate and complete and samples are representative, and Client has informed Intertek concerning any dangerous or potentially dangerous characteristics of such samples which could cause injury during the performance of the work or in the transporting of such samples and Client also acknowledges that Intertek is relying upon such information and samples or data in the preparation of this proposal without further verification by Intertek as to its accuracy or completeness. The Client agrees to hold Intertek harmless and indemnify Intertek from any liability of whatever kind or nature, including but not limited to court costs and reasonable attorneys fees if information provided by the Client is inaccurate or incomplete or samples are not representative. Intertek agrees that information received from the Client shall remain the property of the Client and will be returned to the Client upon demand, except for that which is necessary as a basis for the Intertek Reports. Client may designate in writing any information provided by Client to Intertek as confidential and proprietary. If Client has done so, Intertek will not release to third parties any such information without the prior written consent of the Client or only in response to a proper court order or process. As to that information, Intertek may make and retain copies. Client shall designate in writing to Intertek if it does not wish to have Intertek transmit any information, including test data and Reports, via electronic means.

4.0 PROPOSAL, PRICE AND SCHEDULE

Intertek will work diligently to provide the services according to the costs and schedule stated in the referenced proposal. Client recognizes and agrees that the proposal is a good faith estimate of the costs for the services to be provided and times of completion, but such estimate is not a guarantee of the total costs or time that may be involved in completing the proposal. Intertek will not exceed the authorized estimate of costs without written authorization of Client. Samples will be shipped by Client to Intertek prepaid and will be returned collect or disposed of at Client's expense within thirty (30) days after testing is completed, unless alternative arrangements are made by Client. Additional fees will be charged for unanticipated assembly or preparation of samples. Test services will not be initiated until satisfactory credit has been established with Intertek's accounting department.

5.0 INVOICING

Invoices will generally be issued upon project completion. In certain instances, interim invoices may be issued. Invoices are due and payable to Intertek at its offices, within thirty (30) calendar days after receipt of invoice, and Client agrees to pay reasonable collection costs if necessary in the event of non-payment.

6.0 INSURANCE

Intertek declares that it maintains workers' compensation and employer's liability insurance on Intertek employees in a form and amount as required by applicable laws. This insurance does not cover any employees of Client or third parties who may be involved with the work to be performed, whether on property of Intertek, Client or third parties.

7.0 REPORTS

The Client agrees to waive any claim against Intertek and defend, indemnify, and hold Intertek harmless from any and all causes of action, lawsuit, proceedings or claims, including legal fees and expenses incurred by Intertek, allegedly arising as a result of unauthorized use of Intertek's Reports. The term Reports includes all reports, laboratory test data, test plans, test cases, calculations, estimates, notes and other documents prepared by Intertek in the course of providing services to the Client. All technical determinations of compliance arising from product, material or system evaluation shall not be considered final until issuance of a written report, reviewed and signed by an Intertek qualified Reviewer. All final decisions on product certification are made by the Certification Manager. Intertek retains any and all rights of ownership of Intertek's concepts, ideas, test methodologies, processes, plans, software, code, automation script, infrastructure, websites, portals, testing, data management tools, inventions, patents or copyrights used by Intertek in preparing Intertek's Reports and the provision of services to the Client, all of which shall be deemed Confidential Information proprietary to Intertek. Performance of the Services shall not be deemed "work for hire" and shall not confer any ownership right upon Client. Notwithstanding the foregoing, Client is the acknowledged owner of all right, title and interest in and to Client's products and test results relating thereto and other Client Confidential Information. Nothing in this Agreement shall be construed to grant either party any license to use the intellectual property of the other or of any program sponsor, except to the limited extent necessary for performance of this Agreement. If the Client is granted access to any Intertek web portal for purposes of tracking and facilitating Services, the Client agrees that it shall abide by all requirements to protect Intertek's ownership and operation of such web portal. Only the Client is authorized to copy or distribute Intertek's Reports and then only in their entirety, and the Client shall not use the Reports in a misleading manner. Client further agrees and understands that reliance upon the Reports is limited to the representations made therein. Any use of the Intertek name, one of its marks, or the name or mark of an Intertek program sponsor, for the sale or advertisement of the tested material, product or service must first be approved in writing by Intertek. If Intertek becomes directly or indirectly involved in litigation as a result of misuse of its Reports, including seeking injunctive relief, the Client agrees to compensate Intertek for its fees and expenses, including legal costs, in accordance with Intertek's prevailing fee schedule and expense reimbursement policy.

8.0 LIMITED WARRANTY

Intertek warrants that if any of its completed services fail to conform to professional standard, Intertek will, at its own expense, perform corrective services of the type originally performed as may be reasonably required to correct such defects, of which Intertek is notified in writing within six months of the completion of services. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise. NO RESULT SET FORTH IN ANY TEST REPORT, AND NO STATEMENT OF INTERTEK, WHETHER WRITTEN OR ORAL, SHALL BE DEEMED TO BE OR CONSTRUED AS A WARRANTY THAT ANY OF THE SOFTWARE TESTED BY INTERTEK RESULTS IN PROBLEM FREE SOFTWARE. STATEMENTS AND CONCLUSIONS MADE IN TEST REPORTS ARE LIMITED BY MUTUALLY AGREED UPON TEST PARAMETERS AND ARE NOT INTENDED AS COMPREHENSIVE EVALUATIONS TO IDENTIFY ALL POSSIBLE PRODUCT FAILURES, HIDDEN OR MALICIOUS CODE, OR RESULTS THAT A SOFTWARE PROOF OR EXHAUSTIVE EXAMINATION OF SOURCE CODE MIGHT REVEAL. INTERTEK'S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCT TESTED BY INTERTEK UNDER THIS AGREEMENT, THE RESULTS OF SUCH SERVICES, AND THE USE, DISCLOSURE, OR PUBLICATION BY ANY PARTY OF SUCH RESULTS (INCLUDING, BUT NOT LIMITED TO, THE TEST REPORT).

9.0 LIMITS OF LIABILITY

Intertek's liability is limited as follows:

9.1 The Client agrees to limit Intertek's liability arising from Intertek's professional activity, errors, or omissions, such that the total aggregate liability of Intertek shall not exceed Intertek's total fee for the services rendered on the project in question, except in the case of a finding of gross negligence or willful misconduct on the part of Intertek by a court of competent jurisdiction.

9.2 Intertek shall be discharged from all liability to the Client for all claims for loss, damage or expense unless a claim is made within three (3) months of the date at which the damage, defect or alleged non-performance became apparent to the Client, and the process of law served no later than two (2) years from the provision of services by Intertek.

9.3 Intertek shall not be liable to the Client for any consequential damages incurred by Client due to the fault of Intertek, regardless of the nature of this fault, whether it was committed by Intertek, its employees, agents or subcontractors. Consequential damages include, but are not limited to, lost data, loss of use and loss of profit.

9.4 The Client agrees to extend any and all limitations, indemnifications, and waivers provided by the Client to Intertek to those individuals and organizations Intertek retains for proper execution of the work. These shall be deemed to include but are not necessarily limited to Intertek's officers and employees and their heirs and assigns, as well as Intertek's agents, subcontractors and their officers, employees, heirs and assigns.

9.5 Client acknowledges that testing, including sample preparation and transportation, may damage or destroy Client's product. Client agrees to hold Intertek harmless from any and all responsibility for such alteration.

9.6 The Client agrees Intertek shall not be responsible for any injuries to the Client's representatives while attending to or observing testing at Intertek's facility. If testing takes place at the Client's facility, Client agrees that Intertek will not operate and shall not be responsible for any of Client's equipment and that although Intertek agrees to abide by Client's safety procedures, Intertek shall not be responsible for injury to any of Client's personnel.

10.0 INDEMNITY

Client shall indemnify, defend and hold Intertek harmless from and against any and all losses, damages, liabilities costs and expenses (including reasonable attorney's fees) resulting from or arising out of any use, disclosure or publication by Client or any third party of the results of any Services, including, but not limited to, the Test Report prepared by Intertek under this Quote, except to the extent that such losses, damages, liabilities, costs and expenses are directly attributable to the gross negligence, reckless conduct or intentional wrongdoing of Intertek.

11.0 No Solicitation. During the Term of this Agreement and for a period of twelve (12) months thereafter, neither party shall directly or indirectly solicit employees of the other for hire.

12.0 GOVERNING LAW

This proposal, and any work performed pursuant to this proposal, shall be governed by the laws of the jurisdiction within which the Intertek facility making the proposal is located. Any action brought hereon shall be venued in said jurisdiction.

13.0 SEVERABILITY

Any provision of this proposal that may be held invalid, void or unenforceable for any reason, shall not affect any other term or condition of this proposal, and such term or condition shall be replaced or interpreted to accomplish the intent of the parties.

14.0 MODIFICATIONS

No modification, waiver or amendment of any of these terms and conditions, including any assignment of Client's rights and responsibilities hereunder, shall be binding upon Intertek unless agreed to in a writing signed by an agent of Intertek.