



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN RE MINDSPEED )  
TECHNOLOGIES, INC. ) CONSOLIDATED  
STOCKHOLDERS LITIGATION ) C.A. No. 9076-VCN  
)

**STIPULATION AND AGREEMENT OF  
COMPROMISE, SETTLEMENT AND RELEASE**

This Stipulation and Agreement of Compromise, Settlement and Release (together with the exhibits hereto, the “Stipulation”) is entered into as of July 3, 2014, by and among the parties to the above-captioned action (the “Parties”) pending before the Court of Chancery of the State of Delaware (the “Court of Chancery” or the “Court”) under Consolidated C.A. No. 9076-VCN (the “Action”), by and through the Parties’ respective undersigned counsel, subject to the approval of the Court:

**WHEREAS**, on November 5, 2013, Mindspeed Technologies, Inc. (“Mindspeed” or the “Company”), M/A-COM Technology Solutions Holdings, Inc., and Micro Merger Sub, Inc. (collectively, “MACOM”) announced that they had entered into an Agreement and Plan of Merger, dated as of November 5, 2013 (the “Merger Agreement”), at a purchase price of \$5.05 per share in cash for each outstanding share of Mindspeed (the “Merger”);

**WHEREAS**, from November 12, 2013 to November 20, 2013, six class action complaints<sup>1</sup> were filed in the Court of Chancery on behalf of Mindspeed stockholders against Mindspeed and its Board of Directors (the “Board” or the “Individual Defendants”), and MACOM (collectively with Mindspeed and the Individual Defendants, the “Defendants”); these actions were consolidated into the Action (the named plaintiffs in the Action are collectively referred to herein as “Plaintiffs”);

**WHEREAS**, from November 7, 2013 to November 13, 2013, five putative class action complaints were filed in the Superior Court for the County of Orange on behalf of Mindspeed stockholders against the Defendants, and four of the complaints were consolidated on January 9, 2014 (the “California Action”);

**WHEREAS**, one of the California plaintiffs, Victor Hoffman, voluntarily dismissed his complaint in California and re-filed in this Court, *Hoffman v. Mindspeed Technologies, Inc.*, C.A. No. 9105-VCN;

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<sup>1</sup> The six consolidated actions are as follows: *Beatrice Pogal v. Mindspeed Technologies, Inc.*, C.A. No. 9076-VCN (“Pogal Action”); *Ronald F. Durand v. Mindspeed Technologies, Inc.*, C.A. No. 9080-VCN (“Durand Action”); *Mordechai Tassa v. Mindspeed Technologies, Inc.*, C.A. No. 9096-VCN (“Tassa Action”); *Katalin Feuerstein v. Mindspeed Technologies, Inc.*, C.A. No. 9101-VCN (“Feuerstein Action”); *Victor Hoffman v. Mindspeed Technologies, Inc.*, C.A. No. 9105-VCN (“Hoffman Action”); and *Dominic A. Vinciguerra v. Mindspeed Technologies, Inc.*, C.A. No. 9107-VCN (“Vinciguerra Action”).

**WHEREAS**, there is no operative complaint on file in the California Action, and a case management conference is currently scheduled for July 14, 2014;

**WHEREAS**, on November 18, 2013, plaintiff in the Pogal Action propounded her First Request for the Production of Documents to all defendants;

**WHEREAS**, on November 19, 2013, MACOM filed a Tender Offer Statement on Schedule TO with the United States Securities and Exchange Commission (“SEC”) commencing the tender offer to purchase the outstanding shares of Mindspeed’s common stock pursuant to the Merger, and Mindspeed filed a Recommendation Statement on Schedule 14D-9 with the SEC (“Recommendation Statement”) recommending that stockholders tender their outstanding shares;

**WHEREAS**, on November 22, 2013, Plaintiffs filed a verified amended class action complaint (the “Amended Complaint”), seeking injunctive relief as well as damages, and which alleged, among other things, that the Board breached its fiduciary duties to stockholders in negotiating and approving the Merger, failing to maximize shareholder value, failing to disclose all material information concerning the Merger, and that the other Defendants aided and abetted the alleged breaches of fiduciary duty. Specifically, the Amended Complaint alleged that Mindspeed’s primary financial advisor Morgan Stanley &

Co. LLC (“Morgan Stanley”) suffered from conflicts of interest because a Managing Director on the Morgan Stanley engagement team, Mark Edelstone, is on MACOM’s Board of Directors; that the financial advisor that Mindspeed allegedly hired to address the conflict, Needham & Company (“Needham”), also suffered from a conflict because it had served as a manager for MACOM’s IPO in 2012; and that Morgan Stanley allegedly manipulated its valuation analyses to attempt to justify an unfair price that provided a windfall to MACOM based on the concurrent sale of the wireless business to a known buyer, Company C;

**WHEREAS**, on November 25, 2013, plaintiff in the Hoffman Action filed Motions for Expedited Proceedings and Preliminary Injunction (the “Motion for Preliminary Injunction”);

**WHEREAS**, on November 26, 2013, Plaintiffs served *Subpoenas Duces Tecum and Ad Testificandum* on Morgan Stanley and Needham, financial advisors to Mindspeed’s Board of Directors in connection with the Merger; and Barclays Capital, Inc., financial advisor to MACOM;

**WHEREAS**, the Parties subsequently began discussions regarding an agreed-upon schedule for expedited discovery and the presentation of Plaintiffs’ Motion for Preliminary Injunction, as well as the scope of expedited discovery;

**WHEREAS**, on December 3, 2013, the Court entered an Order of Consolidation and Appointment of Plaintiffs’ Lead and Liaison Counsel, therein

appointing the law firms of Gardy & Notis, LLP and Rigrodsky & Long, P.A. as Plaintiffs' Co-Lead Counsel;

**WHEREAS**, the Parties subsequently reached agreement regarding expedited discovery, and the Court entered a Scheduling Order regarding Expedited Proceedings on December 4, 2013;

**WHEREAS**, the Court scheduled a hearing on Plaintiffs' Motion for a Preliminary Injunction for December 11, 2013;

**WHEREAS**, Plaintiffs subsequently noticed the depositions of Mark Edelstone and Mindspeed Chief Executive Officer Raouf Halim;

**WHEREAS**, on December 4, 2013, the Court granted a Stipulation and [Proposed] Order Governing the Production and Exchange of Confidential and Highly Confidential Information;

**WHEREAS**, Defendants produced and Plaintiffs reviewed thousands of pages of confidential documents during the course of expedited discovery, including Board minutes, Board presentations, correspondence, forecasts, projections and e-mail communications;

**WHEREAS**, on December 4, 2013, Plaintiffs' counsel in the Action took the deposition of Mark Edelstone;

**WHEREAS**, on December 5, 2013, Plaintiffs' counsel in the Action took the deposition of Raouf Halim;

**WHEREAS**, on December 5, 2013, Plaintiffs' counsel in the Action demanded further disclosures be made to Mindspeed's stockholders as a part of a possible settlement of the Action;

**WHEREAS**, on December 6, 2013, Plaintiffs filed their opening brief in support of their motion for a preliminary injunction;

**WHEREAS**, Plaintiffs' counsel engaged and consulted extensively with their respective financial experts for the purposes of evaluating and prosecuting the claims in the Action and in connection with the settlement set forth in this Memorandum;

**WHEREAS**, counsel for Plaintiffs and counsel for Defendants in the Action engaged in extensive arm's-length negotiations concerning Plaintiffs' demands for further disclosure to Mindspeed's stockholders and a possible settlement of the Action;

**WHEREAS**, on December 9, 2013, the Parties entered into a Memorandum of Understanding (the "MOU"), reaching an agreement in principle to settle the Action, subject to further discovery, on the basis that Mindspeed would make certain supplemental disclosures in an amendment to the Schedule 14D-9, including that Needham had previously performed work for MACOM for which it obtained a fee and the amount of the fees paid to Needham by MACOM, detailed explanations of Morgan Stanley and Needham's individual valuation

analyses, and the background of the process that led to the sale of the Company to MACOM and the separate sale of the wireless business;

**WHEREAS**, on December 10, 2013, Mindspeed filed an amendment to the Schedule 14D-9 including the supplemental disclosures agreed to in connection with the MOU;

**WHEREAS**, on December 10, 2013, Plaintiffs submitted a letter to the Court in which they explained that the Parties had reached an agreement in principle to resolve all claims arising from the Merger on the terms and subject to the conditions set forth in the MOU submitted contemporaneously to the Court;

**WHEREAS**, on December 17, 2013, the tender offer expired with a sufficient number of shares to meet the minimum tender condition of the offer and on December 18, 2013, the Merger was completed;

**WHEREAS**, following the execution of the MOU, and as contemplated therein, Plaintiffs' counsel conducted additional investigation of the facts and circumstances underlying the claims asserted in the Action, which included, among other things, reviewing additional discovery materials produced by Mindspeed and its two financial advisors. This discovery included non-public e-mail communications and correspondence involving Mindspeed's CEO and its financial advisors throughout the strategic process. Plaintiffs' counsel also took an additional deposition of Chad Keck, Vice Chairman of Needham;

**WHEREAS**, Plaintiffs believe that their claims had substantial merit when filed and are settling these claims because they believed that the supplemental disclosures would provide substantial value to Mindspeed stockholders;

**WHEREAS**, on the basis of information available to them, including publicly available information, non-public information provided in discovery in the Action, and consultations with an independent financial advisor retained by Plaintiffs' Counsel, Plaintiffs have concluded that a settlement of the Action on the terms in this Stipulation is fair, reasonable, adequate, and in the best interests of the Company's stockholders;

**WHEREAS**, Defendants have denied, and continue to deny, any and all allegations of wrongdoing, breach of fiduciary duties, liability, or damage whatsoever, including any and all allegations that Defendants committed or aided or abetted in the commission of any unlawful, improper, or wrongful act, and Defendants maintain that they acted properly at all times and diligently and fully complied with their fiduciary duties, as well as their duties and obligations under federal and state law;

**WHEREAS**, Defendants are entering into the Settlement solely to eliminate the uncertainty, distraction, burden, and expense of further litigation, and



without admitting the validity of any allegations made in the Action, or any liability with respect thereto;

**WHEREAS**, the Parties acknowledge that the settlement of the Action and the entry of a final judgment in connection therewith will bar, under the doctrines of res judicata, collateral estoppel, or otherwise, claims by Mindspeed stockholders arising out of or related to the Merger;

**WHEREAS**, in connection with settlement discussions and negotiations, counsel for the Parties did not discuss the amount or appropriateness of any potential application by Plaintiffs' counsel for attorneys' fees; and

**WHEREAS**, the Parties wish to resolve the claims asserted by Plaintiffs in the Action, and all claims arising out of the Merger, consistent with the terms of the MOU and following arm's-length negotiations, have reached an agreement as set forth in this Stipulation providing for the settlement of the Action on the terms and conditions set forth below (the "Settlement"), and believe the Settlement is in the best interests of the Parties and the Class (defined below);

**NOW, THEREFORE, IT IS STIPULATED AND AGREED**, subject to approval by the Court, pursuant to Court of Chancery Rule 23, that for good and valuable consideration, the Action shall be dismissed with prejudice as to all Defendants and against all members of the Class (as defined below), and the Released Claims (as defined below) shall be completely, fully, finally and forever

compromised, settled, released, discharged, and extinguished as to all Released Parties (as defined below), upon the following terms and conditions:

### **DEFINITIONS**

1. In addition to the terms defined above, as used in this Stipulation the following capitalized terms shall have the meanings specified below:

(a) “Class” means a non-opt-out class for settlement purposes only that includes any and all record and beneficial owners of Mindspeed common stock during the period beginning on November 5, 2013, and ending with the consummation of the Merger on December 18, 2013, including any and all of their respective successors in interest, predecessors, representatives, trustees, executors, administrators, heirs, assigns or transferees, immediate and remote, and any person or entity acting for or on behalf of, or claiming under, any of them, and each of them. Excluded from the Class are Defendants, members of the immediate family of any Defendant, and the legal representatives, heirs, successors or assigns of any such excluded person.

(b) “Class Member” means a member of the Class.

(c) “Final Court Approval” of the Settlement means that the Court has entered the Judgment (as defined below) certifying the Class, approving the Settlement, and dismissing the Action with prejudice on the merits, and that the

Judgment either is finally affirmed on appeal or is no longer subject to further appeal or review. Final Court Approval shall not include (and the Settlement is expressly not conditioned on) the approval of an award of attorneys' fees and the reimbursement of expenses to Plaintiffs' Counsel, and any appeal or further proceedings related thereto. Final Court Approval shall not be affected by any appeal or other proceeding related solely to an application for attorneys' fees and expenses or any motion or action to enforce the Settlement.

(d) "Individual Defendants" means Dwight W. Decker, Ming Louie, Michael Hayashi, Fared Adib, Robert Conrad, Raouf Halim, Thomas Madden, and Jerre L. Stead.

(e) "Judgment" means the Order and Final Judgment to be entered in the Action substantially in the form attached hereto as Exhibit D.

(f) "Notice" shall mean the Notice of Pendency of Class Action, Proposed Settlement and Settlement Hearing, substantially in the form attached hereto as Exhibit C.

(g) "Person" means any individual, corporation, partnership, limited liability corporation, association, affiliate, joint stock company, estate, trust, unincorporated association, entity, government and any political subdivision thereof, or any other type of business or legal entity.

(h) “Plaintiffs’ Counsel” means Rigrotsky & Long, P.A. and Gardy & Notis, LLP.

(i) “Released Claims” mean any and all claims (including “Unknown Claims” as defined below), demands, rights, liabilities, and causes of action of every nature and description whatsoever, that have been or could have been asserted by Plaintiffs or any member of the Class, either individually or on behalf of the members of the Class related to the Merger in any forum, including class, derivative, individual, or other claims, whether based on federal, state, local, foreign, statutory or common law, or any other law, rule or regulation, including, without limitation, claims under the federal securities laws, arising out of or related to: (i) the allegations contained in the Action; (ii) the Merger; (iii) the offer to purchase by MACOM and the Company’s Recommendation Statement and any amendments thereto or any other disclosures relating to the Merger, or alleged failure to disclose, with or without scienter, material facts to stockholders in connection with the Merger; (iv) the events leading to the Merger; (v) negotiations in connection with the Merger; (vi) any agreements relating to the Merger, and any compensation or other payments made to any of the Defendants in connection with the Merger; (vii) any alleged aiding and abetting of any of the foregoing; and (viii) any and all conduct by any of the Defendants or any of the other Released Parties arising out of or relating in any way to the negotiation or execution of the MOU

and this Stipulation; provided, however, that the Released Claims shall not include (1) the right of Plaintiffs or any members of the Class to enforce in the Court the terms of this Stipulation or the Settlement; (2) any valid claims for appraisal pursuant to 8 *Del. C.* § 262; or (3) claims in the action captioned *Leips v. Halim*, Civ. A. No. 13-15 (D. Del.) (“*Leips Action*”), provided, however, that Defendants have reserved any and all defenses to the *Leips Action* as a result of the consummation of the Merger.

(j) “Released Parties” means Defendants and each of their respective predecessors, successors in interest, parents, subsidiaries, affiliates, representatives, agents, trustees, executors, heirs, spouses, marital communities, assigns or transferees and any person or entity acting for or on behalf of any of them and each of them, and each of their predecessors, successors in interest, parents, subsidiaries, affiliates, representatives, agents, trustees, executors, heirs, spouses, marital communities, assigns or transferees and any person or entity acting for or on behalf of any of them and each of them (including, without limitation, any investment bankers, accountants, insurers, reinsurers or attorneys and any past or present officers, directors and employees of any of them).

(k) “Settlement Hearing” means the final hearing to be held by the Court to determine whether the Settlement should be approved as fair, reasonable

and adequate and whether the Judgment approving the Settlement and dismissing the Action with prejudice should be entered.

(1) “Unknown Claims” means any claim that Plaintiffs or any member of the Class does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Claims as against the Released Parties, including without limitation those which, if known, would or might have affected the decision to enter into the Settlement or whether or how to object to the Settlement. Plaintiffs and the Class Members acknowledge that they may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Plaintiffs upon the Effective Date shall expressly, fully, finally and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. With respect to any and all Released Claims, the Settling Parties stipulate and agree that,

upon the Effective Date, Plaintiffs shall expressly waive, and each of the Class Members shall be deemed to have waived, and by operation of the Judgment shall have waived, relinquished and released any and all provisions, rights and benefits conferred by or under Cal. Civ. Code § 1542 or any law of the United States or any state of the United States or territory of the United States, or principle of common law that governs or limits a person's release of unknown claims, including any law or principle of common law that is similar, comparable or equivalent to Cal. Civ. Code § 1542, which provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

The Parties acknowledge that they understand the significance and consequence of such release and such specific waiver of Cal. Civ. Code § 1542. It is the intention of Plaintiffs, and by operation of law, the Class Members, to completely, fully, finally and forever extinguish any and all Released Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts. Plaintiffs acknowledge, and the Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of "Released Claims" was separately bargained for and was a material

element of the Settlement and was relied upon by each and all of the Defendants in entering into the Stipulation. The definition of “Unknown Claims” as set forth herein shall apply with equal force to any claims released by Released Parties as set forth in Paragraph 7 herein.

### **SETTLEMENT CONSIDERATION**

2. In consideration for the Settlement and dismissal with prejudice of the Action and the releases provided herein, Mindspeed agreed to issue certain additional disclosures (the “Disclosures”) set forth in an amendment to the Schedule 14D-9, which amendment was filed with the SEC and is attached hereto as Exhibit A. Without admitting any wrongdoing or the validity of any allegations made in the Action, Defendants acknowledge that the filing and prosecution of the Action and discussions with Plaintiffs’ Counsel were the sole cause for the additional Disclosures.

### **CERTIFICATION OF SETTLEMENT CLASS**

3. The Parties agree, for settlement purposes only, subject to Court approval, to the conditional certification of the Action as a non-opt-out class action pursuant to Court of Chancery Rule 23 on behalf of a class consisting of all record and beneficial owners of Mindspeed common stock during the period beginning on November 5, 2013, through the date of the consummation of the Merger on December 18, 2013, including any and all of their respective successors in interest,



predecessors, representatives, trustees, executors, administrators, heirs, assigns or transferees, immediate and remote, and any person or entity acting for or on behalf of, or claiming under, any of them, and each of them. Excluded from the Class are Defendants, members of the immediate family of any Defendant, any entity in which a Defendant has or had a controlling interest, and the legal representatives, heirs, successors or assigns of any such excluded person. In the event that the Settlement does not become final for any reason, Defendants reserve the right to oppose certification of any plaintiff class in future proceedings.

#### **SUBMISSION TO THE COURT FOR SCHEDULING ORDER**

4. As soon as practicable after execution of this Stipulation, the Parties shall apply to the Court for entry of a Scheduling Order substantially in the form attached hereto as Exhibit B, providing, among other things: (i) that the Action shall proceed, for purposes of settlement only, as a non-opt-out class action on behalf of the Class; (ii) for approval of the manner and form of notice to the Class, attached hereto as Exhibit C; and (iii) for scheduling a hearing for the Court's consideration of this Settlement, certification of the Class, and Plaintiffs' application for attorneys' fees and expenses.

#### **NOTICE**

5. Notice of the proposed settlement to the Class shall be provided by Mindspeed (or any successor entity) at its expense in accordance with the

Scheduling Order. At least ten (10) business days before the Settlement Hearing, Counsel for Mindspeed or its successor in interest shall file with the Court an affidavit evidencing dissemination of the Notice to the Class.

**DISMISSAL WITH PREJUDICE, WAIVER, AND GENERAL RELEASE**

6. Upon Court approval of the Settlement, the Action shall be dismissed with prejudice and without costs, except as set forth in this Stipulation.

7. *Released Claims.* Upon Final Court Approval of the Settlement by the Court, Plaintiffs and all Class Members shall be deemed to, and by operation of the Judgment shall: (i) fully, finally, and forever release, relinquish, and discharge all Released Claims as against all Released Parties; and (ii) forever be enjoined and barred from suing any Defendant or other Released Party for any Released Claim. Effective upon Final Court Approval, the Settlement shall result in the full and complete discharge, dismissal with prejudice on the merits, and release and settlement, to the fullest extent permitted by law, of all Released Claims, including, but not limited to, the claims asserted in both the Action and the California Action.

8. *Released Claims by Defendants.* Upon Final Court Approval of the Settlement by the Court, Defendants release Plaintiffs, the Class Members, and Plaintiffs' Counsel from any and all claims arising out of the institution, prosecution, settlement and/or resolution of the Action, *provided, however,* that

Defendants and Released Parties shall retain the right to enforce in this Court the terms of this Stipulation or the Settlement, and to oppose any appraisal claims of any Class Member. These claims include Unknown Claims as defined above.

### **ORDER AND FINAL JUDGMENT**

9. If this Settlement is approved by the Court, the Parties shall seek entry of the Judgment in the form attached hereto as Exhibit D. The Judgment shall, among other things: (i) certify the Class as a non-opt-out class pursuant to Court of Chancery Rule 23; (ii) certify Plaintiffs Pogal, Durand, Tassa, Feuerstein, Hoffman, and Vinciguerra, as the Class representatives; (iii) approve this Settlement as fair, reasonable and adequate and in the best interests of the Class; (iv) dismiss the Action with prejudice on the merits, as against any and all Defendants, without fees or costs to any party except as herein provided; (v) provide for the release of claims as described herein; (vi) reserve jurisdiction for the purpose of effectuating the Settlement; and (vii) enjoin all members of the Class from prosecuting or continuing to litigate any Released Claim against any Released Party, including, but not limited to, the claims asserted in both the instant action and the California Action.

### **CONDITIONS OF SETTLEMENT**

10. The consummation of the Settlement is subject to the following conditions: (a) certification of the non-opt-out Class for settlement purposes; (b)

preliminary approval by the Court and the issuance of a Scheduling Order; (c) the provision of notice, which shall set forth the details of the Settlement, to potential Class Members; (d) Final Court Approval of the Settlement, including a provision enjoining all Class Members from asserting any of the Released Claims; (e) dismissal of the Action with prejudice and without awarding costs to any party (other than as expressly provided herein); provided, however, that the Court's approval of the Settlement is not contingent on its approval of any fee application and that the Settlement shall be valid and final even if the Court reduces or alters the amount of fees or expenses requested; and (f) none of the material terms of the Settlement as set forth in the Stipulation being modified pursuant to any appeal or review.

### **TERMINATION**

11. This Stipulation shall be null and void and of no force and effect if the Settlement does not obtain Final Court Approval for any reason; provided, however, that any decision by the Court to approve an award of attorneys' fees and expenses less than the amount of attorneys' fees and expenses sought by Plaintiffs' Counsel, or not to award any attorneys' fees or expenses, shall not void the Stipulation or the Settlement.

12. Should this Stipulation not be fully executed by all of the Parties hereto, or in the event that the Settlement is rendered null and void for any

of the reasons provided in this paragraph, the Parties shall return to their respective litigation positions in the Action as of the time immediately prior to the date of the execution of the MOU. If the Settlement is terminated pursuant to the terms set forth herein, no party shall be entitled to recover any costs or expenses incurred in connection with the Action, and the MOU, the Stipulation, and any orders that may have been entered by any court in connection with the Stipulation: (i) shall be null and void and of no force and effect; (ii) shall not be admissible in evidence or referred to for any purpose in the Action or in any other litigation or proceeding; (iii) shall not be deemed a presumption, a concession, or an admission by any party of any fault, liability, wrongdoing, or any infirmity or weakness of any claim or defense, as to any facts or claims that have been or might be alleged or asserted in the Action, or any other action or proceeding that has been, will be, or could be brought, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal or administrative, for any purpose; and (iv) shall not be deemed to prejudice in any way the position of any party with respect to the Action or any other litigation or proceeding, including the right of Defendants to oppose certification of the class in any future proceeding, or the right of Plaintiffs to prosecute the Action as if the Settlement and all related discussions had not taken place. This Stipulation is not intended to, and does not,

release any claims to enforce the Stipulation or the Settlement by any of the Parties hereto.

### **REPRESENTATIONS OF THE PARTIES AND COUNSEL**

13. Plaintiffs believe that the terms of this Stipulation are fair, reasonable, adequate, and in the best interest of all Class Members.

14. Defendants have denied, and continue to deny, that any of them have committed or aided and abetted in the commission of any violation of law, breaches of fiduciary duties, or engaged in any alleged unlawful, improper, or wrongful act whatsoever, and expressly maintain that they diligently and scrupulously complied with any fiduciary, disclosure and all other legal duties. Defendants are entering into the Stipulation solely because the proposed Settlement will eliminate the uncertainty, distraction, burden, and expense of further litigation.

### **ATTORNEYS' FEES**

15. Subject to the terms and conditions of the Stipulation and any Order of the Court, Plaintiffs may apply to the Court for an award of attorneys' fees and expenses to Plaintiffs' Counsel of up to \$425,000.00. Defendants acknowledge that Plaintiffs' Counsel intends to assert a claim for attorneys' fees and reimbursement of expenses in the Action, and Defendants will not oppose such application for fees and expenses provided the request for an award of attorneys'

fees and expenses does not exceed \$425,000.00 in the aggregate for their services in the Action. Plaintiffs' Counsel may apply for attorneys' fees and expenses only in the Court and shall make no application for attorneys' fees or expenses in any other jurisdiction. Any Court-approved payment of attorneys' fees and expenses (the "Fees and Expenses Award") by Mindspeed or its insurer(s) or successor(s) in interest will be made within ten (10) business days of the entry of an order awarding them, subject to Plaintiffs' Counsel's joint and several obligation to refund any amounts by which the fee award may be subsequently reduced upon appeal or by collateral attack. The failure of the Court to approve any requested Fees and Expenses Award in whole or in part shall have no effect on the Settlement, any requested Fees and Expenses Award may be considered separately from the Settlement, and Defendants shall have no responsibility for, or liability with respect to, any allocation of the Fees and Expenses Award among Plaintiffs' Counsel.

16. Final resolution of the Fees and Expenses Award is not a precondition to the approval or enforcement of the Stipulation of the dismissal of the Action. The Settlement is not contingent upon the Court's approval of the Fees and Expenses Award, and any decision by the Court to reject any Fees and Expenses Award, or any decision by the Court to approve an award that is less than

the amount sought by Plaintiffs' Counsel, shall not void the Stipulation or the Settlement.

### **STAY OF PROCEEDINGS**

17. Pending Final Court Approval of the Settlement by the Court, the Parties and their counsel agree that all proceedings in the Action, except for those related to the Settlement, shall be stayed.

18. With respect to any action that is currently pending, including the California Action, or is later filed in state or federal court asserting claims that are related to the subject matter of this Action prior to Final Court Approval of the Settlement, Plaintiffs shall cooperate with Defendants in obtaining the dismissal, stay, or withdrawal of such related litigation, including where appropriate joining in any motion to dismiss or stay such litigation.

19. The Parties shall request that the Court order in the Scheduling Order that, pending final determination of whether the Settlement should be approved, Plaintiffs in the Action and all members of the Class, or any individually, are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any Released Claims, either directly, representatively, derivatively or in any other capacity, against any Released Parties, excluding the California Action, which shall be subject to Paragraph 18 herein.



## **STIPULATION NOT AN ADMISSION**

20. The fact of and provisions contained in this Stipulation, and all negotiations, discussions, actions and proceedings in connection with this Stipulation, shall not be deemed or constitute a presumption, concession or an admission by any Party in the Action, any signatory hereto or any Released Party of any fault, liability or wrongdoing or lack of any fault, liability or wrongdoing, as to any facts or claims alleged or asserted in the Action, or any other actions or proceedings, and shall not be offered or received in evidence or otherwise used by any person in the Action, or any other action or proceeding, except in connection with any proceeding to enforce the terms of this Stipulation of the Judgment, including the dismissal of any Released Claims. The fact of and provisions contained in this Stipulation, and all negotiations, discussions, actions and proceedings leading up to the execution of this Stipulation, are confidential and intended for settlement purposes only.

## **GOVERNING LAW**

21. This Stipulation and the Settlement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to Delaware's principles governing choice of law. Any dispute concerning this Stipulation and/or the Settlement shall be litigated in the Court of Chancery (provided that, in the event that subject matter jurisdiction is unavailable in the

Court of Chancery, then all such claims shall be brought, heard and determined exclusively in any other state or federal court sitting in Delaware), and the Parties expressly waive any right to demand a jury trial as to any such dispute.

### **CONFIDENTIALITY**

22. All agreements made and orders entered during the course of the Action relating to the confidentiality of documents or information shall survive this Settlement.

### **CONSTRUCTION**

23. This Stipulation shall be construed in all respects as jointly drafted and shall not be construed, in any way, against any party on the ground that the party or its counsel drafted this Stipulation.

### **ENTIRE AGREEMENT; AMENDMENTS OR MODIFICATIONS**

24. This Stipulation constitutes the entire agreement among the Parties with respect to the subject matter hereof, supersedes all written and oral communications, agreements or understanding that may have existed prior to the execution of this Stipulation, and may be modified or amended only by a writing signed by all of the Parties hereto.

### **EXECUTION IN COUNTERPARTS**

25. This Stipulation may be executed in any number of actual or copied counterparts and by each of the different Parties on several counterparts,

each of which when so executed and delivered will be an original. The executed signature page(s) from each actual or copied counterpart may be joined together and attached and will constitute one and the same instrument.

### **SUCCESSORS AND ASSIGNS**

26. This Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective agents, executors, heirs, successors, and assigns.

### **WARRANTY**

27. Plaintiffs and their respective counsel in the Action represent and warrant that Plaintiffs were stockholders of the Company and were stockholders at all relevant times and that none of Plaintiffs' claims or causes of action referred to in any complaint in the Action or this Stipulation, or any claims Plaintiffs could have alleged, have been assigned, encumbered or in any manner transferred in whole or in part.

### **EXHIBITS**

28. The Exhibits to this Stipulation are incorporated into and constitute an integral part of this Stipulation.

## AUTHORITY

29. Each of the undersigned attorneys affirm that he or she has been duly empowered and authorized by his or her client(s) to enter into the Stipulation and bind their client(s) thereto.

IN WITNESS WHEREOF, the Parties have executed this Stipulation effective as of the date set forth above.

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