UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): February 21, 2025

Sandisk Corporation
(Exact Name of Registrant as Specified in its Charter)

Delaware	**001-42420**	**99-1508671**
(State or Other Jurisdiction of Incorporation)	**(Commission File Number)**	**(I.R.S. Employer Identification No.)**

951 Sandisk Drive **Milpitas, California**	**95035**
(Address of Principal Executive Offices)	**(Zip Code)**

(408) 801-1000
(Registrant's Telephone Number, Including Area Code)

Not applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, $0.01 Par Value Per Share	SNDK	The Nasdaq Stock Market LLC (Nasdaq Global Select Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01 Entry Into a Material Definitive Agreement.

On February 21, 2025, Sandisk Corporation (the "Company") entered into definitive agreements with Western Digital Corporation ("WDC"), the then-parent and owner of all of the Company's issued and outstanding common stock. The definitive agreements were entered into in connection with WDC's previously announced plan to separate its flash business from its remaining hard disk drive business, pursuant to a spin-off transaction (the "Spin-Off"). The definitive agreements entered into between the Company and WDC in connection with the Spin-Off set forth the terms and conditions of the Spin-Off and provide a framework for WDC's relationship with the Company following the Spin-Off, including with respect to the allocation between the Company and WDC of WDC's and the Company's assets, employees, liabilities and obligations (including employee benefits and tax-related assets and liabilities) attributable to periods prior to, at and after the Spin-Off. These agreements include the Separation and Distribution Agreement (as described below), which contains certain key provisions related to the Spin-Off, as well as a Transition Services Agreement, a Tax Matters Agreement, an Employee Matters Agreement, an Intellectual Property Cross-License Agreement, a Transitional Trademark License Agreement, and a Stockholder and Registration Rights Agreement (each, as described below) (collectively, the "Separation Agreements").

Separation and Distribution Agreement

On February 21, 2025, the Company and WDC entered into a Separation and Distribution Agreement that sets forth, among other things, the agreements between the Company and WDC regarding the principal transactions necessary to separate the Company from WDC and effect the Spin-Off. It also sets forth other agreements that govern certain aspects of the Company's relationship with WDC after the completion of the Spin-Off. A summary of certain important terms and conditions of the Separation and Distribution Agreement can be found in the section entitled "Certain Relationships and Related Party Transactions—Material Agreements with WDC—The Separation and Distribution Agreement" in the Company's Information Statement (the "Information Statement"), which is included as Exhibit 99.1 to the Company's Current Report on Form 8-K that was filed with the U.S. Securities and Exchange Commission (the "SEC") on February 3, 2025. Such summary is incorporated into this Item 1.01 by reference as if restated in full.

The foregoing description of the Separation and Distribution Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Separation and Distribution Agreement, a copy of which is filed as Exhibit 2.1 hereto and is incorporated into this Item 1.01 by reference.

Transition Services Agreement

On February 21, 2025, the Company and WDC entered into a Transition Services Agreement, which governs the provision of transition services from WDC to the Company and from the Company to WDC, in each case, for a transitional period following the Spin-Off. The Transition Services Agreement specifies the terms under which the transition services are provided, including the services standard, fees and allocation of risk, and contains mechanisms for adding, extending and terminating services as well as for governance and dispute resolution. The charges for such services are generally intended to allow the service provider to recover its direct and indirect costs, generally without profit. Under the Transition Services Agreement, each of the Company and WDC has agreed to provide transition service support to the other for various periods of time ranging up to 18 months in the following areas: (i) quality assurance, (ii) procurement, (iii) information technology, (iv) logistics management, (v) finance, (vi) human resources, (vii) engineering, (viii) corporate marketing, (ix) central operations, (x) sales operations, (xi) manufacturing and (xii) research and development.

The foregoing description of the Transition Services Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Transition Services Agreement, a copy of which is filed as Exhibit 10.1 hereto and is incorporated into this Item 1.01 by reference.

Tax Matters Agreement

On February 21, 2025, the Company and WDC entered into a Tax Matters Agreement, which, among other things, governs the parties' respective rights, responsibilities and obligations after the Spin-Off with respect to tax liabilities and benefits, tax attributes, the preparation and filing of tax returns, the control of audits and other tax proceedings and other matters regarding taxes.

To preserve the tax-free treatment to WDC and its stockholders of the Spin-Off and certain related transactions, the Company is restricted under the Tax Matters Agreement from taking certain actions after the Spin-Off that could adversely impact the intended U.S. federal income tax treatment of the Spin-Off, together with certain related transactions. During the two years following the Spin-Off, the Company is restricted in its ability (among other things) to freely issue stock, to merge or agree to merge with a third party, to be acquired or agree to be acquired by certain parties and to raise additional equity capital, and would be required to indemnify WDC if such actions were to cause the Spin-Off or certain related transactions to fail to qualify for their intended tax-free status. Transactions otherwise prohibited by such restrictions may be permissible if the Company provides WDC with a tax opinion or ruling that is reasonably satisfactory to WDC, though the presence of an opinion or ruling would not relieve the Company of its potential indemnity obligations. The ability to obtain such an opinion or ruling with respect to a given transaction during the two year period following the Spin-Off will depend upon the detailed facts of a given transaction although in many situations we expect that we may be able to obtain such an opinion.

A summary of certain important terms and conditions of the Tax Matters Agreement can be found in the section entitled "Certain Relationships and Related Party Transactions—Material Agreements with WDC—Tax Matters Agreement" in the Information Statement. Such summary is incorporated into this Item 1.01 by reference as if restated in full.

The foregoing description of the Tax Matters Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Tax Matters Agreement, a copy of which is filed as Exhibit 10.2 hereto and is incorporated into this Item 1.01 by reference.

Employee Matters Agreement

On February 21, 2025, the Company and WDC entered into an Employee Matters Agreement, which, among other things, allocates liabilities and responsibilities relating to employment matters, employee compensation and benefit plans and programs and other related matters. The Employee Matters Agreement also sets forth the general principles relating to employee matters in connection with the Spin-Off with respect to both domestic and international employees, including with respect to collective bargaining agreements, workers' compensation, payroll matters, regulatory filings, paid time off, commencing or continuing participation in employee benefit plans, and the sharing of employee information. A summary of certain important terms and conditions of the Employee Matters Agreement can be found in the section entitled "Certain Relationships and Related Party Transactions—Material Agreements with WDC—Employee Matters Agreement" in the Information Statement. Such summary is incorporated into this Item 1.01 by reference as if restated in full.

The foregoing description of the Employee Matters Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Employee Matters Agreement, a copy of which is filed as Exhibit 10.3 hereto and is incorporated into this Item 1.01 by reference.

Intellectual Property Cross-License Agreement

On February 21, 2025, the Company and WDC entered into an Intellectual Property Cross-License Agreement to facilitate freedom-to-operate with respect to non-trademark intellectual property for the parties following the Spin-Off. Pursuant to the Intellectual Property Cross-License Agreement, WDC granted a non-exclusive, worldwide, royalty-free, perpetual license to the Company (with respect to retained non-trademark intellectual property held by WDC) within a specified field of use, and the Company granted a non-exclusive, worldwide, royalty-free, perpetual license to WDC (with respect to divested non-trademark intellectual property held by the Company) within a specified field of use.

The foregoing description of the Intellectual Property Cross-License Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Intellectual Property Cross-License Agreement, a copy of which is filed as Exhibit 10.4 hereto and is incorporated into this Item 1.01 by reference.

Transitional Trademark License Agreement

On February 21, 2025, the Company and WDC entered into a Transitional Trademark License Agreement, pursuant to which WDC granted a non-exclusive, worldwide, non-transferable license to the Company (with respect to certain retained trademarks held by WDC), and the Company granted a non-exclusive, worldwide, non-transferable license to WDC (with respect to certain divested trademarks held by the Company). These licenses allow each company to rebrand, as necessary, and transition away from the other company's owned trademarks following the Spin-Off, for a specified, limited transitional period.

The foregoing description of the Transitional Trademark License Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Transitional Trademark License Agreement, a copy of which is filed as Exhibit 10.5 hereto and is incorporated into this Item 1.01 by reference.

Stockholder and Registration Rights Agreement

On February 21, 2025, the Company and WDC entered into a Stockholder and Registration Rights Agreement, pursuant to which the Company agreed that, upon the request of WDC, the Company will use its reasonable best efforts to effect the registration under applicable federal and state securities laws of any shares of the Company common stock retained by WDC. In addition, WDC agreed that it will vote any shares of Company common stock that it retains immediately following the Spin-Off in proportion to the votes cast by the Company's other stockholders. In connection with such agreement, WDC granted the Company a proxy to vote its shares of the Company common stock in such proportion. This proxy, however, will be automatically revoked as to any particular share upon any sale or transfer of such share from WDC to a person other than WDC, and neither the Stockholder and Registration Rights Agreement nor the proxy will limit or prohibit any such sale or transfer.

The foregoing description of the Stockholder and Registration Rights Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Stockholder and Registration Rights Agreement, a copy of which is filed as Exhibit 10.6 hereto and is incorporated into this Item 1.01 by reference.

Loan Agreement

On February 21, 2025, the Company entered into a Loan Agreement (the "Loan Agreement") by and among the Company, the lenders party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent and the other parties party thereto (the "Agent"). The Loan Agreement comprises a term loan B facility in the principal amount of $2,000 million (the "Term Loan Facility") and a revolving credit facility in the principal amount of $1,500 million (the "Revolving Credit Facility" and together with the Term Loan Facility, the "Facilities"). The Term Loan Facility bears interest, at the Company's option, at (x) the Adjusted Term SOFR Rate (as defined in the Loan Agreement) plus an interest rate margin of 3.00% per annum or (y) a base rate plus an interest rate margin of 2.00% per annum. The Term Loan Facility will mature on February 20, 2032, and amortizes at 1.00% per annum.

Borrowings under the Revolving Credit Facility, for U.S. dollar borrowings, will bear interest, at the Company's option, at (x) the Adjusted Term SOFR Rate (as defined in the Loan Agreement), which rate includes a credit spread adjustment of 0.10%, plus an interest rate margin of 2.00% per annum (subject to step-ups based on the Company's Leverage Ratio (as defined in the Loan Agreement)), or (y) a base rate plus an interest rate margin of 1.00% per annum (subject to step-ups based on the Company's Leverage Ratio (as defined in the Loan Agreement)). The Company will pay a commitment fee of 0.30% per annum (subject to step-ups based on the Company's Leverage Ratio (as defined in the Loan Agreement)) in respect of undrawn revolving commitments under the Revolving Credit Facility. The Revolving Credit Facility will also provide for borrowings in Euros, Yen and additional currencies agreed to by the lenders under the Revolving Credit Facility. The Revolving Credit Facility will mature on February 21, 2030, at which time the commitments thereunder shall be terminated, and will not have any amortization.

The obligations under the Loan Agreement are guaranteed by the Company's wholly owned subsidiary, Sandisk Technologies, Inc. ("SDT") and are required to be guaranteed by any of the Company's future material U.S. wholly owned subsidiaries, subject to certain exceptions outlined in the Loan Agreement. The obligations under the Loan Agreement are secured by the Company's assets and SDT's assets and are required to be secured by the assets of any of the Company's future material U.S. wholly owned subsidiaries, subject, in each case to certain exceptions outlined in the Loan Agreement.

The Loan Agreement includes certain restrictions (subject to certain exceptions outlined in the Loan Agreement) on the ability of the Company and its subsidiaries to undertake certain activities, including to incur indebtedness and liens, merge or consolidate with other entities, dispose or transfer their assets, pay dividends or make distributions, make investments, make payments on junior or subordinated debt, enter into burdensome agreements or transact with affiliates. The Loan Agreement also includes a financial covenant, which is solely for the benefit of the lenders under the Revolving Credit Facility, that requires the Company to maintain a maximum Leverage Ratio (as defined in the Loan Agreement).

On February 21, 2025, the Company borrowed $2,000 million under its Term Loan Facility. The Company used a portion of the proceeds of the borrowing to pay a dividend to WDC in the amount of approximately $1.5 billion, with the remainder to be used for general corporate purposes of the Company. The Revolving Credit Facility may be borrowed by the Company from time to time for general corporate purposes.

In connection with the Loan Agreement, the Company and SDT entered into a security agreement (the "Security Agreement"), to secure the obligations under the Facilities on a first-priority basis (subject to permitted liens) by a lien on substantially all the assets and properties of the Company and SDT, subject to certain exceptions.

In connection with the Loan Agreement, the Company (solely with respect to obligations of any additional Borrower under the Loan Agreement) and SDT entered into a guaranty agreement (the "Guaranty Agreement") to secure and unconditionally guarantee the obligations under the Loan Agreement, respectively, in each case subject to certain exceptions.

The foregoing description of the Loan Agreement, Security Agreement and Guaranty Agreement do not purport to be complete and are subject to, and qualified in its entirety by, the full text of the Loan Agreement, Security Agreement and Guaranty Agreement, copies of which are filed as Exhibit 10.7 to 10.9 hereto and are incorporated into this Item 1.01 by reference.

General

Immediately prior to the consummation of the Spin-Off, the Company was a wholly owned subsidiary of WDC. Effective as of 11:59 p.m. Pacific time on February 21, 2025 (the "Distribution Date"), WDC completed the Spin-Off through a pro rata distribution to holders of record of WDC's common stock, par value $0.01 per share ("WDC Common Stock"), as of 1:00 p.m. Pacific time on February 12, 2025 (the "Record Date"), of one-third (1/3) of one share of the Company's common stock, par value $0.01 per share ("Company Common Stock"), for every share of WDC Common Stock held by such WDC stockholders as of the Record Date (the "Distribution"). The Company is now an independent public company and the Company Common Stock commenced trading "regular way" under the symbol "SNDK" on the Nasdaq Stock Market LLC ("Nasdaq") on February 24, 2025, which is the next trading day following the Distribution Date. WDC did not issue fractional shares of Company Common Stock in connection with the Distribution. Following the Spin-Off, WDC beneficially owns 19.9% of the outstanding shares of Company Common Stock and will no longer consolidate the Company within WDC's financial results.

Item 2.03 Creation of Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 above regarding the Loan Agreement is incorporated herein by reference.

Item 3.03 Material Modification to Rights of Security Holders.

The information set forth in Item 5.03 of this Current Report on Form 8-K is incorporated into this Item 3.03 by reference.

Item 5.01 Changes in Control of Registrant.

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated into this Item 5.01 by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Appointment of Directors

On January 31, 2025, when the Company's Amendment No. 3 to the Registration Statement on Form 10 was declared effective by the SEC, the members of the Company's Board of Directors (the "Company Board") consisted of David V. Goeckeler, Matthew Massengill, Kimberly E. Alexy, Thomas Caulfield, and Miyuki Suzuki.

Effective as of the consummation of the Spin-Off on February 21, 2025, the Company Board was expanded to nine (9) directors and each of Richard B. Cassidy II, Devinder Kumar, Necip Sayiner and Ellyn J. Shook was elected to serve as a director on the Company Board until the next annual meeting of the Company's stockholders and until his or her successor is duly elected and qualified.

Effective upon the consummation of the Spin-Off, the following individuals are now serving on the Company Board in the positions noted below:

Name	Position
David V. Goeckeler	Director, Chair of the Board and Chief Executive Officer
Matthew Massengill	Director and Lead Independent Director
Kimberly E. Alexy	Director
Thomas Caulfield	Director
Miyuki Suzuki	Director
Richard B. Cassidy II	Director
Devinder Kumar	Director
Necip Sayiner	Director
Ellyn J. Shook	Director

Biographical information for each member of the Company Board can be found in the Information Statement under the section entitled "Management—Directors and Executive Officers Following the Spin-Off" which is incorporated into this Item 5.02 by reference.

Also, effective upon the consummation of the Spin-Off:

- Richard B. Cassidy II and Devinder Kumar were appointed as members of the audit committee of the Company Board (the "Audit Committee"), and the Audit Committee consists of Kimberly E. Alexy, Richard B. Cassidy II and Devinder Kumar, with Ms. Alexy serving as the chair.
- Necip Sayiner and Ellyn J. Shook were appointed as members of the compensation and talent committee of the Company Board (the "Compensation Committee"), and the Compensation Committee consists of Thomas Caulfield, Necip Sayiner and Ellyn J. Shook, with Ms. Shook serving as the chair.
- Necip Sayiner was appointed as a member of the governance committee of the Company Board (the "Governance Committee"), and the Governance Committee consists of Necip Sayiner, Matthew E. Massengill and Miyuki Suzuki, with Mr. Massengill serving as the chair.
- David V. Goeckeler, Kimberly E. Alexy, Matthew E. Massengill and Ellyn Shook were appointed as members of the executive committee of the Company Board (the "Executive Committee"), and the Executive Committee consists of David V. Goeckeler, Kimberly Alexy, Matthew Massengill and Ellyn Shook, with Mr. Goeckeler serving as the chair.

Each of the non-employee directors of the Company will receive compensation for their service as a director or committee member in accordance with plans and programs more fully described in the Information Statement under the heading "Director Compensation," which is incorporated into this Item 5.02 by reference.

Each of the non-employee directors either has entered or will enter into an indemnification agreement with the Company. The Company's current form of indemnification agreement, adopted by the Company Board on January 25, 2025, is intended to be entered into with each of the current and future members of the Company Board

and executive officers of the Company. Pursuant to the indemnification agreement, the Company is required to indemnify each director and executive officer to the fullest extent permitted by Delaware law for certain liabilities they may become subject to as a result of their affiliation with the Company. The description of the indemnification agreement is intended to provide a general description only, is subject to the detailed terms and conditions of and is qualified in its entirety by reference to the full text of the form of indemnification agreement, a copy of which is attached hereto as Exhibit 10.10 and is incorporated into this Item 5.02 by reference.

There are no arrangements or understandings between any of the individuals listed above and any other person pursuant to which such individuals were selected as directors. There are no transactions involving any of the individuals listed above that would be required to be reported under Item 404(a) of Regulation S-K of the Securities Act of 1933, as amended.

Appointment of Certain Executive Officers

In connection with the consummation of the Spin-Off, the following individuals were appointed to serve as named executive officers of the Company in the positions noted below:

Name	**Position**
David V. Goeckeler	Chief Executive Officer
Luis F. Visoso Lomelin	Chief Financial Officer and Principal Accounting Officer

Biographical information on each of the named executive officers can be found in the Information Statement under the section entitled "Management—Directors and Executive Officers Following the Spin-Off" which is incorporated into this Item 5.02 by reference.

The plans and programs in which the named executive officers of the Company may participate at the Company are substantially similar to those plans and programs in which each named executive officer was eligible to participate in at WDC prior to the Spin-Off, as described in the Information Statement under the heading "Executive Compensation—Compensation Discussion and Analysis," which is incorporated into this Item 5.02 by reference. In addition, prior to the Spin-Off, Mr. Visoso Lomelin was a party to an offer letter with WDC, dated as of June 30, 2024, which has been assigned to the Company in connection with the Spin-Off, as described in the Employee Matters Agreement. The terms of Mr. Visoso Lomelin's offer letter are further described in the "Compensation Discussion and Analysis" section of the Information Statement. In connection with the Spin-Off, each of Mr. Visoso Lomelin and Mr. Goeckeler has entered or will enter into an indemnification agreement with the Company, the form of which is attached hereto as Exhibit 10.10 and is incorporated into this Item 5.02 by reference.

Except as disclosed under the section entitled "Certain Relationships and Related Party Transactions" of the Information Statement, there are no transactions involving any of the individuals listed above that would be required to be reported under Item 404(a) of Regulation S-K of the Securities Act.

Certain Compensatory Plans

In connection with the Spin-Off, the Company adopted the compensation plans listed below. The Company's named executive officers are eligible to participate in these compensation plans.

- Sandisk Corporation Executive Short-Term Incentive Plan
- Sandisk Corporation 2025 Long-Term Incentive Plan
- Sandisk Corporation Non-Employee Director Restricted Stock Unit Program
- Sandisk Corporation 2025 Employee Stock Purchase Plan
- Sandisk Corporation Deferred Compensation Plan
- Sandisk Corporation Executive Severance Plan
- Sandisk Corporation Change in Control Severance Plan

Summaries of the material features of these plans can be found in the Information Statement under the section entitled "Description of Compensation Arrangements for Named Executive Officers." These summaries are incorporated herein by reference. The foregoing descriptions of these plans set forth under this Item 5.02 are not

complete and are subject to, and qualified in their entirety by reference to, the full text of the forms of plans, which are attached to the Company's Registration Statement on Form 10 filed with the SEC on November 25, 2024, as amended (the "Registration Statement") as Exhibit 10.26, Exhibit 10.34, Exhibit 10.35, Exhibit 10.36, Exhibit 10.37, Exhibit 10.38 and Exhibit 10.39 and are incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Effective as of January 28, 2025, the certificate of incorporation of the Company was amended and restated (the "Amended and Restated Certificate of Incorporation"). Effective as of February 12, 2025, the bylaws of the Company were amended and restated (the "Amended and Restated Bylaws"). A description of the material provisions of the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws can be found in the Information Statement under the section entitled "Description of Capital Stock," which is incorporated into this Item 5.03 by reference.

The foregoing descriptions of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws do not purport to be complete and are subject to, and qualified in their entirety by, the full text of the Amended and Restated Certificate of Incorporation, filed as Exhibits 3.1 hereto and incorporated into this Item 5.03 by reference, and the full text of the Amended and Restated Bylaws, filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the SEC on February 14, 2025, and incorporated into this Item 5.03 by reference.

Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics.

Effective upon the consummation of the Spin-Off, the Company Board adopted a Code of Business Conduct and Ethics. A copy of the Company's Code of Business Conduct and Ethics is available on the Company's website at www.sandisk.com.

Item 8.01 Other Events.

Press Releases

On February 24, 2025, the Company issued a press release (the "Spin-Off Press Release") announcing the completion of the Spin-Off. A copy of the Spin-Off Press Release is attached hereto as Exhibit 99.1 and is incorporated into this Item 8.01 by reference.

Corporate Governance Guidelines

In connection with the Spin-Off, the Company Board adopted the Corporate Governance Guidelines. A copy of the Corporate Governance Guidelines is available on the Company's website at www.sandisk.com.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
2.1	Separation and Distribution Agreement, dated as of February 21, 2025, by and between Western Digital Corporation and Sandisk Corporation*
3.1	Amended and Restated Certificate of Incorporation of Sandisk Corporation, dated as of January 28, 2025
10.1	Transition Services Agreement, dated as of February 21, 2025, by and between Western Digital Corporation and Sandisk Corporation*
10.2	Tax Matters Agreement, dated as of February 21, 2025, by and between Western Digital Corporation and Sandisk Corporation*
10.3	Employee Matters Agreement, dated as of February 21, 2025, by and between Western Digital Corporation and Sandisk Corporation*
10.4	Intellectual Property Cross-License Agreement, dated as of February 21, 2025, by and between Western Digital Corporation and Sandisk Corporation*
10.5	Transitional Trademark License Agreement, dated as of February 21, 2025, by and between Western Digital Corporation and Sandisk Corporation*
10.6	Stockholder and Registration Rights Agreement, dated as of February 21, 2025, by and between Western Digital Corporation and Sandisk Corporation*
10.7	Loan Agreement, dated as of February 21, 2025, by and among Sandisk Corporation, each lender party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent and the other parties party thereto*
10.8	Security Agreement, dated as of February 21, 2025, by and among Sandisk Corporation, Sandisk Technologies, Inc. and JPMorgan Chase Bank, N.A., as collateral agent
10.9	Guaranty Agreement, dated as of February 21, 2025, by and among Sandisk Corporation, Sandisk Technologies, Inc. and JPMorgan Chase Bank, N.A., as administrative agent
10.10	Form of Indemnification Agreement for Directors and Officers
99.1	Press Release of the Company, dated February 24, 2025
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Registrant agrees to furnish supplementally a copy of any omitted schedule or exhibit to the U.S. Securities and Exchange Commission upon request.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SANDISK CORPORATION

February 24, 2025

By: /s/ Bernard Shek
Name: Bernard Shek
Title: Senior Vice President, Legal

SEPARATION AND DISTRIBUTION AGREEMENT

by and between

WESTERN DIGITAL CORPORATION

and

SANDISK CORPORATION

dated as of

February 21, 2025

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Exhibits

SEPARATION AND DISTRIBUTION AGREEMENT

THIS SEPARATION AND DISTRIBUTION AGREEMENT (this "**Agreement**") is entered into as of February 21, 2025 by and between Western Digital Corporation, a Delaware corporation ("**WDC**"), and Sandisk Corporation, a Delaware corporation and wholly owned Subsidiary of WDC ("**Spinco**") (each, a "**Party**" and together, the "**Parties**"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in Section 10.

RECITALS

WHEREAS, WDC, directly and indirectly through its wholly owned Subsidiaries, is engaged in the Flash Business;

WHEREAS, the Board of Directors of WDC (the "**WDC Board**") has determined that it is advisable and in the best interests of WDC and WDC's stockholders to separate the Flash Business from the other businesses of WDC (the "**Separation**") and to divest the Flash Business in the manner contemplated by this Agreement and the Ancillary Agreements;

WHEREAS, on the terms and subject to the conditions set forth herein, in order to effect such separation, WDC has undertaken the Internal Restructuring and, in connection therewith, will effect the Spinco Contribution and, in exchange therefor, Spinco shall (i) issue to WDC additional shares of Spinco Common Stock and (ii) pay the Spinco Dividend to WDC;

WHEREAS, following, and as a result of, the Internal Restructuring and the Spinco Contribution, it is intended that Spinco, through its wholly owned subsidiaries, operate and conduct the Flash Business on a standalone basis;

WHEREAS, on the terms and subject to the conditions set forth herein, following the completion of the Internal Restructuring, the Spinco Contribution and the payment of the Spinco Dividend, WDC shall own all of the issued and outstanding shares of Spinco Common Stock and shall effect the distribution of 80.1% of such outstanding shares of Spinco Common Stock to the holders of WDC Common Stock in accordance with Section 3.1 hereof (the "**Distribution**");

WHEREAS, following the Distribution, WDC shall retain 19.9% of the outstanding shares of Spinco Common Stock (the "**Retained Stock**") and within twelve (12) months following the Distribution Date effect one or more distributions of the Retained Stock (i) to holders of WDC stock as dividends or in exchange for outstanding shares of WDC stock (any such distribution, a "**Clean-Up Distribution**") and/or (ii) through one or more transfers of the Retained Stock to certain Persons (the "**Debt Exchange Parties**") in exchange for certain debt obligations of WDC (the "**Exchange Debt**") held by the Debt Exchange Parties as principals for their own account (any such distribution, a "**Debt Exchange**" and together with any Clean-Up Distribution, a "**Subsequent Distribution**");

WHEREAS, for U.S. federal income Tax purposes, (i) it is intended that the Spinco Contribution, taken together with the Distribution and any Subsequent Distribution, will qualify for non-recognition of gain and loss pursuant to Sections 355, 361 and 368(a)(1)(D) of the Code and (ii) this Agreement constitutes a "plan of reorganization" within the meaning of Section 368 of the Code and Treasury Regulation Section 1.368-2(g); and

WHEREAS, the Parties desire to set forth the principal arrangements among them regarding the foregoing transactions and to make certain covenants and agreements specified herein in connection therewith and to prescribe certain conditions relating thereto.

NOW, **THEREFORE**, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, and intending to be legally bound hereby, the Parties agree as follows:

1. TRANSFER OF THE FLASH BUSINESS

1.1 Transfer of Assets. Except as provided in Section 1.8(b), at or prior to the Separation Time, WDC shall assign, transfer, convey and deliver ("**Convey**," and such a transaction, a "**Conveyance**") (and shall cause any applicable Subsidiary to Convey) to Spinco or one or more Spinco Subs in accordance with the Separation Plan attached hereto as Schedule 1.1 (the "**Separation Plan**") and the other terms and conditions of this Agreement, and Spinco shall accept from WDC, and shall cause any applicable Spinco Sub to accept, the Flash Assets (as defined below) and all of WDC's and its applicable Subsidiaries' respective direct or indirect right, title and interest in, to and under all Flash Assets (other than any Flash Assets that as of the Separation Time are already Assets of Spinco or a Spinco Sub, which Flash Assets shall continue to be Assets of Spinco or such Spinco Sub after the Separation Time and shall, at the Separation Time, be free and clear of all Liens (other than Permitted Liens)).

1.2 Assumption of Liabilities. At or prior to the Separation Time, (1) WDC shall Convey (or shall cause any applicable Subsidiary to Convey) to Spinco or one or more Spinco Subs, in accordance with the Separation Plan and the other terms and conditions of this Agreement, all of the Flash Liabilities (other than those Flash Liabilities that as of the Separation Time are already Liabilities of Spinco or a Spinco Sub, all of which, for purpose of clarity, shall continue to be Liabilities of Spinco or such Spinco Sub after the Separation Time), and (2) Spinco shall, or shall cause any applicable Spinco Sub(s), to assume, perform, satisfy, discharge and fulfill when due and, to the extent applicable, comply with on a timely basis, all Flash Liabilities, in accordance with their respective terms. As between members of the WDC Group, on the one hand, and members of the Spinco Group, on the other hand, following the Separation Time, the members of the Spinco Group, on a joint and several basis, will be solely responsible for all Flash Liabilities in accordance with their terms (without regard to any such terms that make or would make any member of the WDC Group in any manner liable therefor).

1.3 Transfer of Excluded Assets; Excluded Liabilities. Subject to Section 1.8(b), at or prior to the Separation Time: (i) WDC shall cause Spinco and any applicable Spinco Sub to Convey to WDC or an appropriately capitalized Subsidiary of WDC (as WDC may designate), in accordance with the Separation Plan and the other terms and conditions of this Agreement, any Excluded Assets that it owns, leases or has any right to use, and WDC shall accept from Spinco or such Spinco Sub, or shall cause any designated Subsidiary of WDC to accept, the Excluded Assets and all such respective right, title and interest in and to any and all of such Excluded Assets and (ii) WDC shall cause Spinco and any applicable Spinco Sub to Convey to WDC or an appropriately capitalized Subsidiary of WDC (as WDC may designate), in accordance with the Separation Plan and the other terms and conditions of this Agreement, any Excluded Liability for which Spinco or Spinco Sub is otherwise responsible, and WDC shall assume, perform, satisfy, discharge and fulfill when due, and to the extent applicable, comply with on a timely basis, or shall cause the designated Subsidiary of WDC to assume, perform, satisfy, discharge and fulfill when due, and to the extent applicable, comply with on a timely basis, any and all of such Excluded Liabilities in accordance with their respective terms. As between members of the WDC Group, on the one hand, and members of the Spinco Group, on the other hand, following the Separation Time, the members of the WDC Group, on a joint and several basis, will be solely responsible for all Excluded Liabilities in accordance with their terms (without regard to any such terms that make or would make any member of the Spinco Group in any manner liable therefor).

1.4 Misallocated Transfers. In the event that, at any time from and after the Separation Time, WDC or Spinco (or any member of the WDC Group or the Spinco Group, as applicable) discovers or is notified that it or one of its controlled Affiliates is the owner of, receives or otherwise comes to possess or benefit from any Asset (including the receipt of payments made pursuant to Contracts and proceeds from accounts receivable with respect to such Asset) or is liable for any Liability that is otherwise allocated to any Person that is a member of the other Group, as the case may be, pursuant to this Agreement or any Ancillary Agreement (except in the case of any deliberate acquisition of Assets or assumption of Liabilities from the other Party for value subsequent to the Separation Time), such Asset or Liability shall be deemed a Flash Asset, Excluded Asset, Flash Liability or Excluded Liability, as applicable, for all purposes hereunder, and such Party shall use commercially reasonable efforts to promptly Convey, or cause to be Conveyed, such Asset or Liability to the Person so entitled thereto (and the relevant Party shall cause such entitled Person to accept such Asset or assume, perform, satisfy, discharge and fulfill when due such Liability) for no further consideration other than set forth in this Agreement or such Ancillary Agreement. Prior to any such transfer, such Asset shall constitute a Deferred Asset and be held in accordance with Section 1.8(b).

1.5 Flash Assets; Excluded Assets.

(a) For purposes of this Agreement, "**Flash Assets**" shall mean all of WDC's and its Subsidiaries' respective right, title and interest in, to and under the following Assets existing as of immediately prior to the Separation Time:

(i) (A) Spinco Owned Real Property, as set forth on Schedule 1.5(a)(i)(A), and all rights and interests of WDC or its Subsidiaries with respect thereto; (B) the Spinco Leases, as set forth on Schedule 1.5(a)(i)(B), and all rights and interests of WDC or its Subsidiaries thereunder; and (C) any other owned or leased real property used or held for use primarily in the operation of the Flash Business (collectively, "**Spinco Real Property**");

(ii) all issued and outstanding capital stock of, or other equity or ownership interests in, the Subsidiaries of WDC contemplated to be owned (directly or indirectly) by Spinco immediately prior to the Separation Time pursuant to the Separation Plan and the Internal Restructuring (such Subsidiaries, the "**Spinco Subs**");

(iii) excluding Personnel IT Assets and Non-Personnel IT Assets, (A) all of the office equipment, furnishings, fixtures and other tangible assets and (B) all of the Tools, in each case, either (x) physically located in Spinco Real Property (other than any such assets that are exclusively related to, or exclusively used or held for use in, the non-Flash Business) or primarily related to, or primarily used or held for use in, the Flash Business, or (y) otherwise used, or held for use, primarily in the operation of the Flash Business and, in each case, including any leases primarily related thereto;

(iv) subject to Section 1.8, Permits granted to WDC or any of its Subsidiaries that are used, or held for use, primarily in the Flash Business (including any pending applications for such Permits) (the "**Flash Permits**" and to the extent such Flash Permits may be assigned, the "**Transferable Permits**");

(v) all rights to causes of action, lawsuits, judgments, claims (including, subject to Sections 6.4 and 6.5, third-party insurance claims under policies that are an Excluded Asset pursuant to Section 1.5(b)(vi)), counterclaims, demands or enforcement rights of any kind of WDC, its Affiliates, or any member of the Spinco Group or against a Person to the extent such causes of action, lawsuits, judgments, claims, counterclaims, demands or enforcement rights relate to the Flash Business, a Flash Asset or a Flash Liability, including all claims made as of the Separation Date;

(vi) all inventories of materials, parts, raw materials, packaging materials, supplies, work-in-process, goods in transit and finished goods and products that are used, or held for use, primarily in the Flash Business;

(vii) all Spinco IP and all right, title and interest therein, including all Ancillary IP Rights therein;

(viii) all Non-Personnel IT Assets set forth on Schedule 1.5(a)(viii) (the "**Spinco Non-Personnel IT**");

(ix) all Personnel IT Assets that are primarily used by any directors, officers, partners, managers, employees or agents of any member of the Spinco Group;

(x) excluding Personnel IT Assets, Non-Personnel IT Assets and Tools, all Technology (including Software and Source Code in Software) owned by or licensed to WDC or any of its Affiliates (including Spinco and the Spinco Subs) that is primarily used, or primarily held for use, for the research, development, design or manufacture of Flash Business Products;

(xi) all rights with respect to third-party warranties to the extent related to the Flash Assets;

(xii) (A) all Contracts (excluding Spinco Leases and IP Contracts) that are exclusively related to the Flash Business, (B) all IP Contracts (excluding Excluded IP Contracts) that are primarily used or held for use in the Flash Business, (C) all Contracts (or portion of a contract allocated to Spinco) resulting from a Shared Contract Transfer that is related to the Flash Business, (D) the Contracts set forth on Schedule 1.5(a)(xii)(D) and (E) the rights, claims, benefits, and interests (whether presently known or unknown, contingent or otherwise) under any Contract included in sub-clause (A), (B), (C) or (D) ((A), (B), (C), (D) and (E), collectively, the "**Spinco Contracts**");

(xiii) subject to Section 5.3, (A) all business records primarily related to the Flash Assets or Flash Liabilities, including the corporate or limited liability company minute books and related stock records of the members of the Spinco Group, information and records used to demonstrate compliance with applicable Law and any other compliance records related to the Flash Business; (B) all of the separate financial records of the members of the Spinco Group or relating to the Flash Business (including any function shared with the non-Flash Business to the extent any of its revenue or costs are allocated to the Flash Business) that are not Tax Records and do not form part of the general ledger of WDC or any of its Affiliates (other than the members of the Spinco Group); *provided, however*, that for matters pertaining to the provision of Tax Records, the Tax Matters Agreement shall govern; (C) all other books, records, invoices, ledgers, files, documents, correspondence, lists, plats, drawings, photographs, product literature, equipment test records, advertising and promotional materials, distribution lists, customer lists, supplier lists, studies, reports, operating, production and other manuals, manufacturing and quality control records and procedures, research and development files, accounting and business books, records, files, documentation and materials, in all cases whether in paper, microfilm, microfiche, computer tape or disc, magnetic tape or any other form, to the extent primarily related to the Flash Business; and (D) prosecution records, including any correspondence with any applicable Governmental Authority, relating to, and any other records, documents or materials that are material to the prosecution or maintenance of, any Spinco IP, in each case, excluding any Intellectual Property Rights other than Spinco IP embodied therein (collectively, (A) through (D), excluding any Excluded Assets, the "**Spinco Books and Records**"); *provided, however*, that: (x) WDC shall be entitled to retain a copy of any and all Spinco Books and Records, which shall be subject to the provisions of Section 2 and deemed the Confidential Information of Spinco and subject to the provisions of Section 6.6; (y) WDC may retain any materials in clauses (A) and (C) that are not reasonably practicable to identify and extract subject to the right of access pursuant to Section 5.1 which shall be deemed the Confidential Information of Spinco and subject to the provisions of Section 6.6; and (z) WDC shall be entitled to redact any portion of the Spinco Books and Records to the extent such portion is unrelated to the Flash Business;

(xiv) the right to enforce the confidentiality, non-compete, non-solicit, or assignment provisions of any Shared Contracts (other than Spinco Contracts, which are covered by Section 1.5(a)(xii)) to the extent related to the Flash Business;

(xv) all accounts receivable or unbilled receivables of the Flash Business, including all accounts receivable and unbilled receivables of Spinco and the Spinco Subs;

(xvi) without duplication, any and all Assets reflected as an "asset" on the Flash Business Audited Financial Statements and any such Assets acquired by or for Spinco or any member of the Spinco Group subsequent to the date of such balance sheets which, had they been so acquired on or before such date and owned as of the applicable balance sheet date, would have been reflected on such balance sheet if prepared on a consistent basis, subject to any dispositions of any of such Assets subsequent to the date of such balance sheet made in the ordinary course of business, in all cases other than any such Assets under the line-item titled "Goodwill";

(xvii) the benefits of all prepaid expenses, including prepaid fees, prepaid leases and prepaid rentals, trade accounts and other accounts and notes receivable to the extent related to or held for use in the operation of the Flash Business and all customer deposits related to the provision of service by the Flash Business;

(xviii) all rights of the Spinco Group under this Agreement or any Ancillary Agreement and the certificates, instruments and Transfer Documents delivered in connection therewith;

(xix) all cash and cash equivalents in bank or other deposit accounts of Spinco or any member of the Spinco Group subject to Section 1.10 and Section 3.3(b);

(xx) all rights to insurance policies in the name of or otherwise held by any member of the Spinco Group;

(xxi) the Spinco Pre-Separation Privileged Materials and the rights in Shared Pre-Separation Privileged Materials as set forth in Section 5.3;

(xxii) all Assets allocated to any member of the Spinco Group under the Employee Matters Agreement; and

(xxiii) all other Assets owned or held by WDC or any of its Subsidiaries that are not of a type covered by the preceding clauses (i)-(xxii) above and that are primarily used or held for use in the Flash Business and are not Intellectual Property Rights or Excluded Assets.

(b) The Flash Assets shall not, in any event, include any of the following Assets (the "**Excluded Assets**"):

(i) all cash and cash equivalents, and bank or other deposit accounts, of WDC and its Affiliates (A) other than Spinco or any member of the Spinco Group subject to Section 1.10 and Section 3.3(b) and (B) excluding the Spinco Cash (taking into account the settlement of intercompany accounts in accordance with Section 1.7 and the cash reduction in accordance with Section 3.3(b));

(ii) all right, title or interest in, to or under (x) any Intellectual Property Rights included in the Excluded IP and (y) except the Spinco IP, any other Intellectual Property Rights owned by any member of the WDC Group, including, in each case, all Ancillary IP Rights therein;

(iii) all Non-Personnel IT Assets other than the Spinco Non-Personnel IT;

(iv) all Personnel IT Assets that are primarily used by any directors, officers, partners, managers, employees or agents of any member of the WDC Group;

(v) except for the Flash Assets identified in Section 1.5(a)(v), all rights to insurance policies or practices of WDC and its Affiliates (other than of Spinco and any member of the Spinco Group) (including any captive insurance policies, fronted insurance policies, surety bonds or corporate insurance policies or practices, or any form of self-insurance whatsoever), any refunds paid or payable in connection with the cancellation or discontinuance of any such policies or practices, and any claims made under such policies (subject to the provisions of Sections 6.4 and 6.5);

(vi) other than with respect to any insurance policies referred to in Section 1.5(a)(xx), all rights to causes of action, lawsuits, judgments, claims, counterclaims or demands of WDC, its Affiliates, or any member of the Spinco Group against a party to the extent that they do not relate to the Flash Assets, the Flash Business or the Flash Liabilities;

(vii) (A) all financial records that are not Tax Records and that form part of the general ledger of WDC or any of its Affiliates (other than the members of the Spinco Group), (B) any working papers of WDC's auditors, *provided, however*, that WDC shall provide the Spinco Group with access to such working papers in accordance with Section 5.1 and (C) subject to Section 5.3, the WDC Pre-Separation Privileged Materials and the Shared Pre-Separation Privileged Materials; *provided, however*, in each case, that Spinco and its Representatives shall in all events be entitled to copies of, and shall be entitled to use, any such books and records to the extent related to the Flash Business or the Flash Assets (including any books and records relied on by WDC to prepare the Registration Statement), in each case, to the extent such books and records are in WDC's possession (subject to Section 5.3). For matters pertaining to the retention or provision of Tax Records, the Tax Matters Agreement shall govern;

(viii) subject to Section 1.5(a)(xiii), all records relating to the negotiation and consummation of the Transactions and all records prepared in connection with the potential divestiture of all or a part of the Flash Business, including confidential communications with legal counsel representing WDC or its Affiliates and the right to assert any Privileges comprising WDC Pre-Separation Privileged Materials in accordance with Section 5.3;

(ix) subject to Section 1.8(c) with respect to any Shared Contract, any Contract other than the Spinco Contracts and the rights, claims, benefits and interests (whether presently known or unknown, contingent or otherwise) under any Contract other than the Spinco Contracts;

(x) all Permits of WDC or its Affiliates other than Flash Permits, subject to the rights of Spinco and obligations of the Parties set forth in Section 1.8;

(xi) all of the issued and outstanding capital stock of, or other equity interests in, the Subsidiaries of WDC other than Spinco and the Spinco Subs;

(xii) any and all Assets that are expressly contemplated by any Ancillary Agreement as Assets to be retained by or Conveyed to WDC or any other member of the WDC Group;

(xiii) any Assets allocated to any member of the WDC Group under the Employee Matters Agreement;

(xiv) any of the Assets listed on Schedule 1.5(b)(xiv);

(xv) excluding Personnel IT Assets and Non-Personnel IT Assets, (A) all of the office equipment, furnishings, fixtures and other tangible assets and (B) all of the Tools, in each case, that is both (x) not used, or that is not held for use, primarily in the operation of the Flash Business and (y) not physically located at the Spinco Real Property (or any such assets that are exclusively related to, or exclusively used or held for use in, the non-Flash Business) and, in each case, including any leases primarily related thereto;

(xvi) the IP Contracts listed on Schedule 1.5(b)(xvi) (the "**Excluded IP Contracts**");

(xvii) the right to enforce the confidentiality, non-compete, non-solicit, or assignment provisions of any Contract (other than any Spinco Contracts), to the extent not related to the Flash Business (it being understood that the Contracts containing such rights shall be allocated in accordance with Section 1.5(a)(xii) and Section 1.5(b)(ix) and to the extent such Contract is a Shared Contract); and

(xviii) other than any Flash Assets or any Asset specifically listed or described in Section 1.5(a) or the Schedules thereto, any and all Assets of WDC or its Subsidiaries that are used, or held for use, in the businesses of WDC.

(c) In the event of any inconsistency or conflict that may arise in the application or interpretation of the definitions of "Flash Assets" and "Excluded Assets," the explicit inclusion of an item on any Schedule referred to in either definition shall take priority over any textual provision of either definition that would otherwise operate to include or exclude such Asset from the applicable definition.

(d) Neither "Flash Assets" nor "Excluded Assets," shall include any Tax Attributes, Tax Records or any other Tax Assets, which shall be governed by the Tax Matters Agreement.

(e) The Parties acknowledge and agree that, except for such rights as are otherwise expressly provided in this Agreement or any Ancillary Agreements, none of Spinco or any of the Spinco Subs shall acquire or be permitted to retain any direct or indirect right, title or interest in any Excluded Assets through the Conveyance of all of the authorized and outstanding equity interests in the Spinco Subs and that if any of the Spinco Subs owns, leases or has the right to use any such Excluded Assets, such Excluded Assets shall be Conveyed to WDC as contemplated by Section 1.3.

1.6 Flash Liabilities; Excluded Liabilities.

(a) For the purposes of this Agreement, "**Flash Liabilities**" shall mean each of the following Liabilities, regardless of when and where such Liabilities arose or where, or against whom, such Liabilities are asserted or determined:

(i) all Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or any schedules hereto or thereto) as Liabilities to be retained, assumed or retired by Spinco or any other member of the Spinco Group under this Agreement or any of the Ancillary Agreements;

(ii) all Liabilities to the extent relating to:

(1) the conduct and operation of the Flash Business (other than any Disposed Flash Business), whether prior to, at or after the Separation Time (including any such Liability relating to, arising out of or resulting from any act or failure to act by any directors, officers, partners, managers, employees or agents of any member of the Spinco Group (whether or not such act or failure to act is or was within such Person's authority));

(2) the ownership, operation or use of any Flash Asset, whether prior to, at or after the Separation Time, but excluding any such Liabilities with respect to any business or entity owned or operated by the Flash Business or any member of the Spinco Group that has been divested or discontinued prior to the Separation Time (a "**Disposed Flash Business**") (including any real property owned or operated by such a Disposed Flash Business), notwithstanding that such Asset would have constituted a Flash Asset prior to such divestiture or discontinuance; or

(3) any warranty, product liability obligation or claim or similar obligation entered into, created or incurred in the course of business of the Flash Business (other than any Disposed Flash Business) with respect to its products or services, whether prior to, at or after the Separation Time;

(iii) all Liabilities (including for the avoidance of doubt all Liabilities under or related to any Environmental Laws, including for fines and penalties associated with violations of any Environmental Laws, and for the costs associated with any damage to or restoration of natural resources or any investigation and remediation of environmental media impacted by Hazardous Materials) directly relating to: (A) (1) the investigation or remediation of any Release of Hazardous Materials at, on, under or from any Spinco Real Property (excluding the Milpitas Sites), whether such Release occurred prior to, at or after the Separation Time, and claims for response costs, damages or restoration costs related to same; (2) any violation or alleged violation of Environmental Laws, whether prior to, at or after the Separation Time; (3) any loss of life or injury to Persons due to exposure to asbestos or other Hazardous Materials prior to, at or after the Separation Time; or (4) the off-site disposal, storage, transport, discharge or Release of Hazardous Materials prior to, at or after the Separation Time, in each of cases (A)(1), (A)(2), (A)(3) and (A)(4) to the extent relating to, arising out of, resulting from or otherwise in respect of the conduct or operation of the Flash Business or the ownership, operation or use of the Flash Assets (and, in each such case, for the avoidance of doubt, excluding to the extent relating to any Disposed Flash Business or any other Excluded Liabilities); or (B) the investigation or remediation of any Release of Hazardous Materials at, on, under or from the Milpitas Sites, and claims for response costs, damages or restoration costs related to same, with respect to the portion of any Releases occurring after September 5, 2023, to the extent relating to, arising out of, resulting from or otherwise are in respect of the conduct or operation of the Flash Business on after the effective date of said lease or tenancy;

(iv) all Liabilities relating to (A) the Spinco Contracts, (B) the portion of any Shared Contract allocated to a member of the Spinco Group (including without limitation whether replicated, fully assigned or partially assigned), or (C) any other Contract (i) that is or has been assigned to a member of the Spinco Group or (ii) the extent to which a member of the Spinco Group is or becomes a party thereto;

(v) subject to Section 1.8, all Liabilities to the extent relating to leases for the Flash Assets;

(vi) all customer deposits of the Flash Business, including all customer deposits of Spinco and the Spinco Subs;

(vii) accounts payable of the Flash Business, including all accounts payable of Spinco and the Spinco Subs;

(viii) all Liabilities allocated to any member of the Spinco Group under the Employee Matters Agreement;

(ix) all Liabilities allocated to Spinco under the Tax Matters Agreement;

(x) all Liabilities for (A) Indebtedness solely between or among members of the Spinco Group; (B) subject to Section 3.4, the capital leases and operating leases set forth on Schedule 1.6(a)(x) (collectively, the "**Transferred Leases**"); and (C) subject to Section 3.4, the Spinco Debt; and

(xi) fifty percent (50%) of the Shared Liabilities.

(b) The Flash Liabilities shall not, in any event, include any of the following Liabilities of WDC or its Subsidiaries (the "**Excluded Liabilities**"):

(i) without limitation of Section 1.6(b)(vii), all Liabilities (including for the avoidance of doubt all Liabilities under or related to any Environmental Laws, including for fines and penalties associated with violations of any Environmental Laws, and for the costs associated with any damage to or restoration of natural resources or any investigation and remediation of environmental media impacted by Hazardous Materials) directly relating to: (A)(1) the investigation or remediation of any Release of Hazardous Materials at, on, under or from any Spinco Real Property (excluding the Milpitas Sites), whether such Release occurred prior to, at or after the Separation Time, and claims for response costs, damages or restoration costs related to same; (2) any violation or alleged violation of Environmental Laws, whether prior to, at or after the Separation Time; (3) any loss of life or injury to Persons due to exposure to asbestos or other Hazardous Materials, whether prior to, at or after the Separation Time; or (4) the off-site disposal, storage, transport, discharge or Release of Hazardous Materials, whether prior to, at or after the Separation Time, in each of cases (A)(1), (A)(2), (A)(3) and (A)(4) to the extent relating to, arising out of, resulting from or otherwise in respect of: (w) the conduct or operation of the non-Flash Business; (x) the ownership, operation or use of the Excluded Assets; (y) any business, operations or activities of a member of the WDC Group (or any legal predecessor thereto or any current or former Affiliate thereof) not related to the Flash Business; or (z) any business or entity that is a Disposed Flash Business (including any real property owned or operated by such a Disposed Flash Business); (B) the investigation or remediation of any Release of Hazardous Materials at, on, under or from the Milpitas Sites, and claims for response costs, damages or restoration costs (1) related to Releases by any member of the WDC Group occurring prior to September 5, 2023 and (2) related to the portion of any Releases occurring on or after September 5, 2023, provided, in the case of clause (B)(2), to the extent said Releases relate to, arise out of, result from or otherwise are in respect of the conduct or operation of any member of the WDC Group not related to the Flash Business at the Milpitas Sites after September 5, 2023; or (C) the Real Property Transfer Obligations, for which WDC is responsible pursuant to Section 6.8;

(ii) Liabilities for Indebtedness of WDC or its Subsidiaries (other than (A) Indebtedness solely between or among members of the Spinco Group; (B) subject to Section 3.4, the Transferred Leases; and (C) subject to Section 3.4, the Spinco Debt);

(iii) costs or expenses (including any legal, investment banking or other advisory costs or expenses) incurred by or on behalf of any member of the Spinco Group or the WDC Group at or prior to the Distribution Date in connection with the Transactions;

(iv) all Liabilities allocated to any member of the WDC Group under the Employee Matters Agreement;

(v) all Liabilities allocated to WDC under the Tax Matters Agreement;

(vi) all agreements, obligations and Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or any schedules hereto or thereto) as Liabilities to be retained, assumed or retired by WDC or any other member of the WDC Group, including the costs, expenses and Liabilities referred to in Section 3.2(f);

(vii) all Liabilities to the extent relating to:

(1) the conduct and operation of any business (other than the Flash Business, but, for the avoidance of doubt, including any Disposed Flash Business) of the WDC Group, whether prior to, at or after the Separation Time (including any such Liability relating to, arising out of or resulting from any act or failure to act by any directors, officers, partners, managers, employees or agents of any member of the WDC Group (whether or not such act or failure to act is or was within such Person's authority));

(2) the ownership, operation or use of any Assets of the WDC Group (other than the Flash Assets) or any Excluded Asset, whether prior to, at or after the Separation Time;

(3) the ownership or operation of any Disposed Flash Business (including any real property owned or operated by such a Disposed Flash Business), notwithstanding that such Asset would have constituted a Flash Asset prior to such divestiture or discontinuance and any obligations under the definitive agreement(s) providing for the divestiture of any Disposed Flash Business; and

(4) any warranty, product liability obligation or claim or similar obligation entered into, created or incurred in the course of business of the WDC Group (other than the Flash Business) with respect to its products or services, whether prior to, at or after the Separation Time;

(viii) all Liabilities to the extent relating to the portion of any Shared Contract allocated to a member of the WDC Group or any other Contract (including without limitation whether replicated, fully assigned or partially assigned) that is assigned to a member of the WDC Group;

(ix) all customer deposits not related to the Flash Business, including all customer deposits of any member of the WDC Group;

(x) accounts payable not related to the Flash Business, including all accounts payable of any member of the WDC Group;

(xi) any of the Liabilities listed on Schedule 1.6(b)(xi); and

(xii) fifty percent (50%) of the Shared Liabilities.

(c) In the event of any inconsistency or conflict that may arise in the application or interpretation of the definitions of "Flash Liabilities" and "Excluded Liabilities," the explicit inclusion of an item on any Schedule referred to in either definition shall take priority over any textual provision of either definition that would otherwise operate to include or exclude such Liability from the applicable definition.

(d) The Parties acknowledge and agree that none of Spinco or any other member of the Spinco Group shall be required to assume or retain any Excluded Liabilities as a result of the Internal Restructuring, and that if any of the Spinco Subs is liable for any Excluded Liabilities, such Excluded Liabilities shall be assumed by WDC as contemplated by Section 1.3. Any Liability of any member of the WDC Group not included in any of the clauses of Section 1.6(a) shall be an Excluded Liability.

1.7 Termination of Related Party Agreements; Settlement of Intercompany Accounts.

(a) Except as set forth in Section 1.8(c), Spinco, on behalf of itself and each other member of the Spinco Group, on the one hand, and WDC, on behalf of itself and each other member of the WDC Group, on the other hand, hereby terminate any and all Contracts, whether or not in writing (it being understood that any guaranteed obligations shall be subject to Section 6.3), entered as of prior to the Separation Time between or among Spinco or any member of the Spinco Group, on the one hand, and WDC or any member of the WDC Group, on the other hand (the "**Related Party Agreements**"), effective as of the Separation Time. No such Contract (including any provision thereof which purports to survive termination) shall be of any further force or effect at or after the Separation Time and all parties shall be released from all Liabilities thereunder other than the Liability to settle any Intercompany Account as provided in Section 1.7(c). From and after the Separation Time, no member of either Group shall have any rights or obligations under any Related Party Agreements, except as specifically provided in: (i) Section 1.7(b) or elsewhere in this Agreement; or (ii) the Ancillary Agreements. Each Party shall, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(b) The provisions of Section 1.7(a) shall not apply to any of the following Contracts (or to any of the provisions thereof):

(i) this Agreement and the Ancillary Agreements (and each other Contract expressly contemplated by this Agreement or any Ancillary Agreement to be entered into or continued by any of the Parties or any of the members of their respective Groups);

(ii) any Contracts to which any Person, other than the Parties and their respective Affiliates, is a party;

(iii) any Contracts between: (A) a Subsidiary of WDC that is in the business of selling or buying products or services to or from third parties and (B) a member of the Spinco Group, and which Contract is related primarily to the provision of such products or services and was or is entered into in the ordinary course of business and on arm's-length terms;

(iv) any other Contracts that this Agreement or any Ancillary Agreement expressly contemplates shall survive the Distribution Date;

(v) any confidentiality or non-disclosure agreements among any members of either Group; and

(vi) any Contracts set forth on Schedule 1.7(b)(vi) (collectively, the "**Excluded Related Party Agreements**"). Notwithstanding anything to the contrary in this Agreement, each Excluded Related Party Agreement shall be governed exclusively by the terms set forth therein and shall not be subject to the terms of this Agreement unless and only to the extent that such Excluded Related Party Agreement expressly states otherwise.

(c) Each Intercompany Account outstanding immediately prior to the Separation will be satisfied and/or settled in full in cash (in each case with no further liability or obligation on Spinco or any member of the Spinco Group) by the relevant members of the WDC Group and the Spinco Group no later than the Distribution Date and prior to the Distribution, in each case in the manner determined by WDC (and any payments in settlement of such Intercompany Accounts shall be taken into account in determining the amount of the Spinco Cash).

1.8 Delayed Transfers.

(a) **Obtaining Consents**. The Parties shall cooperate with each other and use their respective commercially reasonable efforts to obtain: (i) the transfer, assignment or reissuance to Spinco or a member of the Spinco Group of all Transferable Permits; (ii) the issuance to Spinco or a member of the Spinco Group of any other Permits of WDC or its Affiliates that are necessary for the ownership or operation of the Flash Business or the Flash Assets that do not constitute Transferable Permits ("**Non-Transferable Permits**"); and (iii) all Consents and Governmental Approvals of all other Persons to the extent necessary to consummate the Internal Restructuring as required by the terms of any Law, license, permit, concession or Contract to which WDC or any of its Subsidiaries is currently a party or by which any of them is bound, subject to the limitations set forth in this Section 1.8; *provided, however*, that with respect to Shared Contracts, Section 1.8(c) shall control; and *provided*, *further*, that if any member of the Spinco Group or any member of the WDC Group is required to make any payments, incur any Liability or offer or grant any accommodation (financial or otherwise, that is not provided for in the underlying Contract) to any third party in connection with any of the actions in clauses (i) through (iii) above, then (A) WDC shall be required to pay any such costs and expenses incurred by either Party on or prior to the Distribution and (B) following the Distribution, each Party shall bear its own such costs and expenses. Other than as provided in the immediately preceding sentence, each of the Parties agrees that it shall not commit, and shall cause its Subsidiaries not to commit, to any third party on behalf of Spinco, WDC or any member of the Spinco Group or WDC Group to make any payments, incur any Liability or offer or grant any accommodation (financial or otherwise, regardless of any provision to the contrary in the underlying Contract, including any requirements for the securing or posting of any bonds, letters of credit or similar instruments, or the furnishing of any guarantees) to any third party to obtain any such Consents that would be a Liability of Spinco, WDC or any member of the Spinco Group or WDC Group after the Separation Time, without the prior express written consent of WDC or Spinco, as applicable. The obligations set forth in this Section 1.8(a) shall terminate upon the twelve (12) month anniversary of the Separation Time or, if the term of a Contract, Permit, Asset or Liability has Expired before the twelve (12) month anniversary of the Separation Time, the obligations set forth in this Section 1.8(a) relating to such Contract, Permit, Asset or Liability shall terminate upon such earlier Expiration.

(b) **Transfer in Violation of Laws or Requiring Consent or Governmental Approval**. If and to the extent that the Conveyance to any member of the Spinco Group of any Flash Assets or to any member of the WDC Group of any Excluded Assets would be a violation of applicable Laws or require any Consent or Governmental Approval in connection with the Internal Restructuring (including the transfer, assignment or reissuance of any Transferable Permit or the issuance or reissuance of any Non-Transferable Permit) that has not been obtained at the Separation Time or require that notice be provided to any Person, then, notwithstanding any other provision hereof, the Conveyance to the Spinco Group of such Flash Assets or to the WDC Group of such Excluded Assets (any such Asset, a "**Deferred Asset**") shall automatically be deferred and no Conveyance shall occur until all legal impediments are removed, such Consents or Governmental Approvals have been obtained or such notice requirement(s) have been satisfied; *provided* that the Parties shall (i) use their respective commercially reasonable efforts to promptly remove such legal impediments and obtain such Consents and Governmental Approvals, and (ii) promptly satisfy such notice requirement(s). If the Conveyance of a Deferred Asset would not violate applicable Laws or require any Consent or Governmental Approval immediately following the Distribution, such Conveyance shall be effective immediately following the Distribution, subject to the satisfaction of any applicable notice requirement(s). Notwithstanding the foregoing, any such Deferred Asset shall still be considered a Flash Asset or Excluded Asset, as applicable, and the Person retaining such Asset shall thereafter hold such Asset in trust for the benefit of the Person entitled thereto (in a manner consistent with the obligations set forth in this Section 1.8(b)) until the earlier of the consummation of the Conveyance thereof or the termination of the obligations of the Person retaining such Asset under this Section 1.8(b). To the extent that any Deferred Asset cannot be Conveyed without the Consent or Governmental Approval of any Person which Consent or Governmental Approval has not been obtained prior to the Separation Time despite the Parties' commercially reasonable efforts and compliance with the other provisions hereof, and without limiting the obligation of WDC to obtain consents as provided in this Section 1.8(b), this Agreement will not constitute an agreement to Convey such Deferred Asset if an attempted Conveyance would constitute a breach thereof or violate any Law. The Parties shall use their commercially reasonable efforts to develop and implement mutually acceptable alternative arrangements to place the Person entitled to receive such Deferred Asset in the same position from and after the Separation Time as if such Deferred Asset had been Conveyed as contemplated hereby and so that all the benefits and burdens relating to such Deferred Asset, including possession, use, risk of loss, potential for gain, any Tax Liabilities in respect thereof and dominion, ability to enforce the rights under or with respect to, control and command over such Deferred Asset, inure from and after the Separation Time; *provided, however*, that with respect to Shared Contracts, Section 1.8(c) shall control. Such alternative arrangements may include, among others, the entry into reseller agreements with respect to government Contracts, or the entry into subcontracting, sublicensing, subleasing or other similar agreements. Under any such alternative arrangements, the Party retaining the Deferred Asset will (i) treat such Deferred Asset in the ordinary course of business consistent with past practice, (ii) hold itself out to third parties as agent or nominee on behalf of the other Party and (iii) agree to enforce (at the other Party's cost and at its reasonable request) any and all claims, rights and benefits of such Person against any third parties arising from such Deferred Asset. If and when the legal or contractual impediments the presence of which caused the deferral of transfer of any Deferred Asset pursuant to this Section 1.8(b) are removed or any Consents and/or Governmental Approvals the absence of which caused the deferral of transfer of any Deferred Asset pursuant to this Section 1.8(b) are obtained, the transfer of the applicable Deferred Asset shall be effected in accordance with the terms of this Agreement and/or such applicable Ancillary Agreement. WDC shall be required to pay any costs and expenses incurred by either Party on or prior to the Distribution in connection with this Section 1.8(b). From and after the Distribution, each Party shall bear its own costs and expenses incurred in connection with this Section 1.8(b). The obligations set forth in this Section 1.8(b) relating to any Deferred Asset shall terminate upon the twelve (12) month anniversary of the Separation Time or, if the term of such Deferred Asset has Expired before the twelve (12) month anniversary of the Separation Time, upon such earlier Expiration.

(c) **Shared Contracts**.

(i) With respect to each Shared Contract, the Parties shall, and shall, as applicable, cause the other members of the Spinco Group or the WDC Group to, use commercially reasonable efforts to take one of the following actions, at the election of the WDC Group: (A) replicate the Shared Contract such that there will be two Contracts: (1) a Contract between the counterparty and the applicable member of the Spinco Group with respect to the Flash Business and (2) a Contract between the counterparty and the applicable member of the WDC Group with respect to the non-Flash Business; or (B) partially assign the rights and delegate the duties relating to the (x) Flash Business functions with respect to such Shared Contract to Spinco (or the applicable member of the Spinco Group) or (y) non-Flash Business functions with respect to such Shared Contract to WDC (or the applicable member of the WDC Group), in each case of clauses (A) and (B), so that the Spinco Group will be entitled to the same or reasonably similar rights and interests of, and will be subject to the same or reasonably similar Liabilities under, such Shared Contract to the extent related to the Flash Business, and the WDC Group will be entitled to the same or reasonably similar rights and interests of, and will be subject to the same or reasonably similar Liabilities under, such Shared Contract to the extent not related to the Flash Business (each, a "**Shared Contract Transfer**"). In furtherance of the foregoing, the Parties shall, and shall, as applicable, cause the other members of the Spinco Group or the WDC Group to, use commercially reasonable efforts to take such other actions as are reasonably necessary to consummate each Shared Contract Transfer, including to the extent required by the applicable Shared Contract, sending notices to and/or using commercially reasonable efforts to obtain Consents from the counterparty(ies) to such Shared Contract; *provided, however*, that, notwithstanding the foregoing, if such Shared Contract Transfer is not permitted by the terms of the applicable Shared Contract, or if a necessary Consent is not received from the applicable counterparty(ies) despite the Parties' commercially reasonable efforts, or if such Shared Contract Transfer would impair the benefit the WDC Group or the Spinco Group, as applicable, is able to derive from the applicable portion of such Shared Contract, then WDC and Spinco shall, and shall, as applicable, cause the other members of the WDC Group or the Spinco Group to, use commercially reasonable efforts to (x) provide for an alternative arrangement so that the applicable member of the WDC Group or the Spinco Group, as applicable, will have the same or reasonably similar benefits and burdens of such Shared Contract from and after the Separation Time as though such Shared Contract Transfer had occurred and (y) enter into separate Contracts pursuant to which the applicable members of the WDC Group and the Spinco Group procure such rights and obligations as are necessary such that WDC and Spinco no longer need to avail themselves of the alternative arrangements provided pursuant to clause (x) above. For the avoidance of doubt, neither a Party nor any of its respective Affiliates shall be required to commence any Action with any third party to fulfill its obligations under this Section 1.8(c). Spinco and WDC shall reasonably cooperate in connection with this Section 1.8(c)(i). Upon a Shared Contract Transfer, the resulting Contract that is related to the Flash Business will be a Spinco Contract, and the resulting Contract that is not related to the Flash Business will be an Excluded Asset. All obligations set forth in this Section 1.8(c)(i) shall terminate upon the twelve (12) month anniversary of the Separation Time or, if the term of such Shared Contract has Expired before the twelve (12) month anniversary of the Separation Time, upon such earlier Expiration.

(ii) WDC shall be required to pay any costs and expenses incurred by either Party on or prior to the Distribution in connection with this Section 1.8(c). From and after the Distribution, each Party shall bear its own costs and expenses incurred in connection with this Section 1.8(c).

(iii) Unless otherwise determined by WDC in its sole discretion, each of WDC and Spinco shall, and shall cause the members of its Group to, (A) treat for all Tax purposes the portion of each Shared Contract inuring to the Flash Business or non-Flash Business, as the case may be, as Assets owned by, and/or Liabilities of, as applicable, such Party as of the Separation Time and (B) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment (unless required by applicable Law or good faith resolution of a Tax Contest).

(d) **Real Property**. With respect to any Real Property Interests that will be owned or leased by a member of the Spinco Group but will continue to be used by a member of the WDC Group following the Separation Time, or that will be owned or leased by a member of the WDC Group but will continue to be used by a member of the Spinco Group following the Separation Time, unless otherwise agreed by the applicable parties, the Parties shall, and shall as applicable cause the other members of the Spinco Group or the WDC Group to, (i) with respect to owned Real Property Interests, enter into lease agreements on customary and reasonable market terms in arm's length transactions taking into account the nature, use and location of the real property and (ii) with respect to leased Real Property Interests, use commercially reasonable efforts to enter into sublease agreements on customary and reasonable "back-to-back basis", such that the rent and other material terms under such sublease agreements shall be substantially the same (on a relative basis) as the rent and other material terms in the underlying leases, reflecting (A) adjustments to the rent under each such sublease agreement based on the area subleased relative to the total area under the applicable lease agreement for such Real Property Interest and (B) such commercially reasonable costs that the applicable party may incur as sublandlord in the course of managing such sublease agreements.

1.9 Novations of Contracts.

(a) Without limiting the obligations of the Parties under Section 1.8(c), upon WDC's request, Spinco shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to obtain the novation to the applicable member(s) of the Spinco Group of any Spinco Contract or the portion of a Shared Contract allocated to a member of the Spinco Group, or any other Contract (including without limitation, whether replicated, fully assigned or partially assigned) that is assigned (in whole or in part) to a member of the Spinco Group in accordance with this Agreement, whether prior to, at or following the Separation Time (it being understood that such obligations shall apply following the Separation Time regardless of whether any such Spinco Contract or Shared Contract has been Conveyed pursuant to the terms hereof or such Conveyance was deferred in accordance with Section 1.8).

(b) Without limiting the obligations of the Parties under Section 1.8(c), upon Spinco's request, WDC shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to obtain the novation to the applicable member(s) of the WDC Group of any Shared Contract or the portion of a Shared Contract allocated to a member of the WDC Group, or any other Contract (including without limitation, whether replicated, fully assigned or partially assigned) that is assigned (in whole or in part) to a member of the WDC Group in accordance with this Agreement, whether prior to, at or following the Separation Time (it being understood that such obligations shall apply following the Separation Time regardless of whether any such Shared Contract or such other Contract that is assigned (in whole or in part) to a member of the WDC Group has been Conveyed pursuant to the terms hereof or such Conveyance was deferred in accordance with Section 1.8).

(c) Without limiting the obligations of WDC under Section 1.8(c), no member of the WDC Group or the Spinco Group shall be required to make any payments for a novation in accordance with this Section 1.9 (other than as provided for in the underlying Contract, which such payments shall be made by WDC) to any third party for any novation in connection with this Section 1.9; *provided, however*, that WDC shall be required to pay any costs and expenses incurred by either Party on or prior to the Distribution in connection with this Section 1.9; *provided, further*, that, from and after the Distribution, each Party shall bear its own costs and expenses incurred in connection with this Section 1.9.

(d) The obligations set forth in this Section 1.9 relating to any Contract shall terminate upon the twelve (12)-month anniversary of the Separation Time or, if the term of such Contract has Expired before the twelve (12)-month anniversary of the Separation Time, upon such earlier Expiration.

1.10 Bank Accounts.

(a) Each of WDC and Spinco shall, and shall cause their respective Subsidiaries to, use their commercially reasonable efforts to take all actions necessary to amend all Contracts governing each bank and brokerage account included as a Flash Asset or owned by Spinco or any other member of the Spinco Group (collectively, the "**Spinco Accounts**"), so that such Spinco Accounts, if currently linked (whether by automatic withdrawal, automatic deposit or any other authorization to transfer funds from or to, hereinafter "linked") to any bank or brokerage account owned by WDC or any member of the WDC Group (collectively, the "**WDC Accounts**") are de-linked from such WDC Accounts.

(b) Each of WDC and Spinco shall, and shall cause their respective Subsidiaries to, use their commercially reasonable efforts to take all actions necessary to amend all Contracts governing the WDC Accounts so that such WDC Accounts, if currently linked to any Spinco Account, are de-linked from such Spinco Accounts, including updating the names of all persons authorized to draw thereon or make withdrawals therefrom to Representatives of the applicable Party.

(c) With respect to any outstanding checks issued by WDC, Spinco or any of their respective Subsidiaries prior to the Separation Time, such outstanding checks shall be honored from and after the Separation Time by the Person or Group owning the account on which the check is drawn, without modifying in any way the allocation of Liability (and rights to reimbursement) for such amounts under this Agreement or any Ancillary Agreement.

(d) As between WDC and Spinco (and the members of their respective Groups), all payments made or reimbursements received by either Party after the Distribution that relate to the business Asset or Liability of the other Party (or member of its Group) shall be held by such Party in trust for the use and benefit of the Party entitled thereto and, promptly upon receipt by such Party of any such payment or reimbursement, such Party shall pay over or cause the applicable member of its Group to pay over, to the other Party, the amount of such payment or reimbursement, without right of setoff.

(e) For the avoidance of doubt, Spinco Cash shall not include any cash or cash equivalents included in WDC Accounts.

1.11 No Representation or Warranty. EACH OF WDC (ON BEHALF OF ITSELF AND EACH OTHER MEMBER OF THE WDC GROUP) AND SPINCO (ON BEHALF OF ITSELF AND EACH OTHER MEMBER OF THE SPINCO GROUP) UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR OTHERWISE, NO PARTY TO THIS AGREEMENT IS REPRESENTING OR WARRANTING IN ANY WAY AS TO THE CONDITION OR THE VALUE OF ANY ASSETS, BUSINESSES OR THE AMOUNT OF ANY LIABILITIES CONTRIBUTED, TRANSFERRED, DISTRIBUTED OR ASSUMED AS CONTEMPLATED HEREBY, AS TO ANY CONSENTS OR GOVERNMENTAL APPROVALS REQUIRED IN CONNECTION HEREWITH OR THEREWITH, AS TO THE VALUE OF ANY ASSETS OF SUCH PARTY, AS TO THE ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY ACTION OR OTHER ASSET, INCLUDING ACCOUNTS RECEIVABLE, OF ANY PARTY, OR AS TO THE LEGAL SUFFICIENCY OF ANY CONTRIBUTION, DISTRIBUTION, ASSIGNMENT, DOCUMENT, CERTIFICATE OR INSTRUMENT DELIVERED HEREUNDER TO CONVEY TITLE TO ANY ASSET OR THING OF VALUE UPON THE EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF. FOR THE AVOIDANCE OF DOUBT, THIS SECTION 1.11 SHALL HAVE NO EFFECT ON ANY REPRESENTATION OR WARRANTY EXPRESSLY MADE HEREIN OR IN ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR OTHERWISE. FOR THE AVOIDANCE OF DOUBT, EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR OTHERWISE, ANY AND ALL WARRANTIES OF ANY KIND ARE HEREBY DISCLAIMED AND EXCLUDED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT.

1.12 Waiver of Bulk-Sales Laws. Each of Spinco and WDC hereby waives compliance by each member of the other Party's respective Group with the requirements and provisions of the "bulk-sale" or "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the Assets to any member of the Spinco Group or the WDC Group, as applicable.

2. COMPLETION OF THE INTERNAL RESTRUCTURING

2.1 Separation Time. Subject to the satisfaction and waiver (in accordance with the provisions hereof) of the conditions set forth in Section 7 (other than the conditions, which by their nature are to be satisfied at the Separation Time, but subject to such conditions being capable of being satisfied at the Separation Time), and subject to Section 1.8(b), the effective time and date of each Conveyance and assumption of any Asset or Liability in accordance with Section 1 in connection with the Internal Restructuring shall be immediately prior to the Distribution (the date of the Separation, the "**Separation Date**" and such time on such date the "**Separation Time**") or such other time as determined pursuant to Section 1.8.

2.2 Separation Deliveries.

(a) **Agreements to be Delivered by WDC**. On the Separation Date, WDC shall deliver, or shall cause its appropriate Subsidiaries to deliver, to Spinco all of the following instruments:

(i) all Transfer Documents as described in Section 2.4 and Section 2.5;

(ii) the Tax Matters Agreement, substantially in the form attached hereto as Exhibit A (the "**Tax Matters Agreement**"), duly executed by the members of the WDC Group party thereto;

(iii) the Transition Services Agreement, substantially in the form attached hereto as Exhibit B (the "**Transition Services Agreement**"), duly executed by the members of the WDC Group party thereto;

(iv) the Transitional Trademark License Agreement, substantially in the form attached hereto as Exhibit C (the "**Transitional Trademark License Agreement**"), duly executed by the members of the WDC Group party thereto;

(v) the Intellectual Property Cross-License Agreement, substantially in the form attached hereto as Exhibit D (the "**Intellectual Property Cross-License Agreement**"), duly executed by the members of the WDC Group party thereto;

(vi) the Stockholder and Registration Rights Agreement, substantially in the form attached hereto as Exhibit E (the "**Stockholder and Registration Rights Agreement**"), duly executed by the members of the WDC Group party thereto;

(vii) the Employee Matters Agreement, substantially in the form attached hereto as Exhibit F (the "**Employee Matters Agreement**"), duly executed by the members of the WDC Group party thereto;

(viii) any other Ancillary Agreements to which the Parties mutually agree; and

(ix) as provided in Item 7 of Schedule 1.7(b)(vi).

(b) **Agreements to be Delivered by Spinco**. On the Separation Date, Spinco shall deliver, or shall cause the Spinco Subs to deliver, as appropriate, to WDC all of the following instruments:

(i) all Transfer Documents as described in Section 2.4 and Section 2.5;

(ii) the Tax Matters Agreement, duly executed by the members of the Spinco Group party thereto;

(iii) the Transition Services Agreement, duly executed by the members of the Spinco Group party thereto;

(iv) the Transitional Trademark License Agreement, duly executed by the members of the Spinco Group party thereto;

(v) the Intellectual Property Cross-License Agreement, duly executed by the members of the Spinco Group party thereto;

(vi) the Stockholder and Registration Rights Agreement, duly executed by the members of the Spinco Group party thereto;

(vii) the Employee Matters Agreement, duly executed by the members of the Spinco Group party thereto;

(viii) any other Ancillary Agreements to which the Parties mutually agree; and

(ix) as provided in Item 7 of Schedule 1.7(b)(vi).

2.3 Certain Resignations. WDC shall use its commercially reasonable efforts to cause each employee and director of WDC and its Subsidiaries who will not be employed by Spinco or a Spinco Sub after the Distribution Date to resign, effective not later than the Distribution Date, from all boards of directors or similar governing bodies of Spinco or any Spinco Sub on which they serve, and from all positions as officers of Spinco or any Spinco Sub in which they serve.

2.4 Transfer of Flash Assets and Assumption of Flash Liabilities. In furtherance of the Conveyance of Flash Assets and the assumption of Flash Liabilities provided in Section 1.1 and Section 1.2, on or prior to the Separation Time (and thereafter in accordance with Section 1.8): (a) WDC shall execute and deliver, and shall cause its Subsidiaries to execute and deliver, such bills of sale, stock powers, certificates of title, assignments of Contracts, Consents (to the extent obtained), Transferable Permits, easements, leases, deeds and other instruments of Conveyance (in each case in a form that is consistent with the terms and conditions of this Agreement, required by applicable Law to record or register transfer of title in each applicable jurisdiction, and otherwise customary in the jurisdiction in which the relevant Assets are located and reasonably acceptable to the Parties), as and to the extent reasonably necessary or appropriate to evidence the Conveyance of all of WDC's and its Subsidiaries' (other than Spinco and the Spinco Subs) right, title and interest in and to the Flash Assets to Spinco and the Spinco Subs (it being understood that no such bill of sale, stock power, certificate of title, deed, assignment of Contract or other instrument of Conveyance shall require WDC or any of its Affiliates to make any additional representations, warranties or covenants, expressed or implied, not contained in this Agreement or any Ancillary Agreement, except to the extent required to comply with applicable Law, and in which case the Parties shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement) and (b) Spinco shall execute and deliver such assumptions of Contracts and other instruments of assumption or Conveyance (in each case in a form that is consistent with the terms and conditions of this Agreement, required by applicable Law to record or register transfer of title in each applicable jurisdiction, and otherwise customary in the jurisdiction in which the relevant Liabilities are located and reasonably acceptable to the Parties) as and to the extent reasonably necessary to evidence the valid and effective assumption of the Flash Liabilities by Spinco (it being understood that no assumptions of Contracts and other instruments of assumption or conveyance shall require Spinco or any of its Affiliates to make any additional representations, warranties or covenants, expressed or implied, not contained in this Agreement or any Ancillary Agreement, except to the extent required to comply with applicable Law, and in which case the Parties shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement). All of the foregoing documents contemplated by this Section 2.4 shall be referred to collectively herein as the "**WDC Transfer Documents**."

2.5 Transfer of Excluded Assets; Assumption of Excluded Liabilities. In furtherance of the Conveyance of Excluded Assets and the assumption of Excluded Liabilities provided in Section 1.3, prior to or at the Separation Time (and thereafter in accordance with Section 1.8): (a) Spinco shall execute and deliver, and shall cause the Spinco Subs to execute and deliver, such bills of sale, stock powers, certificates of title, assignments of Contracts, Consents (to the extent obtained), Transferable Permits, easements, leases, deeds and other instruments of Conveyance (in each case in a form that is consistent with the terms and conditions of this Agreement, required by applicable Law to record or register transfer of title in each applicable jurisdiction, and otherwise customary in the jurisdiction in which the relevant Assets are located and reasonably acceptable to the Parties) as and to the extent reasonably necessary or appropriate to evidence the Conveyance of all of Spinco's and the Spinco Subs' right, title and interest in and to the Excluded Assets to WDC and its Subsidiaries (other than Spinco and the Spinco Subs) (it being understood that no such bill of sale, stock power, certificate of title, deed, assignment of Contract or other instrument of Conveyance shall require Spinco or any of its Affiliates to make any additional representations, warranties or covenants, expressed or implied, not contained in this Agreement or any Ancillary Agreement except to the extent required to comply with applicable Law, and in which case the Parties shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement) and (b) WDC shall execute and deliver such assumptions of Contracts and other instruments of assumption or Conveyance (in each case in a form that is consistent with the terms and conditions of this Agreement, required by applicable Law to record or register transfer of title in each applicable jurisdiction, and otherwise customary in the jurisdiction in which the relevant Liabilities are located and reasonably acceptable to the Parties) as and to the extent reasonably necessary to evidence the valid and effective assumption of the Excluded Liabilities by WDC (it being understood that no assumptions of Contracts and other instruments of assumption or conveyance shall require Spinco or any of its Affiliates to make any additional representations, warranties or covenants, expressed or implied, not contained in this Agreement or any Ancillary Agreement, except to the extent required to comply with applicable Law, and in which case the Parties shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement). All of the foregoing documents contemplated by this Section 2.5, together with the WDC Transfer Documents, shall be referred to collectively herein as the "**Transfer Documents**." The Parties shall perform the obligations set forth in Section 2.4 and this Section 2.5, in each case, in accordance with applicable Law.

2.6 Exchange. In exchange for the Spinco Contribution, Spinco shall (a) issue to WDC additional shares of Spinco Common Stock such that the number of shares of Spinco Common Stock then outstanding shall be equal to the number of shares of Spinco Common Stock necessary to effect the Distribution and (b) pay to WDC the Spinco Dividend, in immediately available funds to one or more accounts designated by WDC.

3. COMPLETION OF THE DISTRIBUTION

3.1 The Distribution.

(a) In connection with the Distribution, (i) on or prior to the Distribution Date, Spinco shall issue to WDC, as a stock dividend, such number of shares of Spinco Common Stock (or WDC and Spinco shall take or cause to be taken such other appropriate actions to ensure that WDC has the requisite number of shares of Spinco Common Stock) as will be required so that the total number of shares of Spinco Common Stock held by WDC immediately prior to the Distribution is equal to the total number of shares of Spinco Common Stock distributable in the Distribution divided by 80.1%.

(b) Subject to the terms and conditions hereof, each Record Holder (other than WDC or any other member of the WDC Group) shall be entitled to receive for each share of common stock, par value $0.01 per share, of WDC ("**WDC Common Stock**") held by such Record Holder as of the Record Date one-third (1/3) of one share of Spinco Common Stock. No action by any Record Holder shall be necessary for such Record Holder (or such Record Holder's designated transferee or transferees) to receive the applicable number of shares of Spinco Common Stock (and, if applicable, cash in lieu of any fractional shares as set forth in Section 3.1(c)) such stockholder is entitled to in the Distribution. For stockholders of WDC who own shares of WDC Common Stock through a broker or other nominee, their shares of Spinco Common Stock will be credited to their respective accounts by such broker or nominee.

(c) Pursuant to the Distribution, WDC shall distribute 80.1% of the Spinco Common Stock owned by WDC, which will be 80.1% of the Spinco Common Stock outstanding immediately prior to the Distribution. In no event shall the aggregate number of shares of Spinco Common Stock issued and distributed in the Distribution exceed 80.1% of the number of shares of Spinco Common Stock held by WDC on the Distribution Date.

(d) Notwithstanding anything herein to the contrary, no fractional shares of Spinco Common Stock shall be issued in connection with the Distribution, and any such fractional share interests to which a Record Holder would otherwise be entitled shall not entitle such Record Holder to vote or to any other rights as a stockholder of Spinco. In lieu of any such fractional shares, each Record Holder who, but for the provisions of this Section 3.1(c) would be entitled to receive a fractional share interest of Spinco Common Stock pursuant to the Distribution, shall be paid cash, as hereinafter provided. WDC shall instruct the distribution agent to determine the number of whole shares and fractional shares of Spinco Common Stock allocable to each Record Holder, to aggregate all such fractional shares into whole shares, to sell the whole shares obtained thereby in the open market at the then-prevailing prices on behalf of each Record Holder who otherwise would be entitled to receive fractional share interests and to distribute to each such Record Holder his, her or its ratable share of the total proceeds of such sale, after deducting any Taxes required to be withheld and any applicable transfer Taxes and the costs and expenses of such sale and distribution, including brokers fees and commissions. The sales of fractional shares shall occur as soon after the Distribution as practicable as determined by the distribution agent. None of WDC, Spinco or the distribution agent shall guarantee any minimum sale price for such fractional shares. Neither WDC nor Spinco shall pay any interest on the proceeds from the sale of fractional shares. The distribution agent shall have the sole discretion to select the broker-dealers through which to sell the aggregated fractional shares and to determine when, how and at what price to sell such shares. Neither the distribution agent nor the broker-dealers through which the aggregated fractional shares are sold shall be Affiliates of WDC or Spinco.

(e) Neither of the Parties, and none of their respective Affiliates, will be liable to any Person in respect of any shares of Spinco Common Stock (or dividends or distributions with respect thereto) or cash in lieu of fractional shares of Spinco Common Stock (in accordance with Section 3.1(c)) that, in each case, are properly delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law.

3.2 Actions Prior to Distribution.

(a) Prior to the date of this Agreement, the Parties caused the Registration Statement to be prepared and filed with the SEC. The Registration Statement was declared effective by the SEC on January 31, 2025. The Parties shall cooperate in preparing, filing with the SEC and causing to become effective any other registration statements or amendments or supplements thereto that are necessary or appropriate in order to effect the Transactions, or to reflect the establishment of, or amendments to, any employee benefit plans contemplated hereby or in any Ancillary Agreements.

(b) Prior to the date of this Agreement, the Parties caused an application for the listing on Nasdaq of Spinco Common Stock to be issued to the Record Holders in the Distribution (the "**Nasdaq Listing Application**") to be prepared and filed with Nasdaq. Prior to the date of this Agreement, the Parties have caused the Nasdaq Listing Application to be approved, subject to official notice of issuance. WDC shall give Nasdaq notice of the Record Date in compliance with Rule 10b-17 under the Exchange Act.

(c) WDC and Spinco will prepare and mail, prior to the Distribution Date, to the holders of shares of WDC Common Stock, such information concerning Spinco and its businesses, operations and management, the Distribution and such other matters as WDC will reasonably determine and as may be required by applicable Law.

(d) WDC and Spinco will take all such action as may be necessary or appropriate under the securities or "blue sky" Laws of the United States (and any comparable Laws under any foreign jurisdiction) in connection with the Distribution.

(e) WDC and Spinco will take all reasonable steps necessary and appropriate to cause the conditions set forth in Section 7.1 to be satisfied and to effect the Distribution on the Distribution Date.

(f) Notwithstanding anything to the contrary, any and all costs, expenses and Liabilities incurred by or on behalf of Spinco or any member of the Spinco Group on or prior to the Distribution as a result of or in connection with the matters set forth in Section 3.1 or this Section 3.2 shall be the sole responsibility of WDC and shall be deemed to be Excluded Liabilities for the purposes hereof. From and after the Distribution, each Party shall bear its own costs and expenses incurred as a result of or in connection with the matters set forth in Section 3.1 and this Section 3.2.

(g) Notwithstanding anything to the contrary, without any further action required by any Party, effective as of immediately prior to the Separation Time, all provisions of this Section 3.2, with the exception of Section 3.2(a), Section 3.2(d) (in the event that any such action under "blue sky" Laws has not been taken prior to the Separation Time) and Section 3.2(f), shall automatically terminate and be of no further force and the Parties shall cease to have any rights or obligations thereunder.

3.3 Additional Matters.

(a) **Delivery of Shares**. Upon the consummation of the Distribution, WDC shall deliver to the transfer agent a book-entry authorization representing the shares of Spinco Common Stock being distributed in the Distribution for the account of the WDC stockholders that are entitled thereto. The Distribution shall be deemed to be effective upon written authorization from WDC to the transfer agent to proceed as set forth in Section 3.1.

(b) **Cash Reduction**. Prior to 11:59 p.m. Pacific Time on the date that is two Business Days prior to the Distribution (the "**Cut-Off Time**"), WDC may, and may cause each member of the Spinco Group to, take such actions, at WDC's sole cost and expense, as WDC deems advisable to minimize or reduce the amount of Spinco Cash in excess of the Spinco Cash Amount (assuming the consummation of any debt financing of Spinco as contemplated by Section 7.1(m)(II)) as remaining in the Spinco Accounts as of the Separation Time.

3.4 Spinco Dividend. The amount of the Spinco Dividend shall be equal to any cash allocable to Spinco in excess of the Spinco Cash Amount (assuming the consummation of any debt financing of Spinco as contemplated by Section 7.1(m)(II)) as of the Cut-Off Time; *provided*, that within five Business Days of the Distribution Date (the "Spinco Dividend True-Up Date"), WDC and Spinco agree to true-up the Spinco Dividend amount to reflect an amount equal to any cash allocable to Spinco in excess of the Spinco Cash Amount as of 11:59 p.m. Pacific Time on the Distribution Date, reflecting the reconciled book cash balance of Spinco at such time and assuming the Spinco Dividend has not been paid and the Distribution has not occurred and excluding any consumption Tax refund owed by a Japanese Tax authority to a member of the Spinco Group that is received by such member after the Cut-Off Time (the "Spinco Dividend True-Up"); provided, further that each such amount will be calculated after giving effect to the cost of any foreign exchange currency conversions based on the foreign currency exchange rates listed by The Wall Street Journal as of the applicable date and time. If the amount of the Spinco Dividend True-Up is greater than the amount of the Spinco Dividend, Spinco shall pay such difference to WDC, and if the amount of the Spinco Dividend True-Up is less than the amount of the Spinco Dividend, then WDC shall pay Spinco an amount equal to the absolute value of such difference. WDC and Spinco agree to treat any payment pursuant to the foregoing sentence as an adjustment to the Spinco Dividend for U.S. federal income tax purposes.

3.5 Subsequent Distributions.

(a) WDC shall (i) be entitled to retain the Retained Stock until the time of a Subsequent Distribution, and (ii) dispose of the Retained Stock pursuant to one or more Subsequent Distributions within twelve (12) months of the Distribution Date. WDC shall, in its sole and absolute discretion, determine whether to effectuate a Subsequent Distribution through one or more Clean-Up Distributions, Debt Exchanges or combination thereof.

(b) To the extent WDC determines to effectuate a Subsequent Distribution as a Debt Exchange, such Debt Exchange shall be effected by means of an intermediated exchange with the Debt Exchange Parties based on arm's-length terms and conditions, which terms and conditions shall allocate to the Debt Exchange Parties any risk of loss with respect to any Exchange Debt subject to such Debt Exchange and the Retained Stock transferred to any such Debt Exchange Parties pursuant to such Debt Exchange. All profit gained by any Debt Exchange Party shall solely be for such Debt Exchange Party's account and no such profit shall inure to the benefit of WDC, Spinco or their respective Affiliates.

(c) Spinco shall cooperate with WDC in all respects to accomplish any Subsequent Distribution and shall, at WDC's direction, promptly take any and all reasonable actions necessary or desirable to effect any Subsequent Distribution, including the registration under the Securities Act of the offering of the Retained Stock on an appropriate registration form or forms to be designated by WDC and the filing of any necessary documents pursuant to the Exchange Act and the prompt provision of such financial and other information that may be requested by WDC pursuant to Section 5 of this Agreement.

(d) WDC shall manage the negotiations in connection with any Subsequent Distribution and shall select any investment bank(s), manager(s), underwriter(s) or dealer-manager(s) in connection with any Subsequent Distribution, as well as any financial printer, solicitation and/or exchange agent and financial, legal, accounting, tax and other advisors and service providers in connection with any Subsequent Distribution. Spinco and WDC, as the case may be, shall provide to the exchange or distribution agent all share certificates (to the extent certificated) or book-entry authorizations (to the extent not certificated) and Spinco shall provide to WDC and the exchange or distribution agent (as directed by WDC) any information required in order to complete any Subsequent Distribution.

4. MUTUAL RELEASES; INDEMNIFICATION

4.1 Release of Pre-Distribution Date Claims.

(a) **Spinco Release**. Except as provided in Section 4.1(c) and Section 4.4, effective as of the Separation Time, Spinco does hereby, for itself and for each other member of the Spinco Group and (to the extent permitted by applicable Law) all Persons who at any time prior to the Separation Time were directors, officers, partners, managers, employees or agents of any member of the Spinco Group (in their respective capacities as such), in each case, together with their respective heirs, executors, administrators, predecessors, successors and assigns, release and forever discharge each of the WDC Indemnitees from any and all Liabilities whatsoever (including any right of contribution), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur on or before the Separation Time, or any conditions existing or alleged to have existed on or before the Separation Time, including in connection with the transactions and all other activities to implement the Internal Restructuring contemplated by this Agreement or any Ancillary Agreement. Without limitation, the foregoing release includes a release of any rights and benefits with respect to such Liabilities that Spinco and each member of the Spinco Group, and their respective successor and assigns, now has or in the future may have conferred upon them by virtue of any Law which provides that a general release does not extend to claims which a party does not know or suspect to exist in its favor at the time of executing the release, if knowledge of such claims would have materially affected such party's settlement with the obligor. In this connection, Spinco hereby acknowledges that it is aware that factual matters now unknown to it may have given or may hereafter give rise to Liabilities that are presently unknown, unanticipated and unsuspected, and it further agrees that this release has been negotiated and agreed upon in light of that awareness and it nevertheless hereby intends to release the WDC Indemnitees from the Liabilities described in the first sentence of this Section 4.1(a). Notwithstanding the foregoing, the release described in this Section 4.1(a) shall not apply with respect to obligations from and after the Separation Time under or relating to the Contracts referred to in Section 1.7(b)(iii).

(b) **WDC Release**. Except as provided in Section 4.1(c) and Section 4.3, effective as of the Separation Time, WDC does hereby, for itself and for each other member of the WDC Group and (to the extent permitted by applicable Law) all Persons who at any time prior to the Separation Time were directors, officers, partners, managers, employees or agents of any member of the WDC Group (in their respective capacities as such), in each case, together with their respective heirs, executors, administrators, predecessors, successors and assigns, release and forever discharge each of the Spinco Indemnitees from any and all Liabilities whatsoever (including any right of contribution), whether arising under any Contract, by operation of Law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur on or before the Separation Time or any conditions existing or alleged to have existed on or before the Separation Time, including in connection with the transactions and all other activities to implement the Internal Restructuring contemplated by this Agreement or any Ancillary Agreement. Without limitation, the foregoing release includes a release of any rights and benefits with respect to such Liabilities that WDC and each member of the WDC Group, and their respective successor and assigns, now has or in the future may have conferred upon them by virtue of any Law which provides that a general release does not extend to claims which a party does not know or suspect to exist in its favor at the time of executing the release, if knowledge of such claims would have materially affected such party's settlement with the obligor. In this connection, WDC hereby acknowledges that it is aware that factual matters now unknown to it may have given or may hereafter give rise to Liabilities that are presently unknown, unanticipated and unsuspected, and it further agrees that this release has been negotiated and agreed upon in light of that awareness and it nevertheless hereby intends to release the Spinco Indemnitees from the Liabilities described in the first sentence of this Section 4.1(b). Notwithstanding the foregoing, the release described in this Section 4.1(b) shall not apply with respect to obligations from and after the Separation Time under or relating to the Contracts referred to in Section 1.7(b)(iii).

(c) **No Impairment**. Nothing contained in Section 4.1(a) or Section 4.1(b) shall: (i) limit or otherwise affect any Person's rights or obligations pursuant to or contemplated by, or ability to enforce, this Agreement or any Ancillary Agreement in each case in accordance with its terms, including (A) the obligation of Spinco to assume and satisfy the Flash Liabilities; (B) the obligation of WDC to retain, assume and satisfy the Excluded Liabilities; (C) the obligations of WDC and its Affiliates to Convey the Flash Assets free and clear of all Liens (other than Permitted Liens) in accordance with this Agreement; and (D) the obligations of WDC and Spinco to perform their obligations and indemnify each other under this Agreement, including pursuant to Section 3.4 and this Section 4, and the Ancillary Agreements and any Liabilities arising out of or resulting herefrom or therefrom; (ii) apply to any Liability the release of which would result in the release of any Person other than a Person expressly released pursuant to Section 4.1(a) or Section 4.1(b); (iii) apply to any Liability or claim that any individual may have under any employment or benefit arrangement; or (iv) release or discharge any Person from, or waive any rights under, any Liability provided in or resulting from (x) any Contract to which any member of the Spinco Group, on the one hand, and any WDC Group, on the other hand, is a party, that does not terminate as of the Distribution Date in accordance with Section 1.7, or (y) fraud (collectively, the Liabilities and obligations referred to in this Section 4.1(c) and the last sentence of Section 4.1(d), the "**Retained Claims**").

(d) **No Actions as to Released Claims**. Following the Separation Time, (i) Spinco shall not, and shall cause each other member of the Spinco Group not to, make any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution, recovery or any indemnification, against any WDC Indemnitees (in each case, other than in respect of the Retained Claims) and (ii) WDC shall not, and shall cause each other member of the WDC Group not to, make any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution, recovery or any indemnification, against any Spinco Indemnitees (in each case, other than in respect of the Retained Claims). In addition, (x) nothing in this Section 4.1 shall release Spinco or any other member of the Spinco Group from indemnifying any current or former director, officer, manager, employee or agent of WDC or any other member of the WDC Group who was a director, officer, manager, employee or agent of Spinco or any other member of the Spinco Group prior to the Distribution Date if such Person was entitled to a right of indemnification pursuant to the organizational documents of Spinco or any Spinco Sub or pursuant to any Contract, it being understood that if the underlying obligation giving rise to such right to indemnification is an Excluded Liability retained by WDC or any other member of the WDC Group, WDC shall indemnify Spinco for such Liability (including Spinco's costs to indemnify such director, officer, manager, employee or agent) in accordance with the provisions in Section 4.4 and (y) nothing in this Section 4.1 shall release WDC or any other member of the WDC Group from indemnifying any current or former director, officer, manager, employee or agent of Spinco or any other member of the Spinco Group who was a director, officer, manager, employee or agent of WDC or any other member of the WDC Group prior to the Distribution Date if such Person was entitled to a right of indemnification pursuant to the organizational documents of WDC or any other member of the WDC Group or pursuant to any Contract, it being understood that if the underlying obligation giving rise to such right to indemnification is a Flash Liability retained by Spinco or any other member of the Spinco Group, Spinco shall indemnify WDC for such Liability (including WDC's costs to indemnify such director, officer, manager, employee or agent) in accordance with the provisions in Section 4.3.

4.2 Survival. The covenants in this Agreement or any Ancillary Agreement that by their terms are to be performed following the Separation Time will survive each of the Internal Restructuring and the Distribution and will remain in full force and effect in accordance with their terms (unless such Ancillary Agreement expressly provides for separate indemnification therein, in which case any such indemnification claims and survival of such covenants will be made thereunder). For the avoidance of doubt, in the event notice of any claim for indemnification under this Section 4 has been given in accordance with Section 4.6 in good faith with reasonable specificity within the applicable survival period, the representations, warranties, covenants and agreements relating to such claim shall survive with respect to such claim until such claim is finally resolved.

4.3 Indemnification by the Spinco Group. From and after the Separation Time, each member of the Spinco Group shall, on a joint and several basis, indemnify, defend (or, where applicable, pay the defense costs for) and hold harmless the WDC Indemnitees from and against, and shall reimburse such WDC Indemnitees with respect to, any and all Losses that proximately result from any of the following items (without duplication):

(a) any Flash Liabilities, including, after the Separation Time, the failure of Spinco or any other member of the Spinco Group or any other Person to pay, perform, fulfill, discharge and, to the extent applicable, comply with, in due course and in full, any such Flash Liabilities; and

(b) any breach of, or failure to perform, by Spinco or any other member of the Spinco Group any covenants or obligations to be performed from and after the Separation Time by such Persons pursuant to this Agreement or the Ancillary Agreements, unless such Ancillary Agreement expressly provides for separate indemnification therein, in which case any such indemnification claims will be made thereunder.

4.4 Indemnification by WDC. From and after the Separation Time, WDC shall indemnify, defend (or, where applicable, pay the defense costs for) and hold harmless the Spinco Indemnitees from and against, and shall reimburse such Spinco Indemnitees with respect to, any and all Losses that proximately result from any of the following items (without duplication):

(a) any Excluded Liabilities, including the failure of WDC or any other member of the WDC Group or any other Person to pay, perform, fulfill, discharge and, to the extent applicable, comply with, in due course and in full, any such Excluded Liabilities; and

(b) any breach of, or failure to perform, by WDC or any other member of the WDC Group any covenants or obligations to be performed from and after the Separation Time by such Persons pursuant to this Agreement or the Ancillary Agreements, unless such Ancillary Agreement expressly provides for separate indemnification therein, in which case any such indemnification claims will be made thereunder.

4.5 Limitations on Indemnification. No Indemnitee shall be entitled to indemnification more than once with respect to the same matter, whether pursuant to the indemnification provided for in this Section 4 or any other remedy provided under this Agreement, any Ancillary Agreement.

4.6 Procedures for Indemnification.

(a) An Indemnitee shall give the Indemnifying Party notice of any matter that an Indemnitee has determined has given or would reasonably be expected to give rise to a right of indemnification under this Agreement (other than a Third-Party Claim, which shall be governed by this Section 4.6) within twenty (20) Business Days of such determination, stating the amount of the Loss claimed, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed by such Indemnitee or arises; *provided, however*, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations except and solely to the extent the Indemnifying Party shall have been actually and materially prejudiced as a result of such failure.

(b) If a claim or demand is made against a WDC Indemnitee or a Spinco Indemnitee (each, an "**Indemnitee**") by any Person who is not a Party or an Affiliate of a Party (a "**Third-Party Claim**") as to which such Indemnitee is or reasonably expects to be entitled to indemnification pursuant to this Agreement, such Indemnitee shall promptly (and in any event by no later than thirty (30) calendar days after receipt by such Indemnitee of written notice of the Third-Party Claim) notify the Party that is or may be required pursuant to this Section 4 or pursuant to any Ancillary Agreement to make such indemnification (the "**Indemnifying Party**") in writing, and in reasonable detail, of the Third-Party Claim and provide copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim as of the date of such notice by the Indemnitee to the Indemnifying Party. With respect to notices and documents (including court papers) relating to the Third-Party Claim received by the Indemnitee after the date of such notice by the Indemnitee to the Indemnifying Party, the Indemnitee shall promptly (and in any event by no later than ten (10) Business Days after the Indemnitee's receipt thereof) deliver to the Indemnifying Party copies of such notices and documents. However the failure to provide notice of any such Third-Party Claim or any subsequent notices or documents pursuant to this clause shall not release the Indemnifying Party from any of its obligations except and solely to the extent the Indemnifying Party shall have been actually and materially prejudiced as a result of such failure (except that the Indemnifying Party or Indemnifying Parties shall not be liable for any expenses incurred by the Indemnitee in defending such Third-Party Claim during the period in which the Indemnitee failed to give such notice).

(c) Other than in the case of any Liability being managed by a Party in accordance with any Ancillary Agreement or as provided in Section 4.8(a) and 4.6(d), an Indemnifying Party shall be entitled (but shall not be required) to assume, control the defense of, and, subject to Section 4.6(f), settle any Third-Party Claim, at such Indemnifying Party's own cost and expense and by such Indemnifying Party's own counsel, which counsel must be reasonably acceptable to the applicable Indemnitees, if it gives written notice of its intention to do so and agreement that the Indemnitee is entitled to indemnification under this Section 4 to the applicable Indemnitees within the earlier of (i) thirty (30) calendar days of the receipt of notice from such Indemnitees of the Third-Party Claim and (ii) ten (10) Business Days before the due date for the answer or response to a claim. After such notice from an Indemnifying Party to an Indemnitee of its election to assume the defense of a Third-Party Claim, such Indemnitee shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise or settlement thereof, at its own expense and, in any event, shall reasonably cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party all witnesses, pertinent and material Information and materials in such Indemnitee's possession or under such Indemnitee's control relating thereto as are reasonably required by the Indemnifying Party; *provided, however*, that such access shall not require the Indemnitee to disclose any information the disclosure of which would, in the reasonable judgment of the Indemnitee, result in the loss of any existing Privileges with respect to such information or violate any applicable Law.

(d) Notwithstanding anything to the contrary in this Section 4.6, in the event that: (i) an Indemnifying Party elects not to assume responsibility for defending a Third-Party Claim; (ii) there exists a conflict of interest or potential conflict of interest, as reasonably determined by counsel for the Indemnitee, between the Indemnifying Party and the applicable Indemnitee(s); (iii) a Third-Party Claim primarily seeks criminal culpability or an order, injunction or other equitable relief or relief for other than money damages against the Indemnitee; or (iv) the party making such Third-Party Claim is a Governmental Authority with (A) regulatory authority over the Indemnitee or any of its material Assets or (B) authority to bring a criminal charge against the Indemnitee, such Indemnitee(s) shall be entitled to assume the defense of such Third-Party Claim, at the Indemnifying Party's expense, with counsel of such Indemnitee's choosing. If the Indemnitee is conducting the defense against any such Third-Party Claim, the Indemnifying Party shall reasonably cooperate with the Indemnitee in such defense and make available to the Indemnitee all witnesses, pertinent and material Information and materials in such Indemnifying Party's possession or under such Indemnifying Party's control relating thereto as are reasonably required by the Indemnitee pursuant to a joint defense agreement to be entered into by Indemnitee and the Indemnifying Party; *provided, however*, that such access shall not require the Indemnifying Party to disclose any information the disclosure of which would, in the reasonable judgment of the Indemnifying Party, result in the loss of any existing Privileges with respect to such information or violate any applicable Law.

(e) No Indemnitee may settle, compromise or admit liability with respect to any Third-Party Claim without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed. If an Indemnifying Party has elected not to assume the defense of the Third-Party Claim, it shall not be a defense to any obligation to pay any amount in respect of such Third-Party Claim that the Indemnifying Party was not consulted in the defense thereof, that such Indemnifying Party's views or opinions as to the conduct of such defense were not accepted or adopted, that such Indemnifying Party does not approve of the quality or manner of the defense thereof or that such Third-Party Claim was incurred by reason of a settlement rather than by a judgment or other determination of liability.

(f) In the case of a Third-Party Claim, no Indemnifying Party shall consent to entry of any judgment or enter into any settlement of the Third-Party Claim without the consent (not to be unreasonably withheld, conditioned or delayed) of the Indemnitee if (i) the effect thereof is to permit any criminal culpability, injunction, declaratory judgment, other order or other non-monetary relief to be entered, directly or indirectly, against any Indemnitee, (ii) such settlement does not release the Indemnitee from all liabilities and obligations with respect to such Third-Party Claim, (iii) such settlement includes an admission of guilt, liability, criminal culpability or violation of Law by or on behalf of the Indemnitee, or (iv) the Indemnifying Party is not obligated to or cannot pay the full amount of Losses arising from such judgment or settlement.

(g) For the avoidance of doubt, the provisions of this Section 4.6 shall not apply to Tax Contests which shall be governed exclusively by the Tax Matters Agreement.

(h) Except as otherwise provided in Section 9.4 or any Ancillary Agreement, following the Separation Time, the indemnification provisions of this Section 4 shall be the sole and exclusive remedy of an Indemnitee for any monetary or compensatory damages or Losses resulting from any breach of this Agreement (including with respect to monetary or compensatory damages or Losses arising out of or relating to, as the case may be, any Flash Liability or Excluded Liability) or any Ancillary Agreement.

(i) Notwithstanding anything to the contrary in this Section 4.6, in the event of any conflict or inconsistency between this Section 4.6(i), and any other provision of Section 4.6, the following provisions shall control with respect to any Third-Party Claim in respect of any Shared Liabilities; *provided*, *however*, that nothing in this Section 4.6(i) shall alter or amend the allocation of responsibilities for Shared Liabilities set forth in Section 1.6. If a Third-Party Claim in respect of any Shared Liabilities is made against a Party, then (A) such Party shall assume the defense of such Third-Party Claim with counsel of such Party's choosing (subject to the approval of the other Party, such approval not to be unreasonably withheld, conditioned or delayed), with both Parties sharing equally the total fees, costs and expenses incurred in connection with such defense, and (B) any Indemnitee affiliated with such Party (other than a member of the WDC Group or Spinco Group) that is or becomes a named party to the same Third-Party Claim shall be represented by the same counsel as such Party; *provided*, *however*, that notwithstanding the foregoing, in the event there is, in the reasonable opinion of the joint counsel referenced herein, a material conflict of interest between or among any of the Persons referenced in this sentence, then each such Person that is subject to any such conflict shall be entitled to their own counsel in connection with such Third-Party Claim, and the expenses of such separate counsel shall be shared equally by the Parties. The Parties shall reasonably cooperate and consult with each other regarding any Third-Party Claim in respect of any Shared Liabilities, including with respect to the defense thereof. Any Indemnitee that is not a member of the WDC Group or Spinco Group shall reasonably cooperate with the Parties regarding any Third-Party Claim in respect of any Shared Liabilities. Each Party shall make available to the other Party all witnesses, pertinent and material Information and materials in such Party's possession or under such Party's control, in each case, to the extent such witnesses, pertinent and material Information and materials are reasonably required in connection with a Third-Party Claim in respect of any Shared Liabilities; *provided, however*, that such access shall be made pursuant to a joint defense agreement; *provided further* that such access shall not require a Party to disclose any information the disclosure of which would, in the reasonable judgment of the such Party, result in the loss of any existing Privileges with respect to such information or violate any applicable Law. Notwithstanding anything to the contrary herein, no Party will settle, compromise or admit liability with respect to any Third-Party Claim regarding any Shared Liability without the consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed).

4.7 Calculation of Losses. The amount of any Loss that is indemnifiable under this Section 4 will be net of any proceeds actually received by the Indemnitee from any third party (net of any deductible or retention amount or any other third-party costs or expenses incurred by the Indemnifying Party in obtaining such recovery) for indemnification for such Loss that actually reduce the amount of the Loss ("**Third-Party Proceeds**"). Accordingly, the amount which any Indemnifying Party is required to pay pursuant to this Section 4 to any Indemnitee pursuant to this Section 4 will be reduced by Third-Party Proceeds theretofore actually recovered by or on behalf of the Indemnitee in respect of the related Loss. If an Indemnitee receives a payment required by this Agreement from an Indemnifying Party in respect of any Loss (an "**Indemnity Payment**") and subsequently receives Third-Party Proceeds, then the Indemnitee will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Third-Party Proceeds had been received, realized or recovered before the Indemnity Payment was made. The Indemnitee shall use commercially reasonable efforts to seek to collect or recover any Third-Party Proceeds to which the Indemnitee is entitled in connection with any Liability for which the Indemnitee seeks contribution or indemnification pursuant to this Section 4; *provided, however*, that the Indemnitee's inability to collect or recover any such Third-Party Proceeds shall not limit the Indemnifying Party's obligations hereunder.

4.8 Certain Actions; Substitution; Subrogation.

(a) **Certain Actions**. Notwithstanding anything to the contrary set forth in Section 4.6, and subject to the provisions of the Tax Matters Agreement, which shall remain exclusive as to Tax matters, and except to the extent there are actual or potential conflicts of interest between WDC and Spinco with respect to a particular Action (i) WDC may elect to have exclusive authority and control over the investigation, prosecution, defense, appeal and settlement of any and all Actions pending at the Separation Time to the extent the Action relates exclusively to an Excluded Asset and/or Excluded Liability and as to which, solely, a member or members of the WDC Group (and not any member of the Spinco Group) is named as a target or defendant thereunder, (ii) Spinco may elect to have exclusive authority and control over the investigation, prosecution, defense, appeal and settlement of any and all Actions pending at the Separation Time to the extent the Action relates exclusively to a Flash Asset and/or Flash Liability and as to which, solely, a member or members of the Spinco Group (and not any member of the WDC Group) is named as a target or defendant thereunder and (iii) WDC and Spinco will have joint authority and control over the investigation, prosecution, defense, appeal and settlement of any and all Actions pending at the Separation Time which relate to or arise out of the Flash Business, the Flash Assets or the Flash Liabilities and as to which a member of the WDC Group (other than Spinco and the Spinco Subs) is named as a target or defendant thereunder, irrespective of whether a member of the Spinco Group is also named as a target or defendant thereunder (such Actions, a "**Joint Control Action**"). Notwithstanding the foregoing, in any Action in which both members of the Spinco Group and members of the WDC Group are named parties or that implicates both the Spinco Group, on the one hand, and the WDC Group, on the other hand, in a material respect, including due to the reasonably foreseeable impact on the business of WDC, on the one hand, or Spinco, on the other hand, then such Action shall be deemed to be a Joint Control Action and WDC and Spinco will have joint authority and control over the investigation, prosecution, defense, appeal and settlement of the action each at their own cost. In connection with any Joint Control Action, the Parties shall reasonably consult with each other on a regular basis with respect to strategy and material developments with respect to such action, and no Party may settle or compromise or consent to the entry of judgment in such Action without the consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. The payment of any settlement or judgment in matters pursuant to which WDC and Spinco have joint authority shall be determined in accordance with the extent to which such settlement relates to a Flash Liability or an Excluded Liability, respectively.

(b) **Substitution**. In the event of an Action that involves solely matters that are indemnifiable and in which the Indemnifying Party is not a named defendant, if either the Indemnitee or the Indemnifying Party so requests, the Parties shall use commercially reasonable efforts to substitute the Indemnifying Party for the named but not liable defendant to be removed from such Action and such defendants shall not be required to make any payments or contribution in connection therewith (regardless if such removal is successful or not). If such substitution or addition cannot be achieved for any reason or is not requested, the rights and obligations of the Parties regarding indemnification and the management of the defense of claims as set forth in this Section 4 shall not be affected.

(c) **Subrogation**. In the event of payment by or on behalf of any Indemnifying Party to or on behalf of any Indemnitee in connection with any Third-Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee, in whole or in part based upon and in proportion to the amount of the Indemnitee's Liability that the Indemnifying Party has paid, as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third-Party Claim against any claimant or plaintiff asserting such Third-Party Claim or against any other Person. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

4.9 Payments. Indemnification required by this Section 4 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or an indemnifiable Loss is incurred. The applicable Indemnitee shall deliver to the Indemnifying Party, upon request, reasonable documentation setting forth the basis for the amount of such payments, including documentation with respect to calculations made and consideration of any Third-Party Proceeds that actually reduce the amount of such indemnifiable Losses; *provided* that the delivery of such documentation shall not be a condition to the payments described in the first sentence of this Section 4.9, but the failure to deliver such documentation may be the basis for the Indemnifying Party to contest whether the applicable Loss or Liability was incurred by the applicable Indemnitee.

4.10 Non-Applicability to Taxes. Except as otherwise specifically provided herein, Tax matters shall be exclusively governed by the Tax Matters Agreement and, in the event of any inconsistency between the Tax Matters Agreement and this Agreement, the Tax Matters Agreement shall control. Indemnification for Tax matters (including procedures relating thereto) shall be exclusively governed by the Tax Matters Agreement.

4.11 Characterization of and Adjustment to Payments.

(a) In the absence of any change in Tax treatment under the Code or except as otherwise required by other applicable Tax Law, any indemnity payments made under this Agreement shall be reported for Tax purposes by the payor and the recipient as distributions or capital contributions, as appropriate, occurring immediately before the Distribution or as payments of an assumed or retained Liability. Any indemnity payment made under this Agreement shall be increased as necessary so that after making all payments in respect to Taxes imposed on or attributable to such indemnity payment, the recipient receives an amount equal to the sum it would have received had no such Taxes been imposed.

(b) Payments of interest shall be treated as deductible by the payor Party or its relevant Subsidiary and as income to the payee Party or its relevant Subsidiary, as permitted and applicable.

(c) In the case of each of the foregoing, no Party shall take any position inconsistent with such treatment. In the event that a Taxing Authority asserts that a Party's treatment of a payment pursuant to this Agreement should be other than as set forth in this Section 4.11, such Party shall use its commercially reasonable efforts to contest (at the Indemnifying Party's expenses) such challenge.

5. ACCESS TO INFORMATION

5.1 Access to Personnel and Property.

(a) WDC and Spinco shall use commercially reasonable efforts to preserve all written Information reasonably related to the other Party until the latest of (the "**Preservation Period**") (i) the date on which the Information is no longer required to be retained under the retaining party's record retention policies as in effect immediately prior to the Distribution, including without limitation, pursuant to any litigation hold issued by the retaining party or any of its Subsidiaries prior to the Distribution; (ii) the concluding date of any period as may be required by applicable Law; and (iii) the concluding date of any period during which such Information relates to a pending or threatened Action which is known to the retaining party or its Group in possession of such Information at the time any retention obligation with regard to such Information would otherwise expire; provided that with respect to any pending or threatened Action arising after the Distribution, clause (iii) of this sentence applies only to the extent that the retaining party or its Group in possession of such Information has been notified in writing pursuant to a litigation hold by the other Party of the relevant pending or threatened Action; provided that each Party shall use commercially reasonable efforts to, within a reasonable time following the expiration of the Preservation Period for such Information and upon request of the other Party, purge from its databases, files and other systems or otherwise make unreadable or inaccessible such Information to the extent it is Confidential Information of such other Party; provided, further, that no Party shall be in breach of this Section 5.1(a) if such Party does not have knowledge that certain Information is within its possession, custody or control.

(b) During the Preservation Period, each of WDC and Spinco shall use commercially reasonable efforts to afford to the other and the Representatives of each, at such requesting Party's expense on a time and materials basis, reasonable access during normal business hours, subject to the restrictions for Privileges (as defined below) or Confidential Information set forth in this Agreement and to the requirements of any applicable Law (including, without limitation, any applicable requirements relating to privacy or disclosure of personal information such as a code of conduct or standard of conduct (*provided*, *however*, that the Party restricting any access on the basis of Privilege or requirements of Law shall notify the Party of the access being so restricted and the reasons on which such access is restricted and will arrange for appropriate substitute access or disclosure)), to the personnel, properties and Information of such Party and its Subsidiaries insofar as such access is reasonably required by the requesting Party (including as may be reasonably necessary to prosecute, maintain or enforce Intellectual Property Rights that are Excluded Assets (in the case of WDC as the requesting Party) or Flash Assets (in the case of Spinco as the requesting Party) in the ordinary course of business), upon the reasonable prior written request by such Party for access to reasonably specific and reasonably identified personnel, properties and Information, and only for the duration such access is reasonably requested and required by the requesting Party, and (x) relates to such requesting Party; (y) relates to, in the case of requests from WDC, the Flash Assets prior to the Separation Time solely as may be reasonably necessary in connection with the prosecution or defense of any Action for which the requesting Party may have Liability under, or may have rights pursuant to the assets Conveyed pursuant to, this Agreement (except for claims, demands or Actions between members of each Group) or the Excluded Assets, and in the case of requests from Spinco, the Excluded Assets prior to the Separation Time solely as may be reasonably necessary in connection with the prosecution or defense of any Action for which the requesting Party may have Liability under, or may have rights pursuant to the assets Conveyed pursuant to, this Agreement (except for claims, demands or Actions between members of each Group) or the Flash Assets; or (z) is reasonably required by a Party to perform its obligations under this Agreement or any Ancillary Agreement to which such Party or any of its Affiliates is a party; *provided, however*, that the Party providing such access (1) shall review any Information that is made accessible to the other Party prior to granting such access to ensure that any such Information is responsive to the requesting Party's request for access and (2) may require that such Representatives execute a confidential non-disclosure agreement agreeing to be bound by the provisions of this Section 5, unless such individual is already subject to a non-disclosure agreement containing at least substantially the same terms and conditions as this Section 5 with respect to Confidential Information; *provided, further*, that nothing in this Section 5.1 shall be deemed to grant Spinco or any Spinco Sub, on the one hand, or WDC or any Subsidiary of WDC, on the other hand, any license, easement, servitude or similar right with respect to any real property or Intellectual Property Rights (without limiting the Transitional Trademark License Agreement or the Intellectual Property Cross-License Agreement) that are an Excluded Asset or a Flash Asset, respectively. For the avoidance of doubt, the Tax Matters Agreement, and not this Section 5.1, shall govern access to and the retention and exchange of Tax Returns, schedules and work papers and all material records or other documents relating to Tax matters.

5.2 Witness Services. Subject to Section 5.3, during the Preservation Period, each of WDC and Spinco shall use its commercially reasonable efforts to make available to the other, upon reasonable prior written request, its and its Subsidiaries' directors, officers, employees and agents (taking into account the work schedules and other commitments of such Persons) as witnesses to the extent that (a) such Persons may reasonably be required to testify in connection with the prosecution or defense of any Action for which the requesting Party may have Liability under this Agreement or in connection with the Transactions (except for claims, demands or Actions between members of each Group) or the enforcement of any rights included in the Flash Assets (in the case of Spinco as the requesting Party) or the Excluded Assets (in the case of WDC as the requesting Party), including enforcement of Intellectual Property Rights, or the defense of any rights included in the Flash Assets (in the case of Spinco as the requesting Party) or the Excluded Assets (in the case of WDC as the requesting Party), including the defense of Intellectual Property Rights from challenges to the validity, enforceability or ownership thereof and (b) there is no adversity in the Action between the requesting Party and the other Party except for the time and effort required in connection with the services of the officers, directors and employees and agents of the other Party. The reasonable and documented out-of-pocket costs and expenses incurred in the provision of such witnesses shall be paid by the Party requesting the availability of such Person.

5.3 Privileged Matters.

(a) The respective rights and obligations of the Parties to maintain, preserve, assert or waive any or all privileges belonging to either Party or its Subsidiaries with respect to the Flash Business or the other businesses of WDC, including the attorney-client and work product privileges (collectively, "**Privileges**"), will be governed by the provisions of this Section 5.3.

(b) Notwithstanding anything to the contrary contained herein, (i) WDC shall have the sole authority to assert or waive all Privileges with respect to communications and work product that (x) involve, or were made by, any attorney or attorneys representing any party or parties within the WDC Group and/or the Spinco Group, (y) existed at any time at or prior to the Separation Time and (z) either (1) do not relate to the Flash Business, the Flash Assets or the Flash Liabilities, or (2) relate to the consummation of the Transactions, including the negotiation and execution of this Agreement and the Ancillary Agreements (but excluding any Privileges to the extent related to any Shared Liabilities) (the "**WDC Pre-Separation Privileged Materials**") and (ii) Spinco shall have the sole authority to assert or waive all Privileges with respect to communications and work product that (x) involve, or were made by, any attorney or attorneys representing any party or parties within the WDC Group and/or the Spinco Group, (y) existed at any time at or prior to the Separation Time and (z) relate solely to the Flash Business, the Flash Assets and/or the Flash Liabilities (the "**Spinco Pre-Separation Privileged Materials**", and the WDC Pre-Separation Privileged Materials or the Spinco Pre-Separation Privileged Materials, the "**Exclusive Pre-Separation Privileged Materials**").

(c) With respect to communications and work product protected by any Privileges that (x) involve, or were made by, an attorney or attorneys representing any party or parties within the WDC Group and/or the Spinco Group, (y) existed at any time at or prior to the Separation Time, and (z) do not constitute Exclusive Pre-Separation Privileged Materials (the "**Shared Pre-Separation Privileged Materials**"), WDC shall retain all applicable Privileges; *provided*, *however*, that (i) WDC shall not waive any Privilege with respect to Shared Pre-Separation Privileged Materials without the prior written consent of Spinco, such consent not to be unreasonably withheld, and (ii) WDC shall provide Spinco and members of the Spinco Group with reasonable access to such Shared Pre-Separation Privileged Materials. In connection with affording Spinco or any member of the Spinco Group access to such Shared Pre-Separation Privileged Materials, the Parties and their respective Group's shall cooperate with one another to take appropriate steps to preserve the Privileges afforded to such Shared Pre-Separation Privileged Materials, including by entering into a common interest and joint defense agreement or such other steps as may be reasonably necessary in order to preserve the Privileges afforded to such Shared Pre-Separation Privileged Materials.

(d)

(i) Upon receipt by a Party or any of its Affiliates, as the case may be, of any subpoena, discovery or other request from any third party that actually or arguably calls for the production or disclosure of Exclusive Pre-Separation Privileged Materials of the other Party, or if a Party, or any of its Affiliates, as the case may be, obtains knowledge that any current or former employee of such Party or its Affiliates, as the case may be, receives any subpoena, discovery or other request from any third party that actually or arguably calls for the production or disclosure of the other Party's Exclusive Pre-Separation Privileged Materials, such Party will promptly notify the other Party of the existence of the request and, to the extent legally permissible, provide such other Party with prompt written notice of the existence, terms and circumstances surrounding such request or requirement so that such other Party may (A) seek an injunction, protective order or other appropriate remedy or (B) waive compliance with the provisions of this Agreement. Any such communications required to be disclosed shall not be used against the Party to whom such Exclusive Pre-Separation Privileged Materials belong in any claim between the Parties.

(ii) Upon receipt by a Party or any of its Affiliates, as the case may be, of any subpoena, discovery or other request from any third party that actually or arguably calls for the production or disclosure of Shared Pre-Separation Privileged Materials, or if a Party or any of its Affiliates, as the case may be, obtains knowledge that any current or former employee of such Party or its Affiliates, as the case may be, receives any subpoena, discovery or other request from any third party that actually or arguably calls for the production or disclosure of Shared Pre-Separation Privileged Materials, such Party will promptly notify the other Party of the existence of the request and, to the extent legally permissible, provide the other Party with prompt written notice of the existence, terms and circumstances surrounding such request or requirement so that the Parties may (A) seek an injunction, protective order or other appropriate remedy or (B) waive compliance with the provisions of this Agreement. No Shared Pre-Separation Privileged Materials shall be used against either Party in any dispute between the Parties.

(e)

(i) Any attorney-client relationship between any member of the Spinco Group, on the one hand, and any attorney employed by any member of the WDC Group as of the Separation Time, on the other hand, shall automatically terminate at the Separation Time. Each member of the Spinco Group hereby waives any conflict with respect to the continued representation of any member of the WDC Group by such attorney and, if so required, agrees to execute a written waiver of such continued representation.

(ii) Any attorney-client relationship between any member of the WDC Group, on the one hand, and any attorney employed by any member of the Spinco Group as of the Separation Time, on the other hand, shall automatically terminate at the Separation Time. Each member of the WDC Group hereby waives any conflict with respect to the continued representation of any member of the Spinco Group by such attorney and, if so required, agrees to execute a written waiver of such continued representation.

6. ADDITIONAL AGREEMENTS

6.1 Further Assurances; Cooperation.

(a) Subject to the limitations or other provisions of this Agreement and any Ancillary Agreement: (i) each of the Parties shall use commercially reasonable efforts (subject to, and in accordance with, applicable Law) to take promptly, or cause to be taken promptly, all actions, and to do promptly, or cause to be done promptly, and to assist and cooperate with the other Party in doing, all things reasonably necessary, proper or advisable to consummate and make effective the Transactions and carry out the intent and purposes of this Agreement and the Ancillary Agreements, including (x) using commercially reasonable efforts to obtain satisfaction of the conditions precedent to each Party's obligations hereunder or in any Ancillary Agreement within its reasonable control; (y) performing all covenants and agreements herein or in any Ancillary Agreement applicable to such Party; and (z) executing and delivering any Transfer Document; and (ii) none of the Parties will, without the prior written consent of the other applicable Party, take any action which would reasonably be expected to prevent or materially impede, interfere with or delay the Transactions. Without limiting the generality of the foregoing, where the cooperation of third parties, such as insurers or trustees, would be necessary in order for a Party to completely fulfill its obligations under this Agreement or the Ancillary Agreements, such Party shall use commercially reasonable efforts to cause such third parties to provide such cooperation. Nothing in this Section 6.1 will operate to affect the rights and obligations of the Parties under Section 1 and Section 2.

(b) To the extent that any Ancillary Agreements, or schedules or exhibits thereto (including, for example, the Services Schedule and the Data Processing Addendum referred to in the Transition Services Agreement) are specified to be completed following the date hereof, the Parties shall mutually agree upon the terms, covenants, agreements and contents of such items in good faith, except to the extent a different standard for completion of such item is specified elsewhere in this Agreement or the other Ancillary Agreements, in which case such specifically specified standard for completion shall apply.

6.2 Removal of Tangible Assets. Except as may be otherwise provided in the Ancillary Agreements or otherwise agreed to by the Parties, the Parties shall reasonably cooperate, after the Separation Time, with respect to moving or causing to be moved (i) from any facilities of the WDC Group, all tangible Flash Assets and (ii) from any Spinco Real Property, all tangible Excluded Assets, in each case, in a manner so as not to unreasonably interfere with the operations of any member of the WDC Group or Spinco Group and not to cause damage to any facilities or real property.

6.3 Guarantees.

(a) Except as otherwise specified in any Ancillary Agreement, on or prior to the Separation Time or as soon as practicable thereafter, (i) Spinco shall (with the reasonable cooperation of the applicable member of the WDC Group) use its commercially reasonable efforts to novate, assign or replace (including by inserting Spinco as replacement guarantor) any Spinco Guarantee in order to remove or otherwise have released any member of the WDC Group that is a guarantor of or obligor for any such Spinco Guarantee and (ii) WDC shall (with the reasonable cooperation of the applicable member of the Spinco Group) use its commercially reasonable efforts to novate, assign or replace (including by inserting WDC as replacement guarantor) any WDC Guarantee in order to remove or otherwise have released any member of the Spinco Group that is a guarantor of or obligor for any such WDC Guarantee (in each case, any such novation, assignment, replacement, removal or release, a "**Guarantee Release**").

(b) On or prior to the Separation Time, to the extent required to obtain a Guarantee Release:

(i) of any Spinco Guarantee, Spinco will use its commercially reasonable efforts to execute a replacement Spinco Guarantee in the form of the existing Spinco Guarantee (after giving effect to the Guarantee Release) or such other form as is agreed to by the relevant parties to such Spinco Guarantee, except to the extent that such replacement Spinco Guarantee contains representations, covenants or other terms or provisions either (A) with which Spinco would be reasonably unable to comply or (B) which would be reasonably expected to be breached; and

(ii) of any WDC Guarantee, WDC will use its commercially reasonable efforts to execute a replacement WDC Guarantee in the form of the existing WDC Guarantee (after giving effect to the Guarantee Release) or such other form as is agreed to by the relevant parties to such WDC Guarantee, except to the extent that such replacement WDC Guarantee contains representations, covenants or other terms or provisions either (A) with which WDC would be reasonably unable to comply or (B) which would be reasonably expected to be breached.

(c) If a Party is unable to obtain a Guarantee Release prior to the Separation Time, then the other Party will: (i) continue to use its commercially reasonable efforts to obtain a Guarantee Release; (ii) indemnify, defend and hold harmless the other Party and its Affiliates against, and reimburse such Party and its Affiliates for, any Losses of such Party and its Affiliates incurred by them because such Party or its Affiliate is required to make any payment required under any such WDC Guarantee or Spinco Guarantee, as applicable; and (iii) agree not to (and to cause members of their respective Groups not to) renew or extend the term of, increase its obligations under, or transfer to a third party, any loan, guarantee, lease, contract or other obligation for which the other Party or member of such Party's Group is or may be liable, without the prior written consent of such other Party, unless all obligations of such other Party and the other members of such Party's Group with respect thereto are thereupon terminated by documentation reasonably satisfactory in form and substance to such Party. Each Party's commercially reasonable efforts with respect to this Section 6.3 shall not require such Party to take any action that would be reasonably expected to expose it or any other member of its Group to any incremental expenses or losses of benefits. Any costs and expenses incurred by the Parties arising out of or related to the matters set forth in this Section 6.3 shall be borne by the Parties in accordance with Section 9.1.

6.4 Insurance Matters.

(a) Subject to, and other than as set forth in Section 6.4(b), Spinco acknowledges that from and after the Separation Time: (i) any insurance policies maintained by WDC or its Subsidiaries, including any self-insurance, fronted insurance or captive insurance policy or program (the "**WDC Insurance Policies**"), shall not be available, transferred or assigned to Spinco, the Spinco Subs, the Flash Assets or the Flash Business; (ii) Spinco, the Spinco Subs, the Flash Assets and the Flash Business shall cease to be insured by the WDC Insurance Policies; and (iii) Spinco shall be responsible for securing all insurance it deems appropriate for the operation of Spinco, the Spinco Subs, the Flash Assets and the Flash Business.

(b) From and after the Separation Time, Spinco and the Spinco Subs shall have the right to assert claims under the occurrence-based WDC Insurance Policies covering the period prior to the Separation Time, other than any self-insurance, fronted insurance or captive insurance policy or program ("**Shared WDC Policies**"), arising out of any actual or alleged occurrence occurring prior to the Separation Time relating to Spinco, the Spinco Subs, the Flash Assets or the Flash Business ("**Pre-Separation Spinco Claims**"). Except as provided in this Section 6.4(b), from and after the Separation Time, WDC shall have no obligation to Spinco and the Spinco Subs with respect to or under any of the Shared WDC Policies; *provided* that from and after the Separation Time, WDC shall use commercially reasonable efforts to direct any carriers under the Shared WDC Policies to make any available insurance coverage under the Shared WDC Policies available to Spinco, the Spinco Subs, the Flash Assets and the Flash Business for Pre-Separation Spinco Claims; *provided, further*, that (i) all deductibles, retentions, claims handling fees and similar amounts incurred or payable under any such Shared WDC Policies shall be shared in the same proportion as any insurance proceeds actually received by the WDC Group, on the one hand, and the Spinco Group, on the other hand, with respect to any one claim (or related claims) under the relevant Shared WDC Policy and (ii) Spinco shall be solely responsible for any retrospective premium increases to the extent attributable to any Pre-Separation Spinco Claims; *provided, further*, that any amounts due to WDC under this Section 6.4(b) shall be remitted promptly by Spinco to WDC following WDC's written request.

(c) With respect to Pre-Separation Spinco Claims, Spinco and the Spinco Subs shall be solely responsible for the submission, processing, administration and handling of the Pre-Separation Spinco Claims under the Shared WDC Policies; *provided, however*, that at Spinco's reasonable request and sole cost and expense, WDC shall reasonably cooperate with and assist Spinco and the Spinco Subs in the submission, processing, administration and handling of the Pre-Separation Spinco Claims under the Shared WDC Policies.

(d) Spinco and the Spinco Subs shall keep WDC reasonably apprised of any Pre-Separation Spinco Claims under the Shared WDC Policies, and WDC shall have the right to reasonably monitor any such Pre-Separation Spinco Claims under the Shared WDC Policies.

(e) With respect to all Shared WDC Policies, Spinco and the Spinco Subs agree and covenant not to make any claim or assert any rights against WDC or under the Shared WDC Policies except as expressly provided under this Section 6.4.

(f) Notwithstanding anything in this Agreement, (i) WDC shall not be deemed to have made any representation or warranty as to the availability of any coverage under any Shared WDC Policies; (ii) except for Retained Claims or as provided in Section 4.4, neither WDC nor its Subsidiaries shall be liable to Spinco or the Spinco Subs for any claims, or portions thereof, not covered by an insurer under any Shared WDC Policy for any reason, including any deductibles, retentions, policy terms, conditions, exclusions, limitations or restrictions (including erosion or exhaustion of limits), coverage disputes, failure to timely notice a claim by WDC, Spinco or the Spinco Subs, any defect in such claim or its processing or bankruptcy or insolvency of any insurance carrier; and (iii) WDC shall retain all rights to control the Shared WDC Policies, including the right to erode, exhaust, settle, release, commute, buy back or otherwise resolve disputes with respect to any of the Shared WDC Policies, notwithstanding the right of Spinco and the Spinco Subs to make claims under the Shared WDC Policies in accordance with this Section 6.4.

6.5 Casualty and Condemnation(a) . If, between the date hereof and the Separation Time, there shall occur any physical damage to or destruction of, or theft or similar loss of, any of the material tangible Assets described in Section 1.5(a) (a "**Casualty Loss**") or any condemnation or taking by eminent domain by a Governmental Authority of any of the Assets described in Section 1.5(a) (a "**Condemnation Event**"), then: (i) WDC shall use its commercially reasonable efforts to (A) replace or repair (as applicable) the asset or property subject to such Casualty Loss and (B) replace the asset or property that has been condemned or taken such that the operation of the Flash Business can continue in all material respects in the ordinary course consistent with past practices; or (ii) if the Separation is consummated notwithstanding such Casualty Loss or Condemnation Event, and if such damaged, destroyed, stolen, lost or condemned or taken Assets have not been repaired or replaced as of the Separation Time, then, without limiting Spinco's or any member of the Spinco Group's other rights hereunder, promptly after any casualty insurance proceeds, business interruption insurance proceeds or condemnation proceeds payable to WDC or any of its Affiliates with respect to such Casualty Loss or Condemnation Event have been actually collected, WDC shall, or shall cause its Affiliate to, pay to Spinco: (x) the aggregate amount, if any, of such casualty insurance proceeds described above actually paid to WDC or any of its Affiliates in connection with such Casualty Loss; (y) the aggregate amount, if any, of such business interruption insurance proceeds described above actually paid to WDC or any of its Affiliates in connection with such Casualty Loss; and (z) the aggregate amount, if any, of such condemnation proceeds described above actually paid to WDC or any of its Affiliates in connection with such Condemnation Event, in each case, net of any deductible or retention amount or any other costs or expenses incurred in obtaining such recovery. WDC shall, and shall cause its Affiliates to, use commercially reasonable efforts to collect amounts due (if any) under insurance policies or programs in respect of any Casualty Loss or as a result of a Condemnation Event. The amount of any insurance or condemnation proceeds described above actually paid to WDC shall be included as a Flash Asset and not be distributable cash available to WDC or any other member of the WDC Group.

6.6 Confidentiality.

(a) For a period of four (4) years following the Separation Time (or such longer period applicable in accordance with the last sentence of this Section 6.6(a) or Section 6.6(b)), the Parties shall hold, and shall cause each of their respective controlled Affiliates to hold, and each of the foregoing shall cause their respective directors, officers, employees, agents, consultants and advisors to hold, in strict confidence, and not to disclose or release or use, for any purpose other than as permitted pursuant to this Agreement or the Ancillary Agreements (including as reasonably necessary to provide or receive services under the Transition Services Agreement), without the prior written consent of the applicable Party concerning its Confidential Information, any and all Confidential Information concerning the other Party or such Party's Group; *provided, however*, that the Parties may disclose, or may permit disclosure of, Confidential Information: (i) to their respective auditors, attorneys, financial advisors, bankers and other appropriate consultants and advisors who have a need to know such information for auditing and other non-commercial purposes and are informed of their obligation to hold such information confidential to the same extent as is applicable to the Parties and in respect of whose failure to comply with such obligations, the applicable Party will be responsible; (ii) if the Parties or any of their respective controlled Affiliates are required or compelled to disclose any such Confidential Information by judicial or administrative process or by other requirements of Law or stock exchange rule; (iii) as required in connection with any legal or other proceeding by one Party against the other Party; or (iv) as necessary in order to permit a Party to prepare and disclose its financial statements, or other disclosures required by Law or applicable stock exchange. Notwithstanding the foregoing, in the event that any demand or request for disclosure of Confidential Information is made pursuant to clause (ii) above, the applicable Party shall promptly notify the Party whose Confidential Information is the subject of such demand or request for disclosure of the existence of such request or demand and, to the extent commercially practicable, shall provide such Party thirty (30) calendar days (or such lesser period as is commercially practicable) to seek an appropriate protective order or other remedy, which the applicable Party will cooperate in obtaining. In the event that such appropriate protective order or other remedy is not obtained, the Party whose Confidential Information is required to be disclosed shall or shall cause the other applicable Party to furnish, or cause to be furnished, only that portion of the Confidential Information that is legally required to be disclosed and shall take commercially reasonable steps to ensure that confidential treatment is accorded such information. With respect to any and all Confidential Information that is a Trade Secret, the confidentiality obligations in this Section 6.6(a) shall continue in full force and effect for as long as such Confidential Information remains a Trade Secret under applicable Law.

(b) The provisions of this Section 6.6 do not limit the obligations of any Party regarding the confidentiality of Confidential Information under any other Contract.

(c) Nothing in this Section 6.6 shall alter or limit any rights or obligations of WDC or Spinco pursuant to the Intellectual Property Cross-License Agreement.

6.7 Receipt of Communications; Payments. After the Separation Time, each Party (or any member of its Group) may receive mail, packages and other communications properly belonging to the other Party (or any member of its Group). Accordingly, at all times after the Separation Time, each Party authorizes the other Party to receive and, if necessary to identify the proper recipient in accordance with this Section 6.7, open all mail, packages and other communications received by such Party that belongs to such other Party, and to the extent that they do not relate to the business of the receiving Party, the receiving Party shall promptly deliver such mail, packages or other communications (or, in case the same also relates to the business of the receiving Party or another Party, copies thereof) to such other Party as provided for in Section 9.6; *provided* that the failure to deliver such mail, packages or other communications (or copies thereof) shall not constitute a breach of this Section 6.7 except to the extent that any such Party shall have been actually prejudiced as a result of such failure. The provisions of this Section 6.7 are not intended to, and shall not, be deemed to constitute an authorization by either Party to permit the other to accept service of process on its behalf and no Party is or shall be deemed to be the agent of any other Party for service of process purposes. After the Separation Time, each of Spinco and WDC shall cause the other members of its respective Group and its and any of their respective then-Affiliates to, promptly pay or deliver to the other Party (or their designee) any monies or checks that have been received after the Separation Time to the extent they are (or represent the proceeds of) an Excluded Asset or a Flash Asset, respectively.

6.8 Real Property Transfer Obligations. WDC shall, and shall cause its Affiliates to, make all filings and submissions, and take all other steps, required by Law in connection with all Real Property Transfer Obligations, to the extent applicable to any of the transactions contemplated by this Agreement; *provided* that WDC shall, and shall cause its Affiliates to, reasonably consult with Spinco with respect to such filings, submissions and compliance, including reasonably consulting with Spinco on any determination regarding the need to make any filing or submission and providing Spinco with a reasonable opportunity to comment on a draft of any required filing or submission. WDC shall pay any costs relating to, arising out of or resulting from such filings, submissions and compliance with respect to any Real Property Transfer Obligations.

6.9 Non-Competition. For a period of forty (40) months from and after the Separation Time (the "**Restricted Period**") and except as otherwise permitted in the Ancillary Agreements or any Contracts set forth in Schedule 1.7(b)(vi), WDC shall not, and shall cause its controlled Affiliates not to, develop, manufacture, market or sell standalone SSDs (whether internal or external SSDs). For the avoidance of doubt, this Section 6.9 shall not apply to HDDs that include Flash Business Products as a component or to Platforms Products.

6.10 Specified Trademarks. From and after the Separation Time, WDC (i) shall not, and shall cause its Affiliates not to, use in commerce, prosecute or take any action to maintain, and (ii) shall, and shall cause its Affiliates to, abandon and permit to lapse, the Specified Trademarks.

7. CONDITIONS

7.1 Conditions to the Distribution. The obligations of WDC to effect the Distribution pursuant to this Agreement shall be subject to the satisfaction, or, to the extent permitted by applicable Law, waiver by WDC, in its sole and absolute discretion (subject to Section 9.7), at or prior to the Separation Time of each the following conditions:

(a) the WDC Board shall have declared the Distribution and approved all related Transactions, which declaration may be made or withheld at its sole and absolute discretion (and such declaration or approval shall not have been withdrawn);

(b) the Registration Statement shall have been declared effective by the SEC, with no stop order suspending the effectiveness of the Registration Statement in effect, and no proceedings for such purpose shall be pending before, or threatened by, the SEC;

(c) WDC shall have mailed the Information Statement (and such other information concerning Spinco, the Distribution and such other matters as the Parties shall determine and as may otherwise be required by Law) to the applicable Record Holders;

(d) Nasdaq shall have approved the Nasdaq Listing Application, subject to office notice of issuance;

(e) the Internal Restructuring shall have been completed in all material respects prior to the Distribution, other than such steps (if any) that are expressly contemplated to occur at or after the Distribution;

(f) the Ancillary Agreements shall have been executed and delivered by each of the parties thereto;

(g) an independent appraisal firm shall have delivered (i) opinions, dated as of (x) the date of the declaration of the Distribution by the WDC Board and (y) the Distribution Date (or, with respect to clause (y), a bringdown of such opinion as of the Distribution Date), to the WDC Board that (1) after giving effect to the consummation of the Transactions, (A) the assets of each of WDC and Spinco, at a fair valuation, exceed its respective debts (including contingent liabilities), (B) each of WDC and Spinco will be able to pay its respective debts (including contingent liabilities) as they become due and (C) neither WDC nor Spinco will have an unreasonably small amount of either assets or capital for the operations of the businesses in which it is engaged or in which management has indicated it intends to engage and (2) immediately prior to giving effect to the Distribution and pursuant to Section 170 of the DGCL, the surplus of WDC exceeds the net amount of the value of the Distribution less the Spinco Dividend and (ii) opinions, dated as of (x) the date of the declaration of the Spinco Dividend by the Board of Directors of Spinco (the "**Spinco Board**") and (y) the Distribution Date (or, with respect to clause (y), a bringdown of such opinion as of the Distribution Date), to the Spinco Board that (1) after giving effect to the consummation of the Transactions, (A) the assets of Spinco, at a fair valuation, exceed its debts (including contingent liabilities), (B) Spinco will be able to pay its debts (including contingent liabilities) as they become due and (C) Spinco will not have an unreasonably small amount of either assets or capital for the operations of the businesses in which it is engaged or in which management has indicated it intends to engage and (2) immediately prior to giving effect to the Spinco Dividend and pursuant to Section 170 of the DGCL, the surplus of Spinco exceeds the amount of the Spinco Dividend (the opinions to be delivered pursuant to clause (i) and clause (ii), collectively, the "**Solvency Opinions**"); and such Solvency Opinions shall be reasonably acceptable to WDC in form and substance; and such Solvency Opinions shall not have been withdrawn or rescinded or modified in any respect adverse to WDC;

(h) WDC shall have obtained an opinion from Skadden, Arps, Slate, Meagher & Flom LLP, tax counsel to WDC, in form and substance satisfactory to WDC (in its sole discretion), to the effect that the Spinco Contribution, taken together with the Distribution, will qualify as a tax-free reorganization under Sections 368(a)(1)(D), 361 and 355 of the Code;

(i) all other actions and filings necessary or appropriate under the securities and "blue sky" Laws of the United States (and any comparable Laws under any foreign jurisdiction) in connection with the Distribution shall have been taken;

(j) (i) the waiting periods (including all extensions thereof), filings, Governmental Approvals, authorizations or consents applicable to the consummation of the Transactions shall have expired, been terminated, been made or been obtained (ii) the approvals and notices specified under any Law listed on Schedule 7.1(j) shall have been obtained and provided;

(k) no preliminary or permanent injunction or other order, decree, or ruling issues by a Governmental Authority, and no statute (as interpreted through orders or rules of any Governmental Authority duly authorized to effectuate the statute), rule, regulation or executive order promulgated or enacted by any Governmental Authority shall be in effect preventing the consummation of, or materially limiting the benefits of, the Transactions;

(l) no other event or development shall have occurred or failed to occur that, in the judgment of the WDC Board, in its sole discretion, prevents the consummation of the Transactions or any portion thereof or makes the consummation of the Transactions inadvisable; and

(m) (I) WDC shall have either (i) refinanced the obligations under its Existing Credit Agreement or (ii) obtained a waiver from the requisite lenders under its Existing Credit Agreement, in each case, in a manner and to the extent necessary (as determined by WDC in good faith) to permit the Transactions and (II) Spinco shall have consummated the necessary debt financing transactions (as determined by Spinco in good faith).

8. DISPUTE RESOLUTION

8.1 Negotiation.

(a) Each Party shall appoint a representative who shall be responsible for administering this dispute resolution provision (each, an "**Appointed Representative**"). The Appointed Representatives shall have the authority to resolve any such disputes.

(b) Except as otherwise provided in this Agreement or in any Ancillary Agreement, in the event of a controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, validity, termination or breach of this Agreement or any Ancillary Agreement or otherwise arising out of, or in any way related to, this Agreement or any Ancillary Agreement or the transactions contemplated hereby or thereby (collectively, the "**Agreement Disputes**"), the Appointed Representatives shall negotiate in good faith for a reasonable period of time to settle such Agreement Dispute; *provided, however*, that: (i) such reasonable period shall not, unless otherwise agreed to by the Parties, exceed thirty (30) calendar days from the time of receipt by a Party; and (ii) the relevant employees from the relevant Parties shall first have tried to resolve the differences between the Parties. Nothing said or disclosed, nor any document produced, in the course of any negotiations, conferences and discussions in connection with efforts to settle an Agreement Dispute that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose, but shall be considered as to have been disclosed for settlement purposes.

(c) Unless otherwise agreed in writing, the Parties will continue to provide service and honor all other commitments under this Agreement and each Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Section 8.1 with respect to all matters not specifically subject to such dispute resolution.

(d) Except as otherwise specifically provided herein, this Section 8.1 shall not apply to Section 3.4.

9. MISCELLANEOUS

9.1 Expenses. Except as otherwise provided in this Agreement, the Transfer Documents or any Ancillary Agreement, or as otherwise agreed to in writing by the Parties, whether or not the Transactions are consummated, WDC shall bear all costs and expenses of any member of the Spinco Group or WDC Group incurred on or prior to the Distribution in connection with the preparation, execution, delivery and implementation of this Agreement, the Transfer Documents, the Ancillary Agreements and the transactions contemplated hereby and thereby; *provided* that, except as otherwise provided in this Agreement, the Transfer Documents or any Ancillary Agreement, from and after the Distribution, each Party shall bear its own direct and indirect costs and expenses incurred in connection with the preparation, execution, delivery and implementation of this Agreement, the Transfer Documents, the Ancillary Agreements and the transactions contemplated hereby and thereby.

9.2 Entire Agreement. This Agreement and the Ancillary Agreements, including any schedules, exhibits and amendments hereto and thereto, and the other agreements and documents referred to herein and therein, shall together constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and shall supersede all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter hereof and thereof.

9.3 Governing Law. This Agreement and the consummation of the Transactions, and any Action (whether at law, in contract, in tort or otherwise) arising out of or relating to this Agreement and the consummation of the Transactions, or the negotiation, validity, interpretation, performance, breach or termination of this Agreement and the consummation of the Transactions, shall be governed by and construed in accordance with the internal law of the State of Delaware, regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof.

9.4 Specific Performance; Jurisdiction.

(a) Except as otherwise provided herein, any and all remedies herein expressly conferred upon a Party shall be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy shall not preclude the exercise of any other remedy. Nothing in this Agreement shall be deemed a waiver by any Party of any right to specific performance or injunctive relief. The Parties understand and agree that the covenants and agreements on each of their parts herein contained are uniquely related to the desire of the Parties and their respective Affiliates to consummate the Transactions, that the Transactions are a unique business opportunity at a unique time for each of WDC and Spinco and their respective Affiliates, and further agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms, and further agree that, although monetary damages may be available for the breach of such covenants and agreements, monetary damages would be an inadequate remedy therefor. It is accordingly agreed that, in addition to any other remedy that may be available to it, including monetary damages, each of the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties further agrees that no Party shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 9.4 and each Party waives any objection to the imposition of such relief or any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

(b) Each of the Parties irrevocably agrees that, subject (except in the case of any legal action or proceeding seeking specific performance) to prior compliance with Section 8.1, any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder, brought by the other Party or its successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement: (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 9.4; (ii) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (iii) to the fullest extent permitted by applicable Law, any claim that: (x) the suit, action or proceeding in such court is brought in an inconvenient forum; (y) the venue of such suit, action or proceeding is improper; or (z) this Agreement, or the subject matter hereof, may not be enforced in or by such courts (other than by reason of, except in the case of any action or proceeding for specific performance, needing to first comply with the provisions of Section 8.1). In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including, without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals. The Parties agree that service of any court paper may be made in any manner as may be provided under the applicable Laws or court rules governing service of process in such court. The Parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law.

9.5 Waiver of Jury Trial. EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9.6 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered: (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed; or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission when receipt is confirmed:

(a) If to WDC:

c/o Western Digital Corporation
5601 Great Oaks Parkway
San Jose, CA
95119
Attn: Cynthia Tregillis
Email: cynthia.tregillis@wdc.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

(b) If to Spinco:

c/o Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attn: Bernard Shek
Email: bernard.shek@sandisk.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

9.7 Amendments and Waivers.

(a) This Agreement may be amended or supplemented in any and all respects and any provision of this Agreement may be waived and any such waiver shall be binding upon a Party, only if such waiver is set forth in a writing executed by such waiving Party bound thereby, and any such amendment or supplement shall be effective only if set forth in a writing executed by each of the Parties; and any such waiver, amendment or supplement shall not be applicable or have any effect except in the specific instance in which it is given. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

(b) Notwithstanding the foregoing, no failure on the part of any Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that any Party would otherwise have. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement or any such waiver of any provision of this Agreement must satisfy the conditions set forth in Section 9.7(a) and shall be effective only to the extent in such writing specifically set forth.

9.8 Termination. This Agreement may be terminated and the Transactions may be abandoned at any time prior to the Separation Time by mutual written consent of the Parties.

9.9 No Third-Party Beneficiaries. Except for the provisions of Section 4 with respect to indemnification of Indemnitees, which is intended to benefit and be enforceable by the Persons specified therein as Indemnitees, this Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and is not intended, and shall not be deemed, to (a) create any agreement of employment with any person, (b) confer on third parties (including any employees of the Parties and their respective Groups) any remedy, claim, reimbursement, claim of action or other right in addition to those existing without reference to this Agreement, or (c) otherwise create any third-party beneficiary hereto.

9.10 Assignability; Binding Effect. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and permitted assigns; *provided, however*, that neither this Agreement nor any Party's rights, interests or obligations hereunder may be assigned or delegated by any such Party, in whole or in part (whether by operation of law or otherwise), without the prior written consent of the other Party, and any attempted assignment or delegation of this Agreement or any of such rights or obligations by any Party without the prior written consent of the other Party shall be void and of no effect. Except as set forth in Section 9.9, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person (other than the Parties and their permitted successors and assigns) any power, right, privilege or remedy of any nature whatsoever under or by reason of this Agreement.

9.11 Priority of Agreements. If there is a conflict between any provision of this Agreement and a provision in any of the Ancillary Agreements, the provision of this Agreement will control unless specifically provided otherwise in this Agreement or in the Ancillary Agreement.

9.12 Survival of Covenants. The covenants in this Agreement that by their terms are to be performed following the Separation Time will survive each of the Internal Restructuring and the Distribution and will remain in full force and effect in accordance with their terms.

9.13 Construction.

(a) For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include masculine and feminine genders.

(b) The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation."

(d) As used in this Agreement, the words "hereof," "herein," "hereto" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(e) The measure of a period of one (1) month or year for purposes of this Agreement will be the date of the following month or year corresponding to the starting date; and, if no corresponding date exists, then the end date of such period being measured will be the next actual date of the following month or year (for example, one month following February 18 is March 18 and one month following March 31 is May 1).

(f) As used in this Agreement, the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if."

(g) As used in this Agreement, the word "will" shall be deemed to have the same meaning and effect as the word "shall."

(h) As used in this Agreement, the terms "or," "any" or "either" are not exclusive and shall be deemed to be "and/or."

(i) As used in this Agreement, references to "written" or "in writing" include in electronic form.

(j) As used in this Agreement, references to the "date hereof" are to the date of this Agreement.

(k) Except as otherwise indicated, all references in this Agreement to "Sections," "Exhibits" and "Schedules" are intended to refer to Sections of this Agreement and Exhibits or Schedules to this Agreement.

(l) The table of contents and the section and other headings and subheadings contained in this Agreement and the Exhibits hereto are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction, meaning or interpretation of this Agreement. The preamble and the recitals set forth at the beginning of this Agreement are incorporated by reference into and made a part of this Agreement.

(m) Any payment to be made pursuant hereto shall be made in U.S. dollars and by wire transfer of immediately available funds.

(n) As used in this Agreement, references to "$" in this report are to the lawful currency of the United States of America.

9.14 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any situation in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement in any other jurisdiction or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

9.15 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Party, it being understood that all Parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or electronic transmission shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

At the request of any Party, the other Party shall re-execute original forms thereof and deliver them to the requesting Party. No Party shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation of a Contract, and each such Party forever waives any such defense.

9.16 Plan of Reorganization. This Agreement shall constitute a "plan of reorganization" within the meaning of Section 368 of the Code and Treasury Regulation Section 1.368-2(g).

10. DEFINITIONS

10.1 Defined Terms. For purposes of this Agreement, the following terms, when utilized in a capitalized form, shall have the following meanings:

"**Action**" shall mean any demand, charge, claim, action, suit, counter suit, arbitration, mediation, hearing, inquiry, proceeding, audit, review, complaint, litigation or investigation, or proceeding of any nature whether administrative, civil, criminal, regulatory or otherwise, by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal, excluding any ordinary course prosecution or maintenance activities or proceedings before the U.S. Patent and Trademark Office (USPTO), U.S. Copyright Office, any successor offices or any similar Intellectual Property Rights offices or agencies throughout the world.

"**Affiliate**" shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such other Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made. For purposes of this definition, the term "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise.

"**Ancillary Agreements**" shall mean each of the agreements that implement the transactions contemplated by the Separation Plan (including any local business transfer agreements), the Tax Matters Agreement, the Transition Services Agreement, the Transitional Trademark License Agreement, the Intellectual Property Cross-License Agreement, the Stockholder and Registration Rights Agreement, the Employee Matters Agreement and any other agreements mutually agreed to by the Parties pursuant to Section 2.2(a). For purposes of clarity and the avoidance of doubt, Ancillary Agreements shall not include any Excluded Related Party Agreements.

"**Ancillary IP Rights**" shall mean, with respect to any Intellectual Property Rights: (A) the right to seek, recover and retain damages, costs, profits, injunctive relief and other remedies for any past or future infringement or misappropriation thereof, (B) the right to register, prosecute, maintain or record such Intellectual Property Rights with any Governmental Authority after the Separation Time, (C) the right to collect royalties or other payments under or on account of such Intellectual Property Rights after the Separation Time and (D) all goodwill to the extent associated with such Intellectual Property Rights, in each case, in all countries in the world.

"**Assets**" shall mean any and all assets, properties and rights (including goodwill), wherever located (including in the possession of vendors or other third parties or elsewhere), whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any Person, including the following: (i) all computers and other electronic data processing equipment, telecommunication equipment and data, fixtures, machinery, equipment, furniture, office equipment, motor vehicles and other transportation equipment, special and general tools, apparatus, cables, electrical devices, prototypes and models, test devices, transmitters, other miscellaneous supplies and other tangible personal property of any kind; (ii) all inventories of materials, parts, raw materials, packing materials, supplies, works-in-process, goods in transit, consigned goods and finished goods and products; (iii) all Real Property Interests; (iv) all interests in any capital stock or other equity interests of any Subsidiary or any other Person; all bonds, notes, debentures, evidences of indebtedness, puts, calls, straddles, options and other securities of any kind issued by any Subsidiary or any other Person; all loans, advances or other extensions of credit or capital contributions to any Subsidiary or any other Person, and all other investments in securities of any Person; (v) all Permits, distribution and supplier arrangements, sale and purchase agreements, joint operating agreements, license agreements, leases of personal property, open purchase orders for raw materials, supplies, parts or services, unfilled orders for the manufacture and sale of products and all other Contracts and business arrangements; (vi) all deposits, letters of credit and performance and surety bonds; (vii) all Intellectual Property Rights; (viii) all cost information, sales and pricing data, customer prospect lists, supplier records, customer, distribution and supplier lists, customer and vendor data, correspondence and lists, product literature (including historical), advertising and promotional materials, other printed or written materials and artwork; design, development, manufacturing and quality control records, procedures and files, vendor and customer drawings, formulations and specifications, quality records and reports and other books, records, ledgers, files, documents, plats, photographs, studies, surveys, reports, plans and documents, operating, production and other manuals, including corporate minute books and related stock records and financial records, in all cases whether in paper, microfilm, microfiche, computer tape or disc, magnetic tape or any other form; (ix) all prepaid expenses, including prepaid leases and prepaid rentals, trade accounts and other accounts and notes receivable (whether current or non-current); (x) all interests, rights to causes of action, lawsuits, judgments, claims, counterclaims, rights under express or implied warranties, rights of recovery and rights of setoff of any kind, demands and benefits of any Person, including all claims or rights against any Person arising from the ownership of any Asset, all rights in connection with any bids or offers, causes of action or similar rights, whether accrued or contingent; and (xi) all Governmental Approvals, and other licenses and authorizations issued by any Governmental Authority. Except as otherwise specifically set forth herein or in the Tax Matters Agreement, the rights and obligations of the Parties with respect to Taxes shall be governed by the Tax Matters Agreement, and, therefore, assets related to Taxes (including any Tax Items, Tax Attributes or rights to receive any Refunds) shall not be treated as Assets.

"**Business Day**" shall mean any day, other than a Saturday, a Sunday and any day which is a legal holiday under the laws of the States of California or Delaware, or is a day on which banking institutions located in the States of California or Delaware are authorized or required by Law or other governmental action to close.

"**Code**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Confidential Business Information**" shall mean all information, data or material other than Confidential Operational Information, including: (i) earnings reports and forecasts; (ii) macro-economic reports and forecasts; (iii) business and strategic plans; (iv) general market evaluations and surveys; (v) litigation presentations and risk assessments; (vi) budgets; and (vii) financing and credit-related information.

"**Confidential Information**" shall mean Confidential Business Information or Confidential Operational Information concerning a Party and/or its Subsidiaries which, prior to, at or following the Separation Time, has been disclosed by a Party (in such capacity, the "**Disclosing Party**") or its Subsidiaries to the other Party (in such capacity, the "**Receiving Party**") or its Subsidiaries, in written, oral (including by recording), electronic or visual form, or otherwise has come into the possession of the Receiving Party, including pursuant to the access provisions of Section 5.1 or any other provision of this Agreement or any Ancillary Agreement (except to the extent that such information can be shown to have been: (i) in the public domain through no breach of confidentiality obligations by the Receiving Party or its Subsidiaries; (ii) lawfully acquired without confidentiality obligations from other sources by the Receiving Party or its Subsidiaries to which it was furnished, other than, in the case of WDC as the Receiving Party, any Confidential Information of Spinco that was acquired by WDC or any of its Subsidiaries prior to the Separation Time; (iii) independently developed by the Receiving Party or its Subsidiaries after the date hereof without reference to the Confidential Business Information or Confidential Operational Information of the Disclosing Party or its Subsidiaries and without a breach of this Agreement, other than, in the case of WDC as the Receiving Party, any Confidential Information of Spinco that was independently developed by WDC or any of its Subsidiaries prior to the Separation Time; or (iv) approved for release by written authorization of the Disclosing Party and/or the third-party owner of the disclosed information; *provided, however*, that in the case of clause (ii), to the Receiving Party's knowledge, such sources did not provide such information in breach of any confidentiality obligations). Following the Separation Time, (a) all Confidential Business Information and Confidential Operational Information included in Flash Assets shall, subject to the exceptions set forth in clauses (i) to (iv) of this "Confidential Information" definition, be deemed to be Confidential Information of Spinco, (b) Spinco shall be deemed to be the Disclosing Party thereof and (c) the WDC Group shall be deemed a Receiving Party thereof, in each case, regardless of whether such information originated from or was originally disclosed by any member of the WDC Group.

"**Confidential Operational Information**" shall mean all operational information, data or material including: (i) specifications, ideas and concepts for products, services and operations; (ii) quality assurance policies, procedures and specifications; (iii) customer information; (iv) Software; (v) training materials and information; and (vi) all other know-how, methodologies, procedures, techniques and Trade Secrets related to design, development and operational processes.

"**Consents**" shall mean any consents, waivers or approvals from, or notification requirements to, or authorizations by, any third parties.

"**Contract**" shall mean (i) any legally binding written or oral agreement, contract, subcontract, lease, sublease, understanding, instrument, note, option, warranty, sales order, purchase order, license, sublicense, bond, mortgage, indenture, insurance policy or commitment or undertaking of any nature, as well as, with respect to any Shared Contracts or (ii) solely as between the WDC Group and the Spinco Group, any contract (or portion of a contract allocated) resulting from the Shared Contract Transfer pursuant to Section 1.8(c), including any assignment or partial assignment (or purported assignment or partial assignment including via the letter method), replication or transfer of a Contract, but excluding any Permit and Benefit Arrangement (as defined in the Employee Matters Agreement).

"**Distribution Date**" shall mean, as applicable, the date selected by the WDC Board or its designee for the distribution of the shares of Spinco Common Stock to the Record Holders in connection with the Distribution as set forth in Section 3.1.

"**Domain Names**" shall mean all rights to Uniform Resource Locators, Web site addresses, domain names and social media accounts.

"**Entity**" shall mean any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

"**Environmental Laws**" shall mean all Laws relating to pollution, the protection, restoration or remediation of, or prevention of harm to, the environment or natural resources or, to the extent relating to exposure to hazardous or toxic materials, substances or wastes, the protection of human health and safety.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Excluded IP**" shall mean the Intellectual Property Rights listed on Schedule 10.1(b), along with the Specified Trademarks.

"**Existing Credit Agreement**" shall mean that certain Amended and Restated Loan Agreement dated as of January 7, 2022, as amended on December 23, 2022, June 20, 2023 and June 11, 2024 (as may be further amended, supplemented, amended and restated or otherwise modified from time to time), by and among WDC, the additional borrowers party thereto from time to time, JPMorgan Chase Bank, N.A., as Administrative Agent and Collateral Agent and certain banks and financial institutions from time to time party thereto.

"**Expired**" shall mean, when used with respect to any Contract, Permit or Deferred Asset, the expiration of such Contract, Permit or Deferred Asset after the end of all automatic or voluntary extensions of the term of such Contract, Permit or Deferred Asset, whether pursuant to the express terms of applicable Law, the terms of the Contract, Permit or Deferred Asset or in conformity with the historical practice of WDC or its relevant Affiliate with respect to such Contract, Permit or Deferred Asset and with respect to any deferred liability shall mean the extinguishment of such Liability. "**Expiration**" shall have a correlative meaning.

"**Flash Business**" shall mean the "Flash" operating segment of the WDC Group, as described in WDC's Form 10-K for the fiscal year ended June 28, 2024, including the businesses of marketing, offering, selling, licensing, providing, distributing, developing, manufacturing, importing or exporting Flash Business Products.

"**Flash Business Audited Financial Statements**" shall mean the audited combined financial statements of the Flash Business for the three fiscal years ended June 28, 2024, June 30, 2023 and July 1, 2022, including the combined balance sheets of the Flash Business as of June 28, 2024, and June 30, 2023, and the combined statements of operations, comprehensive income (loss), cash flows and changes in parent company net investment of the Flash Business, for each of the three fiscal years ended June 28, 2024, June 30, 2023 and July 1, 2022.

"**Flash Business Products**" shall mean: (i) any semiconductor memory, including flash memory, MRAM, phase-change memory and ReRAM (collectively, "**Semiconductor Memory**"); (ii) any system or module primarily based on Semiconductor Memory; and (iii) any ancillary components, materials and software, including, but not limited to, controllers, firmware, housing, packaging and support means, to the extent incorporated into or primarily used with (i) and/or (ii).

"**Foreign Investment Laws**" shall mean all Laws relating to or otherwise providing a Governmental Authority with the ability or authority to review, impose limitations on, prohibit, or otherwise take action with respect to foreign investments that could impact, among other things, national security or public order.

"**Governmental Approvals**" shall mean any notices, reports or other filings to be made to, or any Consents, registrations, permits or authorizations to be obtained from, any Governmental Authority.

"**Governmental Authority**" shall mean any federal, state, local, domestic, foreign or international court, government, department, commission, board, bureau, agency, official or other regulatory, administrative or governmental authority or self-regulatory organization.

"**Group**" shall mean the WDC Group or the Spinco Group, as the context requires.

"**Hazardous Materials**" shall mean: (i) any petrochemical or petroleum products, oil or coal ash, per-and polyfluoroalkyl substances, radioactive materials, radon gas, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and transformers or other equipment that contain dielectric fluid which contains any polychlorinated biphenyls; (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by, or that may result in liability under, any applicable Environmental Law.

"**Indebtedness**" shall mean, with respect to any Person, without duplication, all (i) unpaid principal of and accrued interest and fees on all indebtedness of such Person for borrowed money (excluding all intercompany indebtedness between or among such Person and its Subsidiaries but including any prepayment penalties, premiums, costs, breakage or other amounts payable upon the discharge thereof at the Separation Time), (ii) other indebtedness of such Person evidenced by credit agreements, notes, bonds, indentures, securities, mortgage, debt security, preferred stock (including payment-in-kind interest), debentures or other debt instruments, (iii) amounts owing as deferred purchase price for the purchase of any property or assets (excluding trade payables incurred in the ordinary course of business), and (iv) indebtedness or obligations of another Person referred to in clause (i) above guaranteed by such Person; *provided* that letters of credit and performance bonds issued in the ordinary course of business and capital leases shall not be Indebtedness.

"**Information**" shall mean all information in written, oral, electronic or other tangible or intangible forms, including information in works of authorship, documentation, studies, reports, records, books, manuals, files, data, databases, drawings, samples, graphics, illustrations, artwork, Contracts, instruments, surveys, flow charts, customer and supplier lists and names, pricing and cost information, business and marketing plans, proposals and materials, compositions, communications by or to attorneys, memos and other materials prepared by attorneys or under their direction, employee or business information, in each case, in whatever form or medium and whether or not protected or protectable under a Patent or a Copyright or embodying proprietary Intellectual Property Rights.

"**Information Statement**" shall mean the information statement of Spinco, included as Exhibit 99.1 to the Registration Statement, to be distributed or made available to holders of WDC Common Stock in connection with the Distribution, including any amendments or supplements thereto.

"**Intellectual Property Rights**" shall mean any and all statutory and/or common law intellectual property rights throughout the world, including any of the following: (i) all rights in United States and foreign patents and utility models and applications therefor (including provisional applications) and all reissues, divisions, renewals, extensions, provisionals, reexaminations, continuations and continuations in part thereof (collectively, "**Patents**"); (ii) all trade secret rights and similar rights in know-how, Information or other materials (collectively, "**Trade Secrets**"); (iii) all registered and unregistered copyrights and all other rights corresponding thereto in any works of authorship, including Software (collectively, "**Copyrights**"); (iv) all registered, applied-for and unregistered trademark rights and similar rights in trade names, logos, trade dress, trademarks and service marks (collectively, "**Trademarks**"); (v) all design rights, maskwork rights, rights in databases and data collections (including knowledge databases, customer lists and customer databases); (vi) all rights to Uniform Resource Locators, Web site addresses, domain names and social media accounts; (vii) any similar, corresponding or equivalent rights to any of the foregoing; (viii) all intangible rights in Technology; and (ix) any registrations and renewals of or applications to register any of the foregoing.

"**Intercompany Account**" shall mean any receivable, payable or loan between any member of the WDC Group, on the one hand, and any member of the Spinco Group, on the other hand, that exists prior to the Distribution Date except for any such receivable, payable or loan that arises pursuant to this Agreement or any Ancillary Agreement.

"**Internal Restructuring**" shall mean the corporate restructuring steps contemplated by the Separation Plan, including: (i) the Spinco Contribution; (ii) the transfer, directly or indirectly, of the Excluded Assets and Excluded Liabilities, in each case, relating to, arising out of or resulting from the transactions contemplated by this Agreement (including as set forth in Section 1.3); and (iii) each of the transactions contemplated by Section 1.7.

"**IP Contracts**" shall mean Contracts under which a party thereto grants or is granted an assignment, license, non-assertion covenant, authorization, immunization or similar rights under or with respect to Intellectual Property Rights, Information or Technology, excluding any Contract where all assignments, licenses, non-assertion covenants, authorizations, immunizations or similar rights under or with respect to Intellectual Property Rights, Information or Technology in such Contract are incidental and immaterial to the primary purpose of such Contract.

"**Law**" shall mean any statute, law (including common law), ordinance, regulation, rule, code or other legally enforceable requirement of, or Order issued by, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of a Governmental Authority.

"**Liabilities**" shall mean all debts, liabilities, guarantees, assurances, commitments and obligations, whether fixed, contingent or absolute, asserted or unasserted, matured or unmatured, liquidated or unliquidated, accrued or not accrued, known or unknown, due or to become due, whenever or however arising (including whether arising out of any Law or Order, or any Contract or tort based on negligence or strict liability) and whether or not the same would be required by generally accepted principles and accounting policies to be reflected in financial statements or disclosed in the notes thereto. Except as otherwise specifically set forth herein or in the Tax Matters Agreement, the rights and obligations of the Parties with respect to Taxes shall be governed by the Tax Matters Agreement and, therefore, Taxes shall not be treated as Liabilities governed by this Agreement.

"**Lien**" shall mean, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest, license, encumbrance, claim, option, pledge, title defect, preemptive right or limitation on transfer (other than such a limitation arising under federal, state or foreign securities Laws) in respect of such property or asset.

"**Losses**" shall mean Liabilities, claims, damages, penalties, judgments, assessments, losses, costs, expenses (including reasonable attorneys' and consultants' fees and expenses) and interest, in any case, whether arising under strict liability or otherwise; *provided, however*, that any portion of such Losses that are punitive, exemplary, unforeseeable or speculative shall be indemnifiable only if such Losses have been awarded by a court of competent jurisdiction and were determined to have been proximately caused by the Indemnifying Party. For purposes of clarity, the fact that a Third-Party Claim includes a request for punitive, exemplary, unforeseeable or speculative damages is not a basis for refusing an Indemnitee's request that an Indemnifying Party defend such claim.

"**Milpitas Sites**" shall mean the real property located at (i) 901 SanDisk Drive, Milpitas, California 95035, USA, (ii) 951 SanDisk Drive, Milpitas, California 95035, USA, (iii) 1001 SanDisk Drive, Milpitas, California 95035, USA, (iv) 1101 SanDisk Drive, Milpitas, California 95035, USA and (v) 1051 SanDisk Drive, Milpitas, California 95035, USA.

"**Non-Personnel IT Assets**" shall mean, other than Personnel IT Assets, all (i) information technology Systems, and (ii) documentation, reference, resource and training materials to the extent relating thereto; *provided* that, notwithstanding the foregoing, Non-Personnel IT Assets shall exclude Intellectual Property Rights.

"**Object Code**" shall mean Software in binary, object or executable form that is intended to be directly executable by a computer without the intervening steps of compilation or assembly.

"**Order**" shall mean any: (i) order, judgment, injunction, edict, decree, ruling, pronouncement, determination, decision, opinion, verdict, sentence, subpoena, writ or award issued, made, entered, rendered or otherwise put into effect by or under the authority of any court, administrative agency or other Governmental Authority or any arbitrator or arbitration panel; or (ii) Contract with any Governmental Authority entered into in connection with any Action.

"**Permit**" shall mean any franchise, permit, certification, license, easement, servitude, variance, right, exemption, approval, consent, waiver, registration or other authorization of a Governmental Authority issued under or with respect to applicable Laws or Orders.

"**Permitted Liens**" shall mean: (i) mechanics', carriers', workmen's, warehousemen's, repairmen's or other like Liens arising or incurred in the ordinary course of business consistent with past practice, which do not and would not reasonably be expected to, individually or in the aggregate, materially interfere with the present use of assets or property subject thereto or affected thereby; (ii) Liens for Taxes, assessments and other governmental charges and levies that are not due and payable or that are being contested in good faith by appropriate proceedings and for which an adequate reserve has been established; (iii) Liens reflected in the Audited Combined Balance Sheet of the Flash Business of WDC; (iv) defects or irregularities in title, easements, rights-of-way, covenants, restrictions, and other, similar matters that would not, individually or in the aggregate, reasonably be expected to materially impair the value of or continued use and operation of the assets to which they relate or are being contested; (v) Liens imposed or promulgated by operation of applicable Law with respect to real property and improvements, including zoning regulations, permits, licenses, utility easements, rights of way and similar Liens imposed or promulgated by any Governmental Authority; (vi) statutory liens for amounts not yet delinquent to secure obligations to landlords, lessors or renters under leases or rental agreements that have not been breached; (vii) non-exclusive licenses, immunities from suit, or covenants not to assert granted under or with respect to any Intellectual Property Rights; (viii) pledges made in connection with, or to secure payment of, workers' compensation, unemployment insurance or similar programs mandated by applicable Law; (ix) other Liens arising in the ordinary course of business and not incurred in connection with the borrowing of money which do not, individually or in the aggregate, materially interfere with the present use of assets or property subject thereto or affected thereby; (x) Liens on WDC, Spinco and each of their respective Subsidiaries, or on the assets or equity interests of WDC, Spinco and each of their Subsidiaries, that will be released in connection with or after giving effect to the Distribution or the Separation Time; and (xi) Liens granted under or in connection with the Existing Credit Agreement.

"**Person**" shall mean any individual, Entity or Governmental Authority.

"**Personnel IT Assets**" shall mean (i) personal computers (including laptop computers but excluding servers), telephones (including cell phones and smartphones) and personal telephone equipment (including headsets), and (ii) computer monitors, docking stations, and printers assigned to and primarily used by remote employees; *provided* that, notwithstanding the foregoing, Personnel IT Assets shall exclude Intellectual Property Rights.

"**Platforms Products**" shall mean:

(i) any storage system having one or more hard disk drive (HDD) slots;

(ii) any storage system having two or more solid state drive (SSD) slots, and if included, any SSD installed with and sold with such a system;

(iii) any standalone ASIC or semiconductor IC core that provides PCIe-to-NVMe-oF protocol bridge functionality;

(iv) any controller or controller card that encompasses clause (iii) above;

(v) any storage device (except for a standalone SSD) or system (except for one having a single SSD slot) that encompasses clauses (iii) or (iv) above;

(vi) any storage device that is attached to a controller card that encompasses clause (iii) above; and

(vii) any standalone SSD for post-sale installation into a storage system in clauses (i) or (ii) above that was previously sold by WDC.

"**Real Property Interests**" shall mean all interests in real property of whatever nature, including easements and servitudes, whether as fee owner, owner or holder of a Lien, lessor, sublessor, lessee, sublessee or otherwise.

"**Real Property Transfer Obligations**" shall mean any Liabilities and costs (including any costs associated with any required filings, investigation, remediation or other responsive action) arising from or relating to compliance or non-compliance with Environmental Laws with real property transfer requirements and any regulations thereunder, in each case as a result of the transactions contemplated by this Agreement.

"**Record Date**" shall mean 1:00 p.m. Pacific Time on the date to be determined by the WDC Board as the record date for determining stockholders of WDC entitled to receive shares of Spinco Common Stock in the Distribution.

"**Record Holders**" shall mean the holders of record of shares of WDC Common Stock as of the close of business on the Record Date.

"**Refund**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Registration Statement**" shall mean the registration statement on Form 10 of Spinco (which includes the Information Statement) relating to the registration under Section 12(b) of the Exchange Act of Spinco Common Stock, including any amendments or supplements thereto.

"**Release**" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or migration through the indoor or outdoor environment (including surface water, groundwater, land surface or subsurface strata or ambient air), including the abandonment or discarding of barrels, containers and other closed receptacles containing any hazardous substance, pollutant or contaminant.

"**Representatives**" shall mean with respect to any Person, such Person's officers, employees, accountants, consultants, legal counsel, financial advisors, agents, directors and other representatives.

"**SEC**" shall mean the U.S. Securities and Exchange Commission.

"**Securities Act**" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Shared Contract**" shall mean any shared written Contract (excluding Spinco Leases, purchase orders and insurance policies) to which one or more members of the WDC Group and/or the Spinco Group is a party relating to the Flash Business and that also relates to any other business or business function of WDC or its Subsidiaries, which Shared Contracts shall be subject to the rights and obligations of the Parties set forth in Section 1.8(c). For the avoidance of doubt, upon a Shared Contract Transfer pursuant to Section 1.8(c), the resulting Contract (or portion of a contract allocated thereunder) shall no longer be a Shared Contract.

"Shared Liabilities" shall mean any Liabilities: (i) arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained or incorporated by reference in (A) the Registration Statement (including the Information Statement), or (B) any other disclosure document primarily relating to the Transaction that is disseminated publicly on or prior to the Distribution Date or filed on or prior to the Distribution Date with either the SEC or other Governmental Authority; or (ii) arising out of or based upon any omission or alleged omission to state a material fact required to be stated in any of the documents within the purview of clause (i) or necessary to make the statements therein not misleading.

"**Software**" shall mean any and all (i) computer programs, including any and all software implementations of algorithms, firmware, models and methodologies, whether in Source Code or Object Code form, and (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise.

"**Source Code**" shall mean Software comprising computer programming code Software in human readable form, excluding Object Code.

"**Specified Trademarks**" shall mean the registered Trademarks listed on Schedule 10.1(e), including all right, title and interest therein and all goodwill associated therewith.

"**Spinco Cash**" shall mean the aggregate amount of cash and cash equivalents held by Spinco and its Subsidiaries as of immediately prior to the Separation Time, including the amount of any checks and drafts (i) received by Spinco and its Subsidiaries but not yet deposited, and (ii) deposited for the account of Spinco or any of its Subsidiaries but not yet cleared.

"**Spinco Cash Amount**" shall mean one billion, three hundred and thirty-nine million dollars ($1,339,000,000.00).

"**Spinco Common Stock**" shall mean the Common Stock, par value $0.01 per share, of Spinco.

"**Spinco Contribution**" shall mean the transfer, directly or indirectly, of the Flash Assets from the WDC Group to the Spinco Group and the assumption of the Flash Liabilities by the Spinco Group, in each case, relating to, arising out of or resulting from the transactions contemplated by this Agreement (including as set forth in Section 1.1, Section 1.2, Section 1.8(c) and Section 1.9).

"**Spinco Debt**" shall mean, without duplication, as of immediately prior to the Separation Time, any unpaid principal of and accrued interest and fees on all indebtedness of Spinco and its Subsidiaries for borrowed money, not including (i) intercompany indebtedness between or among Spinco and its Subsidiaries (but including any prepayment penalties, premiums, costs, breakage or other amounts payable upon the discharge thereof at the Separation Time) and (ii) Spinco Leases.

"**Spinco Dividend**" shall mean the cash to be paid by Spinco to WDC in exchange for the Spinco Contribution in an amount calculated pursuant to Section 3.4.

"**Spinco Group**" shall mean Spinco, each of the Spinco Subs and any legal predecessors thereto.

"**Spinco Guarantees**" shall mean arrangements in which guaranties (including guaranties of performance or payment under Contracts, commitments, Liabilities and Permits), letters of credit or other credit or credit support arrangements, including bid bonds, advance payment bonds, performance bonds, payment bonds, retention and/or warranty bonds or other bonds or similar instruments, were or are issued, entered into or otherwise put in place by any Person to support or facilitate, or otherwise in respect of, the obligations of any member of the Spinco Group or the Flash Business or Contracts, commitments, Liabilities and Permits of any member of the Spinco Group or the Flash Business.

"**Spinco Indemnitees**" shall mean: (i) Spinco and each other member of the Spinco Group; and (ii) all Persons who are or have been stockholders, directors, partners, managers, managing members, officers, agents or employees of any member of the Spinco Group (in each case, in their respective capacities as such) (excluding any shareholder of Spinco), together with their respective heirs, executors, administrators, successors and assigns..

"**Spinco IP**" shall mean all Intellectual Property Rights (including Intellectual Property Rights in Source Code for Software) owned by or licensed to WDC or any of its Affiliates (including Spinco and the Spinco Subs) that are primarily used in, or primarily held for use in, the Flash Business, including (i) the Trademarks, Domain Names and Copyrights listed on Schedule 10.1(d) and (ii) the Spinco Patents, in each case, excluding the Excluded IP.

"**Spinco Leased Real Property**" shall mean all real property leased, subleased, licensed or otherwise occupied by or from WDC or any of its Subsidiaries primarily for the operation of the Flash Business, the address of which is identified on Schedule 1.5(a)(i)(B).

"**Spinco Leases**" shall mean all leases, licenses, subleases and occupancy agreements (whether written or oral), including any amendments, modifications, supplements and lease guaranties thereto, identified on Schedule 1.5(a)(i)(B) pursuant to which the Spinco Leased Real Property is leased, subleased, licensed or otherwise occupied by or from WDC or its Subsidiaries primarily for the operation of the Flash Business.

"**Spinco Owned Real Property**" shall mean all real property owned (or, in the case of non-U.S. real property, the foreign equivalent of ownership in the applicable jurisdiction) by WDC or its Subsidiaries, together with all buildings and other structures, facilities or improvements located thereon and all easements, licenses, rights and appurtenances of WDC or its Subsidiaries relating to the foregoing, that is intended to be conveyed to Spinco or any of its Subsidiaries by WDC or its Subsidiaries pursuant to this Agreement as set forth on Schedule 1.5(a)(i)(A).

"**Spinco Patents**" shall mean (i) all Patents listed on Schedule 10.1(c) and (ii) (A) any Patent that claims (or is entitled to validly claim) priority from any of the foregoing Patents; (B) any Patent that is a continuation, continuation in part, divisional or reissue of any of the foregoing Patents, or that is linked to any of the foregoing Patents by a terminal disclaimer; and (C) any foreign counterpart of any of the foregoing Patents.

"**Subsidiary**" shall mean that an Entity shall be deemed to be a "Subsidiary" of another Person if such Person directly or indirectly owns, beneficially or of record: (i) an amount of voting securities or other interests in such Entity that is sufficient to enable such Person to elect at least a majority of the members of such Entity's board of directors or other governing body; or (ii) at least fifty percent (50%) of the outstanding equity or financial interests of such Entity; *provided* that for all purposes of this Agreement, none of Flash Partners Ltd., Flash Alliance Ltd. or Flash Forward Ltd. shall be considered a Subsidiary of Spinco or a Subsidiary of WDC.

"**Systems**" shall mean all hardware, networks, electronics, platforms, servers, interfaces, websites and related information technology systems and services, computer systems and equipment, public Internet protocol address blocks, telecommunications equipment, information technology infrastructure, network devices and equipment (including routers, wireless access points, switches and hubs), fiber and backbone cabling and other telecommunications wiring, demarcation points and rooms, computer rooms and telecommunications closets, including any of the foregoing that are outsourced.

"**Tax**" or "**Taxes**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Tax Attribute**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Tax Contest**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Tax Item**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Tax Records**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Tax Return**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Taxing Authority**" shall have the meaning set forth in the form of Tax Matters Agreement.

"**Technology**" shall mean all tangible items constituting, disclosing or embodying any or all of the following: inventions, works, discoveries, innovations, know-how, ideas, research and development, formulas, algorithms, processes, techniques, designs, design rules, concepts, methods, specifications, algorithms, procedures, protocols, routines, register-transfer levels, netlists, Verilog files, simulations, emulation and simulation reports, test vectors and integrated circuits and integrated circuit masks, mask works, Software, blueprints, diagrams, models, prototypes and other forms of technology and/or scientific, technical or logic information or materials, in each case, whether or not protected or protectable under a Patent or a Copyright or embodying proprietary Intellectual Property Rights; *provided* that, notwithstanding the foregoing, Technology shall exclude Intellectual Property Rights.

"**Tools**" shall mean all machinery, equipment, tools, wires and vehicles; *provided* that, notwithstanding the foregoing, Tools shall exclude Intellectual Property Rights.

"**Transactions**" shall mean the Internal Restructuring, the Distribution, any Subsequent Distribution and the other transactions contemplated by this Agreement, the Separation Plan and the Ancillary Agreements.

"**WDC Group**" shall mean WDC, each of its Subsidiaries and any legal predecessors thereto, but excluding any member of the Spinco Group.

"**WDC Guarantees**" shall mean arrangements in which guaranties (including guaranties of performance or payment under Contracts, commitments, Liabilities and Permits), letters of credit or other credit or credit support arrangements, including bid bonds, advance payment bonds, performance bonds, payment bonds, retention and/or warranty bonds or other bonds or similar instruments, were or are issued, entered into or otherwise put in place by any Person to support or facilitate, or otherwise in respect of, the obligations of any member of the WDC Group or any business (other than the Flash Business) of the WDC Group or Contracts, commitments, Liabilities and Permits of any member of the WDC Group or any business (other than the Flash Business) of the WDC Group.

"**WDC Indemnitees**" shall mean WDC, each member of the WDC Group, and all Persons who are or have been stockholders, directors, partners, managers, managing members, officers, agents or employees of any member of the WDC Group (in each case, in their respective capacities as such) (excluding any shareholder of WDC), together with their respective heirs, executors, administrators, successors and assigns.

10.2 Other Defined Terms. In addition, each of the following terms shall have the meaning given to such term in the applicable Section of this Agreement listed opposite such term:

Term	Section
Agreement	Preamble
Agreement Disputes	Section 8.1(b)
Appointed Representative	Section 8.1(a)
Casualty Loss	Section 6.5(a)
Clean-Up Distribution	Recitals
Condemnation Event	Section 6.5(a)
Conveyance	Section 1.1
Debt Exchange	Recitals
Debt Exchange Parties	Recitals
Deferred Asset	Section 1.8(b)
Disposed Flash Business	Section 1.6(a)(ii)(2)
Distribution	Recitals
Employee Matters Agreement	Section 2.2(a)(vii)
Exchange Debt	Recitals
Excluded Assets	Section 1.5(b)
Excluded Liabilities	Section 1.6(b)
Excluded Related Party Agreements	Section 1.7(b)(vi)
Exclusive Pre-Separation Privileged Materials	Section 5.3(b)
Flash Assets	Section 1.5(a)
Flash Liabilities	Section 1.6(a)
Flash Permits	Section 1.5(a)(iv)
Guarantee Release	Section 6.3(a)
Indemnifying Party	Section 4.6(b)
Indemnitee	Section 4.6(b)
Indemnity Payment	Section 4.7
Intellectual Property Cross-License Agreement	Section 2.2(a)(v)
Joint Control Action	Section 4.8(a)
Nasdaq Listing Application	Section 3.2(a)
Non-Transferable Permits	Section 1.8(a)
Parties	Preamble
Party	Preamble
Pre-Separation Spinco Claims	Section 6.4(b)
Preservation Period	Section 5.1(a)
Privileges	Section 5.3(a)
Related Party Agreements	Section 1.7(a)
Restricted Period	Section 6.9
Retained Claims	Section 4.1(c)
Retained Stock	Recitals
Separation	Recitals
Separation Date	Section 2.1
Separation Plan	Section 1.1
Separation Time	Section 2.1
Shared Contract Transfer	Section 1.8(c)
Shared Pre-Separation Privileged Materials	Section 5.3(c)
Solvency Opinions	Section 7.1(g)
Spinco	Preamble
Spinco Accounts	Section 1.10(a)
Spinco Board	Section 7.1(g)
Spinco Books and Records	Section 1.5(a)(xiii)
Spinco Contracts	Section 1.5(a)(xii)
Spinco Non-Personnel IT	Section 1.5(a)(viii)
Spinco Pre-Separation Privileged Materials	Section 5.3(b)
Spinco Real Property	Section 1.5(a)(i)
Spinco Subs	Section 1.5(a)(ii)
Stockholder and Registration Rights Agreement	Section 2.2(a)(vi)
Subsequent Distribution	Recitals
Tax Matters Agreement	Section 2.2(a)(ii)
Third-Party Claim	Section 4.6(b)
Third-Party Proceeds	Section 4.7
Transfer Documents	Section 2.5
Transferable Permits	Section 1.5(a)(iv)
Transferred Leases	Section 1.6(a)(b)(x)
Transition Services Agreement	Section 2.2(a)(iii)
Transitional Trademark License Agreement	Section 2.2(a)(iv)

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

WESTERN DIGITAL CORPORATION

By: /s/ Wissam Jabre
Name: Wissam Jabre
Title: Executive Vice President and Chief Financial Officer

SANDISK CORPORATION

By: /s/ David V. Goeckeler
Name: David V. Goeckeler
Title: Chief Executive Officer

Exhibit 3.1

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION OF
SANDISK CORPORATION

The undersigned, Bernard Shek, certifies that he is the Secretary of Sandisk Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), and does hereby further certify as follows:

1. The name of this corporation is Sandisk Corporation.

2. The original name of this corporation is SanDisk Storage Corporation.

3. The original Certificate of Incorporation of this Corporation was filed with the Secretary of State of the State of Delaware on February 5, 2024, and was amended on April l, 2024, and further amended on June 10, 2024.

4. The Amended and Restated Certificate of Incorporation, in the form attached hereto as Exhibit A, was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

5. The Amended and Restated Certificate of Incorporation, so adopted, reads in full as set forth in Exhibit A attached hereto and is incorporated herein by reference.

IN WITNESS WHEREOF, Sandisk Corporation has caused this Certificate to be executed by a duly authorized officer as of the 27th day of January, 2025.

SANDISK CORPORATION,
a Delaware corporation

/s/ Bernard Shek
Name: Bernard Shek
Title: Secretary

Exhibit A

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF SANDISK CORPORATION

ARTICLE I
NAME OF CORPORATION

The name of this corporation is:

Sandisk Corporation

ARTICLE II
REGISTERED OFFICE

The address of the registered office of this corporation in the State of Delaware is c/o 251 Little Falls Drive, Wilmington, New Castle County, Delaware 19808, and the name of its registered agent at that address is Corporation Service Company.

ARTICLE III
PURPOSE

The purpose of this corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code (as amended from time to time, the "DGCL").

ARTICLE IV
AUTHORIZED CAPITAL STOCK

This corporation shall be authorized to issue two classes of shares of stock to be designated, respectively, "Preferred Stock" and "Common Stock"; the total number of shares which this corporation shall have authority to issue is four hundred and sixty million (460,000,000); the total number of shares of Preferred Stock shall be ten million (10,000,000) and each such share shall have a par value of one cent ($0.01); and the total number of shares of Common Stock shall be four hundred and fifty million (450,000,000) and each such share shall have a par value of one cent ($0.01).

The shares of Preferred Stock may be issued from time to time in one or more series. The Board of Directors is hereby vested with authority to fix by resolution or resolutions the designations and the powers (including full, limited or no voting powers), preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, including without limitation the dividend rate, conversion rights, redemption price and liquidation preference, of any series of shares of Preferred Stock, and to fix the number of shares constituting any such series, and to increase or decrease the number of shares of any such series (but not below the number of shares thereof then outstanding). In case the number of shares of any such series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution or resolutions originally fixing the number of shares of such series.

ARTICLE V
BOARD POWER REGARDING BYLAWS

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind the bylaws of this corporation (as may be amended, restated or amended and restated from time to time, the "Bylaws").

ARTICLE VI
MANAGEMENT OF BUSINESS; AUTHORIZATION

The business and affairs of this corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by this corporation, subject, nevertheless, to the provisions of the DGCL, this Amended and Restated Certificate of Incorporation and the Bylaws; provided, however, that no Bylaws hereafter adopted, amended or repealed by the stockholders shall invalidate any prior act of the directors that would have been valid if such Bylaws had not been so adopted, amended or repealed.

ARTICLE VII
ELECTION OF DIRECTORS

The number of directors constituting the Board of Directors shall be as from time to time fixed by, or in the manner provided in, the Bylaws. Elections of directors need not be by written ballot unless the Bylaws shall so provide.

ARTICLE VIll
LIMITATION OF DIRECTOR AND OFFICER LIABILITY

To the fullest extent permitted by the DGCL as the same exists or may hereafter be amended, a director or officer of this corporation shall not be personally liable to this corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director or officer. No amendment to, or modification or repeal of, this Article VIll shall adversely affect any right or protection of a director or officer of this corporation existing hereunder with respect to any state of facts existing or act or omission occurring, or any cause of action, suit or claim that, but for this Article VIll, would accrue or arise, prior to such amendment, modification or repeal. If the DGCL is amended after this Amended and Restated Certificate of Incorporation is filed with the Secretary of the State of Delaware to authorize corporate action further eliminating or limiting the personal liability of directors or officers, then the liability of a director or officer of this corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

ARTICLE IX
NO ACTIONS BY WRITTEN CONSENT OF STOCKHOLDERS

Prior to the consummation of the Company's spin-off from Western Digital Corporation (the "Spin-Off"), any action required to be taken at any annual or special meeting of stockholders of a corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation in the manner required by Section 228 of the DGCL. Following the consummation of the Spin-Off, no action required to be taken or which may be taken at any annual or special meeting of stockholders of this corporation may be taken without a meeting, and the power of stockholders to consent in writing without a meeting to the taking of any action is specifically denied.

ARTICLE X
STOCKHOLDER MEETINGS

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books and records of this corporation may be kept (subject to any provision contained in the DGCL) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws.

ARTICLE Xl
CORPORATE POWER

This corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred on stockholders herein are granted subject to this reservation.

ARTICLE Xll
FORUM SELECTION

Unless this corporation consents in writing to the selection of an alternative forum: (a) the following actions shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware: (i) any derivative action or proceeding brought on behalf of this corporation; (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of this corporation to this corporation or this corporation's stockholders; (iii) any action asserting a claim arising pursuant to any provision of the DGCL, this Amended and Restated Certificate of Incorporation or the Bylaws (as either may be amended or restated) or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware; or (iv) any action asserting a claim governed by the internal affairs doctrine of the law of the State of Delaware; and (b) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a

cause of action arising under the Securities Act of 1933, as amended. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of this corporation shall be deemed to have notice of and consented to the provisions of this Article XII.

ARTICLE XIII
SEVERABILITY

If any provision or provisions of this Amended and Restated Certificate of Incorporation shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Amended and Restated Certificate of Incorporation (including, without limitation, each portion of any paragraph of this Amended and Restated Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Amended and Restated Certificate of Incorporation (including, without limitation, each such portion of any paragraph of this Amended and Restated Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit this corporation to protect its directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of this corporation to the fullest extent permitted by law.

Exhibit 10.1

TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (together with the Exhibits hereto, the "TSA" or "Agreement"), is made as of February 21, 2025 (the "Effective Date"), by and between Western Digital Corporation, a Delaware corporation ("WDC"), and Sandisk Corporation, a Delaware corporation (together with its successors and assigns, "Spinco"). Each of WDC and Spinco are hereinafter referred to as a "Party" and are collectively the "Parties" to this Agreement.

W I T N E S S E T H:

WHEREAS, WDC, directly and indirectly through its wholly owned Subsidiaries, is engaged in the Flash Business;

WHEREAS, WDC and Spinco have entered into a Separation and Distribution Agreement, dated as of February 21, 2025 (as amended, modified or supplemented from time to time in accordance with its terms, the "SDA"), pursuant to which, and on the terms and conditions of which, among other things, (i) WDC has agreed to transfer to Spinco, and Spinco has agreed to receive and assume, certain assets and liabilities of the Flash Business and (ii) following such transfer and the other transactions specified in the SDA, WDC has agreed to effect the Distribution, all as more specifically described in, and subject to the terms of, the SDA;

WHEREAS, prior to the Separation Time, the Flash Business received certain services from WDC and certain of its Affiliates, and WDC and certain of its Affiliates received certain services from the Flash Business; and

WHEREAS, WDC and Spinco each desire that certain of these services continue to be provided after the Distribution upon the terms and conditions set forth in this TSA.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this TSA, and intending to be legally bound, and for other good and valuable consideration, the receipt and sufficiency which are hereby acknowledged, WDC and Spinco hereby agree as follows:

SECTION 1. Definitions Incorporated. All capitalized terms used but not otherwise defined in this TSA have the meanings ascribed to them in the SDA.

SECTION 2. Additional Definitions. Unless the context otherwise requires, the following terms, in their singular or plural forms, used in this TSA shall have the meanings set forth below:

2.1 "Early Termination Costs" means, without duplication of any Fees or Out-of-Pocket Costs paid or payable hereunder, any third-party costs or expenses incurred or paid by Service Provider, or that Service Provider is or will be obligated to pay pursuant to any commitments, purchase orders, work orders or any agreements entered into in good faith with third parties in order to provide such

Service, including non-refundable prepayments to vendors or termination penalties payable pursuant to such agreements, to the extent such costs or expenses could not be reasonably avoided and would otherwise not have been incurred if the applicable Service had not been terminated prior to its scheduled Service Term.

2.2 "Excluded Service" means a service set forth on a schedule of excluded services that is attached to this TSA.

2.3 "Fees" means the fees set forth in a Service Schedule to be paid to Service Provider and its Affiliates in connection with providing Services to Service Recipient.

2.4 "Governance Framework" means the document attached as Exhibit B to this TSA.

2.5 "Legal Requirement" shall mean any federal, state, local, municipal, foreign or other law, statute, constitution, treaty, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling, injunction, judgment, order, assessment, writ or other legal requirement, administrative policy or official guidance issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Authority.

2.6 "Losses" means direct losses, damages, costs and expenses; *provided* that "Losses" shall not include any (A) punitive, exemplary or special damages or (B) any indirect, incidental or consequential damages.

2.7 "Service Provider" means a Party in its capacity as a provider of Services hereunder.

2.8 "Service Recipient" means a Party in its capacity as a recipient of Services hereunder.

2.9 "Service Schedule" means a schedule for Services that is attached as Exhibit A to this TSA.

2.10 "Service Term" means the period of time during which Service Provider will provide each individual Service to Service Recipient. Unless stated otherwise in the Service Schedule, all Service Terms commence immediately following the Distribution.

2.11 "Services" means the services to be provided by Service Provider or an Affiliate of Service Provider to Service Recipient set forth in a Service Schedule.

2.12 "Tax" or "Taxes" has the meaning set forth in the Tax Matters Agreement.

2.13 "WDC Business" means the businesses of WDC and its Subsidiaries at Closing (for the avoidance of doubt, other than the Flash Business).

SECTION 3. Services Provided.

3.1 Agreement to Provide Services.

3.1.1 Services. Pursuant to the terms and conditions of this TSA and the applicable Service Schedules, Service Provider will, or will, in accordance with Section 6.5, cause one or more of its Affiliates or third-party contractors to, provide the Services described in each Service Schedule to Service Recipient in accordance with the service standards set forth in Section 6.1. Unless otherwise agreed by the Parties in a Service Schedule, Service Provider shall not be required to provide any Service in a location other than where such Service was performed as of immediately prior to the Closing. Service Recipient agrees that the Services are for the sole use and benefit of Service Recipient and its Affiliates, in each case, solely with respect to the Flash Business or the WDC Business, as applicable, conducted at Closing. Service Recipient shall not resell any of the Services to any Person whatsoever and shall not permit the receipt or use of the Services by any Person other than for the conduct of the Flash Business or the WDC Business, as applicable, in the ordinary course consistent with past practice. Subject to Section 3.1.2, for the avoidance of doubt, except as set forth in a Service Schedule executed by each Party, neither Service Provider nor any of its Affiliates shall be obligated to provide any other services to Service Recipient or any of its Affiliates.

3.1.2 Omitted Services. If either Party (a) identifies a service that (i) WDC provided to the Flash Business as of immediately prior to Closing that Spinco reasonably needs in order for the Flash Business to continue to operate in substantially the same manner in which the Flash Business operated as of immediately prior to Closing and such service was not set forth on the Service Schedules (other than an Excluded Service) or (ii) the Flash Business provided to WDC as of immediately prior to Closing that WDC reasonably needs in order for the WDC Business to continue to operate in substantially the same manner in which the WDC Business operated as of immediately prior to Closing, and such service was not set forth on the Service Schedules (other an Excluded Service); *provided* that in each case of (i) and (ii), the requesting Party or its Affiliates do not have the ability or resources to perform the service or to obtain such service from a third party without undue hardship or expense (the services referenced in clause (i) and clause (ii), the "Omitted Services"), and (b) provides a written change request (in the form agreed by the Parties) to the other Party requesting such Omitted Service within ninety (90) days after the Closing, then such other Party shall negotiate in good faith to provide such Omitted Service, as applicable; *provided* that the actual Fees associated with any such Omitted Services will be determined in a manner consistent with the manner used to determine the compensation for similar Services; *provided, however*, that neither Party shall be obligated to provide any Omitted Service if it does not, in its reasonable judgment, have adequate resources to provide such Omitted Service. Without limiting the foregoing, Service Recipient shall bear all of Service Provider's internal and external fully burdened costs and expenses, including Out-of-Pocket Costs, incurred in connection with the provision of the Omitted Services. The Parties shall document any such addition of an Omitted Service in

a Service Schedule. Such Service Schedule shall describe in reasonable detail the nature, scope, Service Term and other terms applicable for any such Omitted Services. Each such Service Schedule shall be deemed part of this TSA as of the date of such agreement and the Omitted Services set forth therein shall be deemed "Services" provided under this TSA, in each case subject to the terms and conditions of this TSA.

3.1.3 Service Adjustments. After the Distribution, if Service Provider or Service Recipient desires to adjust any Services or change the manner in which Services are provided (such adjustments and changes other than the addition of Omitted Services, "Service Adjustments"), then such Service Provider or Service Recipient, as applicable, will provide a written change request (in the form agreed to by the Parties) to the other Party, and the Parties shall negotiate in good faith to make such Service Adjustments; *provided, however*, that Service Provider shall not be obligated to provide any Service Adjustment if the Service Provider and Service Recipient are unable to reach agreement on the terms thereof (including with respect to compensation therefor) unless such Service Adjustment is required by a change in any Legal Requirements applicable to such Services. If the Parties agree to any Service Adjustment, then the Parties shall document such terms in an amendment to the applicable Service Schedule. Each amended Service Schedule, as agreed to in writing by the Parties, shall be deemed part of this TSA as of the date of such agreement and the Service Adjustments set forth therein shall be deemed "Services" provided under this TSA, in each case subject to the terms and conditions of this TSA.

3.2 Points of Contact; Disputes.

3.2.1 Points of Contact. With respect to each Service on a Service Schedule, each of Service Provider and Service Recipient shall identify in writing to the other Party a point of contact for such Service. Such points of contact shall be the initial points of contact with respect to any matters with respect to the day-to-day provision of such Services, including attempting to resolve any issues that may arise during the performance of such Services. Any reference in this TSA to the cooperation of the Parties, or the use of good faith efforts to negotiate between the Parties or any other contact or communication between the Parties, shall be deemed to be an obligation of such points of contact on behalf of the Parties and for communication to be, in the first instance, between the respective points of contact of Service Provider and Service Recipient and, if requested by a Party, the applicable functional leaders of each Party shall participate in such negotiation (e.g., if the Services subject to the Dispute (as defined below) concern IT, then the functional heads of the Parties for such IT services shall participate). The Parties' points of contact and functional leaders shall perform their responsibilities as described above in a manner consistent with the Governance Framework, including with respect to governance structure, responsibilities, meeting cadence and reporting. If a material dispute arises that the points of contacts are not able to resolve within ten (10) Business Days (or such longer period as the points of contact may mutually agree), the terms in Section 3.2.2 shall apply. The points of contact may delegate authority to other Service Provider or Service Recipient personnel (as applicable) to act as initial points of contact with respect to certain Services or categories of Services as appropriate; *provided* that such personnel shall be of sufficient authority to be able to make decisions in the ordinary course under this Agreement and to serve as an effective channel for escalations.

3.2.2 Disputes. Subject to and without prejudice to either Party's right to seek immediate specific performance at any time, in the event of any material dispute between the Parties relating to the Services or this TSA that is not resolved by the Parties' respective points of contact ("Dispute"), the points of contact may escalate the Dispute to senior management of the Parties or their designated delegates, which for WDC shall initially be Sally Brown, and for Spinco shall initially be Frances (Mingying) Fan. Within five (5) Business Days of the receipt by a Party of a notice from the other Party of the existence of a Dispute (the "Dispute Notice"), the receiving Party shall submit a written response to the other Party (the "Dispute Response"). Both the Dispute Notice and the Dispute Response shall include (i) a statement of the disputing Party's position with regard to the Dispute and a summary of arguments supporting that position; and (ii) the name and title of the senior executive who will represent that Party in attempting to resolve the Dispute pursuant to this Section 3.2.2. Within five (5) Business Days of receipt of the Dispute Response, the designated executives shall meet (including by teleconference or video conference) and attempt to resolve the Dispute. All communications made in connection with this clause shall be protected to the same extent as provided in Rule 408 of the Federal Rules of Evidence, confidential and shall not be referred to, or admissible for any purpose, in any subsequent proceedings. If any Dispute is not resolved within twenty (20) Business Days of receipt of the Dispute Notice (or within such longer period as to which the Parties have agreed in writing), then the Parties may pursue all available remedies in accordance with Section 12.5. Each Party agrees that it will, unless otherwise directed or if rendered impracticable by the other Party, continue performing its other undisputed obligations under this TSA while any dispute is being resolved until the expiration or termination of the Agreement Term, and any disputed Service shall continue to be provided by the Service Provider unless suspended for non-payment in accordance with Section 4.5 or an act or omission of Service Recipient directly or indirectly renders such disputed Service impracticable to reasonably perform.

SECTION 4. Compensation.

4.1 Compensation for Services. Subject to the terms and conditions in this TSA, the compensation to be paid by Service Recipient to Service Provider for each Service set forth in a Service Schedule during the Agreement Term (as defined below) shall equal the Fees set forth in the applicable Service Schedule with respect to such Service. Subject to any thresholds set forth in the Service Schedules, a Party may request that Fees for a particular Service (less any administrative mark-up or, if applicable, extension-related escalator) be adjusted to more closely reflect the actual costs being incurred to provide such Service. The Parties shall discuss such request in good faith, but Fees shall not be adjusted unless mutually agreed by the Parties. Except as otherwise set forth in a Service Schedule, for any Service where the price for the Service is expressed as a time-based rate (such as a specified dollar amount per month), if such Services are provided for only a portion of the specified time period, the Services will be deemed provided for the full time period for purposes of determining the Fees under this TSA.

4.2 Out-of-Pocket Costs and Expenses. Unless otherwise set forth on a Service Schedule, the Fees set forth in the Service Schedules are exclusive of any third-party costs that may be incurred by Service Provider or any of its Affiliates to provide such Services in the ordinary course. Such third-party costs may include (a) expenses related to travel (including long-distance and local transportation, accommodation and meal expenses and other incidental expenses) of Service Provider's or its Affiliates' personnel incurred to provide the Services to the extent such expenses are reimbursable under the then-existing policies of Service Provider or its Affiliates, (b) all third-party consultant and third-party service provider fees incurred to provide the Services and (c) any other incremental out-of-pocket, third-party costs incurred to provide the Services (collectively, such incremental out-of-pocket costs, the "Out-of-Pocket Costs"). All of the foregoing shall be charged and invoiced by Service Provider to Service Recipient on a straight pass-through basis, monthly in arrears in accordance with Section 4.4; *provided, however*, that the aggregate amount of any third-party costs, including Out-of-Pocket Costs, payable by Service Recipient hereunder shall not exceed $50,000 per month without the prior written consent of Service Recipient, which consent shall not be unreasonably withheld, conditioned or delayed; *provided*, further, that Out-of-Pocket Costs related to travel shall only be charged and invoiced where such costs equal or exceed $5,000 in any month with respect to any Service.

4.3 Taxes. The Fees set forth in the Service Schedules are exclusive of Taxes. Service Recipient will pay and be liable for any and all sales, service, value added or similar Taxes imposed on, sustained, incurred, levied and measured by: (a) the cost, value or price of Services provided by Service Provider under this TSA; or (b) Service Provider's cost in acquiring property or services used or consumed by Service Provider in providing Services under this TSA (collectively, the "Sales and Service Taxes"); *provided, however*, that (a) in the case of any value-added Taxes, Service Recipient shall not be obligated to pay such Taxes unless Service Provider has issued to Service Recipient a valid value-added Tax invoice in respect thereof, and (b) in the case of all Sales and Service Taxes, Service Recipient shall not be obligated to pay such Taxes if and to the extent Service Recipient has provided any valid exemption certificates or other applicable documentation that would eliminate or reduce the obligation to collect or pay such Taxes, to the extent permitted by applicable law. Sales and Service Taxes payable by Service Recipient but required to be remitted by Service Provider shall be reimbursed by Service Recipient to Service Provider (who shall remit such amounts to the appropriate taxing authority) in accordance with Section 4.4 or as otherwise mutually agreed in writing by the Parties. At Service Recipient's reasonable request and at Service Recipient's expense, the Parties shall cooperate in good faith to reduce or eliminate any Sales and Service Taxes; *provided, further*, that, (x) Service Provider will, at Service Recipient's reasonable request and at Service Recipient's expense, reasonably cooperate with Service Recipient in Service Recipient's pursuit of the refund of any Sales and Service Taxes, and (y) in the event that Service Provider receives a refund of any Sales and Service Taxes previously remitted to an appropriate taxing authority, Service Provider shall promptly surrender such refund to Service Recipient.

4.3.1 Each of Service Provider and Service Recipient shall pay and be responsible for all other Taxes applicable to each of them, including Taxes based on their own respective net income or profits or assets.

4.3.2 Payments for Services or other amounts under this TSA shall be made net of any required withholding, and to the extent such required amount is withheld or deducted and paid over to the applicable taxing authority, such amount shall be treated for all purposes of this TSA as having been paid to the Person in respect of which such withholding or deduction was made. Notwithstanding the foregoing, if Service Provider reasonably believes that a reduced rate of withholding applies or Service Provider is exempt from withholding, then Service Provider will notify Service Recipient and Service Recipient will, to the extent permitted by applicable law, apply such reduced rate of withholding or no withholding at such time as Service Provider has provided Service Recipient with evidence reasonably satisfactory to Service Recipient that a reduced rate of or no withholding is required (and that all necessary administrative provisions or requirements have been completed). The Parties shall cooperate in good faith to reduce or eliminate the need to withhold with respect to payments under this TSA. Service Recipient shall timely remit any amounts withheld to the appropriate taxing authority and shall provide Service Provider with a receipt or other documentation evidencing such payment, including the amount paid and the applicable taxing authority to which payment was made. Service Recipient shall not be required in any circumstances to pursue any refund of Taxes withheld and paid over to a taxing authority; *provided, however*, that (a) Service Recipient will, at Service Provider's reasonable request and at Service Provider's expense, cooperate with Service Provider in Service Provider's pursuit of such refund of Taxes, and (b) in the event that Service Recipient receives a refund of any amounts previously withheld from payments to Service Provider and remitted, Service Recipient shall promptly surrender such refund to Service Provider.

4.3.3 Each of Service Provider and Service Recipient shall promptly notify the other of any deficiency claim or similar notice by a taxing authority with respect to Sales and Service Taxes or withholding on any amount payable under this TSA, and shall provide the other with such information as reasonably requested from time to time, and shall fully cooperate with the Service Provider or Service Recipient, as applicable, in connection with: (a) the reporting of such Sales and Service Taxes or withholding; (b) any audit relating to such Sales and Service Taxes or withholding; and (c) any assessment, refund, claim or proceeding relating to such Sales and Service Taxes or withholding.

4.3.4 Except as otherwise specifically provided in this TSA, Tax matters shall be exclusively governed by the Tax Matters Agreement, and in the event of any inconsistency between the Tax Matters Agreement and this TSA, the Tax Matters Agreement shall control. The procedures relating to indemnification for Tax matters shall be exclusively governed by the Tax Matters Agreement.

4.4 Terms of Payment. Within fifteen (15) days following the end of each month where Services are provided, Service Provider will invoice Service Recipient for the applicable Fees of each Service provided in such month according to the Fee schedule set forth in the applicable Service Schedule together with, subject to the last sentence of Section 4.2, any Out-of-Pocket Costs, and, subject to Section 4.3, Sales and Service Taxes. Service Provider shall include in such invoices, in reasonable detail, the additional amounts, such as Sales and Service Taxes and/or Out-of-Pocket Costs incurred in such month, that are payable in addition to the prices for the Services. Within ninety (90) days after receipt of an invoice submitted in good faith or, if the Service Recipient issues payments on a monthly basis ("Monthly Payment Cycle"), on the date of the next Monthly Payment Cycle following ninety (90) days after receipt of such invoice, Service Recipient shall pay the undisputed amounts in such invoice by wire transfer in immediately available funds (or such other means as the Parties may mutually agree in writing). All amounts due for Services rendered pursuant to this TSA shall be billed and paid in United States dollars or the applicable currency for such Services set forth on the applicable Service Schedule hereto.

4.5 Late Payment. In the event that Service Recipient fails to timely pay any invoiced amounts not subject to a pending dispute pursuant to and in accordance with Section 4.4, Service Provider may suspend performance of the particular Service (and, if applicable, its related Bundled Services) for which payment has not been timely received after providing twenty (20) Business Days' written notice of non-payment, such notice to be provided to Service Recipient senior management set forth in Section 3.2.2. In the event a good faith dispute is raised by Service Recipient during such twenty (20) Business Days period, the provisions of Section 3.2.1 and Section 3.2.2 shall apply. Service Provider's right to suspend performance of a particular Service for failure to make timely payment in accordance with Section 4.4 and this Section 4.5 are in addition to the rights set forth in Section 5.5.

SECTION 5. Term and Termination.

5.1 Term of TSA and Services. Except as expressly provided otherwise in this Section 5 or elsewhere in this TSA or in the Service Schedule, the term of this TSA shall commence at the Effective Time and end at 11:59 p.m. Pacific Time on the date that is two (2) years after the Effective Date (such period, the "Agreement Term"). Service Provider (or its Affiliates) shall provide each of the Services for the Service Term set forth in the Service Schedule for such Service (plus any extension pursuant to Section 5.2). If the Service Schedule for a Service does not set forth a Service Term, the Service Term for such Service shall end on the date that is six (6) months after the Effective Date. For the avoidance of doubt, in no event will Service Provider or any of its Affiliates be required to provide a Service beyond its Service Term (as it may be extended in accordance with Section 5.2). The Parties acknowledge and agree that it is their objective to have all Services and all related transition activities completed as soon as possible, with the stated goal of accelerating transition activities, where practical.

5.2 Service Term Extension. Notwithstanding anything to the contrary in this TSA, or the Service Schedules, in no event shall Service Provider or any of its Affiliates have any obligation to provide any Services beyond the Agreement Term. Subject to the foregoing, Service Recipient may upon written notice of no less than sixty (60) days (or, solely with respect to Services with initial Service Terms that are three (3) months or less, thirty (30) days) prior to the end of the then-current Service Term request an extension of such Service Term. Upon receipt of a timely request for the extension of a Service Term in accordance with this Section 5.2, solely for any Service which is not designated as "Non-extendable" in the Service Schedules, where (i) the initial Service Term is ten (10) months or less, the applicable Service Term shall be extended for an extension period of a minimum of two (2) months and the applicable Service Term shall not extend beyond the date that is twelve (12) months after the Effective Date, and (ii) the initial Service Term is greater than ten (10) months, the applicable Service Term shall be extended for an extension period of a minimum of two (2) months and the applicable Service Term shall not extend beyond the date that is fifteen (15) months after the Effective Date; *provided* that (a) as set forth on the Service Schedules, a surcharge shall be added to the Fees payable by Service Recipient for such extended Service, (b) any consents required in connection with extending a Service shall be sought by Service Provider in accordance with this TSA, (c) if Service Recipient requests to extend a Service that is interdependent with other Services, as indicated in the Service Schedule for such Service (any Services so indicated in their respective Service Schedules as being interdependent, "Bundled Services"), then Service Recipient must also extend such interdependent Services, to the extent necessary, and (d) there shall be no right to extend the Service Term for any Services for less than an additional two (2) months or to extend the Service Term beyond the date that is either twelve (12) or fifteen (15) months after the Effective Date (as applicable in accordance with (i) and (ii), above).

5.3 Termination of Individual Services by Service Recipient for Convenience. Service Recipient may, at any time after the Effective Date, terminate any individual Service provided under this TSA on a Service-by-Service basis upon written notice to Service Provider identifying the particular Service or Bundled Services to be terminated and the effective date of such termination ("Termination Notice"), which date shall not be earlier than sixty (60) days after Service Provider's receipt of such Termination Notice, unless Service Provider otherwise agrees in writing. Notwithstanding the foregoing, except with the prior written consent of Service Provider, Service Recipient shall not be able to terminate any individual Service that is a Bundled Service or for which there are any other Bundled Services, without also terminating its Bundled Services. If Service Recipient has requested termination of any particular Service or Bundled Services and has not withdrawn such request pursuant to Section 5.3.1, Service Provider shall have no obligation to provide such Service or Bundled Services after the applicable date of termination of such Service or Bundled Services.

5.3.1 Service Recipient shall reimburse Service Provider for Early Termination Costs, if any, and if and to the extent set forth on the Service Schedules, resulting from any such early termination, and Service Provider shall use commercially reasonable efforts to mitigate any such Early Termination Costs; *provided* that, within thirty (30) days after Service Recipient's written request identifying the applicable Services and expected termination dates, Service Provider shall provide to Service Recipient a good faith estimate of the amounts of Early Termination Costs resulting from such early termination of such Services and Service Recipient may withdraw its request to terminate such Services no later than five (5) days after Service Provider provides such estimate.

5.4 Termination of Agreement. This TSA shall terminate on the earliest to occur of: (a) the last date of the Agreement Term; (b) the date on which the provision of all Services have been completed or terminated pursuant to Section 5.3; and (c) the date on which this TSA is terminated pursuant to Section 5.6.

5.5 Termination for Cause. Subject to Section 6.3, if either Party materially breaches this TSA and such Party does not cure such breach within twenty (20) Business Days after the later of (a) receiving reasonably detailed written notice thereof from the non-breaching Party and (b) completion of a dispute resolution procedure with respect to such breach in accordance with Section 3.2.2, the non-breaching Party may terminate this TSA, in whole or in part with respect to the Service(s) to which the breach relates and any Bundled Service(s), immediately following the expiration of such twenty (20)-day period by providing written notice of termination to the Party in breach. Notwithstanding the foregoing, if any such material breach is not reasonably curable within twenty (20) Business Days, but the breaching Party has (i) provided, within the twenty (20) Business Days period after written notice has been delivered, a remedial plan to cure such breach that is reasonably satisfactory to the non-breaching Party, and (ii) is making a bona fide effort to cure such breach in accordance with such plan; then such termination may be delayed upon mutual agreement for a time period to be agreed by both Parties in order to permit the breaching Party a reasonable period of time to cure such breach. In connection with any breach or alleged breach due to late payment, this Section 5.5 shall not limit the provisions of Sections 4.4–4.5.

5.6 Termination Upon Insolvency. This TSA may be terminated, effective immediately upon written notice, by either Party if the other Party files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law or makes or seeks to make a general assignment for the benefit of its creditors or applies for or consents to the appointment of a trustee, receiver or custodian for it or a substantial part of its property.

5.7 Effect of Termination; Survival. In the event of the expiration or any termination of this TSA, Service Provider shall be entitled to all amounts due for the provision of Services rendered prior to the date of termination and such amounts will be determined in accordance with the prices set forth in the applicable Service Schedule(s) and will be invoiced and paid by Service Recipient in accordance with the terms in this TSA. The following Sections shall survive the termination or expiration of this TSA: Section 1 and Section 2 (in each case as necessary to interpret any surviving provision hereunder), Section 4 (solely with respect to amounts accrued prior to the termination or expiration of this TSA), this Section 5.7, Section 6.8, Section 6.10, Section 6.13, Section 8.2, Section 9, Section 10, Section 11, and Section 12.

SECTION 6. Certain Covenants.

6.1 Standard for Service. Subject to the terms and conditions of this TSA (including Section 6.3), Service Provider agrees (a) to perform (or to cause its applicable Affiliate(s) or third-party service provider(s) to perform) any Services that it provides hereunder at substantially the same levels as those Services were

provided by Service Provider as of immediately prior to the Closing without giving effect to modification of business practice due to preparation for the Separation and with substantially the same quality of service, degree of care and level of service at which the same or similar services were provided by or on behalf of such Service Provider as of immediately prior to Closing or, if not so previously provided, then substantially similar to those which are applicable to similar services provided to Service Provider's Affiliates or other business units and (b) upon receipt of written notice from Service Recipient identifying any outage, interruption or other failure of a Service, to respond to such outage, interruption or other failure of such Service in a manner that is substantially similar to the manner in which such Service Provider or its Affiliates responds with respect to internally provided services. The Parties acknowledge that an outage, interruption or other failure of any Service shall not be deemed a breach of this Section 6.1 so long as the applicable Service Provider complies with the foregoing clause (b).

6.2 No Violation of Laws. Neither Service Provider nor its Affiliates (nor third-party service providers) shall be required to provide all or any part of any particular Service or Services to the extent that providing such Service or Services would require (based on the advice of counsel) Service Provider or its Affiliates to violate any applicable Legal Requirements. If Service Provider is or becomes aware of any such potential violation (as determined based on the advice of counsel) on the part of such Service Provider, such Service Provider shall promptly send a written notice to Service Recipient of any such potential violation. Upon Service Recipient's request and at Service Recipient's cost and expense, Service Provider shall use commercially reasonable efforts to try to perform the affected Service in a manner that would not violate the applicable Legal Requirement.

6.3 Cooperation. It is understood that it will require significant efforts of all Parties to implement this TSA and to ensure performance hereunder at the agreed-upon level and on the agreed-upon timeframe (subject to all the terms and conditions of this TSA). The Parties will reasonably cooperate (acting in good faith) to effect a smooth and orderly transition of the performance of the Services provided hereunder from Service Provider and its Affiliates to Service Recipient and/or its Affiliates (including, as may be agreed by the Parties, with respect to the assignment or transfer of the rights and obligations under any third-party contracts relating to the Services). Such cooperation shall include the provision of such reasonable access to each Party to the other Party's personnel and records as shall be reasonably necessary to facilitate the transition of the Services, including reasonable administrative support and general assistance with knowledge transfer from Service Provider and at the Service Recipient's cost (or if such conduct or activity is included in a Service, then at the cost set forth therefor in the Service Schedule). In addition, Service Recipient and its Affiliates shall not take any action (or fail to take any action) that would interfere with the ability of Service Provider or its Affiliates to provide the Services or that would materially increase the Fees therefor (without an undertaking by the Service Recipient to cover such increase). If a failure of Service Recipient to act in accordance with this Section 6.3 prevents or inhibits the provision of a Service hereunder, Service Provider or its Affiliates shall be relieved of its obligations to provide such Service, to the extent affected until the failure has been remedied.

6.4 Means of Providing Services.

6.4.1 Subject to Section 3.1.3 and Section 6.1 and Service Provider's obligation to perform the Services in accordance with the terms of this TSA and the Service Schedule, Service Provider shall determine the means and resources used to provide the Services. Without limiting the foregoing, Service Provider or its Affiliates may elect to modify or replace at any time (a) its policies and procedures; (b) any Affiliates and/or third parties that provide any Services; (c) the location from which any Service is provided; or (d) the intellectual property rights, information technology, products and services used to provide the Services.

6.4.2 Service Recipient acknowledges that Service Provider may be providing similar services, and/or services that involve the same resources as those used to provide the Services, to its internal organizations, Affiliates and to third parties, and the provision of such similar services, in and of itself, shall in no way be deemed to be a breach of Service Provider's obligations hereunder.

6.4.3 Subject to Section 6.1 and any limitations with respect to outages specified in any Service Schedule, Service Provider or its Affiliates may suspend the provision of the Services (or any part thereof), from time to time, to enable the performance of routine or emergency maintenance to the assets used in connection with the provision of the Services that are required to provide the Services; *provided* that (a) Service Provider shall provide Service Recipient with reasonable prior notice of such suspension and the anticipated duration of the suspension, in each case to the extent practicable; and (b) Service Provider shall use commercially reasonable efforts to carry out the applicable maintenance and resume the provision of the applicable Services as soon as reasonably practicable.

6.5 Authorized Service Providers. Except as otherwise specified in a Service Schedule with respect to the Services under such Service Schedule, but without limiting the obligations of the Service Provider under Section 6.1, Service Provider or any of its Affiliates may, as it deems necessary or appropriate in providing the Services, (a) use the personnel of Service Provider or its Affiliates (it being understood that such personnel can perform the Services on behalf of Service Provider or its Affiliates on a full-time or part-time basis, as reasonably determined by Service Provider or its Affiliates in accordance with the obligations under this TSA relating to the provision of the Services, including Section 6.1); (b) employ the services of third parties who are in the business of providing such Services; *provided* that (i) Service Provider's use of a third party to perform the Services does not relieve Service Provider of its obligations pursuant to this TSA including with respect to Section 6.1, even during any transition of Services from Service Provider to such third party and (ii) Service Provider shall use the same degree of care in selecting any such third party as it would if such third party were being retained to provide similar services to Service Provider, but in no event less than a reasonable degree of care; or (c) require the assignee or transferee of Service Provider or its Affiliates of the relevant personnel or assets pursuant to Section 12.8 to provide the applicable Services.

6.5.1 In performing the Services, employees and representatives of Service Provider and its Affiliates shall, as between the Parties, be under the direction, control and supervision of Service Provider or its Affiliates (and not Service Recipient) and, as between the Parties, Service Provider or its Affiliates shall have the sole right and obligation to exercise all authority and control with respect to the employment (including termination of employment), assignment and compensation of such employees and representatives. Service Recipient acknowledges and agrees that, except as set forth on the Service Schedules, it has no right hereunder to require that Service Provider or its Affiliates perform the Services hereunder with specifically identified employees or, subject to clause (b) of Section 6.5, above, third parties and that the assignment of employees or, subject to clause (b) of Section 6.5, above, third parties to perform such Services shall be determined in the sole discretion of Service Provider; *provided* that if Service Provider intends to transition performance of a Service to a third party that is being performed by its or its Subsidiaries' employees, Service Provider shall provide Service Recipient ten (10) Business Days' prior written notice of such transition; *provided, further*, that Service Provider will use commercially reasonable efforts to limit the disruption to Service Recipient in the transition of the Services to different personnel (whether employees or third parties).

6.6 Relationship of the Parties. Nothing contained in this TSA shall be construed as creating a partnership, joint venture, joint employer, agency, trust or similar relationship among or between the Parties, each Party being individually responsible only for its obligations as set forth in this TSA. Service Provider and its Affiliates shall provide the Services hereunder in the capacity of an independent contractor and not as an employee, agent or joint venture counterparty of Service Recipient. Without limiting the foregoing, (a) Service Recipient shall not have, or hold itself out as having, any power or authority to bind Service Provider to any contract, undertaking or other engagement with any third party and (b) Service Provider shall not have, or hold itself out as having, any power or authority to bind Service Recipient to any contract, undertaking or other engagement with any third party.

6.7 Treatment of Employees.

6.7.1 Except as set forth in any Service Schedule, the Employee Matters Agreement or any other Ancillary Agreement, employees of Service Recipient involved in the receipt of the Services shall remain as the employees of Service Recipient, and Service Recipient shall be solely responsible for the payment and provision of all wages, bonuses, severance, workers' compensation insurance, unemployment insurance, employment taxes, commissions and employee benefit plans, programs or arrangements relating to such employees.

6.7.2 Except as set forth in the Employee Matters Agreement or any other Ancillary Agreement, employees of Service Provider and its Affiliates involved in the provision and administration of the Services shall remain as the employees of Service Provider and its Affiliates, and Service Provider and its Affiliates shall be solely responsible for the payment and provision of all wages, bonuses, severance, workers' compensation insurance, unemployment insurance, employment taxes, commissions and employee benefit plans, programs or arrangements relating to such employees.

6.8 No Violation of Third-Party Agreements. If Service Provider reasonably believes that the provision of any Services will result in a violation of any third-party agreement or that a third party's consent, authorization or approval is necessary to provide the Services, then Service Provider will notify Service Recipient and the Parties shall cooperate in good faith to procure for Service Recipient, at Service Recipient's cost and expense, any applicable licenses, enter into any appropriate agreement or obtain the necessary consent, authorization or approval in order to allow the Services to be provided in accordance with the terms set forth herein. All costs incurred as a result of the cooperation of the Parties pursuant to the immediately preceding sentence shall be borne by Service Recipient, except for any costs associated with any third-party consent, approval, license, agreement or other authorization that Service Provider reasonably should have known prior to Closing would be necessary (which costs shall be borne by Service Provider).

6.9 Information Provided by Service Recipient. Service Recipient will provide (or will cause to be provided) to Service Provider complete and accurate data and information to the extent available to the Service Recipient and to the extent necessary for Service Provider or its Affiliates to provide the Services. Service Provider and its Affiliates may rely on the completeness and accuracy of such data and information in connection with the provision of the Services to Service Recipient. Neither Service Provider nor its Affiliates will be liable or responsible for any failure to provide a Service in compliance with this TSA as a result of such data or information provided by Service Recipient being incomplete or inaccurate and Service Recipient will be responsible and liable therefor.

6.10 No License. Without limiting any rights granted under the SDA (or any Ancillary Agreement other than this TSA thereunder), Service Provider and its Affiliates are not granting, and nothing hereunder shall be deemed to grant, any license under any intellectual property or proprietary rights of Service Provider and its Affiliates, and Service Provider and its Affiliates shall retain all right, title and interest in and to all such intellectual property and proprietary rights.

6.11 Import/Export.

6.11.1 With respect to all transactions for which Service Provider will provide Services pursuant to this TSA, Service Recipient shall be solely responsible for compliance by it with respect to the carrying out of its obligations hereunder with all applicable U.S. and non-U.S. laws and regulations relating to export controls, sanctions and imports, including the Export Administration Regulations ("EAR") maintained by the

U.S. Department of Commerce's Bureau of Industry and Security, sanctions laws administered by the U.S. Department of the Treasury's Office of Foreign Assets Control or by the U.S. Department of State, and import regulations administered by U.S. Customs and Border Protection. Service Recipient and Service Provider shall use commercially reasonable means to supply each other on a timely basis with documentation and assistance required to complete the export and/or importation process associated with the provision or receipt of Services, as applicable. Any performance obligation arising under this TSA is contingent upon prior receipt by Service Recipient and/or its Affiliates of all necessary government authorization, and Service Provider shall not be liable for any breach, non-performance or delay in performance resulting from the failure by Service Recipient or its Affiliates to obtain any such authorization. Notwithstanding the terms of Section 10 of this TSA, Service Recipient agrees to reimburse Service Provider for reasonable and documented out-of-pocket expenses actually incurred by Service Provider for responding to any government-initiated audit related to export and/or import transactions, including the cross-border provision of services under this TSA. Notwithstanding Section 10, Service Recipient shall be liable for any surcharges, penalties or damages assessed or incurred for violations of sanctions, export and/or import-related laws and regulations applicable to transactions for which Service Provider will provide Services under this TSA, except for violations caused by any deliberate and willful act or omissions of Service Provider.

6.11.2 Notwithstanding the foregoing, Service Provider shall not be required to undertake or perform any obligation set forth in Section 6.11.1 if Service Provider (or one of its Affiliates) did not undertake or perform the applicable activity prior to Closing and Service Provider shall not be responsible for undertaking or performing any such obligation to a greater degree and extent than, or for incurring any expenses in connection therewith greater than, that undertaken, performed or incurred prior to Closing.

6.12 Transition Planning. Service Recipient shall, as soon as reasonably practicable following the Effective Date, and in any event no later than March 31, 2025, provide in writing to Service Provider a draft transition plan with respect to transfer or termination of the Services (the "Transition Plan"), which Transition Plan shall describe Service Recipient's proposed transition activities and any transition assistance Service Recipient requests from Service Provider in connection with such transfer or termination. Service Provider will review and comment on the Transition Plan and the Parties shall reasonably cooperate with each other to create a final Transition Plan. The Transition Plan shall provide for a completion date that is no later than the last date of the Agreement Term. Without limiting the obligations of the Service Provider under an applicable Service Schedule, the Service Provider shall reasonably cooperate with and offer such commercially reasonable assistance to the Service Recipient at Service Recipient's cost as set forth therefor in the Service Schedule (or if not set forth in the Service Schedule, then at Service Recipient's cost), as is necessary to implement the Service Recipient's final Transition Plan and the transfer of responsibility for the provision of the Services to Service Recipient or a new provider.

6.13 Ownership of Business Data. For the purposes of this TSA, the term "Business Data" shall mean any and all business, accounting, personnel and customer-related data or other similar records, data and information, in each case, to the extent exclusively related to the business of Service Recipient that is generated, collected or serviced in connection with the Services (including data that is associated with the Services set forth on a Service Schedule). The Parties hereby agree that any and all such Business Data shall be owned exclusively by the Service Recipient, and Service Provider (on its own behalf and on behalf of each of its Affiliates who may provide Services hereunder) hereby assigns and agrees to assign (and shall cause each Affiliate who provides Services hereunder) to Service Recipient all Intellectual Property Rights in such Business Data. Service Provider and its Affiliates shall not make any use of Business Data for any reason other than to provide Services hereunder or as required by applicable Legal Requirements.

SECTION 7. Force Majeure. Except for the obligation to pay for Services already provided, neither Party nor any of their respective Affiliates (nor any Person acting on its or their behalf) shall bear any responsibility or liability for any Losses arising out of any delay, inability to perform or interruption of its performance of obligations under this TSA due to events beyond the reasonable control of such Party, including acts of God, acts of Governmental Authority, acts of the public enemy or due to terrorism, war, epidemic, pandemic, riot, flood, civil unrest, insurrection, strike or labor difficulty, severe weather conditions, lack of or shortage of electrical power, systemic malfunctions of equipment or software programs or any other similar event outside of the reasonable control of Service Provider or its Affiliates or any applicable third-party service provider (any such cause or event, hereinafter referred to as a "Force Majeure Event"). In such event, the obligations hereunder of such Party in providing the impacted Service or performing its obligations under this TSA shall be suspended for such time as its performance is suspended or delayed on account thereof but only to the extent that the Force Majeure Event prevents such Party or its Affiliates from performing its duties and obligations hereunder. During the duration of the Force Majeure Event, such Party shall use all commercially reasonable efforts to avoid or remove such Force Majeure Event and shall use all commercially reasonable efforts to resume its performance under this TSA with the least practicable delay. A Force Majeure Event shall not toll or otherwise extend the Agreement Term. Service Recipient shall not be obligated to pay Service Provider for Services with respect to the period when Service Provider is not providing such Services due to a Force Majeure Event and Service Recipient waives all claims for damages related thereto.

SECTION 8. Representations and Warranties.

8.1 Authorization. Each of WDC and Spinco represents and warrants that (a) it has the requisite power and authority to execute and deliver this TSA and to perform the transactions contemplated hereby; (b) all corporate or limited liability company, as the case may be, action on the part of such party necessary to approve or to authorize the execution and delivery of this TSA and the performance

of the transactions contemplated hereby to be performed by it has been duly taken; and (c) assuming the due execution hereof by the other Party hereto, this TSA is a valid and binding obligation of such party, enforceable in accordance with its terms, subject to the effect of principles of equity and the applicable bankruptcy, insolvency or other similar laws, now or hereafter in effect, affecting creditors' rights generally and other customary qualifications.

8.2 DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER TRANSACTION DOCUMENT, EACH PARTY (ON BEHALF OF ITSELF AND ITS AFFILIATES) (A) ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED "AS IS," (B) ASSUMES ALL RISKS AND LIABILITIES ARISING FROM OR RELATING TO ITS USE OF, AND RELIANCE UPON, THE SERVICES, AND (C) ACKNOWLEDGES AND AGREES THAT EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER TRANSACTION DOCUMENT, SERVICE PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES IN RESPECT OF THE SERVICES OR ANY FACILITIES, RESOURCES OR ITEMS TO BE DELIVERED OR PROVIDED TO SERVICE RECIPIENT OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND SERVICE PROVIDER HEREBY EXPRESSLY DISCLAIMS THE SAME.

SECTION 9. Indemnification.

9.1 Service Recipient Indemnification Obligation. Subject to Section 10 of this TSA, Service Recipient shall defend, indemnify and hold harmless Service Provider and its Affiliates, and its and their respective directors, partners, officers, employees and agents (each, a "Service Provider Indemnified Party"), against any and all Losses suffered, sustained, incurred or paid arising from or relating to breach by Service Recipient of its obligations under this TSA.

9.2 Service Provider Indemnification Obligation. Subject to Section 10 of this TSA, Service Provider shall defend, indemnify and hold harmless Service Recipient and its Affiliates, and its and their respective directors, partners, officers, employees and agents (each, a "Service Recipient Indemnified Party"), against any and all Losses suffered, sustained, incurred or paid arising from or relating to breach by Service Provider of its obligations under this TSA.

9.3 Indemnification Notice and Procedures. The indemnification procedures set forth in Sections 4.6–4.8 and Sections 4.10-4.11 of the SDA and in the Tax Matters Agreement shall apply *mutatis*, *mutandis* to the indemnified and indemnifying parties hereunder as if fully set forth herein.

SECTION 10. Limitation of Liability.

10.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS TSA, EXCEPT FOR LOSSES ARISING FROM (A) ACTUAL AND INTENTIONAL FRAUD, GROSS NEGLIGENCE AND WILLFUL MISCONDUCT, AND (B) KNOWING AND INTENTIONAL VIOLATION OF APPLICABLE LAWS, NO PARTY (INCLUDING ITS RESPECTIVE AFFILIATES AND SUBCONTRACTORS, AS APPLICABLE) SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING LOST OR ANTICIPATED REVENUES, LOSS OF PROFITS, LOST OR ANTICIPATED SAVINGS, LOSS OF BUSINESS OPPORTUNITY OR INJURY TO GOODWILL RELATING TO THE SAME AND ATTORNEY'S FEES) ARISING FROM ANY CLAIM RELATING TO THIS AGREEMENT OR ANY OF THE SERVICES TO BE PROVIDED HEREUNDER OR THE PERFORMANCE OF OR FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, AND REGARDLESS OF WHETHER SUCH DAMAGES ARE FORESEEABLE OR AN AUTHORIZED REPRESENTATIVE OF THE OTHER PARTY IS ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

10.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND EXCLUDING AMOUNTS DUE UNDER SECTION 4, EXCEPT FOR LOSSES ARISING FROM (A) ACTUAL AND INTENTIONAL FRAUD, GROSS NEGLIGENCE AND WILLFUL MISCONDUCT, (B) KNOWING AND INTENTIONAL VIOLATION OF APPLICABLE LAWS, (C) BREACHES OF SECTION 11 (*CONFIDENTIALITY*), AND (D) INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 (*INDEMNIFICATION*), NO PARTY'S TOTAL LIABILITY (INCLUDING ITS RESPECTIVE AFFILIATES AND SUBCONTRACTORS' LIABILITY, AS APPLICABLE) FOR LOSSES ARISING UNDER THIS TSA SHALL EXCEED THE AGGREGATE AMOUNT OF FEES PAID UNDER THIS AGREEMENT, REGARDLESS OF WHETHER SUCH DAMAGES ARE FORESEEABLE OR AN AUTHORIZED REPRESENTATIVE OF THE OTHER PARTY IS ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

SECTION 11. Confidentiality.

11.1 Duty of Confidentiality. With respect to any non-public information disclosed by a Party (or its Affiliates or representatives) (the "Disclosing Party") to the other Party (or its Affiliates or representatives) (the "Receiving Party") after Closing for the purpose of this TSA which non-public information is either marked or otherwise identified as confidential or proprietary or would reasonably be considered confidential or proprietary in light of the nature of the information (collectively, the "TSA Confidential Information"), the Receiving Party agrees that (i) it will keep such TSA Confidential Information confidential, using at least the

same degree of care used to protect its own confidential or proprietary information, but not less than reasonable care, to prevent the disclosure or accessibility to others of the Disclosing Party's TSA Confidential Information and (ii) it will use the Disclosing Party's TSA Confidential Information only for the purpose of performing its obligations under this TSA. The Receiving Party shall limit dissemination of and access to the Disclosing Party's TSA Confidential Information to only such of its Affiliates, advisers, employees, agents or contactors (including, in the case of Service Provider, any third party engaged to provide the Services hereunder) or consultants who have a need to know for the purpose of this TSA; *provided* that (1) any third party to which TSA Confidential Information is provided by a Receiving Party is subject to confidentiality and non-use obligations with respect to such TSA Confidential Information at least as protective as the obligations set forth herein and (2) the Receiving Party shall be responsible for any breach of such obligations by any such third party to the same extent as if the Receiving Party had breached its confidentiality and non-use obligations hereunder. The Parties' confidentiality obligations with respect to non-public information of one Party in the possession of the other Party as of Closing shall be governed by the SDA and not this Section 11 of the TSA.

11.2 Exclusions. Specifically excluded from the foregoing obligations is any and all information that the Receiving Party can show: (a) is already known to the Receiving Party at the time of disclosure and is not subject to a confidentiality obligation; (b) was independently developed by the Receiving Party prior to disclosure, without breach of this TSA and without use of or reference to TSA Confidential Information in any way; (c) is already in the public domain at the time of disclosure, or thereafter becomes publicly known other than as the result of a breach by the Receiving Party of its obligations under this TSA; or (d) is rightfully obtained by the Receiving Party from a third party authorized to make such disclosure without restriction.

11.3 Required Disclosures. If, upon advice of counsel, any Disclosing Party's TSA Confidential Information is required to be disclosed by applicable Legal Requirements by the Receiving Party, then the Receiving Party shall promptly notify the Disclosing Party and, insofar as is permissible and reasonably practicable, give the Disclosing Party an opportunity to appear and to object to such production before producing the requested information. Any such production shall be limited to that portion of the TSA Confidential Information required to be disclosed.

11.4 Destruction of TSA Confidential Information. Upon the termination or expiration of this TSA, or upon written request of a Party, other than as required by applicable Legal Requirements, each Party, as a Receiving Party, shall return or destroy the TSA Confidential Information of the Disclosing Party in such Receiving Party's possession and provide a written certification of destruction (as applicable) with respect thereto to such Disclosing Party; *provided, however*, that neither Party shall be liable for breach of its obligations hereunder to the extent it cannot, as Service Provider, reasonably provide any Services without such TSA

Confidential Information so requested by the other Party under this Section 11.4 to be destroyed. Notwithstanding the foregoing, a Party may retain copies of TSA Confidential Information stored in back-up/archival storage in accordance with its retention policies, *provided* that such Party shall continue to be bound by the obligations of confidentiality and non-use hereunder with respect to such TSA Confidential Information while it is in its possession.

11.5 System Security.

(a) In connection with the performance of its obligations or receipt of Services under this TSA, each Party shall comply with all requirements of applicable Data Protection Laws (as such term is defined in each of the Data Protection Terms set forth in Exhibit C) and any contractual obligations, binding industry standards and rules, and self-regulatory standards that relate to privacy, information security or data protection in relation to this TSA.

(b) If either Party or its Affiliate (as the "Accessing Party") is given access to the other Party's or its Affiliates' (the "Network Owner") computer systems, networks, email systems, software, servers, routers, hubs, circuits, switches, data communications lines, storage, firmware, hardware, databases, Internet websites and all other equipment and systems (collectively, the "Systems") in connection with the applicable Services, the Accessing Party shall comply with all of the Network Owner's privacy and information security policies, procedures and requirements (collectively, "Security Regulations"), and shall not tamper with, compromise or circumvent any security or audit measures employed by the Network Owner. Further, the Accessing Party shall not convey, copy, license, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with or create any derivative work based on such Systems, or transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices or any other malicious or unauthorized code to or through the Systems. The Accessing Party shall access and use only those Systems of the Network Owner for which it has been granted the right to access and use and shall use such Systems solely as necessary to provide or receive, as applicable, the Services hereunder.

(c) The Accessing Party shall ensure that only those personnel of the Accessing Party who are specifically authorized to have access to the Systems gain such access and prevent unauthorized access, use, destruction, alteration or loss of information, including Personal Data (as such term is defined in each of the Data Protection Terms set forth in Exhibit C), contained therein, including notifying such personnel of the restrictions set forth in this TSA and the Security Regulations.

(d) If, at any time, an Accessing Party determines that any such personnel has sought to circumvent, or has circumvented, the Security Regulations, that any unauthorized personnel has or has had access to the Systems, or that any such personnel has engaged in activities that may lead to the unauthorized access, use, destruction, alteration or loss of data, information or software of a Network Owner, the Accessing Party shall immediately terminate any such Person's access to the Systems and immediately notify the Network Owner. In addition, a Network Owner shall have the right to deny personnel of an Accessing Party access to the Systems upon notice to the Accessing Party

in the event that the Network Owner reasonably believes that such personnel have engaged in any of the activities set forth above in this Section 11.5(d) or otherwise pose a security concern. Each Accessing Party shall cooperate with the applicable Network Owner in investigating any unauthorized access to the Systems.

(e) To the extent that a Party Processes Personal Data (as such terms are defined in each of the Data Protection Terms set forth in Exhibit C) of or on behalf of the other Party, the Accessing Party shall not sell, retain, use or disclose the Personal Data for any purpose other than for the specific purposes for which access was granted, including retaining, using, or disclosing the Personal Data for a commercial purpose other than the purpose for which access was granted.

(f) Without prejudice to a Party's obligations under Data Protection Laws (as such term is defined in each of the Data Protection Terms set forth in Exhibit C), each Party shall promptly, and in any event within four (4) days, notify the other Party by email and by telephone to the other Party's designated point of contact following the discovery of any Data Breach (as such term is defined in each of the Data Protection Terms set forth in Exhibit C) that has materially impacted, or that the notifying Party reasonably expects will materially impact, the other Party. The notifying Party shall provide periodic, reasonable updates on the current status of the Data Breach and the remediation efforts taken by the notifying Party to resolve the Data Breach.

(g) The provisions of Exhibit C hereto shall govern the Processing of Western Digital Data and Sandisk Data (as such terms are defined in the respective Data Protection Terms set forth in Exhibit C) in connection with the provision of the Services hereunder.

SECTION 12. Miscellaneous.

12.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered: (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed; or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission when receipt is confirmed:

If to WDC:

c/o Western Digital Corporation
5601 Great Oaks Parkway
San Jose, CA 95119
Attn: Cynthia Tregillis
Email: cynthia.tregillis@wdc.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and
christopher.bors@skadden.com

If to Spinco:

c/o Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attn: Bernard Shek
Email: bernard.shek@sandisk.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

12.2 Entire Agreement. This TSA, including any schedules and amendments hereto and thereto, and the other agreements and documents referred to herein and therein, shall together constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and shall supersede all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter hereof and thereof. The Service Schedules to this TSA shall be deemed incorporated in this TSA and shall form a part of it.

12.3 Amendment and Waivers.

12.3.1 This TSA may be amended or supplemented in any and all respects and any provision of this TSA may be waived and any such waiver shall be binding upon a Party, only if such waiver is set forth in a writing executed by such waiving Party bound thereby, and any such amendment or supplement shall be effective only if set forth in a writing executed by each of the Parties; and any such waiver, amendment or supplement shall not be applicable or have any effect except in the specific instance in which it is given. No course of dealing between or among any Persons having any interest in this TSA shall be deemed effective to modify, amend or discharge any part of this TSA or any rights or obligations of any Party under or by reason of this TSA.

12.3.2 Notwithstanding the foregoing, no failure on the part of any Party to exercise any power, right, privilege or remedy under this TSA, and no delay on the part of any Party hereto in exercising any power, right, privilege or remedy under this TSA, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that any Party would otherwise have. Any waiver, permit, consent or approval of any kind or character of any breach or default under this TSA or any such waiver of any provision of this TSA must satisfy the conditions set forth in Section 12.3.1 and shall be effective only to the extent in such writing specifically set forth.

12.4 Severability. Any term or provision of this TSA which is invalid or unenforceable in any situation in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this TSA in any other jurisdiction or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If any provision of this TSA is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. If a final judgment of a court of competent jurisdiction declares that any term or provision of this TSA is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this TSA shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

12.5 Governing Law; Specific Performance; Forum; Waiver of Jury Trial.

12.5.1 This TSA and the consummation of the transactions contemplated hereby, and any Action (whether at law, in contract, in tort or otherwise) arising out of or relating to this TSA and the consummation of the transactions contemplated hereby, or the negotiation, validity, interpretation, performance, breach or termination of this TSA and the consummation of the transactions contemplated hereby, shall be governed by and construed in accordance with the internal law of the State of Delaware regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof. In addition, each of the Parties irrevocably agrees that, subject (except in the case of any legal action or proceeding seeking specific performance) to prior compliance with Section 3.2, any legal action or proceeding with respect to this TSA and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this TSA and the rights and obligations arising hereunder, brought by any other Party or its respective successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this TSA or any of the transactions contemplated by this TSA in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this TSA: (a) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 12.5; (b) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (c) to the fullest extent permitted by applicable Legal Requirements, any claim that: (i) the suit, action or proceeding in such court is brought in an inconvenient forum; (ii) the venue of such suit, action or proceeding is improper; or (iii) this TSA, or the subject matter hereof, may not be enforced in or by such courts (other than by reason of, except in the case of any action or proceeding for specific performance, needing to first comply with the provisions of Section 3.2). The Parties agree that service of any court paper may be made in any manner as may be provided under the applicable Legal Requirements or court rules governing service of process in such court. The Parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Legal Requirements. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS TSA OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.5.2 Each of the Parties acknowledges and agrees that any other Party to this TSA would be damaged irreparably and suffer unreasonable hardship in the event that any term or provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached or violated. Accordingly, each of the Parties agrees that, any other Party may, by posting a bond or other undertaking, without regard to compliance with Section 3.2, seek an injunction or injunctions to prevent breaches or violations of the provisions of this TSA and to seek to enforce specifically this TSA and the terms and provisions hereof and thereof in any claim instituted in any court with jurisdiction over the Parties or their assets in addition to any and all other rights and other remedies at law or in equity and all such rights and remedies will be cumulative.

12.6 Construction.

12.6.1 For purposes of this TSA, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include masculine and feminine genders.

12.6.2 The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this TSA.

12.6.3 As used in this TSA, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.”

12.6.4 As used in this TSA, the words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import shall refer to this TSA as a whole and not to any particular provision of this TSA.

12.6.5 The measure of a period of one (1) month or year for purposes of this TSA will be the date of the following month or year corresponding to the starting date; and, if no corresponding date exists, then the end date of such period being measured will be the next actual date of the following month or year (for example, one month following February 18 is March 18 and one month following March 31 is May 1).

12.6.6 As used in this TSA, the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if.”

12.6.7 As used in this TSA, the word “will” shall be deemed to have the same meaning and effect as the word “shall.”

12.6.8 As used in this TSA, the terms “or,” “any” or “either” are not exclusive and shall be deemed to be “and/or.”

12.6.9 As used in this TSA, references to “written” or “in writing” include in electronic form.

12.6.10 As used in this TSA, references to the “date hereof” are to the date of this TSA.

12.6.11 Except as otherwise indicated, all references in this TSA to “Sections,” “Articles” and “Schedules” are intended to refer to Sections or Articles of this TSA and Schedules to this TSA.

12.6.12 The section and other headings and subheadings contained in this TSA are for convenience of reference only, shall not be deemed to be a part of this TSA and shall not be referred to in connection with the construction, meaning or interpretation of this TSA. The preamble and the recitals set forth at the beginning of this TSA are incorporated by reference into and made a part of this TSA.

12.6.13 Unless otherwise stated in the Service Schedules, any payment to be made pursuant hereto shall be made in U.S. dollars and by wire transfer of immediately available funds.

12.6.14 As used in this Agreement, references to “U.S. dollars” and “$” in this report are to the lawful currency of the United States of America.

12.7 Counterparts. This TSA may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart. This TSA may be executed and delivered by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means. The exchange of a fully executed agreement (in counterparts or otherwise) by facsimile or electronic transmission shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

12.8 Assignability; Binding Effect. This TSA shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and permitted assigns. Neither this TSA nor any Party’s rights, interests or obligations hereunder may be assigned or delegated by any such Party, in whole or in part (whether by operation of law or otherwise), without the prior written consent of the other Parties; *provided, however*, that (a) Service Provider may freely assign its rights under this TSA, in whole or in part, and its rights and obligations hereunder (x) to an Affiliate of Service Provider, or (y) in connection with a sale or restructuring of any of its businesses or assets to which this TSA relates, (b) the rights of Service Recipient hereunder may be assigned in part for a relevant

Service to its Affiliate who is the intended recipient of such Services and (c) any Party may assign this TSA in whole in connection with a merger transaction in which such party is not the surviving entity. Except as set forth in the preceding sentence, any attempted assignment or delegation of this TSA or any of such rights or obligations by any Party without the prior written consent of the other Party shall be void and of no effect. Except as set forth in Section 12.9, nothing in this TSA, express or implied, is intended to or shall confer upon any Person (other than the Parties and their permitted successors and assigns) any power, right, privilege or remedy of any nature whatsoever under or by reason of this TSA.

12.9 No Third-Party Beneficiaries. Except for the provisions of Section 9 with respect to indemnification of indemnified parties, which is intended to benefit and be enforceable by the Persons specified therein as indemnified parties, this TSA is solely for the benefit of the Parties and their respective successors and permitted assigns, and is not intended, and shall not be deemed, to (x) create any agreement of employment with any person, (y) confer on third parties (including any employee of the Flash Business, the Service Recipient or Service Provider) any remedy, claim, reimbursement, claim of action or other right in addition to those existing without reference to this TSA, or (z) otherwise create any third-party beneficiary hereto.

[SIGNATURE PAGES FOLLOW**]**

IN WITNESS WHEREOF, the duly authorized officers or representatives of the parties to this TSA have duly executed this TSA as of the date first written above.

WESTERN DIGITAL CORPORATION

By: /s/ Wissam Jabre
Name: Wissam Jabre
Title: Executive Vice President and Chief Financial Officer

SANDISK CORPORATION

By: /s/ David V. Goeckeler
Name: David V. Goeckeler
Title: Chief Executive Officer

Exhibit 10.2

TAX MATTERS AGREEMENT

by and between

Western Digital Corporation

and

Sandisk Corporation

Dated as of February 21, 2025

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EXHIBITS

TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (this "Agreement"), is entered into as of February 21, 2025, between Western Digital Corporation, a Delaware corporation ("WDC") and Sandisk Corporation, a Delaware corporation ("Spinco" and, together with WDC, the "Parties"). Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings ascribed to such terms in the Separation and Distribution Agreement, dated as of the date hereof, by and between the Parties (the "Separation Agreement").

R E C I T A L S

WHEREAS, WDC, directly and indirectly through its wholly owned Subsidiaries, is engaged in the Flash Business;

WHEREAS, the board of directors of WDC (the "WDC Board") has determined that it is in the best interests of WDC and WDC's stockholders to separate the Flash Business from the other businesses of WDC (the "Separation" and such other businesses, collectively, the "Non-Flash Business") and divest the Flash Business in the manner contemplated by the Separation Agreement and Ancillary Agreements;

WHEREAS, Spinco has been incorporated for these purposes and has not engaged in activities except those incidental to its formation and in preparation for the Separation;

WHEREAS, in order to effect the Separation, WDC has undertaken and will undertake the Internal Restructuring and, in connection therewith, effect the Spinco Contribution and, in exchange therefor, Spinco shall (i) issue to WDC additional shares of Spinco Common Stock and (ii) pay the Spinco Dividend to WDC;

WHEREAS, on the terms and subject to the conditions set forth in the Separation Agreement, following the completion of the Internal Restructuring and Spinco Contribution and payment of the Spinco Dividend, WDC shall own all of the issued and outstanding shares of Spinco Common Stock and shall effect the distribution of 80.1% of such outstanding shares of Spinco Common Stock to the holders of WDC Common Stock in accordance with Section 3.1 of the Separation Agreement (the "Distribution");

WHEREAS, following the Distribution, WDC shall undertake one or more Subsequent Distributions with respect to the Retained Stock, each as defined and set forth in the Separation Agreement;

WHEREAS, for U.S. federal income Tax purposes, (i) it is intended that the Spinco Contribution, taken together with the Distribution, qualifies for non-recognition of gain and loss pursuant to Sections 355, 361 and 368(a)(1)(D) of the Code and (ii) the Separation Agreement constitutes a "plan of reorganization" within the meaning of Section 368 of the Code and Treasury Regulations § 1.368-2(g); and

WHEREAS, the Parties desire to (a) provide for the payment of Tax liabilities and entitlement to refunds thereof, allocate responsibility for, and cooperation in, the filing of Tax Returns, and provide for certain other matters relating to Taxes and (b) set forth certain covenants and indemnities relating to the preservation of the Tax-Free Status of the Transactions.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 General. As used in this Agreement, the following terms shall have the following meanings:

"Accounting Firm" shall have the meaning set forth in Section 9.1.

"Action" shall have the meaning set forth in the Separation Agreement.

"Active Trade or Business" shall mean the active conduct (as defined in Section 355(b)(2) of the Code and the Treasury Regulations thereunder) of the Flash Business conducted by the Specified Spinco Group Member that is relied upon in the Tax Opinions for purposes of qualifying the Distribution, the First Internal Distribution, the Second Internal Distribution and the Third Internal Distribution as tax-free pursuant to Section 355 of the Code as set forth on Exhibit B hereto.

"Adjustment" shall mean an adjustment of any item of income, gain, loss, deduction, credit or any other item affecting Taxes of a taxpayer pursuant to a Final Determination.

"Affiliate" shall have the meaning set forth in the Separation Agreement.

"Agreement" shall have the meaning set forth in the preamble hereto.

"Ancillary Agreement" shall have the meaning set forth in the Separation Agreement.

"Business Day" shall have the meaning set forth in the Separation Agreement.

"Closing of the Books Method" means the apportionment of items between portions of a Tax Period based on a closing of the books and records on the close of the Distribution Date (in the event that the Distribution Date is not the last day of the Tax Period, as if the Distribution Date were the last day of the Tax Period), subject to adjustment for items accrued on the Distribution Date that are properly allocable to the Tax Period following the Distribution, except that in the case of any such Taxes attributable to an equity interest in any partnership or other "flowthrough" entity, the Taxes of the relevant owner of such equity interest shall be determined as if the Tax Period of such partnership or other "flowthrough" entity ended as of the close of business on the Distribution Date; provided that exemptions, allowances or deductions that are calculated on an annual basis (including, but not limited to, depreciation and amortization deductions) will be allocated between the period ending at the close of the Distribution Date and the period beginning after the Distribution Date in proportion to the number of days in each Tax Period.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Computational Dispute" shall have the meaning set forth in Section 9.1.

"Controlling Party" shall mean, with respect to a Tax Contest, the Party entitled to control such Tax Contest pursuant to Sections 6.2 and 6.3 of this Agreement.

"Distribution" shall have the meaning set forth in the recitals.

"Distribution Date" shall have the meaning set forth in the Separation Agreement.

"Distribution Taxes" means any Taxes incurred solely as a result of the failure of all or any portion of the Internal Restructuring, the Spinco Contribution or the Distribution to qualify for the Tax-Free Status of the Transactions.

"Employee Matters Agreement" shall have the meaning set forth in the Separation Agreement.

"Employment Tax" shall mean those Liabilities (as defined in the Separation Agreement) for Taxes which are allocable pursuant to the provisions of the Employee Matters Agreement.

"Excluded Asset" shall have the meaning set forth in the Separation Agreement.

"Excluded Liability" shall have the meaning set forth in the Separation Agreement.

"Final Determination" shall mean the final resolution of liability for any Tax for any Tax Period, by or as a result of (a) a final decision, judgment, decree or other order by any court of competent jurisdiction that can no longer be appealed, (b) a final settlement with the IRS, a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the Laws of other jurisdictions, which resolves the entire Tax liability for any Tax Period, (c) any allowance of a refund or credit in respect of an overpayment of Tax, but only after the expiration of all periods during which such refund or credit may be recovered by the jurisdiction imposing the Tax, or (d) any other final resolution, including by reason of the expiration of the applicable statute of limitations or the execution of a pre-filing agreement with the IRS or other Taxing Authority.

"Flash Business" shall have the meaning set forth in the Separation Agreement.

"Group" shall mean either the Spinco Group or the WDC Group, as the context requires.

"Indemnifying Party" shall have the meaning set forth in Section 5.2.

"Indemnitee" shall have the meaning set forth in Section 5.2.

"Internal Restructuring" shall have the meaning set forth in the Separation Agreement.

"IRS" shall mean the United States Internal Revenue Service or any successor thereto, including, but not limited to its agents, representatives, and attorneys.

"Joint Return" shall mean any Tax Return that actually includes, by election or otherwise, one or more members of the WDC Group together with one or more members of the Spinco Group.

"Law" shall have the meaning set forth in the Separation Agreement.

"Non-Controlling Party" shall mean, with respect to a Tax Contest, the Party that is not entitled to control such Tax Contest pursuant to Sections 6.2 and 6.3 of this Agreement.

"Non-Flash Business" shall have the meaning set forth in the recitals hereto.

"Parties" shall have the meaning set forth the in preamble hereto.

"Past Practices" shall have the meaning set forth in Section 3.5.

"Person" shall have the meaning set forth in the Separation Agreement.

"Post-Distribution Period" shall mean any Tax Period (or portion thereof) beginning after the Distribution Date, including for the avoidance of doubt, the portion of any Straddle Period beginning after the Distribution Date.

"Post-Distribution Ruling" shall mean a favorable private letter ruling from a Taxing Authority (including the IRS) to the effect that a transaction will not affect the Tax-Free Status of the Transactions.

"Pre-Distribution Period" shall mean any Tax Period (or portion thereof) ending on or before the Distribution Date, including for the avoidance of doubt, the portion of any Straddle Period ending at the end of the day on the Distribution Date.

"Preparing Party" shall mean, with respect to a Tax Return, the Party that is required to prepare and file any such Tax Return pursuant to this Agreement.

"Proposed Acquisition Transaction" shall mean a transaction or series of transactions (or any agreement, understanding or arrangement, within the meaning of Section 355(e) of the Code and Treasury Regulation Section 1.355-7, or any other regulations promulgated thereunder, to enter into a transaction or series of transactions), whether such transaction is supported by Spinco management or shareholders, is a hostile acquisition, or otherwise, as a result of which Spinco (or any successor thereto) would merge or consolidate with any other Person or as a result of which one or more Persons would (directly or indirectly) acquire, or have the right to acquire, from Spinco (or any successor thereto) and/or one or more holders of stock of Spinco, respectively, any amount of stock of Spinco, that would, when combined with any other direct or indirect changes in ownership of the stock of Spinco pertinent for purposes of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, comprise fifty percent (50%) or more of (i) the value of all outstanding shares of Spinco as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (ii) the total combined voting power of all outstanding shares of voting stock of Spinco as of the date of the such transaction, or in the case of a series of transactions, the date of the last transaction of such series. For purposes of determining whether a transaction constitutes an indirect

acquisition, any recapitalization or other transaction resulting in a shift of voting power or any redemption of shares of stock shall be treated as an indirect acquisition of shares of stock by the non-exchanging shareholders. This definition and the application thereof is intended to monitor compliance with Section 355(e) of the Code and the Treasury Regulations promulgated thereunder and shall be interpreted accordingly. Any clarification of, or change in, the statute or Treasury Regulations promulgated under Section 355(e) of the Code shall be incorporated in this definition and its interpretation.

"Refund" shall mean any refund (or credit in lieu thereof) of Taxes (including any overpayment of Taxes that can be refunded or, alternatively, applied against other Taxes payable), including any interest paid on or with respect to such refund of Taxes; provided, however, that the amount of any refund of Taxes shall be net of any Taxes imposed by any Taxing Authority on, related to, or attributable to, the receipt of or accrual of such refund, and shall further be net of all accounting, legal and other professional fees, and court costs incurred in connection with obtaining such refund, as well as any other out-of-pocket costs incurred in connection with obtaining such refund.

"Restricted Period" shall mean the period which begins with the Distribution Date and ends two (2) years thereafter.

"Reverse Carve-out Transaction" shall mean any sale, transfer, distribution, conveyance, assumption or other disposition of any Excluded Asset or Excluded Liability from any member of the Spinco Group to or by any member of the WDC Group pursuant to the Separation Plan.

"Reviewing Party" shall mean, with respect to a Tax Return, the Party that is not the Preparing Party.

"Separate Return" shall mean a WDC Separate Return or a Spinco Separate Return, as the case may be.

"Separation" shall have the meaning set forth in the recitals.

"Separation Agreement" shall have the meaning set forth in the preamble hereto.

"Separation Plan" shall have the meaning set forth in the Separation Agreement.

"Specified Spinco Group Member" shall mean SanDisk Storage Malaysia Sdn. Bhd.

"Spinco" shall have the meaning set forth in the preamble hereto.

"Spinco Common Stock" shall have the meaning set forth in the Separation Agreement.

"Spinco Contribution" shall have the meaning set forth in the Separation Agreement.

"Spinco Disqualifying Action" means (a) any action (or the failure to take any action) by any member of the Spinco Group after the Distribution (including entering into any agreement, understanding or arrangement or any negotiations with respect to any transaction or series of transactions), (b) any event (or series of events) after the Distribution involving the capital stock of Spinco or any assets of any member of the Spinco Group or (c) any breach by any member of the Spinco Group after the Distribution of any representation, warranty or covenant made by them in this Agreement, that, in each case, would adversely affect the Tax-Free Status of the Transactions; provided, however, that the term "Spinco Disqualifying Action" shall not include any action required by any Ancillary Agreement (other than this Agreement) or that is undertaken pursuant to the Internal Restructuring, Spinco Contribution or Distribution.

"Spinco Dividend" shall have the meaning set forth in the Separation Agreement.

"Spinco Group" shall mean Spinco and each Person that will be a Subsidiary of Spinco as of immediately after the consummation of the Distribution.

"Spinco Separate Return" shall mean any Tax Return of or including any member of the Spinco Group (including any consolidated, combined or unitary return) that does not include any member of the WDC Group.

"Straddle Period" shall mean any taxable year or other Tax Period that begins on or before the Distribution Date and ends after the Distribution Date.

"Subsidiary" shall have the meaning set forth in the Separation Agreement.

"Tax" or "Taxes" shall mean (i) all taxes, charges, fees, duties, levies, imposts, rates or other assessments or governmental charges of any kind imposed by any federal, state, local or non-United States Taxing Authority, including, without limitation, income, gross receipts, employment, estimated, excise, severance, stamp, occupation, premium, windfall profits, environmental, custom duties, property, sales, use, license, capital stock, transfer, franchise, registration, payroll, withholding, social security, unemployment, disability, value added, alternative or add-on minimum or other taxes, whether disputed or not, and including any interest, penalties, charges or additions attributable thereto, (ii) liability for the payment of any amount of the type described in clause (i) above arising as a result of being (or having been) a member of any group or being (or having been) included or required to be included in any Tax Return related thereto, and (iii) liability for the payment of any amount of the type described in clauses (i) or (ii) above as a result of any express or implied obligation to indemnify or otherwise assume or succeed to the liability of any other Person.

"Tax Attribute" shall mean net operating losses, capital losses, research and experimentation credit carryovers, investment tax credit carryovers, earnings and profits, foreign tax credit carryovers, overall foreign losses, overall domestic losses, previously taxed income, separate limitation losses and any other losses, deductions, credits or other comparable items that could affect a Tax liability for a past or future Tax Period.

"Tax Certificates" shall mean any certificates of officers of WDC and/or Spinco, provided to Skadden, Arps, Slate, Meagher & Flom LLP or any other law or accounting firm in connection with any Tax Opinion issued in connection with the Internal Restructuring, Spinco Contribution or Distribution.

"Tax Contest" shall have the meaning set forth in Section 6.1.

"Tax-Free Status of the Transactions" shall mean the qualification of (i) the Spinco Contribution and the Distribution, taken together, (a) as a reorganization described in Sections 368(a)(1)(D) and 355(a) of the Code, (b) as a transaction in which the stock distributed thereby is "qualified property" for purposes of Sections 355(c) and 361(c) of the Code, (c) as a transaction in which WDC will recognize no income or gain for U.S. federal income tax purposes with respect to the receipt of the Spinco Dividend by reason of Sections 355 and 361 of the Code, except to the extent the amount of the Spinco Dividend exceeds WDC's adjusted tax basis in Spinco Common Stock and assuming WDC transfers to creditors or distributes to shareholders the cash received in the Spinco Dividend in pursuance of the plan of reorganization within the meaning of Section 361(b)(1) of the Code and (d) as a transaction in which WDC, Spinco and the holders of WDC Common Stock recognize no income or gain for U.S. federal income tax purposes pursuant to Sections 355, 361 and 1032 of the Code, other than, in the case of WDC and Spinco, intercompany items or excess loss accounts taken into account pursuant to the Treasury Regulations promulgated pursuant to Section 1502 of the Code and (ii) the transactions described on Exhibit B for the Tax treatment set forth therein.

"Tax-Free Status Tax Contest" shall have the meaning set forth in Section 6.4.

"Tax Item" shall mean any item of income, gain, loss, deduction, expense, or credit, or other attribute that may have the effect of increasing or decreasing any Tax.

"Tax Law" shall mean the law of any Taxing Authority or political subdivision thereof relating to any Tax.

"Tax Materials" shall have the meaning set forth in Section 4.1(a).

"Tax Matter" shall have the meaning set forth in Section 7.1.

"Tax Opinion" shall mean any written opinion of Skadden, Arps, Slate, Meagher & Flom LLP or any other law or accounting firm delivered to WDC, regarding certain tax consequences of certain transactions executed as part of the Internal Restructuring, Spinco Contribution and Distribution.

"Tax Period" shall mean, with respect to any Tax, the period for which the Tax is reported as provided under the Code or other applicable Tax Law.

"Tax Records" shall have the meaning set forth in Section 8.1.

"Tax-Related Losses" shall mean (i) all federal, state, local and foreign Taxes imposed pursuant to any settlement, Final Determination, judgment or otherwise; (ii) all accounting, legal and other professional fees, and court costs incurred in connection with such Taxes, as well as any other out-of-pocket costs incurred in connection with such Taxes; and (iii) all costs, expenses and damages associated with stockholder litigation or controversies and any amount paid by WDC (or any of its Affiliates) or Spinco (or any of its Affiliates) in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Taxing Authority, in each case, resulting from the failure of the Internal Restructuring, Spinco Contribution, Distribution, or any transaction associated therewith to qualify for the Tax-Free Status of the Transactions.

"Tax Return" shall mean any return, report, certificate, form or similar statement or document (including any related supporting information or schedule attached thereto and any information return, amended tax return, claim for refund or declaration of estimated tax) supplied to or filed with, or required to be supplied to or filed with, a Taxing Authority, or any bill for or notice related to ad valorem or other similar Taxes received from a Taxing Authority, in each case, in connection with the determination, assessment or collection of any Tax or the administration of any laws, regulations or administrative requirements relating to any Tax.

"Taxing Authority" shall mean any governmental authority or any subdivision, agency, commission or entity thereof or any quasi-governmental or private body having jurisdiction over the assessment, determination, collection or imposition of any Tax (including the IRS).

"Transaction Taxes" shall mean all (i) sales, use, transfer, real property transfer, intangible, recordation, registration, documentary, stamp or similar Taxes imposed with respect to the Internal Restructuring, Spinco Contribution or Distribution and (ii) any income Taxes imposed with respect to the steps taken pursuant to the Separation Plan, including in each case, any withholding in respect of such Taxes; provided, however, that Transaction Taxes shall not include any Taxes incurred as a result of (x) Spinco's breach of any obligation under the Separation Agreement, this Agreement, or any Ancillary Agreement, (y) Spinco undertaking any action described in Section 4.2(a) or Section 4.2(b), without regard to whether an Unqualified Tax Opinion or Post-Distribution Ruling may have been provided or whether WDC consented to any such action, or (z) a Spinco Disqualifying Action. For the avoidance of doubt, "Transaction Taxes" shall not include any value added, goods and services or similar Taxes.

"Transactions" shall have the meaning set forth in the Separation Agreement.

"Transfer Pricing Adjustment" shall mean any proposed or actual allocation by a Taxing Authority of any Tax Item between or among any member of the WDC Group and any member of the Spinco Group with respect to any Tax Period ending prior to or including the Distribution Date.

"Treasury Regulations" shall mean the regulations promulgated from time to time under the Code as in effect for the relevant Tax Period.

"Unqualified Tax Opinion" shall mean a "will" opinion, without substantive qualifications, of a nationally recognized law or accounting firm, to the effect that a transaction will not affect the Tax-Free Status of the Transactions.

"WDC" shall have the meaning set forth in the preamble hereto.

"WDC Common Stock" shall have the meaning set forth in the Separation Agreement.

"WDC Consolidated Tax Return" shall mean any U.S. federal income Tax Return required to be filed by WDC (or any member of the WDC Group) as the "common parent corporation" of an "affiliated group" (in each case, within the meaning of Section 1504 of the Code and the Treasury Regulations promulgated thereunder) filing a U.S. federal consolidated income Tax Return.

"WDC Group" shall mean WDC and each Person that is a Subsidiary of WDC (other than Spinco and any other member of the Spinco Group).

"WDC Separate Return" shall mean any Tax Return of or including any member of the WDC Group (including any consolidated, combined or unitary return) that does not include any member of the Spinco Group.

ARTICLE II

PAYMENTS AND TAX REFUNDS

2.1 Allocation of Tax Liabilities. Except as otherwise provided in this Article II and Section 5.1 or as set forth on Exhibit A, Taxes shall be allocated as follows:

(a) Allocation of Taxes Relating to Joint Returns.

(i) In the case of any Joint Return that relates solely to a Pre-Distribution Period, Spinco and WDC shall each pay and be responsible for fifty percent (50%) of any and all Taxes that are due with respect to or required to be reported on any such Joint Return (including any increase in such Taxes as a result of a Final Determination).

(ii) In the case of any Joint Return that relates to a Straddle Period and with respect to which a member of the WDC Group is the common parent: (A) Spinco shall pay and be responsible for fifty percent (50%) of any and all Taxes that are (I) due with respect to or required to be reported on any such Joint Return and (II) allocable to a Pre-Distribution Period in accordance with Section 2.1(c) (including any increase in such Taxes as a result of a Final Determination), and (B) WDC shall pay and be responsible for all other Taxes that are due with respect to or required to be reported on any such Joint Return (including any increase in such Taxes as a result of a Final Determination).

(iii) In the case of any Joint Return that relates to a Straddle Period and with respect to which a member of the Spinco Group is common parent: (A) WDC shall pay and be responsible for fifty percent (50%) of any and all Taxes that are (I) due with respect to or required to be reported on any such Joint Return and (II) allocable to a Pre-Distribution Period in accordance with Section 2.1(c) (including any increase in such Taxes as a result of a Final Determination), and (B) Spinco shall pay and be responsible for all other Taxes that are due with respect to or required to be reported on any such Joint Return (including any increase in such Taxes as a result of a Final Determination).

(iv) Notwithstanding anything herein to the contrary, in the case of any Joint Return that relates to a Straddle Period with respect to which (A) a member of the WDC Group is the common parent, WDC shall be responsible for one hundred percent (100%) of any Taxes reflected on such Joint Return that are imposed with respect to amounts required to be included in income under Section 951(a) or Section 951A of the Code; and (B) a member of the Spinco Group is the common parent, Spinco shall be responsible for one hundred percent (100%) of any Taxes reflected on such Joint Return that are imposed with respect to amounts required to be included in income under Section 951(a) or Section 951A of the Code.

(b) Allocation of Taxes Relating to Separate Returns. Except as otherwise provided herein:

(i) Spinco shall pay and be responsible for any and all Taxes due with respect to or required to be reported on any Spinco Separate Return (including any increase in such Taxes as a result of a Final Determination) for all Tax Periods.

(ii) WDC shall pay and be responsible for any and all Taxes due with respect to or required to be reported on any WDC Separate Return (including any increase in such Taxes as a result of a Final Determination) for all Tax Periods.

(c) In the case of any Joint Return for any Straddle Period:

(i) The amount of any Tax with respect to such Straddle Period that is based on or measured by income, sales, use, receipts, or other similar items shall be allocated between the Pre-Distribution Period and Post-Distribution Period based on the Closing of the Books Method.

(ii) The amount of any Tax with respect to a Straddle Period other than Taxes described in Section 2.2(c)(i) shall be allocated between the Pre-Distribution Period and the Post-Distribution Period by multiplying the total amount of such Tax for the entire Straddle Period by a fraction, the numerator of which is the number of calendar days in the Straddle Period ending on, and including, the Distribution Date, and the denominator of which is the number of calendar days in the entire Straddle Period, and allocating the result to the Pre-Distribution Period and the remainder of such Tax to the Post-Distribution Period.

(d) The amount of Taxes allocable to Spinco or WDC pursuant to Section 2.1(a) with respect to any Joint Return for any Tax Period shall not be less than zero. For the avoidance of doubt, WDC shall not be required to make any payment to Spinco, nor shall Spinco be required to make any payment to WDC, to the extent that Tax Items of a member of the WDC Group or of the Spinco Group, as the case may be, may reduce the aggregate Taxes owed with respect to any Joint Return.

(e) Taxes described on Exhibit A shall be allocable among WDC and Spinco in the manner set forth therein.

2.2 Certain Transaction Taxes. Notwithstanding the provisions set forth in Sections 2.1, (i) Spinco shall pay and be responsible for any Transaction Taxes resulting from or attributable to a Reverse Carve-Out Transaction, and (ii) WDC shall pay and be responsible for all other Transaction Taxes.

2.3 Allocation of Employment Taxes. Liability for Employment Taxes shall be determined pursuant to the Employee Matters Agreement.

2.4 Tax Refunds.

(a) To the extent that a Party is allocated the liability for a given Tax pursuant to Exhibit A, such Party shall be entitled to any Refunds arising in respect of a Pre-Distribution Period directly or indirectly from the Adjustment giving rise to the liability for such Tax, computed on a "with and without" basis.

(b) Except as set forth in Section 2.4(a), WDC shall be entitled to all Refunds of Taxes the liability for which is allocated to WDC pursuant to this Agreement, and Spinco shall be entitled to all Refunds of Taxes the liability for which is allocated to Spinco pursuant to this Agreement. This Section 2.4(b) shall be applied looking solely to the allocation of the Tax for which a Refund is received, regardless of whether an Adjustment to a separate Tax may have impacted the presence or amount of such Refund.

(c) Spinco shall pay to WDC any Refund received by Spinco or any member of the Spinco Group that is allocable to WDC pursuant to this Section 2.4 no later than fifteen (15) Business Days after the receipt of such Refund. WDC shall pay to Spinco any Refund received by WDC or any member of the WDC Group that is allocable to Spinco pursuant to this Section 2.4 no later than fifteen (15) Business Days after the receipt of such Refund. For purposes of this Section 2.4, any Refund that arises as a result of an offset, credit, or other similar benefit in respect of Taxes other than a receipt of cash shall be deemed to be received on the earlier of (i) the date on which a Tax Return is filed claiming such offset, credit, or other similar benefit and (ii) the date on which payment of the Tax which would have otherwise been paid absent such offset, credit, or other similar benefit is due (determined without taking into account any applicable extensions).

(d) In the event that Refund received after the date hereof is later disallowed or reduced in whole or in part, resulting in a Tax liability, such Tax shall be allocated amongst the Parties in the same manner as such underlying Refund was allocated.

2.5 Prior Agreements. Except as set forth in this Agreement and in consideration of the mutual indemnities and other obligations of this Agreement, any and all prior Tax sharing or allocation agreements or practices between any member of the WDC Group and any member of the Spinco Group shall be terminated with respect to the Spinco Group and the WDC Group as of the Distribution Date. No member of either the Spinco Group or the WDC Group shall have any continuing rights or obligations under any such agreement.

ARTICLE III

PREPARATION AND FILING OF TAX RETURNS

3.1 WDC's Responsibility. WDC shall prepare and file when due (taking into account any applicable extensions), or shall cause to be prepared and filed, all Joint Returns for which a member of the WDC Group is the common parent and all WDC Separate Returns, including any amended Joint Returns or amended WDC Separate Returns. WDC shall be the "Preparing Party" with respect to Tax Returns described in this Section 3.1.

3.2 Spinco's Responsibility. Spinco shall prepare and file when due (taking into account any applicable extensions), or shall cause to be prepared and filed, all Tax Returns required to be filed by or with respect to members of the Spinco Group other than those Tax Returns which WDC is required to prepare and file under Section 3.1, including any amended Tax Returns. Spinco shall be the "Preparing Party" with respect to Tax Returns described in this Section 3.2.

3.3 Right to Review Tax Returns. To the extent that the positions taken on any Tax Return (i) reasonably relate to matters for which the Reviewing Party has an indemnification obligation to the Preparing Party or (ii) would reasonably be expected to materially affect the Tax position of the Reviewing Party, the Preparing Party shall (x) prepare the portions of such Tax Return that relate to such indemnification obligation or Tax position and (y) provide a draft of such portion of such Tax Return to the Reviewing Party for its review and comment at least thirty (30) Business Days prior to the due date for such Tax Return. The Reviewing Party shall thereafter have fifteen (15) Business Days to review such portion of such Tax Return and provide reasonable comments, if any, on such portion of such Tax Return to the Preparing Party, provided, however, that the Reviewing Party shall provide any comments it may have to the Preparing Party no later than two (2) Business Days prior to the due date for such Tax Return (taking into account any applicable extensions). The Parties shall negotiate in good faith to resolve any disputes relating to the review of a Tax Return pursuant to this Section 3.3. Any disputes that the Parties are unable to resolve shall be resolved by the Accounting Firm pursuant to Article IX. In the event that any dispute is not resolved (whether pursuant to good faith negotiations among the Parties or by the Accounting Firm) prior to the due date for the filing of any Tax Return (taking into account any applicable extensions), such Tax Return shall be timely filed by the Preparing Party and the Parties shall amend such Tax Return as necessary to reflect the resolution of such dispute in a manner consistent with such resolution. Notwithstanding the foregoing, in the case of a WDC Consolidated Tax Return, the covenants and obligations set forth in this Section 3.3 shall not apply.

3.4 Cooperation. The Parties shall provide, and shall cause their Affiliates to provide, assistance and cooperation to one another in accordance with Article VII with respect to the preparation and filing of Tax Returns, including providing information required to be provided in Article VIII. Notwithstanding anything to the contrary in this Agreement, WDC shall not be required to disclose to Spinco any consolidated, combined, unitary, or other similar Joint Return of which a member of the WDC Group is the common parent or any information related to such a Joint Return other than information relating solely to the Spinco Group; provided that WDC and Spinco shall each provide such additional information to the other Party as is reasonably required for such other Party to determine the Taxes for which it is liable pursuant to Article II.

3.5 Tax Reporting Practices. Except as provided in Section 3.6 or as otherwise agreed among the Parties, with respect to any Separate Return including matters for which the Reviewing Party has an indemnification obligation to the Preparing Party, such Tax Return shall be prepared in a manner consistent with past practices, accounting methods, elections and conventions ("Past Practices") used with respect to the Tax Returns in question, and to the extent any items are not covered by Past Practices, in accordance with reasonable Tax accounting practices selected by the Preparing Party.

3.6 Reporting of the Transactions. The Tax treatment of any step in or portion of the Internal Restructuring, Spinco Contribution, and Distribution shall be reported on each applicable Tax Return consistently with the Tax-Free Status of the Transactions, taking into account the jurisdiction in which such Tax Returns are filed. If WDC determines, in its sole discretion, that a protective election under Section 336(e) of the Code shall be made with respect to the Distribution, Spinco agrees to take any such action that is necessary to effect such election, including any corresponding election with respect to any of its Subsidiaries, as determined by WDC. If such a protective election is made, this Agreement shall be amended in such a manner as is determined by WDC in its good faith discretion to compensate WDC for any Tax benefits realized by Spinco as a result of such election.

3.7 Payment of Taxes.

(a) With respect to any Tax Return required to be filed pursuant to this Agreement, the Preparing Party shall remit or cause to be remitted to the applicable Taxing Authority in a timely manner any Taxes due in respect of any such Tax Return.

(b) In the case of any Tax Return for which the Party that is not the Preparing Party is obligated pursuant to this Agreement to pay all or a portion of the Taxes reported as due on such Tax Return, the Preparing Party shall notify the other Party, in writing, of its obligation to pay such Taxes and, in reasonably sufficient detail, its calculation of the amount due by such other Party and the Party receiving such notice shall pay such amount to the Preparing Party upon the later of five (5) Business Days prior to the date on which such payment is due and fifteen (15) Business Days after the receipt of such notice.

(c) With respect to any estimated Taxes, the Party that is or will be the Preparing Party with respect to any Tax Return that will reflect (or otherwise give credit for) such estimated Taxes shall remit or cause to be remitted to the applicable Taxing Authority in a timely manner any estimated Taxes due. In the case of any estimated Taxes for which the Party that is not the Preparing Party is obligated pursuant to this Agreement to pay all or a portion of the Taxes that will be reported as due on any Tax Return that will reflect (or otherwise give credit for) such estimated Taxes, the Preparing Party shall notify the other Party, in writing, of its obligation to pay such estimated Taxes and, in reasonably sufficient detail, its calculation of the amount due by such other Party and the Party receiving such notice shall pay such amount to the Preparing Party upon the later of five (5) Business Days prior to the date on which such payment is due and fifteen (15) Business Days after the receipt of such notice.

3.8 Amended Returns and Carrybacks.

(a) Spinco shall not, and shall not permit any member of the Spinco Group to, file or allow to be filed any request for an Adjustment for any Tax Period (or portion thereof) ending on or before the Distribution Date (including for the avoidance of doubt, the portion of any Straddle Period ending at the end of the day on the Distribution Date) without the prior written consent of WDC, such consent not to be unreasonably withheld.

(b) Spinco shall, and shall cause each member of the Spinco Group to, make any available elections to waive the right to carry back any Tax Attribute (i) from a Tax Period or portion thereof ending after the Distribution Date to a Joint Return in respect of a Tax Period or portion thereof ending on or before the Distribution Date and (ii) from a Tax Period or portion thereof ending after the Distribution Date to a Joint Return in respect of a Tax Period or portion thereof ending on or before the Distribution Date.

(c) Spinco shall not, and shall cause each member of the Spinco Group not to, without the prior written consent of WDC, make any affirmative election to carry back any Tax Attribute (i) from a Tax Period or portion thereof ending after the Distribution Date to a Joint Return in respect of a Tax Period or portion thereof ending on or before the Distribution Date or (ii) from a Tax Period or portion thereof ending after the Distribution Date to a Joint Return in respect of a Tax Period or portion thereof ending on or before the Distribution Date, in each case, such consent to be exercised in WDC's sole discretion.

(d) Receipt of consent by Spinco or a member of the Spinco Group from WDC pursuant to the provisions of this Section 3.8 shall not limit or modify Spinco's continuing indemnification obligation pursuant to Article V.

3.9 Tax Attributes. WDC shall in good faith advise Spinco in writing of the amount, if any of any Tax Attributes, which WDC determines, in its good faith discretion, shall be allocated or apportioned to the Spinco Group under applicable Law. Spinco and all members of the Spinco Group shall prepare all Tax Returns in accordance with such written notice. Spinco agrees that it shall not dispute WDC's allocation or apportionment of Tax Attributes. For the avoidance of doubt, WDC shall not be required to create or cause to be created any books and records or reports or other documents based thereon (including, without limitation, "earnings & profits studies," "basis studies" or similar determinations) that it does not maintain or prepare in the ordinary course of business in order to comply with this Section 3.9.

ARTICLE IV

TAX-FREE STATUS OF THE DISTRIBUTION

4.1 Representations and Warranties.

(a) WDC, on behalf of itself and all other members of the WDC Group, hereby represents and warrants that (i) it has examined the Tax Opinion, the Tax Certificates, the Separation Plan, and any other materials delivered or deliverable in connection with the rendering of the Tax Opinion (collectively, the "Tax Materials") and (ii) the facts presented and representations that have been or will be made therein, to the extent descriptive of or otherwise relating to WDC or any member of the WDC Group or the Non-Flash Business, were or will be, at the time presented or represented and from such time until and including the Distribution Date, true, correct, and complete in all material respects. WDC, on behalf of itself and all other members of the WDC Group, hereby confirms and agrees to comply with any and all covenants and agreements in the Tax Materials applicable to WDC or any member of the WDC Group or the Non-Flash Business.

(b) Spinco, on behalf of itself and all other members of the Spinco Group, hereby represents and warrants that (i) it has examined the Tax Materials and (ii) the facts presented and representations that have been or will be made therein, to the extent descriptive of or otherwise relating to Spinco or any member of the Spinco Group or the Flash Business, were or will be, at the time presented or represented and from such time until and including the Distribution Date, true, correct, and complete in all material respects. Spinco, on behalf of itself and all other members of the Spinco Group, hereby confirms and agrees to comply with any and all covenants and agreements in the Tax Materials applicable to Spinco or any member of the Spinco Group or the Flash Business.

(c) Each of WDC, on behalf of itself and all other members of the WDC Group, and Spinco, on behalf of itself and all other members of the Spinco Group represents and warrants that it knows of no fact (after due inquiry) that may cause the Tax treatment of the Internal Restructuring, Spinco Contribution or Distribution to be other than the Tax-Free Status of the Transactions.

(d) Each of WDC, on behalf of itself and all other members of the WDC Group, and Spinco, on behalf of itself and all other members of the Spinco Group represents and warrants that it has no plan or intent to take any action which is inconsistent with any statements or representations made in the Tax Materials.

4.2 Restrictions Relating to the Distribution .

(a) Spinco, on behalf of itself and all other members of the Spinco Group, hereby covenants and agrees that no member of the Spinco Group will take, fail to take, or permit to be taken: (i) any action where such action or failure to act would be inconsistent with or cause to be untrue any statement, information, covenant or representation in the Tax Materials or (ii) any action which constitutes a Spinco Disqualifying Action.

(b) During the Restricted Period, Spinco:

(i) shall continue and cause to be continued the Active Trade or Business, taking into account Section 355(b)(3) of the Code, as conducted immediately prior to the Distribution;

(ii) shall not voluntarily dissolve or liquidate itself (including any action that is a liquidation for U.S. federal income tax purposes);

(iii) shall not (1) enter into any Proposed Acquisition Transaction or, to the extent Spinco has the right to prohibit any Proposed Acquisition Transaction, permit any Proposed Acquisition Transaction to occur, (2) redeem or otherwise repurchase (directly or through an Affiliate) any stock, or rights to acquire stock except to the extent such repurchases satisfy Section 4.05(1)(b) of Revenue Procedure 96-30 (as in effect prior to the amendment of such Revenue Procedure by Revenue Procedure 2003-48), (3) amend its certificate of incorporation (or other organizational documents), or take any other action, whether through a stockholder vote or otherwise, affecting the relative voting rights of its capital stock (including through the conversion of any capital stock into another class of capital stock), (4) merge or consolidate with any other

Person or (5) take any other action or actions (including any action or transaction that would be reasonably likely to be inconsistent with any representation made in the Tax Certificates) which in the aggregate would, when combined with any other direct or indirect changes in ownership of Spinco capital stock pertinent for purposes of Section 355(e) of the Code, have the effect of causing or permitting one or more Persons (whether or not acting in concert) to acquire directly or indirectly stock representing a fifty-percent or greater interest in Spinco or would reasonably be expected to result in a failure to preserve the Tax-Free Status of the Transactions;

(iv) shall not and shall not permit any member of the Spinco Group, to sell, transfer, or otherwise dispose of or agree to, sell, transfer or otherwise dispose (including in any transaction treated for federal income tax purposes as a sale, transfer or disposition) of assets (including, any shares of capital stock of a Subsidiary) that, in the aggregate, constitute more than 20% of the consolidated gross assets of Spinco or the Spinco Group. The foregoing sentence shall not apply to (1) sales, transfers, or dispositions of assets in the ordinary course of business, (2) any cash paid to acquire assets from an unrelated Person in an arm's-length transaction, (3) any assets transferred to a Person that is disregarded as an entity separate from the transferor for federal income tax purposes or (4) any mandatory or optional repayment (or pre-payment) of any indebtedness of Spinco or any member of the Spinco Group. The percentages of gross assets or consolidated gross assets of Spinco or the Spinco Group, as the case may be, sold, transferred, or otherwise disposed of, shall be based on the fair market value of the gross assets of Spinco and the members of the Spinco Group as of the Distribution Date. For purposes of this Section 4.2(b)(iv), a merger of Spinco or one of its Subsidiaries with and into any Person that is not a wholly owned Subsidiary of Spinco shall constitute a disposition of all of the assets of Spinco or such Subsidiary; and

(v) shall not take, and shall not permit any Affiliate to take, any action in violation of the restrictions set forth on Exhibit B.

(c) Notwithstanding the restrictions imposed by Sections 4.2(a) and 4.2(b), Spinco or a member of the Spinco Group may take any of the actions or transactions described therein if Spinco either (i) obtains an Unqualified Tax Opinion or Post-Distribution Ruling, in each case, in form and substance reasonably satisfactory to WDC or (ii) obtains the prior written consent of WDC waiving the requirement that Spinco obtain an Unqualified Tax Opinion or Post-Distribution Ruling, such waiver to be provided in WDC's sole and absolute discretion. WDC's evaluation of an Unqualified Tax Opinion or Post-Distribution Ruling may consider, among other factors, the appropriateness of any underlying assumptions, representations, and covenants made in connection with such opinion. Spinco shall bear all costs and expenses of securing any such Unqualified Tax Opinion or Post-Distribution Ruling and shall reimburse WDC for all reasonable out-of-pocket expenses that WDC or any of its Affiliates may incur in good faith in seeking to obtain or evaluate any such Unqualified Tax Opinion or Post-Distribution Ruling. Neither the delivery of an Unqualified Tax Opinion or Post-Distribution Ruling nor WDC's waiver of Spinco's obligation to deliver an Unqualified Tax Opinion or Post-Distribution Ruling shall limit or modify Spinco's continuing indemnification obligation pursuant to Article V.

ARTICLE V

INDEMNITY OBLIGATIONS

5.1 Indemnity Obligations.

(a) WDC shall indemnify and hold harmless Spinco from and against, and will reimburse Spinco for, without duplication: (i) all liability for Taxes allocated to WDC pursuant to Article II, together with WDC' allocable portion of all accounting, legal and other professional fees, and court costs incurred in connection with such Taxes or any other out-of-pocket costs incurred in connection with such Taxes, (ii) all Taxes and Tax-Related Losses arising out of, based upon, or relating or attributable to any breach of or inaccuracy in, or failure to perform, as applicable, any representation, covenant, or obligation of any member of the WDC Group pursuant to this Agreement, (iii) the amount of any Refund received by any member of the WDC Group that is allocated to Spinco pursuant to Section 2.4(a) and (iv) any Distribution Taxes and Tax-Related Losses, except to the extent attributable to a Spinco Disqualifying Action.

(b) Spinco shall indemnify and hold harmless WDC from and against, and will reimburse WDC for, without duplication: (i) all liability for Taxes allocated to Spinco pursuant to Article II, together with Spinco's allocable portion of all accounting, legal and other professional fees, and court costs incurred in connection with such Taxes or any other out-of-pocket costs incurred in connection with such Taxes, (ii) all Taxes and Tax-Related Losses arising out of, based upon, or relating or attributable to any breach of or inaccuracy in, or failure to perform, as applicable, any representation, covenant, or obligation of any member of the Spinco Group pursuant to this Agreement, (iii) the amount of any Refund received by any member of the Spinco Group that is allocated to WDC pursuant to Section 2.4(a) and (iv) any Distribution Taxes and Tax-Related Losses attributable to a Spinco Disqualifying Action (regardless of whether the conditions set forth in Section 4.2(c) are satisfied).

(c) To the extent that any Tax or Tax-Related Loss is subject to indemnity pursuant to both Sections 5.1(a) and 5.1(b), responsibility for such Tax or Tax-Related Loss shall be shared by WDC and Spinco according to relative fault. For purposes of Section 5.1(a)(i) and Section 5.1(b)(i), a Party's allocable portion of fees or costs shall be equal to the percentage allocation of the underlying Tax to such Party under Article II.

5.2 Indemnification Payments.

(a) Except as otherwise provided in this Agreement, if either Party (the "Indemnitee") is required to pay to a Taxing Authority a Tax or to another Person a payment in respect of a Tax that the other Party (the "Indemnifying Party") is liable for under this Agreement, including as the result of a Final Determination, the Indemnitee shall notify the Indemnifying Party, in writing, of its obligation to pay such Tax and, in reasonably sufficient detail, its calculation of the amount due by such Indemnifying Party to the Indemnitee, including any Tax-Related Losses attributable thereto. The Indemnifying Party shall pay such amount, including any Tax-Related Losses attributable thereto, to the Indemnitee no later than the later of (i) five (5) Business Days prior to the date on which such payment is due to the applicable Taxing Authority or (ii) fifteen (15) Business Days after the receipt of notice from the other Party.

(b) If, as a result of any change or redetermination made with respect to Sections 2.1 or 2.2, any amount previously allocated to and borne by one Party pursuant to the provisions of Article II is thereafter allocated to the other Party, then, no later than fifteen (15) Business Days after such change or redetermination, such other Party shall pay to such Party the amount previously borne by such Party which is allocated to such other Party as a result of such change or redetermination.

5.3 Payment Mechanics.

(a) All payments under this Agreement shall be made by WDC directly to Spinco and by Spinco directly to WDC; provided, however, that if the Parties mutually agree with respect to any such indemnification payment, any member of the WDC Group, on the one hand, may make such indemnification payment to any member of the Spinco Group, on the other hand, and vice versa. All indemnification payments shall be treated in the manner described in Section 5.4.

(b) In the case of any payment of Taxes made by a Preparing Party or Indemnitee pursuant to this Agreement for which such Preparing Party or Indemnitee, as the case may be, has received a payment from the other Party, such Preparing Party or Indemnitee shall provide to the other Party a copy of any official government receipt received with respect to the payment of such Taxes to the applicable Taxing Authority (or, if no such official governmental receipts are available, executed bank payment forms or other reasonable evidence of payment).

5.4 Treatment of Payments. In the absence of any change in Tax treatment under the Code or except as otherwise required by other applicable Tax Law, any Tax indemnity payments made under this Agreement shall be reported for Tax purposes by the payor and the recipient as distributions or capital contributions, as appropriate, occurring immediately before the Distribution (but only to the extent the payment does not relate to a Tax allocated to the payor in accordance with Section 1552 of the Code or the Treasury Regulations thereunder or Treasury Regulation Section 1.1502-33(d) (or under corresponding principles of other applicable Tax Laws)) or as payments of an assumed or retained liability. Any Tax indemnity payment made under this Agreement shall be increased as necessary so that after making all payments in respect to Taxes imposed on or attributable to such indemnity payment, the recipient receives an amount equal to the sum it would have received had no such Taxes been imposed.

ARTICLE VI

TAX CONTESTS

6.1 Notice. Each Party shall notify the other Party in writing within fifteen (15) days after receipt by such Party or any member of its Group of a written communication from any Taxing Authority with respect to any pending or threatened audit, claim, dispute, suit, action, proposed assessment or other proceeding (a "Tax Contest") concerning any Taxes for which the other Party may be liable pursuant to this Agreement, and thereafter shall promptly forward or make available to such Party copies of notices and communications relating to such Tax Contest.

6.2 Separate Returns. In the case of any Tax Contest with respect to any Separate Return, the Party having the liability pursuant to Article II hereof for the Tax that is the subject of such Tax Contest shall have the sole responsibility and right to control the prosecution of such Tax Contest, including the exclusive right to communicate with agents of the applicable Taxing Authority and to control, resolve, settle, or agree to any deficiency, claim, or adjustment proposed, asserted, or assessed in connection with or as a result of such Tax Contest.

6.3 Joint Returns. Subject to Section 6.6, in the case of any Tax Contest with respect to any Joint Return, (a) WDC shall have the sole responsibility and right to control the prosecution of such Tax Contest to the extent it relates to a Joint Return for which a member of the WDC Group is the common parent and (b) Spinco shall have the sole responsibility and right to control the prosecution of such Tax Contest to the extent it relates to a Joint Return for which a member of the Spinco Group is the common parent, in each case, including the exclusive right to communicate with agents of the applicable Taxing Authority and to control, resolve, settle, or agree to any deficiency, claim, or adjustment proposed, asserted, or assessed in connection with or as a result of such Tax Contest.

6.4 Tax Contests Related to the Tax-Free Status of the Transactions. Notwithstanding Section 6.2 or Section 6.3, WDC shall have the sole responsibility and right to control the prosecution of any Tax Contest that relates to the Tax-Free Status of the Transactions (each, a "Tax-Free Status Tax Contest").

6.5 Obligation of Continued Notice. During the pendency of any Tax Contest or threatened Tax Contest, each of the Parties shall provide prompt notice to the other Party of any written communication received by it or a member of its respective Group from a Taxing Authority regarding any Tax Contest for which it is indemnified by the other Party hereunder or for which it may be required to indemnify the other Party hereunder. Such notice shall attach copies of the pertinent portion of any written communication from a Taxing Authority and contain factual information (to the extent known) describing any asserted Tax liability in reasonable detail and shall be accompanied by copies of any notice and other documents received from any Taxing Authority in respect of any such matters. Such notice shall be provided in a reasonably timely fashion; provided, however, that in the event that timely notice is not provided, a Party shall be relieved of its obligation to indemnify the other Party only to the extent that such delay results in actual increased costs or actual prejudice to such other Party.

6.6 Settlement Rights. Notwithstanding anything herein to the contrary, unless waived by the Parties in writing, in connection with any potential adjustment in a Tax Contest as a result of which adjustment the Non-Controlling Party may reasonably be expected to become liable to make any indemnification payment to the Controlling Party under this Agreement: (i) the Controlling Party shall keep the Non-Controlling Party informed in a timely manner of all actions taken or proposed to be taken by the Controlling Party with respect to such potential adjustment in such Tax Contest; (ii) the Controlling Party shall timely provide the Non-Controlling Party with copies of any correspondence or filings submitted to any Tax Authority or judicial

authority in connection with such potential adjustment in such Tax Contest; (iii) the Controlling Party shall defend such Tax Contest diligently and in good faith; (iv) the Controlling Party shall consult with the Non-Controlling Party and offer the Non-Controlling Party a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such potential adjustment in such Tax Contest; and (v) the Controlling Party shall not settle such Tax Contest without the Non-Controlling Party's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed). In the case of a Tax-Free Status Tax Contest, Spinco (at its sole expense) shall have the right to attend, any formally scheduled meetings with Tax Authorities or hearings or proceedings before any judicial authorities in connection with any potential adjustment in a Tax-Free Status Tax Contest pursuant to which the Spinco may reasonably be expected to become liable to make any indemnification payment to WDC under this Agreement. The failure of the Controlling Party to take any action specified in the preceding sentence with respect to the Non-Controlling Party shall not relieve the Non-Controlling Party of any liability and/or obligation which it may have to the Controlling Party under this Agreement except to the extent that the Non-Controlling Party was actually harmed by such failure, and in no event shall such failure relieve the Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party.

ARTICLE VII

COOPERATION

7.1 General.

(a) Each Party shall fully cooperate, and shall cause all members of such Party's Group to fully cooperate, with all reasonable requests in writing from the other Party, or from an agent, representative or advisor to such Party, in connection with the preparation and filing of any Tax Return, claims for Refunds, the conduct of any Tax Contest, and calculations of amounts required to be paid pursuant to this Agreement, in each case, related or attributable to or arising in connection with Taxes of either Party or any member of either Party's Group covered by this Agreement and the establishment of any reserve required in connection with any financial reporting (a "Tax Matter"). Such cooperation shall include the provision of any information reasonably necessary or helpful in connection with a Tax Matter and shall include, without limitation, at each Party's own cost:

(i) the provision of any Tax Returns of either Party or any member of either Party's Group, books, records (including information regarding ownership and Tax basis of property), documentation and other information relating to such Tax Returns, including accompanying schedules, related work papers, and documents relating to rulings or other determinations by Taxing Authorities;

(ii) the execution of any document (including any power of attorney) in connection with any Tax Contest of either Party or any member of either Party's Group, or the filing of a Tax Return or a Refund claim of either Party or any member of either Party's Group;

(iii) the use of the Party's reasonable best efforts to obtain any documentation in connection with a Tax Matter; and

(iv) the use of the Party's reasonable best efforts to obtain any Tax Returns (including accompanying schedules, related work papers, and documents), documents, books, records or other information in connection with the filing of any Tax Returns of any of either Party or any member of either Party's Group.

Each Party shall make its employees and facilities available, without charge, on a mutually convenient basis to facilitate such cooperation. In the event that a member of the WDC Group, on the one hand, or a member of the Spinco Group, on the other hand, suffers a Tax detriment as a result of a Transfer Pricing Adjustment, the Parties shall cooperate pursuant to this Section 7 to seek any competent authority relief that may be available with respect to such Transfer Pricing Adjustment unless the Parties mutually agree not to seek such relief.

7.2 Consistent Treatment. Unless and until there has been a Final Determination to the contrary, each Party agrees not to take any position on any Tax Return, in connection with any Tax Contest or otherwise that is inconsistent with (a) the treatment of payments between the WDC Group and the Spinco Group as set forth in Section 5.4, or (b) the Tax-Free Status of the Transactions.

ARTICLE VIII

RETENTION OF RECORDS; ACCESS

8.1 Retention of Records. For so long as the contents thereof may become material in the administration of any matter under applicable Tax Law, but in any event until the later of (i) sixty (60) days after the expiration of any applicable statutes of limitation (including any waivers or extensions thereof) and (ii) seven years after the Distribution Date, the Parties shall retain records, documents, accounting data and other information (including computer data) necessary for the preparation and filing of all Tax Returns (collectively, "Tax Records") in respect of Taxes of any member of either the WDC Group or the Spinco Group for any Pre-Distribution Period, Straddle Period, or Post-Distribution Period or for any Tax Contests relating to such Tax Returns. At any time after the Distribution Date that the WDC Group proposes to destroy such records or documents, it shall first notify the Spinco Group in writing and the Spinco Group shall be entitled to receive such records or documents proposed to be destroyed. At any time after the Distribution Date that the Spinco Group proposes to destroy such records or documents, it shall first notify the WDC Group in writing and the WDC Group shall be entitled to receive such records or documents proposed to be destroyed. The Parties will notify each other in writing of any waivers or extensions of the applicable statute of limitations that may affect the period for which the foregoing records or other documents must be retained.

8.2 Access to Tax Records. The Parties and their respective Affiliates shall make available to each other for inspection and copying during normal business hours upon reasonable notice all Tax Records (and, for the avoidance of doubt, any pertinent underlying data accessed or stored on any computer program or information technology system) in their possession and shall permit the other Party and its Affiliates, authorized agents and

representatives and any representative of a Taxing Authority or other Tax auditor direct access, during normal business hours upon reasonable notice to any computer program or information technology system used to access or store any Tax Records, in each case to the extent reasonably required by the other Party in connection with the preparation of Tax Returns or financial accounting statements, audits, litigation, or the resolution of items pursuant to this Agreement. The Party seeking access to the records of the other Party shall bear all costs and expenses associated with such access, including any professional fees.

ARTICLE IX

DISPUTE RESOLUTION

9.1 Computational Disputes. In the event of any dispute between the Parties involving computational matters (a "Computational Dispute"), the Parties shall appoint a nationally recognized independent public accounting firm (the "Accounting Firm") to resolve such Computational Dispute. In this regard, the Accounting Firm shall make determinations with respect to the disputed items based solely on representations made by WDC and Spinco and their respective representatives, and not by independent review, and shall function only as an expert and not as an arbitrator and shall be required to make a determination in favor of one Party only. The Parties shall request the Accounting Firm to resolve all Computational Disputes no later than forty-five (45) days after the submission of such dispute to the Accounting Firm, but in no event later than the due date for the payment of Taxes or the filing of the applicable Tax Return, if applicable, and agree that all decisions by the Accounting Firm with respect thereto shall be final and conclusive and binding on the Parties. The Accounting Firm shall resolve all Computational Disputes in a manner consistent with this Agreement and, to the extent not inconsistent with this Agreement, in a manner consistent with the Past Practices of WDC and its Subsidiaries, except as otherwise required by applicable Law. The Parties shall require the Accounting Firm to render all determinations in writing and to set forth, in reasonable detail, the basis for such determination. The determination of the Accounting Firm and any required adjustments resulting therefrom shall be final, conclusive and binding on the Parties absent fraud or manifest error or any other basis for vacating an arbitration order pursuant to Section 5714 of the Delaware Uniform Arbitration Act. The fees and expenses of the Accounting Firm shall be borne equally by the Parties.

9.2 Other Disputes. In the event of any dispute between the Parties as to any matter covered by or relating to this Agreement other than a Computational Dispute, such dispute shall be governed in accordance with the Separation Agreement, including Section 8.1 thereof.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Effective Date. This Agreement shall be effective as of the date hereof. For the avoidance of doubt, this Agreement shall not apply to payments of Taxes (including estimated Taxes) made, or Tax Returns filed, prior to the date hereof, except as expressly set forth herein.

10.2 Entire Agreement. This Agreement, including any exhibits and amendments hereto, and the other agreements and documents expressly referred to herein, shall together constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and shall supersede all prior negotiations, agreements and understandings, both written and oral, among or between any of the Parties with respect to such subject matter hereof.

10.3 Governing Law. This Agreement and the consummation of the Transactions, and any Action (whether at law, in contract, in tort or otherwise) arising out of or relating to this Agreement and the consummation of the Transactions, or the negotiation, validity, interpretation, performance, breach or termination of this Agreement and the consummation of the Transactions, shall be governed by and construed in accordance with the internal law of the State of Delaware, regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof.

10.4 Specific Performance; Jurisdiction.

(a) Except as otherwise provided herein, any and all remedies herein expressly conferred upon a Party shall be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a Party of any one remedy shall not preclude the exercise of any other remedy. Nothing in this Agreement shall be deemed a waiver by any Party of any right to specific performance or injunctive relief. The Parties understand and agree that the covenants and agreements on each of their parts herein contained are uniquely related to the desire of the Parties and their respective Affiliates to consummate the Transactions, that the Transactions are a unique business opportunity at a unique time for each of WDC and Spinco and their respective Affiliates, and further agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms, and further agree that, although monetary damages may be available for the breach of such covenants and agreements, monetary damages would be an inadequate remedy therefor. It is accordingly agreed that, in addition to any other remedy that may be available to it, including monetary damages, each of the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties further agrees that no Party shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 9.4 and each Party waives any objection to the imposition of such relief or any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

(b) Each of the Parties irrevocably agrees that, subject (except in the case of any legal action or proceeding seeking specific performance) to prior compliance with Article IX, any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder, brought by any other Party or its successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement: (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to

serve in accordance with this Section 10.4; (ii) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (iii) to the fullest extent permitted by the applicable Law, any claim that: (x) the suit, action or proceeding in such court is brought in an inconvenient forum; (y) the venue of such suit, action or proceeding is improper; or (z) this Agreement, or the subject matter hereof, may not be enforced in or by such courts (other than by reason of, except in the case of any action or proceeding for specific performance, needing to first comply with the provisions of Article IX). In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing Party in such dispute shall be entitled to recover from the losing Party all fees, costs and expenses of enforcing any right of such prevailing Party under or with respect to this Agreement, including, without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals. The Parties agree that service of any court paper may be made in any manner as may be provided under the applicable Laws or court rules governing service of process in such court. The Parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law.

10.5 Waiver of Jury Trial. EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

10.6 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered: (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed; or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission when receipt is confirmed:

(a) If to WDC:

c/o Western Digital Corporation
5601 Great Oaks Parkway
San Jose, CA 95119
Attn: Cynthia Tregillis
Email: cynthia.tregillis@wdc.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

(b) If to Spinco:

c/o Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attn: Bernard Shek
Email: bernard.shek@sandisk.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

10.7 Amendments and Waivers.

(a) This Agreement may be amended or supplemented in any and all respects and any provision of this Agreement may be waived and any such waiver shall be binding upon a Party, only if such waiver is set forth in a writing executed by such waiving Party bound thereby, and any such amendment or supplement shall be effective only if set forth in a writing executed by each of the Parties; and any such waiver, amendment or supplement shall not be applicable or have any effect except in the specific instance in which it is given. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

(b) Notwithstanding the foregoing, no failure on the part of any Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that any Party would otherwise have. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement or any such waiver of any provision of this Agreement must satisfy the conditions set forth in Section 10.7(a) and shall be effective only to the extent in such writing specifically set forth.

10.8 Termination. This Agreement shall terminate without further action upon termination of the Separation Agreement. If so terminated, no Party shall have any Liability of any kind to the other Parties or any other Person on account of this Agreement, except as provided in the Separation Agreement.

10.9 No Third-Party Beneficiaries. Except as specifically provided in the Separation Agreement or any Ancillary Agreement, this Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and is not intended, and shall not be deemed, to (a) create any agreement of employment with any person, (b) confer on third parties (including any employees of the Parties and their respective Groups) any remedy, claim, reimbursement, claim of action or other right in addition to those existing without reference to this Agreement, or (c) otherwise create any third-party beneficiary hereto.

10.10 Assignability; Binding Effect. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and permitted assigns; provided, however, that neither this Agreement nor any Party's rights, interests or obligations hereunder may be assigned or delegated by any such Party, in whole or in part (whether by operation of law or otherwise), without the prior written consent of the other Party, and any attempted assignment or delegation of this Agreement or any of such rights or obligations by any Party without the prior written consent of the other Party shall be void and of no effect. Except as set forth in Section 10.9, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person (other than the Parties and their permitted successors and assigns) any power, right, privilege or remedy of any nature whatsoever under or by reason of this Agreement.

10.11 Survival. The representations, warranties, covenants, and agreements set forth in this Agreement shall be unconditional and absolute and shall remain in effect without limitation as to time.

10.12 Construction.

(a) For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include masculine and feminine genders.

(b) The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.”

(d) As used in this Agreement, the words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(e) The measure of a period of one (1) month or year for purposes of this Agreement will be the date of the following month or year corresponding to the starting date; and, if no corresponding date exists, then the end date of such period being measured will be the next actual date of the following month or year (for example, one month following February 18 is March 18 and one month following March 31 is May 1).

(f) As used in this Agreement, the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if.”

(g) As used in this Agreement, the word “will” shall be deemed to have the same meaning and effect as the word “shall.”

(h) As used in this Agreement, the terms “or,” “any” or “either” are not exclusive and shall be deemed to be “and/or.”

(i) As used in this Agreement, references to “written” or “in writing” include in electronic form.

(j) As used in this Agreement, references to the “date hereof” are to the date of this Agreement.

(k) Except as otherwise indicated, all references in this Agreement to "Sections," "Exhibits" and "Schedules" are intended to refer to Sections of this Agreement and Exhibits or Schedules to this Agreement.

(l) The table of contents and the section and other headings and subheadings contained in this Agreement and the Exhibits hereto are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction, meaning or interpretation of this Agreement. The preamble and the recitals set forth at the beginning of this Agreement are incorporated by reference into and made a part of this Agreement.

(m) Any payment to be made pursuant hereto shall be made in U.S. dollars and by wire transfer of immediately available funds.

(n) As used in this Agreement, references to "U.S. dollars" and "$" in this report are to the lawful currency of the United States of America.

10.13 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any situation in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement in any other jurisdiction or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

10.14 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Party, it being understood that all Parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or electronic transmission shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

At the request of any Party, the other Party shall re-execute original forms thereof and deliver them to the requesting Party. No Party shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation of a contract, and each such Party forever waives any such defense.

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IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day and year first above written.

WESTERN DIGITAL CORPORATION

By: /s/ Wissam Jabre
Name: Wissam Jabre
Title: Executive Vice President and Chief Financial Officer

SANDISK CORPORATION

By: /s/ David V. Goeckeler
Name: David V. Goeckeler
Title: Chief Executive Officer

EMPLOYEE MATTERS AGREEMENT

between

WESTERN DIGITAL CORPORATION

and

SANDISK CORPORATION

dated as of

February 21, 2025

ARTICLE IX

MISCELLANEOUS

Schedules

EMPLOYEE MATTERS AGREEMENT

This Employee Matters Agreement (this "Agreement"), dated as of February 21, 2025, is between Western Digital Corporation, a Delaware corporation ("WDC"), and Sandisk Corporation, a Delaware corporation and wholly owned Subsidiary of WDC ("Spinco") (each a "Party" and together, the "Parties").

R E C I T A L S:

WHEREAS, WDC, directly and indirectly through its wholly owned Subsidiaries, is engaged in the Flash Business;

WHEREAS, the Board of Directors of WDC (the "WDC Board") has determined that it is advisable and in the best interests of WDC and WDC's stockholders to separate the Flash Business from the other businesses of WDC and to divest the Flash Business in the manner contemplated by the Separation and Distribution Agreement, dated as of the date of this Agreement (the "Separation Agreement"), by and among WDC and Spinco; and

WHEREAS, pursuant to the Separation Agreement, the Parties have agreed to enter into this Agreement for the purpose of allocating Assets, Liabilities and responsibilities with respect to certain employee matters and employee compensation and benefit plans and programs between them and to address certain other employment-related matters; provided that, following, and as a result of, the Internal Restructuring and the Spinco Contribution, including the separation of employees and employment-related Assets, it is intended that Spinco, through its wholly owned subsidiaries, will be able to operate and conduct the Flash Business on a standalone basis with sufficient employees.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.1 Definitions. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Separation Agreement, and the following terms shall have the following meanings:

"Action" has the meaning set forth in the Separation Agreement.

"Affiliate" has the meaning set forth in the Separation Agreement.

"Agreement" has the meaning set forth in the preamble.

"Ancillary Agreements" has the meaning set forth in the Separation Agreement.

"Applicable Exchange" means the securities exchange as may at the applicable time be the principal market for shares of Spinco Common Stock or shares of WDC Common Stock, as applicable.

"Assets" has the meaning set forth in the Separation Agreement.

"Automatic Transfer Employee" means each Automatic Transfer Spinco Employee and each Automatic Transfer WDC Employee.

"Automatic Transfer Spinco Employee" means any Spinco Employee, where local employment Laws, including but not limited to the Transfer Regulations, provide for an automatic transfer of such employee to Spinco or any member of the Spinco Group by operation of Law upon the transfer of a business and such business transfer occurs as a result of the transactions contemplated by the Separation Agreement.

"Automatic Transfer WDC Employee" means any WDC Employee, where local employment Laws, including but not limited to the Transfer Regulations, provide for an automatic transfer of such employee to WDC or any member of the WDC Group by operation of Law upon the transfer of a business and such business transfer occurs as a result of the transactions contemplated by the Separation Agreement.

"Benefit Arrangement" means, with respect to an entity, each Employee Benefit Plan that is sponsored or maintained by such entity (or to which such entity contributes or is required to contribute or in which it participates), and excluding workers' compensation plans, policies, programs and arrangements.

"Business Day" has the meaning set forth in the Separation Agreement. In the event that any action is required or permitted to be taken under this Agreement on or by a date that is not a Business Day, such action may be taken on or by the Business Day immediately following such date.

"Code" means the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreement" means all agreements with the collective bargaining representative, employee representative, labor or trade union, labor or management organization, or works council or similar representative bodies of Spinco Employees including all national or sector specific collective agreements which are applicable to Spinco Employees, in each case in effect immediately prior to the Separation Time that set forth terms and conditions of employment of Spinco Employees, and all modifications of, or amendments to, such agreements and any rules, procedures, awards or decisions of Governmental Authority interpreting or applying such agreements.

"Confidential Information" has the meaning set forth in the Separation Agreement.

"Consents" has the meaning set forth in the Separation Agreement.

"Continuation Period" has the meaning set forth in Section 2.14.

"Contract" has the meaning set forth in the Separation Agreement.

"Delayed Transfer Spinco Employee" means (A) each Spinco Employee who is not able to work because of a serious condition and is receiving long-term disability income replacement benefits from a member of the WDC Group under a WDC Benefit Arrangement; provided, that in no event shall any Automatic Transfer Spinco Employee, or any Non-Automatic Transfer Spinco Employee in the jurisdictions where the transfer of employment is by way of employer substitution, in each case of this clause (y) whose employment transfers to Spinco as of or prior to the Separation Date by operation of applicable Law, be deemed to be a Delayed Transfer Spinco Employee, (B) each Spinco Employee employed in a jurisdiction in which a Spinco Sub capable of serving as the employing entity (including by having set up the operational functions required to employ Spinco Employees in such jurisdiction on the terms contemplated by this Agreement) of such Spinco Employee is unable to be established on or prior to the Separation Date, or (C) each Spinco Employee with respect to whom WDC reasonably believes that it is necessary to delay the transfer for immigration purposes; provided, that an Automatic Transfer Spinco Employee will only be a Delayed Transfer Spinco Employee under clause (B) or (C) above to the extent that applicable Law permits a delay in the transfer of such Automatic Transfer Spinco Employee in such circumstance.

"Delayed Transfer WDC Employee" means (A) each WDC Employee who is not able to work because of a serious condition and is receiving long-term disability income replacement benefits from a member of the Spinco Group under a Spinco Benefit Arrangement; provided, that in no event shall any Automatic Transfer WDC Employee, or any Non-Automatic Transfer WDC Employee in the jurisdictions where the transfer of employment is by way of employer substitution, in each case of this clause (y) whose employment transfers to WDC as of or prior to the Separation Date by operation of applicable Law, be deemed to be a Delayed Transfer WDC Employee, (B) each WDC Employee employed in a jurisdiction in which a Subsidiary of WDC capable of serving as the employing entity (including by having set up the operational functions required to employ WDC Employees in such jurisdiction on the terms contemplated by this Agreement) of such WDC Employee is unable to be established on or prior to the Separation Date, or (C) each WDC Employee with respect to whom Spinco reasonably believes that it is necessary to delay the transfer for immigration purposes; provided, that an Automatic Transfer WDC Employee will only be a Delayed Transfer WDC Employee under clause (B) or (C) above to the extent that applicable Law permits a delay in the transfer of such Automatic Transfer WDC Employee in such circumstance.

"Distribution" has the meaning set forth in the Separation Agreement.

"Distribution Date" has the meaning set forth in the Separation Agreement.

"Dual-Service Director" means any individual who is a non-employee member of each of the Spinco Board and the WDC Board as of the Separation Time.

"Employee Benefit Plan" means each: (i) "employee benefit plan" (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA), (ii) employment, individual independent contractor, termination, severance, change in control, salary continuation, transaction bonus, retention or other contract or agreement, and (iii) other plan, program, policy, practice, agreement or other arrangement relating to pension, retirement,

supplemental retirement, profit-sharing, bonus, incentive compensation, equity or equity-based compensation, deferred compensation, vacation, sick pay, stock purchase, stock option, phantom equity, restricted stock, severance, supplemental unemployment, welfare, hospitalization or other medical, life, or other insurance, long or short term disability, fringe benefit or any other similar compensation or employee benefits, in each case, whether written or unwritten other than a plan, program, policy, practice, agreement or other arrangement maintained, or required to be maintained or contributed to, by any Governmental Authority.

"Employee Representative" means any works council, employee representative, labor or trade union, labor or management organization, group of employees or similar representative body for Spinco Employees.

"Employment Tax Return" means any return, report, certificate, form or similar statement or document (including any related or supporting information or schedule attached thereto and any information return, amended tax return, claim for refund or declaration of estimated Employment Tax) permitted or required to be supplied to, or filed with, a taxing authority in connection with the determination, assessment or collection of any Employment Tax or the administration of any laws, regulations or administrative requirements relating to any Employment Tax (whether or not a payment is required to be made with respect to such filing).

"Employment Taxes" means any federal, state, local or foreign Taxes, charges, fees, duties, levies, imposts, rates, social security contributions or other assessments or obligations, in each case in the nature of a Tax, imposed on, due or asserted to be due from (i) employees or deemed employees of the WDC Group or employees or deemed employees of the Spinco Group or (ii) the WDC Group or the Spinco Group as employers or deemed employers of such employees, including employers' and employees' portions of Federal Insurance Contributions Act Taxes, employers' Federal Unemployment Tax Act taxes and state and local unemployment insurance taxes, and employers' withholding, reporting and remitting obligations with respect to any such Taxes or employees' federal, state and local income taxes that are imposed on or due from employees or deemed employees of the WDC Group or the Spinco Group.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974, as amended.

"Excluded Assets" has the meaning set forth in the Separation Agreement.

"Excluded Jurisdiction" means each of China, Israel, Malaysia, the Philippines and Thailand.

"Excluded Liabilities" has the meaning set forth in the Separation Agreement.

"Exercise Date" has the meaning set forth in the WDC ESPP.

"Exercise Period" has the meaning set forth in the WDC ESPP.

"Flash Business" has the meaning set forth in the Separation Agreement.

"Flash Liabilities" has the meaning set forth in the Separation Agreement.

"Former Spinco Employee" means any former employee of the Spinco Group as of the Separation Time (other than a WDC Employee).

"Former WDC Director" means any individual who is a former non-employee member of the WDC Board as of the Separation Time (other than a Spinco Director).

"Former WDC Employee" means any former employee of the WDC Group as of the Separation Time (other than a Spinco Employee).

"Governmental Authority" has the meaning set forth in the Separation Agreement.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

"Information" has the meaning set forth in the Separation Agreement.

"Intellectual Property Rights" has the meaning set forth in the Separation Agreement.

"Internal Restructuring" has the meaning set forth in the Separation Agreement.

"IRS" means the U.S. Internal Revenue Service.

"Law" has the meaning set forth in the Separation Agreement.

"Liabilities" has the meaning set forth in the Separation Agreement.

"Losses" has the meaning set forth in the Separation Agreement.

"Mid-Year Cash Incentives" has the meaning set forth in Section 7.4(a).

"Non-Automatic Transfer Employee" means each Non-Automatic Transfer Spinco Employee and each Non-Automatic Transfer WDC Employee.

"Non-Automatic Transfer Spinco Employees" means any Spinco Employee who is not an Automatic Transfer Spinco Employee.

"Non-Automatic Transfer WDC Employees" means any WDC Employee who is not an Automatic Transfer WDC Employee.

"Non-Transferred Spinco Employee" means each Spinco Employee who fails to transfer employment to Spinco or a member of the Spinco Group as of the Separation Date or such later date as provided for under this Agreement, and such failure to transfer employment is not the result of any act or omission by Spinco or a member of the Spinco Group, including Spinco's or a member of the Spinco Group's failure to comply with the terms of this Agreement.

"Non-Transferred WDC Employee" means each WDC Employee who fails to transfer employment to WDC or a member of the WDC Group as of the Separation Date or such later date as provided for under this Agreement, and such failure to transfer employment is not the result of any act or omission by WDC or a member of the WDC Group, including WDC's or a member of the WDC Group's failure to comply with the terms of this Agreement.

"Offering Period" has the meaning set forth in the WDC ESPP.

"Participating Company" means WDC or any Person (other than an individual) participating in a WDC Benefit Arrangement.

"Party" or "Parties" has the meaning set forth in the preamble.

"Performance Stock Unit" has the meaning set forth under the WDC Equity Incentive Plans.

"Person" has the meaning set forth in the Separation Agreement.

"Post-Separation Spinco Stock Value" means the simple average of the closing trading price per-share of Spinco Common Stock trading on the Applicable Exchange during each of the first five (5) full Trading Sessions, commencing with the first Trading Session following the Distribution Date, rounded to two (2) decimal places.

"Post-Separation WDC Converted PSU Award" means a WDC PSU Award converted into a time-based restricted stock unit award and adjusted by WDC effective as of the Separation Time in accordance with Section 6.2(b). A Post-Separation WDC Converted PSU Award is a time-based restricted stock unit award as of and after the Separation Time.

"Post-Separation WDC DSU Award" means a WDC DSU Award adjusted by WDC effective as of the Separation Time in accordance with Section 6.3.

"Post-Separation WDC Equity Awards" means Post-Separation WDC Converted PSU Awards, Post-Separation WDC DSU Awards, Post-Separation WDC PSU Awards, and Post-Separation WDC RSU Awards, collectively.

"Post-Separation WDC PSU Award" means a WDC PSU Award adjusted by WDC effective as of the Separation Time in accordance with Section 6.2(a).

"Post-Separation WDC RSU Award" means a WDC RSU Award adjusted by WDC effective as of the Separation Time in accordance with Section 6.1.

"Post-Separation WDC Stock Value" means the simple average of the closing trading price per-share of WDC Common Stock trading on the Applicable Exchange during each of the first five (5) full Trading Sessions, commencing with the first Trading Session following the Distribution Date, rounded to two (2) decimal places.

"Pre-Separation WDC Stock Value" shall mean the closing per-share price of WDC Common Stock trading "regular way with due bills" on the Applicable Exchange on the Trading Session immediately prior to the Distribution Date (i.e., such price as of February 20, 2025 if the Distribution Date is February 21, 2025), rounded to two (2) decimal places. For the avoidance of doubt, if the Separation Time occurs after trading closes on the Distribution Date, the Pre-Separation WDC Stock Value shall still be determined as of the Trading Session immediately prior to the Distribution Date and not the Trading Session on the Distribution Date.

"Privacy Laws" means the following legislation to the extent applicable from time to time: (a) national laws implementing the Directive on Privacy and Electronic Communications (2002/58/EC); (b) the General Data Protection Regulation (2016/679) (the "GDPR") and any national law supplementing the GDPR; (c) the UK General Data Protection Regulation as defined by the Data Protection Act 2018 as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (the "UK GDPR"); (d) the California Consumer Privacy Act 2020, Cal. Civ. Code § 1798.100, et seq., (together with any regulations relating thereto) ("CCPA"); and (e) any other data protection or privacy laws, regulations, or regulatory requirements applicable to the processing of personal data (as amended and/or replaced from time to time).

"Privilege" has the meaning set forth in the Separation Agreement.

"Record Date" has the meaning set forth in the Separation Agreement.

"Reimbursement" has the meaning set forth in Section 2.2(d).

"Reimbursing Party" has the meaning set forth in Section 2.2(d).

"Remaining Cash Incentives" has the meaning set forth in Section 7.4(C).

"Requesting Party" has the meaning set forth in Section 2.2(d).

"Restricted Stock Unit" has the meaning set forth under the WDC Equity Incentive Plans.

"Retained Welfare Plan" has the meaning set forth in Section 4.1(b).

"Rollover Welfare Plan" has the meaning set forth in Section 4.1(c).

"Separation" has the meaning set forth in the Separation Agreement.

"Separation Agreement" has the meaning set forth in the recitals.

"Separation Date" has the meaning set forth in the Separation Agreement.

"Separation Time" has the meaning set forth in the Separation Agreement.

"Spinco" has the meaning set forth in the preamble.

"Spinco 401(k) Plan" has the meaning set forth in Section 3.1(b).

"Spinco Benefit Arrangement" means any Benefit Arrangement sponsored, maintained or contributed to, or required to be maintained or contributed to, by any member of the Spinco Group effective prior to, as of or following the Separation Time.

"Spinco Board" means the Board of Directors of Spinco.

"Spinco Cash Incentive Plans" has the meaning set forth in Section 7.4(e).

"Spinco Change in Control" has the meaning set forth in Section 6.5(a).

"Spinco Common Stock" means the issued and outstanding shares of common stock, par value $0.01 per share, of Spinco.

"Spinco Contribution" has the meaning set forth in the Separation Agreement.

"Spinco Converted PSU Award" means a WDC PSU Award converted into a time-based restricted stock unit award, assumed, and adjusted by Spinco effective as of the Separation Time in accordance with Section 6.2. A Spinco Converted PSU Award is a time-based restricted stock unit award as of and after the Separation Time.

"Spinco Delayed Transfer Date" means (A) the date that a Delayed Transfer Spinco Employee (within the meaning of clause (A) thereof) returns to active service; provided that such Delayed Transfer Spinco Employee will become a Spinco Employee only if and when such Delayed Transfer Spinco Employee returns to active service for any member of the WDC Group within six (6) months following the Distribution Date or such longer period as required by Law or otherwise agreed to in writing by the Parties; (B) the date a Spinco Sub capable of serving as the employing entity of a Delayed Transfer Spinco Employee (within the meaning of clause (B) thereof) is established in the applicable jurisdiction or such Delayed Transfer Spinco Employee is otherwise able to be transferred to a member of the Spinco Group in accordance with applicable Law; provided that the Parties agree to cooperate to establish any such Spinco Sub as soon as reasonably practicable following the Separation Time; or (C) the date that a Delayed Transfer Spinco Employee (within the meaning of clause (C) thereof) has obtained the appropriate visa or work authorization to commence employment; provided that such Delayed Transfer Spinco Employee will become a Spinco Employee only if and when such Delayed Transfer Spinco Employee is authorized to commence employment for any member of the Spinco Group within six (6) months following the Distribution Date or such longer period as required by Law or otherwise agreed to in writing by the Parties.

"Spinco Director" means any individual who is a non-employee member of the Spinco Board as of the Separation Time, other than a Dual-Service Director.

"Spinco Employee" means, except for the excluded employees set forth on Schedule 1.1 attached hereto, each employee of any member of the WDC Group or the Spinco Group who is set forth on Schedule 1.2 attached hereto. The employees set forth on Schedule 1.2 shall be those employees who are either (A) exclusively or primarily engaged in the Flash Business or (B) necessary for the ongoing operation of the Flash Business following the Separation Date, in each case, regardless of whether any such employee (x) is actively at work as of the Separation Date or (y) is not actively at work as of the Separation Date as a result of disability or illness, an approved leave of absence (including military leave with reemployment rights under federal law and leave under the Family and Medical Leave Act of 1993), vacation, personal day or similar short- or long-term absence.

"Spinco Employee Books and Records" has the meaning set forth in Section 2.1(a)(i).

"Spinco Employee Liabilities" means any and all Liabilities, whenever incurred (for the avoidance of doubt, whether incurred prior to, at or following the Separation Time), arising out of, related to, resulting from, or with respect to: (a) the employment or termination of employment of any Spinco Employee (excluding any Non-Transferred Spinco Employee), with the exception of any Liabilities arising from any action or omission of WDC involving non-compliance with employment-related laws occurring solely prior to the Spinco Transfer Date, but including Liability related to the rights of the transferring employee based on seniority and related terms, (b) the employment or termination of employment of any Non-Transferred WDC Employee, with the exception of any Liabilities arising from any action or omission of WDC involving non-compliance with employment-related laws occurring solely prior to the Spinco Transfer Date, (c) the engagement or service or termination of engagement or service of any Spinco Independent Contractor, with the exception of any Liabilities arising from any action or omission of WDC involving non-compliance with employment-related laws occurring solely prior to the Spinco Transfer Date, but including Liability related to the rights of the transferring employee based on seniority and related terms, (d) any applicant's application for employment or engagement with any member of the Spinco Group or with respect to the Flash Business, and (e) any other Liabilities assumed by Spinco or any member of the Spinco Group pursuant to this Agreement.

"Spinco Equity Awards" means Spinco Converted PSU Awards and Spinco RSU Awards, collectively.

"Spinco Equity Incentive Plans" has the meaning set forth in Section 6.6.

"Spinco ESPP" has the meaning set forth in Section 6.7.

"Spinco Group" means Spinco, each of the Spinco Subs and any legal predecessors thereto, and following the Separation Date, each of its Affiliates.

"Spinco Indemnitees" means Spinco, each member of the Spinco Group and all Persons who are or have been shareholders, directors, partners, managers, managing members, officers, agents or employees of any member of the Spinco Group (in each case, in their respective capacities as such) (excluding any member of the WDC Group), together with their respective heirs, executors, administrators, successors and assigns.

"Spinco Independent Contractor Books and Records" has the meaning set forth in Section 2.1(a)(ii).

"Spinco Independent Contractors" means each independent contractor of any member of the Spinco Group or the WDC Group who is actively providing services as of the Separation Date or party to any agreement with any member of the Spinco Group or the WDC Group as of the Separation Date contemplating future service and, in each case, is (or pursuant to such agreement contemplating future service would be) either (A) exclusively or primarily engaged in the Flash Business; or (B) necessary for the ongoing operation of the Flash Business following the Separation Date, which shall include, for the avoidance of doubt, specified service providers who are engaged through a third-party employer as of the Separation Date, in the case of each of the foregoing clauses (A) and (B).

"Spinco LTI Cash Award" means a WDC LTI Cash Award assumed by Spinco effective as of the Separation Time in accordance with Section 6.4.

"Spinco Non-U.S. Savings Plans" has the meaning set forth in Section 3.2(b).

"Spinco NQDC Plan" has the meaning set forth in Section 5.1(b).

"Spinco Ratio" means the quotient, carried out to six decimal places, obtained by dividing (a) the Pre-Separation WDC Stock Value by (b) the Post-Separation Spinco Stock Value.

"Spinco RSU Award" means a WDC RSU Award assumed and adjusted by Spinco effective as of the Separation Time in accordance with Section 6.1.

"Spinco Severance Plans" has the meaning set forth in Section 7.5(a).

"Spinco Subs" has the meaning set forth in the Separation Agreement.

"Spinco Transfer Date" means the date on which a Spinco Employee became or becomes employed or engaged by Spinco or any member of the Spinco Group.

"Spinco Welfare Plans" means any Welfare Plans maintained by Spinco or any member of the Spinco Group.

"Subsidiary" has the meaning set forth in the Separation Agreement.

"Successor Corporation" has the meaning set forth in Section 6.5(c).

"Tax" or "Taxes" has the meaning set forth in the Tax Matters Agreement.

"Tax Matters Agreement" means the Tax Matters Agreement, as defined in the Separation Agreement, as it may be amended from time to time in accordance with the terms thereof.

"Trading Session" shall mean the period of time during any given calendar day, commencing with the determination of the opening price on the Applicable Exchange and ending with the determination of the closing price on the Applicable Exchange, in which trading in shares of WDC Common Stock or shares of Spinco Common Stock (as applicable) is permitted on the Applicable Exchange.

"Transfer Regulations" means (i) all laws of any member state of the European Union implementing the European Union Council Directive 2001/23/EC of 12 March 2001 on the approximation of the Laws of member states of the European Union relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (the "Acquired Rights Directive") and legislation and regulations of any member state of the European Union implementing such Acquired Rights Directive, and (ii) any similar Laws in any jurisdiction providing for an automatic transfer, by operation of law, of employment in the event of a transfer of business.

"Transferor WDC Non-U.S. Savings Plans" has the meaning set forth in Section 3.2(b).

"Transferred WDC Non-U.S. Savings Plans" has the meaning set forth in Section 3.2(c).

"VP+ Spinco Employee" means each Spinco Employee with a title of Executive Vice President, Senior Vice President or Vice President immediately prior to the Separation Time (or the equivalent of either title in the internal records of WDC) or who was an officer of WDC within the meaning of Section 16 of the Securities Exchange Act of 1934, as amended.

"WDC" has the meaning set forth in the preamble.

"WDC 401(k) Plan" means the Western Digital Corporation 401(k) Plan.

"WDC Benefit Arrangement" means any Benefit Arrangement sponsored, maintained or contributed to, or required to be maintained or contributed to, by any member of the WDC Group.

"WDC Board" has the meaning set forth in the recitals.

"WDC Cash Incentive Plans" means (i) the Western Digital Corporation Executive Short-Term Incentive Plan; (ii) the Western Digital Corporation Leadership, Professional & Factory Workforce Short-Term Incentive Plan; and (iii) the Western Digital Corporation Worldwide Sales Incentive Plan, as in effect each fiscal year.

"WDC Change in Control" has the meaning set forth in Section 6.5(a).

"WDC Common Stock" means the issued and outstanding shares of common stock, par value $0.01 per share, of WDC.

"WDC Delayed Transfer Date" means (A) the date that a Delayed Transfer WDC Employee (within the meaning of clause (A) thereof) returns to active service; provided that such Delayed Transfer WDC Employee will become a WDC Employee only if and when such Delayed Transfer WDC Employee returns to active service for any member of the Spinco Group within six (6) months following the Distribution Date or such longer period as required by Law or otherwise agreed to in writing by the Parties; (B) the date a Subsidiary of WDC capable of serving as the employing entity of a Delayed Transfer WDC Employee (within the meaning of clause (B) thereof) is established in the applicable jurisdiction or such Delayed Transfer WDC Employee is otherwise able to be transferred to a member of the WDC Group in accordance with applicable Law; provided that the Parties agree to cooperate to establish any such Subsidiary of WDC as soon as reasonably practicable following the Separation Time; or (C) the date that a Delayed Transfer WDC Employee (within the meaning of clause (C) thereof) has obtained the appropriate visa or work authorization to commence employment; provided that such Delayed Transfer WDC Employee will become a WDC Employee only if and when such Delayed Transfer WDC Employee is authorized to commence employment for any member of the WDC Group within six (6) months following the Distribution Date or such longer period as required by Law or otherwise agreed to in writing by the Parties.

"WDC Director" means any individual who is a non-employee member of the WDC Board as of the Separation Time, other than a Dual-Service Director.

"WDC DSU Award" means an award of Restricted Stock Units or other right to receive shares of WDC Common Stock that is subject to a deferral election in accordance with the WDC Non-Employee Director RSU Grant Program, WDC Non-Employee Directors Stock-For-Fees Plan and/or the WDC NQDC Plan (including any such award or right that is scheduled to vest between the Record Date and the Separation Time).

"WDC Employee" means any employee of the WDC Group or the Spinco Group who is not a Spinco Employee.

"WDC Employee Liabilities" means any and all Liabilities, whenever incurred (for the avoidance of doubt, whether incurred prior to, at or following the Separation Time), arising out of, related to, resulting from, or with respect to: (a) the employment or termination of employment of any WDC Employee (excluding any Non-Transferred WDC Employee), with the exception of any Labilities arising from any action or omission of Spinco involving non-compliance with employment-related laws occurring solely prior to the WDC Transfer Date, but including Liability related to the rights of the transferring employee based on seniority and related terms, (b) the employment or termination of employment of any Non-Transferred Spinco Employee, with the exception of any Liabilities arising from any action or omission of Spinco involving non-compliance with employment-related laws occurring solely prior to the WDC Transfer Date, (c) the engagement or service or termination of engagement or service of any WDC Independent Contractor, with the exception of any Liabilities arising from any action or omission of Spinco involving non-compliance with employment-related laws occurring solely prior to the WDC Transfer Date, but including Liability related to the rights of the transferring employee based on seniority and related terms, (d) any applicant's application for employment or engagement with any member of the WDC Group, and (e) any other Liabilities assumed by WDC or any member of the WDC Group pursuant to this Agreement, but in the case of each of (a) through (e), only to the extent that such Liabilities are not arising out of, related to, resulting from, or with respect to any of the Flash Business, Spinco Employees (other than Non-Transferred Spinco Employees), or Spinco Independent Contractors.

"WDC Equity Awards" means WDC DSU Awards, WDC RSU Awards, and WDC PSU Awards, collectively.

"WDC Equity Incentive Plans" means the (i) the Western Digital Corporation 2021 Long-Term Incentive Plan, as amended and restated effective as of November 15, 2023; and (ii) the Western Digital Corporation Amended and Restated 2017 Performance Incentive Plan, as amended and restated as of August 11, 2020.

"WDC ESPP" means the Western Digital Corporation 2005 Employee Stock Purchase Plan, as amended and restated as of August 25, 2022.

"WDC Group" means WDC, each of its Subsidiaries, and any legal predecessors thereto, but excluding any member of the Spinco Group.

"WDC Indemnitees" means WDC, each member of the WDC Group, and all Persons who are or have been shareholders, directors, partners, managers, managing members, officers, agents or employees of any member of the WDC Group (in each case, in their respective capacities as such) (excluding any shareholder of WDC), together with their respective heirs, executors, administrators, successors and assigns.

"WDC Independent Contractor" means any independent contractor of the WDC Group or the Spinco Group who is not a Spinco Independent Contractor.

"WDC LTI Cash Award" means a cash award granted by WDC pursuant to the WDC Equity Incentive Plans.

"WDC Non-Employee Director RSU Grant Program" means the Western Digital Corporation Non-Employee Directors Restricted Stock Unit Program under any WDC Equity Incentive Plan.

"WDC Non-Employee Directors Stock-for-Fees Plan" means the Amended and Restated Western Digital Corporation Non-Employee Directors Stock-For-Fees Plan.

"WDC Non-U.S. Savings Plan" means each WDC Benefit Arrangement that is a defined contribution retirement plan or plan that pays a promised cash retirement payment upon retirement determined based on length of employee service and other potential factors, in either case, in which employees who are based outside of the United States participate and/or that is subject to any Law other than United States federal, state or local Law.

"WDC NQDC Plan" means the Western Digital Corporation Deferred Compensation Plan, as amended and restated as of January 1, 2013.

"WDC NQDC Plan Withdrawal Date" has the meaning set forth in Section 5.1(a).

"WDC PSU Award" means an award of Performance Stock Units granted by WDC pursuant to the WDC Equity Incentive Plans (including any such award that is scheduled to vest between the Record Date and the Separation Time) that is subject to performance-based vesting.

"WDC Ratio" means the quotient, carried out to six decimal places, obtained by dividing (a) the Pre-Separation WDC Stock Value by (b) the Post-Separation WDC Stock Value.

"WDC RSU Award" means an award of Restricted Stock Units granted by WDC pursuant to the WDC Equity Incentive Plans (including any such award that is scheduled to vest between the Record Date and the Separation Time) that is not subject to performance-based vesting, but excluding any WDC DSU Award.

"WDC Severance Plans" means (i) the Western Digital Corporation Change in Control Severance Plan, as amended and restated as of May 24, 2021; (ii) the Western Digital Corporation Executive Severance Plan, as may be amended and/or restated from time to time, and (iii) the Western Digital Severance Plan for U.S. Employees, as may be amended and/or restated from time to time.

"WDC Transfer Date" means the date on which a WDC Employee became or becomes employed or engaged by WDC or any member of the WDC Group.

"WDC Welfare Plans" means any Welfare Plans maintained by WDC or any member of the WDC Group.

"Welfare Plan" means, where applicable, a "welfare plan" (as defined in Section 3(1) of ERISA and in 29 C.F.R. §2510.3-1) or a "cafeteria plan" under Section 125 of the Code, and any benefits offered thereunder, and any other plan offering health benefits (including medical, prescription drug, dental, vision and mental health and substance use disorder), disability benefits, or life, accidental death and disability, pre-tax premium conversion benefits, dependent care assistance programs, employee assistance programs, contribution funding toward a health savings account, flexible spending accounts, tuition reimbursement or adoption assistance programs or cashable credits.

SECTION 1.2 References; Interpretation. Unless the context otherwise requires:

(a) For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include masculine and feminine genders.

(b) The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words "include" and "including" and variations thereof, shall not be deemed to be terms of limitation but rather shall be deemed to be followed by the words "without limitation."

(d) As used in this Agreement, the words "hereof," "herein," "hereto" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(e) The measure of a period of one (1) month or year for purposes of this Agreement will be the date of the following month or year corresponding to the starting date; and, if no corresponding date exists, then the end date of such period being measured will be the next actual date of the following month or year (for example, one month following February 18 is March 18 and one month following March 31 is May 1).

(f) As used in this Agreement, the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if."

(g) As used in this Agreement, the word "will" shall be deemed to have the same meaning and effect as the word "shall."

(h) As used in this Agreement, the terms "or," "any" or "either" are not exclusive and shall be deemed to be "and/or."

(i) As used in this Agreement, references to "written" or "in writing" include in electronic form.

(j) As used in this Agreement, references to the "date hereof" are to the date of this Agreement.

(k) Except as otherwise indicated, all references in this Agreement to "Sections," "Articles" and "Schedules" are intended to refer to Sections or Articles of this Agreement and Schedules to this Agreement.

(l) The table of contents and the section and other headings and subheadings contained in this Agreement and any Schedules to this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction, meaning or interpretation of this Agreement. The preamble and the recitals set forth at the beginning of this Agreement are incorporated by reference into and made a part of this Agreement.

(m) Any payment to be made pursuant hereto shall be made in U.S. dollars and by wire transfer of immediately available funds.

(n) As used in this Agreement, references to "U.S. dollars" and "$" in this report are to the lawful currency of the United States of America.

(o) All references to statutes shall include all regulations promulgated thereunder, and all references to statutes and related regulations shall include all amendments of the same and any successor or replacement statutes and regulations.

SECTION 1.3 Relation to Other Documents. To the extent there is any inconsistency between this Agreement and the terms of another agreement pertaining to the Separation (other than any Collective Bargaining Agreement) that is the subject of this Agreement and such inconsistency (i) arises in connection with or as a result of employment with or the performance of services before or after the Separation for any member of the WDC Group or Spinco Group and (ii) relates to the allocation of Liabilities attributable to the employment, service, termination of employment or termination of service of all present or Former WDC Employees, present or Former Spinco Employees, Spinco Independent Contractors or any of their dependents and beneficiaries (and any alternate payees in respect thereof) and other service providers (including any individual who is, or was or is determined to be an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or non-payroll worker or in any other employment, non-employment, or retainer arrangement, or relationship with any member of the WDC Group or the Spinco Group), the terms of this Agreement shall prevail.

ARTICLE II

GENERAL PRINCIPLES

SECTION 2.1 Allocation of Assets

(a) For purposes of the Separation Agreement, "Flash Assets" shall include, in each case to the extent existing and owned or held immediately prior to the Separation Time by any member of the WDC Group or the Spinco Group, all of the WDC Group's and the Spinco Group's respective right, title and interest in, to and under the following Assets:

(i) With respect to Spinco Employees, as permitted by applicable Law, subject at all times to compliance with applicable Privacy Laws, subject to Section 5.3 of the Separation Agreement, and solely to the extent determined by WDC to be necessary for the Parties to comply in good faith with the terms of this Agreement, in the possession of a member of the WDC Group or the Spinco Group, and to the extent practicable: all personnel files as they are currently maintained, whether as hard copies or as electronic books and records, whether in Workday, OneDrive, or other easily accessible and transferrable system and that relate to the employment of such Spinco Employees with the members of the WDC Group or the Spinco Group, in each case excluding any Intellectual Property Rights other than Spinco IP embodied therein (collectively, the "Spinco Employee Books and Records"); provided, however, that: (x) WDC shall be entitled to retain a copy of any and all Spinco Employee Books and Records, which shall be subject to the provisions of Section 2 of the Separation Agreement and deemed the Confidential Information of Spinco and subject to the provisions of Section 6.6 of the Separation Agreement; (y) WDC may retain any materials that are not reasonably practicable to identify and extract subject to the right of access pursuant to Section 5.1 of the Separation Agreement, which shall be deemed the Confidential Information of Spinco and subject to Section 6.6 of the Separation Agreement; and (z) WDC shall be entitled to redact any portion of the Spinco Employee Books and Records to the extent related to any matter other than the Flash Business; provided, however, that such retained materials shall be deemed Confidential Information of Spinco and subject to the provisions of Section 6.6 of the Separation Agreement. For illustrative purposes only, a Spinco Employee's personnel file would include, but is not limited to, onboarding documents, the Employee Invention and Confidential Agreement, privacy notices or consent, payroll and benefit elections, discipline records, documents signed by the Spinco Employee that relate to obtaining or holding employment, and performance-related documents, such as promotion records, incentive awards (short and long-term), quarterly check-ins, and performance designations, all of which are regularly maintained by People Support.

(ii) With respect to Spinco Independent Contractors, as permitted by applicable Law, subject at all times to compliance with applicable Privacy Laws, subject to Section 5.3 of the Separation Agreement, and solely to the extent determined by WDC to be necessary for the Parties to comply in good faith with the terms of this Agreement, in the possession of a member of the WDC Group or the Spinco Group, and to the extent practicable: all electronic books and records that are housed in the Wand system and relate to the onboarding and offboarding of such Spinco Independent Contractors with the members of the WDC Group or the Spinco Group, in each case excluding any non-electronic records and any Intellectual Property Rights other than Spinco IP embodied therein (collectively, the "Spinco Independent Contractor Books and Records"); provided, however, that: (x) WDC shall be entitled to retain a copy of any and all Spinco Independent Contractor Books and Records, which shall be subject to the provisions of Section 2 of the Separation Agreement and deemed the Confidential Information of Spinco and subject to the provisions of Section 6.6 of the Separation Agreement; (y) WDC may retain any materials that are not reasonably practicable to identify and extract subject to the right of access pursuant to Section 5.1 of the Separation Agreement, which shall be deemed the Confidential Information of Spinco and subject to Section 6.6 of the Separation Agreement; and (z) WDC shall be entitled to redact any portion of the Spinco Independent Contractor Books and Records to the extent related to any matter other than the Flash Business; provided, however, that such retained materials shall be deemed Confidential Information of Spinco and subject to the provisions of Section 6.6 of the Separation Agreement.

(b) Notwithstanding Section 2.1(a), for purposes of the Separation Agreement, "Excluded Assets" shall include the employment and personnel records of (i) employees or service providers of the WDC Group or the Spinco Group who are not Spinco Employees or Spinco Independent Contractors, (ii) the Spinco Employees, including, for the avoidance of doubt, records the transfer of which is prohibited by Law or otherwise by reason of any agreement with Spinco Employees or any Person representing any of them (subject to the provisions of Section 1.8(a) of the Separation Agreement), and (iii) any materials subject to any Privileges in accordance with Section 5.3 of the Separation Agreement.

(c) As applicable with respect to WDC Employees, Spinco shall, or shall cause the appropriate member of the Spinco Group to, transfer or cause to be transferred all employment and personnel files of the WDC Employees as of the WDC Transfer Date, in the same manner and subject to the same requirements as provided in Section 2.1(a)(i) above with respect to Spinco Employees. For the avoidance of doubt, such records shall be "Excluded Assets" for purposes of the Separation Agreement.

SECTION 2.2 Assumption of Liabilities.

(a) Effective as of the Separation Time, unless otherwise specified in this Agreement, Spinco shall, or shall cause one or more members of the Spinco Group to, assume or retain, as applicable, and pay, perform, fulfill and discharge, in due course in full, all of the Spinco Employee Liabilities, and Spinco and the applicable members of the Spinco Group shall be responsible for such Spinco Employee Liabilities in accordance with their respective terms regardless of when or where such Spinco Employee Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Separation Time, regardless of where or against whom such Spinco Employee Liabilities are asserted or determined or whether asserted or determined prior to the date hereof (in each case except to the extent satisfied prior to the Separation Time).

(b) Effective as of the Distribution Date, unless otherwise specified in this Agreement, WDC shall, or shall cause one or more members of the WDC Group to, assume or retain, as applicable, and pay, perform, fulfill and discharge, in due course in full, all of the WDC Employee Liabilities, and WDC and the applicable members of the WDC Group shall be responsible for such WDC Employee Liabilities in accordance with their respective terms regardless of when or where such WDC Employee Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Separation Time, regardless of where or against whom such WDC Employee Liabilities are asserted or determined or whether asserted or determined prior to the date hereof (in each case except to the extent satisfied prior to the Separation Time).

(c) All Liabilities assigned to or assumed or retained by WDC or a member of the WDC Group under this Agreement shall be Excluded Liabilities for purposes of the Separation Agreement. All Liabilities assigned to or assumed or retained by Spinco or a member of the Spinco Group under this Agreement shall be Flash Liabilities for purposes of the Separation Agreement.

(d) Reimbursements.

(i) From time to time after the Distribution Date, the Parties shall promptly reimburse one another, upon reasonable request of the Party requesting reimbursement (the "Requesting Party") and the presentation by such Party of such substantiating documentation as the other Party (the "Reimbursing Party") shall reasonably request, for the cost of any obligations or Liabilities satisfied or assumed by the Requesting Party or its Affiliates (including for any such Liabilities that transfer to the Spinco Group by operation of Law or Collective Bargaining Agreement) that are, or that have been made pursuant to this Agreement, the responsibility of the Reimbursing Party or any of its Affiliates (any such reimbursement, a "Reimbursement").

(ii) Any Reimbursement payable pursuant to this Section 2.2(d) shall be (i) equal to the cost actually incurred by the Requesting Party, including the employer-portion of any associated Employment Taxes payable by the Requesting Party in connection therewith, and (ii) submitted to the Reimbursing Party within thirty (30) calendar days of the payment by the Requesting Party.

(e) Subject to applicable Law and the Tax Matters Agreement, WDC shall retain responsibility for all employee-related regulatory filings for reporting periods ending at or prior to the Separation Time, except for Equal Employment Opportunity Commission EEO-1 reports and affirmative action program (AAP) reports and responses to Office of Federal Contract Compliance Programs (OFCCP) submissions required after the SpinCo Transfer Date, for which WDC shall provide data and Information (to the extent permitted by applicable Laws and consistent with Section 8.1) to Spinco, which shall be responsible for making such filings in respect of Spinco Employees in accordance with and subject to the requirements of applicable Law.

(f) WDC shall be the responsible party for duly preparing and timely filing or causing to be duly prepared and timely filed all Employment Tax Returns required or permitted to be filed by any member of the WDC Group and, on or prior to the Distribution Date, by any member of the Spinco Group. WDC shall be liable for all Employment Taxes due or payable for or with respect to services provided by employees or deemed employees of any member of the WDC Group at any time and services provided by employees or deemed employees of any member of the Spinco Group on or prior to the Distribution Date.

(g) Spinco shall be the responsible party for duly preparing and timely filing or causing to be duly prepared and timely filed all Employment Tax Returns of any member of the Spinco Group with respect to periods (or portions thereof) following the Distribution Date or required to be filed by any member of the Spinco Group after the Distribution Date. Spinco shall be liable for all Employment Taxes due or payable for or with respect to services provided by employees or deemed employees of any member of the Spinco Group after the Distribution Date.

(h) With respect to any Employment Tax Return required to be filed pursuant to this Agreement, the party responsible for preparing and filing such Employment Tax Return shall remit or cause to be remitted to the applicable taxing authority in a timely manner any Taxes due in respect of any such Employment Tax Return. In the case of any Employment Tax Return for which the Party that is not responsible for preparing and filing such Employment Tax Return is obligated pursuant to this Agreement to pay all or a portion of the Taxes reported as due on such Employment Tax Return, the party responsible for preparing and filing such Employment Tax Return shall notify the other Party, in writing, of its obligation to pay such Taxes and, in reasonably sufficient detail, its calculation of the amount due by such other Party and the Party receiving such notice shall pay such amount to the party responsible for preparing and filing such Employment Tax Return upon the later of five (5) Business Days prior to the date on which such payment is due and fifteen (15) Business Days after the receipt of such notice.

SECTION 2.3 Participation in WDC Benefit Arrangements. Except as required by applicable Law, as otherwise provided for in this Agreement or pursuant to a transition services agreement entered into among the Parties or as otherwise agreed to by the Parties, effective as of the Separation Time, (A) (i) Spinco and each member of the Spinco Group, to the extent applicable, shall cease to be a Participating Company in any WDC Benefit Arrangement (other than a Transferred WDC Non-U.S. Savings Plan or Rollover Welfare Plan), (ii) each Spinco Employee shall cease to participate in, be covered by, accrue benefits under, or be eligible to contribute to any WDC Benefit Arrangement (other than a Transferred WDC Non-U.S. Savings Plan or Rollover Welfare Plan), except to the extent of obligations that accrued before the Distribution Date, which shall remain a Liability of any member of the WDC Group pursuant to this Agreement, and (iii) any Person who participates in any Transferred WDC Non-U.S. Savings Plan or Rollover Welfare Plan but is not a Spinco Employee shall cease to participate in, be covered by, accrue benefits under, be eligible to contribute to or have any rights under such Transferred WDC Non-U.S. Savings Plan or Rollover Welfare Plan; and (B) (i) WDC and each member of the WDC Group, to the extent applicable, shall cease to be a Participating Company in any Spinco Benefit Arrangement, and (ii) each WDC Employee shall cease to participate in, be covered by, accrue benefits under, or be eligible to contribute to any Spinco Benefit Arrangement, except to the extent of obligations that accrued before the Distribution Date, which shall remain a Liability of any member of the Spinco Group pursuant to this Agreement. The Parties shall take all necessary action to effectuate this Section 2.3.

SECTION 2.4 Service Recognition. Effective as of the Separation Time, and in addition to any applicable obligations under the Transfer Regulations or other applicable Law, (A) Spinco shall, and shall cause each member of the Spinco Group to, give each Spinco Employee full credit for purposes of eligibility, vesting and determination of level of benefits under any Spinco Benefit Arrangement (but not with respect to eligibility for benefits or calculation or accrual of benefits under any retiree medical or welfare plans or accrual of benefits under any defined benefit program) for such Spinco Employee's service with any member of the WDC Group or any predecessor thereto prior to the Separation Time, to the same extent such

service was recognized by the applicable WDC Benefit Arrangement immediately prior to the Separation Time; provided, that, such service shall not be recognized to the extent such recognition would result in the duplication of benefits; and (B) WDC shall, and shall cause each member of the WDC Group to, give each WDC Employee full credit for purposes of eligibility, vesting and determination of level of benefits under any WDC Benefit Arrangement (but not with respect to eligibility for benefits or calculation or accrual of benefits under any retiree medical or welfare plans or accrual of benefits under any defined benefit program) for such WDC Employee's service with any member of the Spinco Group or any predecessor thereto prior to the Separation Time, to the same extent such service was recognized by the applicable Spinco Benefit Arrangement immediately prior to the Separation Time; provided, that, such service shall not be recognized to the extent such recognition would result in the duplication of benefits.

SECTION 2.5 Collective Bargaining Agreements.

(a) Notwithstanding anything in this Agreement to the contrary, prior to the Separation Time, WDC and Spinco shall, to the extent required by applicable Law, take or cause to be taken all actions that are necessary (if any) for Spinco or a member of the Spinco Group to (i) continue to maintain or to assume and honor any Collective Bargaining Agreements that relate to Spinco Employees; (ii) assume and honor any obligations of the WDC Group under Collective Bargaining Agreements that are maintained outside of the United States in accordance with industry or regulatory standards, as such obligations relate to Spinco Employees; and (iii) continue to maintain or to assume and honor any pre-existing collective bargaining relationships (in each case including obligations that arise in respect of the period both before and after the date of employment by the Spinco Group) in respect of any Spinco Employees and any Employee Representatives.

(b) As of the Separation Time, Spinco shall, or shall cause Spinco or a member of the Spinco Group to (i) continue to maintain or to assume and honor any Collective Bargaining Agreements that relate to Spinco Employees; (ii) assume and honor any obligations of the WDC Group under Collective Bargaining Agreements that are maintained outside of the United States in accordance with industry or regulatory standards, as such obligations relate to Spinco Employees; and (iii) continue to maintain or to assume and honor any pre-existing collective bargaining relationships (in each case including obligations that arise in respect of the period both before and after the date of employment by the Spinco Group) in respect of any Spinco Employees and any Employee Representatives.

(c) Nothing in this Agreement is intended to alter the provisions of any Collective Bargaining Agreement or modify in any way the obligations of the WDC Group or the Spinco Group to any Employee Representative or any other Person as described in such agreement.

SECTION 2.6 No Acceleration of Benefits. Except as otherwise provided in this Agreement, no provision of this Agreement shall be construed to create any right, or accelerate vesting or entitlement, to any compensation or benefit whatsoever on the part of any Spinco Employee or other former, current or future employee or other service provider of the WDC Group or Spinco Group under any Benefit Arrangement of the WDC Group or Spinco Group.

SECTION 2.7 Amendment Authority. Nothing in this Agreement is intended to prohibit any member of the WDC Group or Spinco Group from amending, terminating or otherwise modifying any employee benefit plans, policies or compensation programs in accordance with the terms thereof at any time prior to, on or after the Separation Date.

SECTION 2.8 No Commitment to Employment or Benefits. Nothing contained in this Agreement shall be construed as a commitment or agreement on the part of the WDC Group or Spinco Group to continue the employment of any individual or to provide any recall or similar rights to an individual on layoff or any type of leave of absence or, except as otherwise specifically provided in this Agreement, as a commitment on the part of the WDC Group or Spinco Group to continue the compensation or benefits of any individual for any period, except as required by applicable Law. Without limiting the generality of Section 9.6, this Agreement is solely for the benefit of the WDC Group and the Spinco Group, and nothing in this Agreement, express or implied, (i) is intended to confer any rights, benefits, remedies, obligations or Liabilities under this Agreement upon any Person, including any Spinco Employee, Spinco Independent Contractor or other current or former employee, officer, director, contractor or other service provider of the WDC Group or Spinco Group, other than the Parties and their respective successors and assigns or (ii) shall constitute the adoption or establishment of, or an amendment or other modification to any Benefit Arrangement or any other compensation or employee benefit plan or arrangement of the WDC Group or Spinco Group.

SECTION 2.9 Certain Employment Transfers.

(a) Subject to the requirements of applicable Law, and except as set forth below with respect to the treatment of Automatic Transfer Spinco Employees, Automatic Transfer WDC Employees, Non-Automatic Transfer Spinco Employees outside of the United States, Non-Automatic Transfer WDC Employees outside of the United States and Delayed Transfer Spinco Employees and Delayed Transfer WDC Employees, as applicable, (i) no later than the Spinco Transfer Date, WDC shall use commercially reasonable efforts to (A) cause the employment of any Spinco Employee and the contract of services of any natural person Spinco Independent Contractor engaged directly by a member of the WDC Group to be transferred to a member of the Spinco Group on the Spinco Transfer Date, (B) transfer, assign and delegate to Spinco the Spinco Employee Liabilities, and (C) cause the employment of any individual who is employed by a member of the Spinco Group but does not qualify as a Spinco Employee and the contract of services between any natural person independent contractor or consultant engaged directly by a member of the Spinco Group that does not qualify as a Spinco Independent Contractor and a member of the Spinco Group to be transferred to a member of the WDC Group, and (ii) no later than the WDC Transfer Date, Spinco shall use commercially reasonable efforts to (A) cause the employment of any WDC Employee and the contract of services of any natural person WDC Independent Contractor engaged directly by a member of the Spinco Group to be transferred to a member of the WDC Group on the WDC Transfer Date, (B) transfer, assign and delegate to WDC the WDC Employee Liabilities, and (C) cause the employment of any individual who is employed by a member of the WDC Group but does not qualify as a WDC Employee and the contract of services between any natural person independent contractor or consultant engaged directly by a member of the WDC Group that does not qualify as a WDC Independent Contractor and a member of the WDC Group to be transferred to a member of the Spinco Group.

(b) With respect to each Automatic Transfer Employee, their employment shall not be terminated upon the Spinco Transfer Date or WDC Transfer Date, as applicable, but rather the rights, powers, duties, liabilities and obligations of WDC or Spinco (or the appropriate member of the WDC Group or Spinco Group), as applicable, to such employees with respect to their material terms of employment in force immediately before the Separation Date shall be transferred to the appropriate member of the Spinco Group at the Spinco Transfer Date or the WDC Group at the WDC Transfer Date, as applicable, but only to the extent required by, and only then in accordance with, applicable Law, and Spinco agrees to take all actions reasonably necessary to cause the Spinco Employees to be so employed and WDC agrees to take all actions reasonably necessary to cause such WDC Employees to be so employed.

(c) Except as set forth below with respect to Delayed Transfer Spinco Employees or Delayed Transfer WDC Employees, as applicable, for Non-Automatic Transfer Employees outside of the United States where the transfer of employment is by way of termination/resignation and re-hire, or tripartite transfer agreement, the appropriate member of the Spinco Group or WDC Group, as applicable, shall terminate the employment of each such employee effective the day before the Spinco Transfer Date or WDC Transfer Date, as applicable, and the appropriate member of the Spinco Group or WDC Group, as applicable, shall offer employment to each such employee effective on the Spinco Transfer Date or WDC Transfer Date, as applicable. Except as set forth below with respect to Delayed Transfer Spinco Employees or Delayed Transfer WDC Employees, as applicable, for Non-Automatic Transfer Employees outside of the United States where the transfer of employment is by way of employer substitution, the appropriate member of the Spinco Group or WDC Group, as applicable, shall effectuate an employer substitution on the Separation Date with respect to the employees, to the extent permitted by and in accordance with applicable Law, pursuant to which each appropriate member of the Spinco Group or WDC Group, as applicable, will employ the employees, and will acknowledge and accept all rights, obligations, duties, and responsibilities with respect to such employees arising after the Distribution Date or as otherwise required by Law as of the Distribution Date.

(d) WDC Group and Spinco Group agree to execute, and to seek to have the applicable Spinco Employees and WDC Employees execute, such documentation, if any, as may be necessary to reflect the transfer of employment described in this Section 2.9. Spinco shall provide the Information, within reason, as reasonably requested by WDC in writing in sufficient time to enable WDC and the applicable members of the WDC Group to meet their information and consultation requirements pursuant to applicable Law, the Transfer Regulations, any Collective Bargaining Agreement or otherwise, including pursuant to Section 2.10(a), provided, that any such requests are timely received. Subject at all times to its obligations under applicable Privacy Law, WDC shall provide the Information, within reason, as reasonably requested by Spinco in writing in sufficient time to enable Spinco and the applicable members of the Spinco Group to meet their information and consultation requirements pursuant to applicable Law, the Transfer Regulations, any Collective Bargaining Agreement or otherwise, including pursuant to Section 2.10(b), provided that any such requests are timely received. To the extent a Spinco Employee objects, rejects or refuses to transfer to Spinco Group in accordance with applicable Law,

then, subject to applicable Law, such employee shall remain employed by WDC, or the applicable member of the WDC Group, and shall no longer be considered a Spinco Employee to the extent permitted by Law, and WDC shall retain the Liabilities associated with such Spinco Employee, provided that any such Liabilities do not arise as a direct result of a breach of this Agreement, the Separation Agreement, or applicable Law by any member of the Spinco Group or any substantial change or proposal to make a substantial change to the working conditions of such Spinco Employee to their material detriment. To the extent a WDC Employee objects, rejects or refuses to transfer to WDC or a member of the WDC Group in accordance with applicable Law, then, subject to applicable Law, such employee shall remain employed by Spinco, or the applicable member of the Spinco Group, and shall no longer be considered a WDC Employee to the extent permitted by Law, and Spinco shall retain the Liabilities associated with such WDC Employee, provided that any such Liabilities do not arise as a direct result of a breach of this Agreement, the Separation Agreement, or applicable Law by any member of the WDC Group or any substantial change or proposal to make a substantial change to the working conditions of such WDC Employee to their material detriment. For the avoidance of doubt, Spinco shall assume and retain all Liabilities arising out of, relating to or resulting from the failure of a Spinco Employee to transfer employment to a member of the Spinco Group as a direct result of a breach of this Agreement or the Separation Agreement by any member of the Spinco Group, and WDC shall assume and retain all Liabilities arising out of, relating to or resulting from the failure of a WDC Employee to transfer employment to a member of the WDC Group as a direct result of a breach of this Agreement or the Separation Agreement by any member of the WDC Group. WDC and Spinco shall cooperate, in good faith, to enable Spinco and/or WDC to meet their respective information and consultation requirements pursuant to applicable Law, the Transfer Regulations, any Collective Bargaining Agreement or otherwise, including pursuant to Section 2.10(b).

(e) In the case of any Delayed Transfer Spinco Employee who remains employed by the WDC Group, or any Delayed Transfer WDC Employee who remains employed by the Spinco Group, in each case, after the Separation Date as a result of clause (A) of the definition of Delayed Transfer Spinco Employee or Delayed Transfer WDC Employee, as applicable, the Parties shall cause any such Delayed Transfer Spinco Employee to be employed by Spinco or a member of the Spinco Group and any such Delayed Transfer WDC Employee to be employed by WDC or a member of the WDC Group, as applicable, effective as of the Spinco Delayed Transfer Date or WDC Delayed Transfer Date, as applicable. In the case of any Delayed Transfer Spinco Employee who remains employed by the WDC Group, or any or any Delayed Transfer WDC Employee who remains employed by the Spinco Group, in each case, after the Separation Date as a result of clause (B) or (C) of the definition of Delayed Transfer Spinco Employee or Delayed Transfer WDC Employee, as applicable, the Parties will cooperate in good faith (i) in respect of the provision of such employee's services to the Spinco Group or WDC Group, as applicable, after the Separation Time and the allocation of costs associated with such services and (ii) to facilitate such employee's transfer of employment to the Spinco Group or WDC Group, as applicable, as soon as practicable following the Separation Time. The employment of such Delayed Transfer Spinco Employees shall transfer to the Spinco Group, and the employment of such Delayed Transfer WDC Employees shall transfer to the WDC Group, in each case, in accordance with applicable Law on the Spinco Delayed Transfer Date or WDC Delayed Transfer Date, as applicable. References to "Closing," "Closing Date," "Distribution Date," "Separation Time" and "Separation Date" in this Agreement shall be interpreted to mean the "Spinco Delayed Transfer Date" or "WDC Delayed Transfer Date" as it applies to any Delayed Transfer Spinco Employee or Delayed Transfer WDC Employee, as applicable, where the context requires. For the avoidance of doubt, except as otherwise specified in

this Agreement, Spinco or a member of the Spinco Group shall assume (and shall reimburse WDC or a member of the WDC Group, as applicable, for) all Spinco Employee Liabilities pertaining to a Delayed Transfer Spinco Employee as of the Spinco Delayed Transfer Date, and WDC or a member of the WDC Group shall assume (and shall reimburse Spinco or a member of the Spinco Group, as applicable, for) all WDC Employee Liabilities pertaining to a Delayed Transfer WDC Employee as of the WDC Delayed Transfer Date.

(f) To the extent permitted by Law and as necessary to effectuate the terms of this Agreement, Spinco shall employ Spinco Employees who are foreign nationals working in the United States with H-1B non-immigrant status and those employees for whom there are pending or approved Form I-140 immigrant petitions for alien workers as of the Separation Date, under terms and conditions such that Spinco qualifies as a "successor employer" under applicable United States immigration laws effective as of the Separation Date. Immediately as of the Separation Date, Spinco shall assume all immigration-related liabilities and responsibilities with respect to such employees. To the extent permitted by Law and as necessary to effectuate the terms of this Agreement, Spinco shall employ Spinco Employees who are foreign nationals working outside of their home country on immigrant status as of the Spinco Transfer Date and shall take all legally required actions to secure work authorizations or visas for these employees. Immediately as of the Spinco Transfer Date, Spinco shall assume all immigration-related liabilities and responsibilities with respect to such employees. Similarly, to the extent permitted by Law and as necessary to effectuate the terms of this Agreement, WDC shall employ WDC Employees who are foreign nationals working outside of their home country on immigrant status as of the WDC Transfer Date and shall take all legally required actions to secure work authorizations or visas for these employees. Immediately as of the WDC Transfer Date, WDC shall assume all immigration-related liabilities and responsibilities with respect to such employees.

(g) To the extent necessary for any Spinco Employee to perform services in connection with such Spinco Employee's employment or other service relationship with Spinco or any of its Affiliates, WDC or the applicable WDC Subsidiary shall, and does hereby automatically, effective as of the Separation Date, (i) release or cause to be released each Spinco Employee from any existing non-competition, non-solicitation, no-hire, confidentiality or other similar obligation owed to WDC or any of the WDC Subsidiaries solely to the extent necessary for such Spinco Employee to perform such services to a member of the Spinco Group, and (ii) to the extent permitted by Law, take reasonable steps to affect the transfer and assignment of such non-competition, non-solicitation, no-hire, confidentiality or other similar obligation to a member of the Spinco Group.

SECTION 2.10 Information and Consultation.

(a) WDC shall and shall cause its Subsidiaries and each member of the Spinco Group that is to employ any Spinco Employee to comply with all requirements and obligations to inform, consult or otherwise notify any WDC Employees, any Spinco Employees or any Employee Representatives in relation to the Separation, the Distribution, and any other consequence of the transactions contemplated by the Separation Agreement, whether required pursuant to any Collective Bargaining Agreement, the Transfer Regulations or other applicable Law, provided, that Spinco shall provide the Information, within reason, as reasonably requested in writing by WDC in sufficient time to enable WDC and the applicable members of the WDC Group to meet their information and consultation requirements pursuant to the Transfer Regulations, any Collective Bargaining Agreement or otherwise, provided, further, that any such requests are timely received.

(b) Spinco shall and shall cause its Subsidiaries to comply with all requirements and obligations to inform, consult or otherwise notify any Spinco Group employees or any representatives of them in relation to this Agreement and any other consequence of the transactions contemplated by this Agreement whether required pursuant to any Collective Bargaining Agreement applicable to Spinco Group employees, the Transfer Regulations or other applicable Law, provided, that WDC shall provide the Information, within reason, as requested by Spinco in sufficient time to enable Spinco and the applicable members of the Spinco Group to meet their information and consultation requirements pursuant to the Transfer Regulations, any Collective Bargaining Agreement or otherwise, provided, further, that any such requests are timely received.

SECTION 2.11 Certain Requirements. Notwithstanding anything in this Agreement to the contrary, if the terms of a Collective Bargaining Agreement or applicable Law require that any assets or Liabilities be retained by the WDC Group or transferred to or assumed by the Spinco Group in a manner that is different from that set forth in this Agreement, such retention, transfer or assumption shall be made in accordance with the terms of such Collective Bargaining Agreement or applicable Law and shall not be made as otherwise set forth in this Agreement, but shall remain subject to any Party's obligation to reimburse any other Party as set forth in Section 2.2(d).

SECTION 2.12 Sharing of Information. On and after the date hereof and in each case to the extent permitted by applicable Law, WDC shall, and shall cause each member of the WDC Group to use commercially reasonable efforts to (i) share any materials and documents with Spinco that are reasonably determined by WDC to be necessary to permit Spinco to effectuate the provisions of this Agreement and (ii) make available Spinco Employees to Spinco for purposes of making any communications to such Spinco Employees relating to the provisions of this Agreement; provided, that WDC shall be permitted to approve in advance any such written or oral communications and have a representative present at any meeting between Spinco and a Spinco Employee that occurs prior to the Separation Time.

SECTION 2.13 Employee Non-Solicitation.

(a) The Parties agree that, from and after the date hereof until the date that is two (2) years after the Distribution Date, they shall not, and shall cause their Subsidiaries and controlled Affiliates not to, without the prior written consent of WDC or Spinco, as applicable, directly or indirectly, (i) solicit for employment or engagement any employees of the other Party, or their Subsidiaries or Affiliates, as applicable, or (ii) encourage or in any other manner persuade or attempt to encourage or persuade any employees of the other Party, or their Subsidiaries or Affiliates, as applicable, to leave the service of the other Party, or their Subsidiaries or Affiliates, as applicable, or in any way interfere with the relationship between the other Party and their Subsidiaries or Affiliates, as applicable; provided, however, in each case, that (A) the placement of any general mass solicitation or advertising that is not targeted at employees of the other Party or its Subsidiaries or Affiliates shall not be considered a violation of this Section 2.13, and this Section 2.13 shall not preclude a Party or its Subsidiaries or Affiliates from soliciting or hiring any employee of the other Party or their Subsidiaries or Affiliates, as applicable, in each case, whose employment was involuntarily terminated by the other Party prior to such solicitation or hiring; provided, further, that nothing in this Section 2.13 shall require either Party, or their Subsidiaries or Affiliates to take any action or refrain from taking any action if such action or inaction would violate applicable Law.

SECTION 2.14 Continuation of Salary, Bonus and Benefits Generally. Subject to the terms of any applicable Law or Collective Bargaining Agreement, during the period commencing on the Distribution Date and ending on December 31, 2025 (the "Continuation Period"), Spinco shall, or shall cause the applicable member of the Spinco Group to, use commercially reasonable efforts to provide to each Spinco Employee for so long as such Spinco Employee remains employed by Spinco or any member of the Spinco Group during the Continuation Period: (i) an annual base salary or base wage rate and annual target cash incentive compensation opportunities (excluding change-in-control, retention, long-term cash incentive and equity and equity-related opportunities), in each case, that are no less favorable than such annual base salary or base wage rate and target cash incentive compensation opportunities (excluding change-in-control, retention, long-term cash incentive and equity and equity-related opportunities) provided to the Spinco Employee immediately prior to the Distribution, (ii) severance pay and benefits at levels that are no less favorable than the levels of such severance pay and benefits as in effect for such Spinco Employee immediately prior to the Distribution and (iii) retirement and health and welfare benefits (excluding retiree medical and welfare programs and defined benefit pension plans) that are substantially comparable, in the aggregate, to those provided to Spinco Employees immediately prior to the Distribution.

ARTICLE III

DEFINED CONTRIBUTION PLANS

SECTION 3.1 401(k) Plan Participation.

(a) Effective as of the Separation Time, (i) the active participation of each Spinco Employee who is a participant in a WDC 401(k) Plan shall automatically cease and no Spinco Employee shall thereafter accrue any benefits under any such WDC 401(k) Plan and (ii) WDC shall cause each such Spinco Employee to become fully vested in such Spinco Employee's account balances under such WDC 401(k) Plan.

(b) Effective as of the Separation Time, Spinco shall, or shall cause a member of the Spinco Group to, have in effect a defined contribution retirement plan that is tax-qualified under Section 401(a) of the Code and includes a qualified cash or deferred arrangement within the meaning of Section 401(k) of the Code, with terms that, as of the Separation Time, are substantially comparable to those provided to Spinco Employee under the WDC 401(k) Plan immediately prior to the Separation Time (the "Spinco 401(k) Plan"). Each Spinco Employee who, as of immediately prior to the Separation Time, was a participant in the WDC 401(k) Plan shall automatically be enrolled in the Spinco 401(k) Plan as of the Separation Time, applying the same salary deferral elections that were in effect with respect to such Spinco Employee under the WDC 401(k) Plan immediately prior to the Separation Time, unless such Spinco Employee affirmatively elects otherwise. Each Spinco Employee who is not a participant in the WDC 401(k) Plan immediately prior to the Separation Time shall be permitted to enroll in the Spinco 401(k) Plan on or after the Separation Time in accordance with the terms of the Spinco 401(k) Plan.

(c) Spinco shall, or shall cause the appropriate member of the Spinco Group to cause the Spinco 401(k) Plan to provide each Spinco Employee with full credit for such Spinco Employee's service with WDC or any of WDC's Affiliates or predecessors prior to the Separation Time for purposes of eligibility and vesting under the Spinco 401(k) Plan.

(d) To the extent applicable, as soon as practicable on or after the Separation Time, WDC shall take all measures needed to cause the transfer to the Spinco 401(k) Plan of all of the assets and liabilities of the WDC 401(k) Plan that are attributable to Spinco Employees, including without limitation, all promissory notes and receivables in respect of plan loans to Spinco Employees under the WDC 401(k) Plan that remain outstanding as of the Separation Time and accrued liabilities arising out of any applicable qualified domestic relations order. Spinco shall direct the trustees of the Spinco 401(k) Plan to accept such transfer of assets and liabilities from the WDC 401(k) Plan. Such transfer of assets and liabilities shall be made in accordance with the applicable requirements of Sections 411(d)(6) and 414(l) of the Code, Treasury Regulation Section 1.414(l)-1 and ERISA Section 208.

(e) Spinco Group and WDC shall cooperate to take any and all commercially reasonable measures needed to effect the transition to the Spinco 401(k) Plan of all outstanding loans under the WDC 401(k) Plan with respect to Spinco Employees so as to prevent, to the extent reasonably possible, a deemed distribution or loan offset with respect to such outstanding loans. Such actions may include, for example, amending the WDC 401(k) Plan to permit a Spinco Employee to continue to make scheduled loan payments to the WDC 401(k) Plan after the Separation Time, but before the WDC 401(k) Plan assets and liabilities are transferred to the Spinco 401(k) Plan, and adopting administrative procedures to facilitate such loan payments.

(f) All contributions payable to the WDC 401(k) Plan before the Separation Time with respect to employee deferrals, matching contributions and employer contributions for Spinco Employees, determined in accordance with the terms and provisions of the WDC 401(k) Plan (notwithstanding any last-day-of-year employment requirements or hours of service requirements) shall be paid by WDC to the WDC 401(k) Plan prior to the date of the asset transfer described in Section 3.1(c).

(g) On and after the date on which assets are transferred from the WDC 401(k) Plan to the Spinco 401(k) Plan in accordance with Section 3.1(c), Spinco or a member of the Spinco Group shall be solely and exclusively responsible for all 401(k) accounts of the Spinco Employees and the Liabilities and assets associated with such accounts or in any way related to the Spinco 401(k) Plan, whether accrued before, on or after the Separation Time.

(h) WDC or a member of the WDC Group shall be solely and exclusively responsible for all accounts and the Liabilities under the WDC 401(k) Plan in respect of participants who are not Spinco Employees and assets associated with such accounts or in any way related to the WDC 401(k) Plan, whether accrued before, on or after the Separation Time.

(i) WDC shall indemnify, defend and hold harmless the Spinco Indemnitees for any Losses or Liabilities related to or arising under any WDC 401(k) Plan to the extent related to any act or omission or operation of such WDC 401(k) Plan occurring prior to the Separation Time (including any Losses or Liabilities under such WDC 401(k) Plan arising out of, relating to or resulting from any violation of applicable Laws or Collective Bargaining Agreement by any member of the WDC Group).

SECTION 3.2 Non-U.S. Savings Plan Participation.

(a) Subject to any Collective Bargaining Agreement and applicable Law or unless otherwise agreed upon by the Parties, including pursuant to any transition services agreement, effective as of the Separation Time, the participation of each Spinco Employee who is a participant in a WDC Non-U.S. Savings Plan shall automatically cease and no Spinco Employee shall thereafter accrue any benefits under any such WDC Non-U.S. Savings Plan.

(b) Unless otherwise agreed upon by the Parties, with respect to each WDC Non-U.S. Savings Plan listed on Schedule 3.2(b) hereto (collectively, the "Transferor WDC Non-U.S. Savings Plans"), Spinco has established or maintains, or shall, or shall cause a member of the Spinco Group to, establish or maintain one or more plans in which each Spinco Employee who participated in such Transferor WDC Non-U.S. Savings Plan immediately prior to the Separation Time will be eligible to participate as of the Separation Time, with (i) terms (excluding employer contributions) substantially comparable to the terms of the applicable WDC Non-U.S. Savings Plan as in effect immediately prior to the Separation Time or (ii) if applicable, terms as required by an applicable Collective Bargaining Agreement or applicable Law (such plan or plans, the "Spinco Non-U.S. Savings Plans"). Where permissible under applicable Law, unless otherwise agreed to by the Parties, WDC shall cause the Transferor WDC Non-U.S. Savings Plans to transfer (and Spinco shall, or shall cause the appropriate member of the Spinco Group to, cause the Spinco Non-U.S. Savings Plans to accept a transfer of) (i) Liabilities in respect of the obligations to or otherwise in respect of Spinco Employees under the Transferor WDC Non-U.S. Savings Plans and (ii) any assets held by or on behalf of WDC that correspond to the Liabilities so transferred. Except as otherwise agreed by the Parties, such transfer shall be effected in accordance with applicable Law and local custom and practice.

(c) Notwithstanding anything set forth in Section 3.2(b) and subject to any applicable Law, Collective Bargaining Agreement or transition services agreement among the Parties, effective as of the Separation Time or such earlier time as agreed upon by the Parties, Spinco shall, or shall cause the appropriate member of the Spinco Group to, assume sponsorship of, and shall assume all assets and benefit Liabilities relating to any WDC Non-U.S. Savings Plan set forth on Schedule 3.2(c) hereto, in which all or a majority of the participants immediately prior to the Separation Time (or such earlier time as agreed upon by the Parties) are Spinco Employees (each, a "Transferred WDC Non-U.S. Savings Plan").

(d) Spinco shall, or shall cause the appropriate member of the Spinco Group to be responsible for any and all Liabilities relating solely to Spinco Employees with respect to the Spinco Non-U.S. Savings Plans and any Transferred WDC Non-U.S. Savings Plans (other than Liabilities for benefit payments arising prior to the Distribution Date, Liabilities thereunder arising out of, relating to or resulting from any violation of applicable Laws or Collective Bargaining Agreement by any member of the WDC Group).

(e) Except as specifically provided in this Section 3.2, no member of the Spinco Group shall have any Liability with respect to any WDC Non-U.S. Savings Plan or other WDC Benefit Arrangement that is a defined contribution retirement plan.

(f) WDC shall retain all accounts and all assets and Liabilities relating to the WDC Non-U.S. Savings Plans in respect of each participant other than a Spinco Employee.

ARTICLE IV

HEALTH AND WELFARE PLANS

SECTION 4.1 Health and Welfare Plan Participation.

(a) Subject to any Collective Bargaining Agreement and applicable Law or unless otherwise agreed upon by the Parties, including pursuant to any transition services agreement, effective as of the Separation Time, the active participation of each Spinco Employee who is a participant in a WDC Welfare Plan shall automatically cease and no Spinco Employee shall thereafter accrue any benefits under any such WDC Welfare Plan.

(b) With respect to each WDC Welfare Plan listed on Schedule 4.1(b) hereto (collectively, the "Retained Welfare Plans"), Spinco has established or maintains, or shall, or shall cause a member of the Spinco Group to, use commercially reasonable efforts to establish or maintain one or more Spinco Welfare Plans in which each Spinco Employee who participated in such Retained Welfare Plan immediately prior to the Separation Time will be eligible to participate as of the Separation Time, with terms substantially comparable in the aggregate to the terms of the applicable WDC Welfare Plan as in effect immediately prior to the Separation Time, except as otherwise required by an applicable Collective Bargaining Agreement or applicable Law. Spinco has caused or shall, or shall cause the appropriate member of the Spinco Group to use commercially reasonable efforts to cause (i) all pre-existing condition exclusions and actively-at-work requirements of each Spinco Welfare Plan to be waived for such Spinco Employees and their covered dependents to the extent such provisions were already satisfied by such Spinco Employee under the applicable Retained Welfare Plan, and (ii) any eligible expenses incurred by such Spinco Employees their covered dependents during the portion of the plan year of the Retained Welfare Plan ending on the date such Spinco Employee's participation in the corresponding Spinco Welfare Plan begins to be taken into account under such Spinco Welfare Plan for purposes of satisfying all deductible, coinsurance and maximum out-of-pocket requirements applicable to such Spinco Employees and their covered dependents for the applicable plan year as if such amounts had been paid in accordance with the Spinco Welfare Plan.

(c) Subject to applicable Law and any Collective Bargaining Agreement or transition services agreement among the Parties, effective as of the Separation Time or such earlier time as agreed upon by the Parties, Spinco or the appropriate Spinco Group member shall assume sponsorship of, and shall assume all assets and Liabilities relating to, each WDC Welfare Plan set forth on Schedule 4.1(c) hereto, in which all or a majority of the participants immediately prior to the Separation Time (or earlier time as agreed upon by the Parties) are Spinco Employees (each, a "Rollover Welfare Plan"); provided that if any such Rollover Welfare Plan is a self-insured, the WDC Group shall provide a summary of the associated assets and Liabilities for such plan as of a date no more than thirty (30) days prior to the Separation Date or such time as agreed upon by the Parties.

SECTION 4.2 Certain Liabilities.

(a) With respect to employee welfare and fringe benefits, (i) WDC shall fully perform, pay and discharge, under the WDC Welfare Plans, all claims of Spinco Employees that are incurred but not paid prior to or as of the Distribution Date and (ii) Spinco shall, or shall cause the appropriate member of the Spinco Group to fully perform, pay and discharge, under the Spinco Welfare Plans, after the Distribution Date, all claims of Spinco Employees that are incurred after the Distribution Date under the applicable Spinco Benefit Arrangement.

(b) For purposes of this Section 4.2, a claim or Liability is deemed to be incurred (i) with respect to medical, dental, vision and/or prescription drug benefits, upon the rendering of health services giving rise to such claim or Liability, (ii) with respect to life insurance, accidental death and dismemberment and business travel accident insurance, upon the occurrence of the event giving rise to such claim or Liability and (iii) with respect to disability benefits, upon the first date of the event resulting in the individual's disability, as determined by the disability benefit insurance carrier or claim administrator, giving rise to such claim or Liability.

SECTION 4.3 Time-Off Benefits.

(a) To the extent any Spinco Employee is required, under any Collective Bargaining Agreement or by applicable Law, to be paid in connection with the transfer of employment with the Spinco Group or the Distribution for any vacation time, paid time off and other time-off benefits as such Spinco Employee had with the WDC Group as of immediately before the Spinco Transfer Date, WDC shall, or shall cause another member of the WDC Group to, (i) pay such Spinco Employee the amounts owed and the associated Employment Taxes, unless as otherwise agreed between the Spinco Employee and WDC, or another member of the WDC Group, as applicable and in accordance with applicable Law, and (ii) subject to the following sentence, retain all Liabilities with respect to such amounts, including with respect to Tax withholding, reporting, remitting or payment obligations or any regulatory filing obligation in connection therewith.

(b) Unless otherwise required by Section 4.3(a), (A) Spinco shall, or shall cause the appropriate member of the Spinco Group to credit each Spinco Employee as of the Spinco Transfer Date with the amount of accrued but unused vacation time, paid time off and other time-off benefits as such Spinco Employee had with the WDC Group as of immediately before the Spinco Transfer Date, (B) Spinco shall, or shall cause the appropriate member of the Spinco Group to cause each Spinco Employee to be eligible to use any accrued but unused vacation time, paid time off and other time-off benefits as such Spinco Employee had with the WDC Group as of immediately before the Spinco Transfer Date, (C) to the extent in excess of the amount that would have been available to the Spinco Employee had the Spinco Employee's service with the WDC Group been treated as service with the Spinco Group, Spinco shall, or shall cause the appropriate member of the Spinco Group to pay any Spinco Employee for any excess amount of vacation time, paid time off and other time-off benefits not used in accordance with the foregoing clause (B), subject to applicable Law, and (D) as of the Spinco Transfer Date, each Spinco Employee shall be subject to Spinco's or the appropriate member of the Spinco Group's vacation policy (prorated as of the Spinco Transfer Date) for the year in which the Spinco Transfer Date occurs, subject to applicable Law and any Collective Bargaining Agreement; provided, however, that Spinco shall provide Spinco Employees with credit for employment service with the WDC Group for purposes of determining each Spinco Employee's eligibility for and future accruals of vacation days under the Spinco's or the appropriate member of the Spinco Group's vacation policy; and provided further, that such service shall not be recognized to the extent such recognition would result in the duplication of benefits under any Spinco Group policies. Subject to Section 4.3(a), time-off benefits for Spinco Employees will be fully equivalent to those provided by the Spinco Group to similarly situated employees of the Spinco Group in the applicable jurisdiction as of the date hereof.

(c) To the extent any WDC Employee is required, under any Collective Bargaining Agreement or by applicable Law, to be paid in connection with the transfer of employment with the WDC Group or the Distribution for any vacation time, paid time off and other time-off benefits as such WDC Employee had with the Spinco Group as of immediately before the WDC Transfer Date, Spinco shall, or shall cause another member of the Spinco Group to, comply with such requirements in the same manner and subject to the same requirements as set forth in Sections 4.3(a) and (b) above with respect to Spinco Employees.

ARTICLE V

EXECUTIVE BENEFIT PLANS

SECTION 5.1 Non-Qualified Deferred Compensation Plans.

(a) Effective as of the earlier to occur of (i) the Separation Time and (ii) January 1, 2025 (such earlier date, the "WDC NQDC Plan Withdrawal Date"), the active participation of each Spinco Employee and Spinco Director who is a participant in the WDC NQDC Plan shall automatically cease and no Spinco Employee or Spinco Director shall thereafter accrue any benefits as an active participant under any such WDC NQDC Plan; provided that all accounts of Spinco Employees and Spinco Directors maintained under the WDC NQDC Plan as of the WDC NQDC Plan Withdrawal Date and all deferral elections made prior thereto shall at all times from and following the WDC NQDC Plan Withdrawal Date remain (i) under the WDC NQDC Plan and (ii) the sole obligation and liability of WDC and its Affiliates following the WDC NQDC Plan Withdrawal Date (including, but not limited to, all deferral elections made by Spinco Employees relating to their first half of fiscal 2025 bonuses).

(b) Unless otherwise agreed upon by the Parties, effective as of January 1, 2025, Spinco shall cause a member of the Spinco Group to have adopted a non-qualified deferred compensation plan (the "Spinco NQDC Plan") in which each Spinco Employee, Spinco Director and Dual-Service Director who participated in the WDC NQDC Plan immediately prior to January 1, 2025 will be eligible to participate as of January 1, 2025, with terms consistent with then-prevailing market terms for similarly-situated companies, except as otherwise required by the terms of an applicable Collective Bargaining Agreement or applicable Law. The Spinco NQDC Plan and all accounts of Spinco Employees, Spinco Directors and Dual-Service Directors maintained thereunder shall at all times be the Spinco Group's sole responsibility and no member of the WDC Group shall have any obligation or liability with respect thereto.

(c) Spinco shall provide data and Information on participants in the WDC NQDC Plan (to the extent permitted by applicable Laws and consistent with Section 8.1) to WDC, including census information and employment termination dates for Spinco Employees who participate in the WDC NQDC Plan, for the purpose of administering the WDC NQDC Plan.

(d) WDC shall, and shall cause each member of the WDC Group to use commercially reasonable efforts to, provide each Spinco Employee or Spinco Director who has an account maintained under the WDC NQDC Plan following the WDC NQDC Plan Withdrawal Date with access to any account information, materials, or website access provided by Newport (or any successor third-party administrator) to the same extent such information, materials or website access is provided to active participants under the WDC NQDC Plan.

ARTICLE VI

TREATMENT OF WDC EQUITY AND LTI CASH AWARDS

SECTION 6.1 Treatment of WDC RSU Awards.

(a) *Post-Separation WDC RSU Awards.* Each WDC RSU Award that is outstanding immediately prior to the Separation Time and held by a WDC Employee, Former WDC Employee or Former Spinco Employee, or WDC Director shall be adjusted, effective as of the Separation Time (and shall thereafter be referred to as a Post-Separation WDC RSU Award), as follows:

(i) The number of shares of WDC Common Stock subject to each Post-Separation WDC RSU Award shall be equal to the product (rounded down to the nearest whole share) of (A) the number of shares of WDC Common Stock subject to the Post-Separation WDC RSU Award's corresponding WDC RSU Award immediately prior to the Separation Time and (B) the greater of 1 and the WDC Ratio.

(ii) Each Post-Separation WDC RSU Award shall remain outstanding under the applicable WDC Equity Incentive Plan and be subject to the same terms, vesting conditions, settlement dates and method of settlement and other terms and conditions as were in effect immediately prior to the Separation Time for the corresponding WDC RSU Award; provided, however, that certain restrictions and/or different terms may be imposed on any such Post-Separation WDC RSU Award after the Separation Time if necessary and appropriate to comply with applicable Law and/or to avoid undue cost or administrative burden.

(b) *Spinco RSU Awards.* Except as set forth in Section 6.1(c), each WDC RSU Award that is outstanding immediately prior to the Separation Time and held by a Spinco Employee or Spinco Director shall be assumed and adjusted, in each case, effective as of the Separation Time (and shall thereafter be referred to as a Spinco RSU Award), as follows:

(i) The number of shares of Spinco Common Stock subject to each Spinco RSU Award shall be equal to the product (rounded down to the nearest whole share) of (A) the number of shares of WDC Common Stock subject to the Spinco RSU Award's corresponding WDC RSU Award immediately prior to the Separation Time and (B) the greater of 1/3 and the Spinco Ratio.

(ii) Each Spinco RSU Award shall be assumed under the applicable Spinco Equity Incentive Plan and remain subject to the same terms, vesting conditions, settlement dates and method of settlement and other terms and conditions as were in effect immediately prior to the Separation Time for the corresponding WDC RSU Award; provided, however, that certain restrictions and/or different terms may be imposed on any such Spinco RSU Award after the Separation Time if necessary and appropriate to comply with applicable Law and/or to avoid undue cost or administrative burden.

(c) *Basket RSU Awards.* Each WDC RSU Award that is outstanding immediately prior to the Separation Time and held by a Dual-Service Director or a VP+ Spinco Employee (other than any VP+ Spinco Employee who resides in an Excluded Jurisdiction) shall be converted, as of the Separation Time, into both a Post-Separation WDC RSU Award (which shall remain outstanding under the applicable WDC Equity Incentive Plan) and a Spinco RSU Award (which shall be assumed by Spinco or any member of the Spinco Group under a Spinco Equity Incentive Plan). Each such award shall be subject to the same terms and conditions (including with respect to vesting conditions, settlement dates and method of settlement) after the Separation Time as the terms and conditions applicable to the corresponding WDC RSU Award immediately prior to the Separation Time; provided, however, that certain restrictions may be imposed on any such Post-Separation WDC RSU Award or Spinco RSU Award after the Separation Time if necessary and appropriate to comply with applicable Law; and further provided, however, that from and after the Separation Time:

(i) the number of shares of WDC Common Stock subject to the Post-Separation WDC RSU Award shall be equal to the number of shares of WDC Common Stock subject to the Post-Separation WDC RSU Award's corresponding WDC RSU Award immediately prior to the Separation Time; and

(ii) the number of shares of Spinco Common Stock subject to the Spinco RSU Award shall be equal to the product (rounded down to the nearest whole share) obtained by multiplying (x) the number of shares of WDC Common Stock subject to the Spinco RSU Award's corresponding WDC RSU Award immediately prior to the Separation Time by (y) the number of shares of Spinco Common Stock an individual holder of WDC Common Stock as of immediately prior to the Distribution Date will receive with respect to one (1) share of WDC Common Stock in the Distribution pursuant to Section 3.1(a) of the Separation Agreement.

SECTION 6.2 Treatment of WDC PSU Awards

(a) *Post-Separation WDC PSU Awards.* Each WDC PSU Award that is outstanding immediately prior to the Separation Time and held by a WDC Employee, Former WDC Employee or Former Spinco Employee shall be adjusted, effective as of the Separation Time (and shall thereafter be referred to as a Post-Separation WDC PSU Award), as follows:

(i) The number of shares of WDC Common Stock subject to each Post-Separation WDC PSU Award shall be equal to the product (rounded down to the nearest whole share) of (A) the number of shares of WDC Common Stock subject to the Post-Separation WDC PSU Award's corresponding WDC PSU Award immediately prior to the Separation Time and (B) the greater of 1 and the WDC Ratio.

(ii) Each Post-Separation WDC PSU Award shall remain outstanding under the applicable WDC Equity Incentive Plan and be subject to the same terms, vesting conditions, settlement dates and method of settlement and other terms and conditions as were in effect immediately prior to the Separation Time for the corresponding WDC PSU Award; provided, however, that certain restrictions may be imposed on any such Post-Separation WDC PSU Award after the Separation Time if necessary and appropriate to comply with applicable Law; and further provided, however, that the performance measures applicable to the Post-Separation WDC PSU Award shall be the same as those applicable to the corresponding WDC PSU Award immediately prior to the Separation Time, except as otherwise provided in writing by the WDC Board or the Compensation and Talent Committee or other applicable committee thereof, as applicable, in their sole discretion; and further provided, however, that the performance measures applicable to the Post-Separation WDC PSU Award with respect to fiscal year 2025 shall be deemed achieved at target performance to the extent necessary and appropriate to avoid distortions associated with the Separation as determined in writing by the WDC Board or the Compensation and Talent Committee or other applicable committee thereof, as applicable, in their sole discretion.

(b) *Basket Converted PSU Awards.* Each WDC PSU Award that is outstanding immediately prior to the Separation Time and held by a Spinco Employee (other than a Spinco Employee who resides in an Excluded Jurisdiction) shall be converted and adjusted, in each case, effective as of the Separation Time, into both a time-based restricted stock unit award which shall remain outstanding under the applicable WDC Equity Incentive Plan (and shall thereafter be referred to as a Post-Separation WDC Converted PSU Award) and a time-based restricted stock unit award which shall be assumed by Spinco or any member of the Spinco Group under a Spinco Equity Incentive Plan (and shall thereafter be referred to as a Spinco Converted PSU Award). Each such award shall be subject to substantially the same terms and conditions (including with respect to vesting conditions, settlement dates and method of settlement) after the Separation Time as the terms and conditions applicable to the corresponding WDC PSU Award immediately prior to the Separation Time, but excluding any performance-based vesting conditions that were applicable to the WDC PSU Award immediately prior to the Separation Time; provided, however, that certain restrictions may be imposed on any such Post-Separation WDC Converted PSU Award or Spinco Converted PSU Award after the Separation Time if necessary and appropriate to comply with applicable Law; and further provided, however, that from and after the Separation Time:

(i) The number of shares of WDC Common Stock subject to the WDC PSU Award shall be adjusted effective as of immediately prior to the Separation Time (and contingent upon the Separation) such that performance measures applicable to the WDC PSU Award with respect to any completed performance periods as of the Separation Time shall be achieved at actual performance, performance measures applicable to the WDC PSU Award with respect to any performance periods not yet completed as of the Separation Time shall be deemed achieved at target performance, and any modifiers applicable to the WDC PSU Award shall be pro-rated through the most recent fiscal year, in each case, as may be determined by the WDC Board or the Compensation and Talent Committee or other applicable committee thereof, as applicable, in their sole discretion.

(ii) The number of shares of WDC Common Stock subject to the Post-Separation WDC Converted PSU Award shall be equal to the adjusted number of shares of WDC Common Stock subject to the Spinco Converted PSU Award's corresponding WDC PSU Award immediately prior to the Separation Time (as determined in accordance with Section 6.2(b)(i) above).

(iii) The number of shares of Spinco Common Stock subject to the Spinco Converted PSU Award shall be equal to the product (rounded down to the nearest whole share) obtained by multiplying (x) the adjusted number of shares of WDC Common Stock subject to the corresponding WDC PSU Award immediately prior to the Separation Time (as determined in accordance with Section 6.2(b)(i) above) by (y) the number of shares of Spinco Common Stock an individual holder of WDC Common Stock as of immediately prior to the Distribution Date will receive with respect to one (1) share of WDC Common Stock in the Distribution pursuant to Section 3.1(a) of the Separation Agreement.

(c) *Spinco Converted PSU Awards in Excluded Jurisdictions.* Each WDC PSU Award that is outstanding immediately prior to the Separation Time and held by a Spinco Employee who resides in an Excluded Jurisdiction shall be converted into a time-based restricted stock unit award, assumed, and adjusted, in each case, effective as of the Separation Time (and shall thereafter be referred to as a Spinco Converted PSU Award), as follows:

(i) The number of shares of WDC Common Stock subject to the WDC PSU Award shall be adjusted effective as of immediately prior to the Separation Time (and contingent upon the Separation) such that performance measures applicable to the WDC PSU Award with respect to any completed performance periods as of the Separation Time shall be achieved at actual performance, performance measures applicable to the WDC PSU Award with respect to any performance periods not yet completed as of the Separation Time shall be deemed achieved at target performance, and any modifiers applicable to the WDC PSU Award shall be pro-rated through the most recent fiscal year, in each case, as may be determined by the WDC Board or the Compensation and Talent Committee or other applicable committee thereof, as applicable, in their sole discretion.

(ii) The number of shares of Spinco Common Stock subject to each Spinco Converted PSU Award (rounded down to the nearest whole share) shall be equal to the product obtained by multiplying (A) the adjusted number of shares of WDC Common Stock subject to the Spinco Converted PSU Award's corresponding WDC PSU Award immediately prior to the Separation Time (as determined in accordance with Section 6.2(c)(i) above) by (B) the greater of 1/3 and the Spinco Ratio.

(iii) Each Spinco Converted PSU Award shall be assumed under the applicable Spinco Equity Incentive Plan and remain subject to substantially the same terms and conditions (including with respect to vesting conditions, settlement dates and method of settlement) after the Separation Time as the terms and conditions applicable to the corresponding WDC PSU Award immediately prior to the Separation Time, but excluding any performance-based vesting conditions that were applicable to the WDC PSU Award immediately prior to the Separation Time; provided, however, that certain restrictions and/or different terms may be imposed on any such Spinco Converted PSU Award after the Separation Time if necessary and appropriate to comply with applicable Law and/or to avoid undue cost or administrative burden.

SECTION 6.3 Treatment of WDC DSU Awards.

(a) *Post-Separation WDC DSU Awards.* Each WDC DSU Award that is outstanding immediately prior to the Separation Time shall be adjusted, effective as of the Separation Time (and shall thereafter be referred to as a Post-Separation WDC DSU Award), as follows:

(i) The number of shares of WDC Common Stock subject to each Post-Separation WDC DSU Award shall be equal to the product (rounded down to the nearest whole share) of (A) the number of shares of WDC Common Stock subject to the Post-Separation WDC DSU Award's corresponding WDC DSU Award immediately prior to the Separation Time by (B) the greater of 1 and the WDC Ratio.

(ii) Each Post-Separation WDC DSU Award shall remain outstanding under the applicable WDC Equity Incentive Plan and be subject to the same terms, vesting conditions, settlement dates and method of settlement and other terms and conditions as were in effect immediately prior to the Separation Time for the corresponding WDC DSU Award; provided, however, that certain restrictions may be imposed on any such Post-Separation WDC DSU Award after the Separation Time if necessary and appropriate to comply with applicable Law.

SECTION 6.4 Treatment of WDC LTI Cash Awards.

(a) *WDC LTI Cash Awards.* Each WDC LTI Cash Award that is outstanding immediately prior to the Separation Time and held by a WDC Employee, Former WDC Employee, WDC Director or Former WDC Director shall remain outstanding without any adjustment thereto.

(b) *Spinco LTI Cash Awards.* Each WDC LTI Cash Award that is outstanding immediately prior to the Separation Time and held by a Spinco Employee or Spinco Director shall be converted into a Spinco LTI Cash Award, effective as of the Separation Time (and shall thereafter be referred to as a Spinco LTI Cash Award). Each Spinco LTI Cash Award shall be subject to the same terms, vesting conditions, settlement dates and method of settlement and other terms and conditions as were in effect immediately prior to the Separation Time for the corresponding WDC LTI Cash Award; provided, that all payment obligations thereunder shall be assumed by Spinco.

SECTION 6.5 Treatment upon Separation and a Change in Control.

(a) After the Separation Time, for any award adjusted under this Article VI, any reference to a "change in control," "change of control" or similar definition in an award agreement, severance plan or equity incentive plan applicable to such award (x) with respect to Post-Separation WDC Equity Awards, shall be deemed to refer to a "change in control," "change of control" or similar definition as set forth in the applicable Post-Separation WDC Equity Award agreement, WDC Severance Plan or WDC Equity Incentive Plan, as applicable (a "WDC Change in Control"), and (y) with respect

to Spinco Equity Awards, shall be deemed to refer to a "change in control," "change of control" or similar definition as set forth in the applicable Spinco Equity Award agreement, Spinco Severance Plan or Spinco Equity Incentive Plan, as applicable (a "Spinco Change in Control").

(b) Neither the Separation, the Distribution nor any employment transfer described herein shall constitute a termination of employment or service for purposes of any WDC Equity Award, Post-Separation WDC Equity Award or Spinco Equity Award, as applicable. In addition, an individual's continuous employment or service with the Spinco Group shall be treated as continuous employment or service with the WDC Group with respect to any Post-Separation WDC Equity Award held by a VP+ Spinco Employee. Further, if the original WDC Equity Award held by a VP+ Spinco Employee was subject, as of immediately prior to the Distribution, to accelerated vesting provisions (i) by reference to a termination of employment or service with the WDC Group and/or (ii) in connection with a WDC Change in Control, in each case, as set forth in the applicable WDC Severance Plan, then the corresponding Post-Separation WDC Equity Award and Spinco Equity Award held by such VP+ Spinco Employee shall be subject to the same vesting acceleration provisions upon his or her termination of employment or service with the relevant member of the Spinco Group and/or in connection with a Spinco Change in Control, in each case, as shall be set forth in the applicable Spinco Severance Plan; provided that in no event shall the treatment of the Post-Separation WDC Equity Awards be more favorable under the applicable Spinco Severance Plan than the treatment that would have been provided under the applicable WDC Severance Plan prior to the Separation Time.

(c) Notwithstanding the foregoing and except as set forth in Schedule 6.5(c), in the event of a Spinco Change in Control, (i) if any Spinco Equity Award then held by any VP+ Spinco Employee is not assumed or substituted by a successor corporation or a parent or subsidiary thereof ("Successor Corporation"), then each such Spinco Equity Award and corresponding Post-Separation WDC Equity Award (that relates to the same original WDC Equity Award) shall accelerate and vest in its entirety on a date prior to the effective time of such Spinco Change in Control as determined by the administrator of the applicable Spinco Equity Incentive Plan, and (ii) if Spinco Equity Awards are assumed or substituted by a Successor Corporation, then each such Spinco Equity Award and corresponding Post-Separation WDC Equity Award (that relates to the same original WDC Equity Award) shall be subject to the vesting acceleration provisions under the applicable Spinco Severance Plan upon the holder's termination of employment or service following the Spinco Change in Control. The Spinco Change in Control shall have no impact on any Post-Separation WDC DSU Award.

(d) In the event of a WDC Change in Control (i) any Post-Separation WDC Equity Award then held by any VP+ Spinco Employee shall vest in full and (ii) any Spinco Equity Award then held by any VP+ Spinco Employee shall remain subject to the terms of any Spinco Equity Award agreement, Spinco Severance Plan or Spinco Equity Incentive Plan, as applicable.

SECTION 6.6 Spinco Equity Incentive Plans. Effective as of the Separation Time, Spinco shall have adopted an equity incentive plan and such other plans (the "Spinco Equity Incentive Plans"), which shall permit the grant and issuance of the Spinco Equity Awards denominated in shares of Spinco Common Stock, in addition to the Spinco LTI Cash Awards, as described in this Article VI.

SECTION 6.7 Employee Stock Purchase Plan. Prior to the date hereof, the administrator of the WDC ESPP shall have taken all actions necessary and appropriate, to the extent permissible by applicable Law, and in accordance with such applicable Law: (a) to amend the WDC ESPP, prior to the Distribution Date, such that each Exercise Period that would otherwise be in progress as of immediately prior to the Distribution Date shall be shortened and a new Exercise Date shall be set by the administrator of the WDC ESPP (or its delegee) to occur upon the day that is at least five (5) Business Days prior to the Record Date in accordance with the terms of the WDC ESPP, as of which date the Exercise Period and related Offering Periods then in progress will terminate; (b) to terminate the participation of Spinco Employees in the WDC ESPP effective no later than immediately prior to the Separation Time; and (c) to commence a new Offering Period and payroll deductions and other contributions by WDC Employees as soon as reasonably practicable after the Distribution Date, on such date as may be determined by the administrator of the WDC ESPP. Effective as of or before the Distribution Date, Spinco shall adopt an employee stock purchase plan in a form substantially similar to the WDC ESPP (the "Spinco ESPP"), and the Spinco Employees shall be eligible to participate in the Spinco ESPP effective no later than the Distribution Date, or such other date as may be determined by the administrator of the Spinco ESPP; provided, however, that Spinco may (a) delay implementation of the Spinco ESPP in one or more countries to the extent necessary to complete those actions and undertakings that Spinco, in its sole discretion, determines to be necessary or advisable to comply with applicable Law; or (b) elect to not offer the Spinco ESPP in certain non-U.S. jurisdictions for legal, regulatory or tax issues or requirements and/or to avoid undue cost or administrative burden.

SECTION 6.8 Necessary Actions. The Parties shall, as soon as practicable after the date hereof and in no event later than the Business Day prior to the Distribution Date, take all actions as may be necessary to implement the provisions of this Article VI, including adopting any necessary resolutions and making any required plan amendments and award modifications and obtaining any required consents from Spinco Employees.

SECTION 6.9 Awards Granted in Certain Non-U.S. Jurisdictions. Notwithstanding the foregoing provisions of this Article VI, the provisions of this Article VI may be modified by the Parties to the extent necessary or advisable to address legal, regulatory or tax issues or requirements and/or to avoid undue cost or administrative burden arising out of the application of this Article VI to equity-based incentive compensation awards subject to non-U.S. Laws. For the avoidance of doubt, the Parties may provide for different adjustments with respect to or impose different terms on some or all Spinco Equity Awards or WDC Equity Awards to the extent that the Parties deem such adjustments necessary and appropriate. Any adjustments made by the Parties shall be deemed to have been incorporated by reference herein as if fully set forth above and shall be binding on the Parties and their respective Subsidiaries and Affiliates.

SECTION 6.10 SEC Registration. All shares of Spinco Common Stock to be issued in respect of the Spinco Equity Awards shall be subject to an effective registration statement on Form S-8 (or another appropriate form) maintained by Spinco. Spinco shall use commercially reasonable efforts to keep such registration statement effective (and maintain the current status of the prospectus required thereby) for so long as any such Spinco Equity Awards remain outstanding.

SECTION 6.11 Tax and Regulatory Compliance for Post-Separation WDC Equity Awards. To the extent any member of the Spinco Group is subject to Tax withholding, reporting, remitting or payment obligations or any regulatory filing obligation in connection with the Post-Separation WDC Equity Awards, the Parties agree to cooperate to ensure that such obligations are met and that any Employment Taxes payable by any member of the WDC Group or Spinco Group in connection with such awards shall be paid by WDC. The Parties hereby acknowledge and agree that (i) the members of the WDC Group shall be solely responsible for all obligations relating to reporting of Taxes to the appropriate Governmental Authority and remitting the amounts of any such Taxes required to be withheld (including any Employment Taxes) to the appropriate Governmental Authority in connection with the exercise, vesting or settlement of any such Post-Separation WDC Equity Awards, and no member of the Spinco Group shall have any Liability with respect thereto and (ii) Tax deductions relating to the Post-Separation WDC Equity Awards shall be retained by WDC. The obligations of the members of the WDC Group and the Spinco Group to provide Information to the other party in order to allow the administration of the
Post-Separation WDC Equity Awards pursuant to this Article VI are set forth in Article VIII.

SECTION 6.12 Compliance. In the event that the treatment specified in this Article VI hereof does not comply with applicable Law or results in adverse Tax consequences to the Parties or any Spinco Employees, the Parties agree to negotiate in good faith alternative treatment or other resolution that complies with applicable Law and does not result in adverse Tax consequences to the Parties or any Spinco Employees, subject to any Party's obligation to reimburse any other Party as set forth in Section 2.2(d).

ARTICLE VII

ADDITIONAL COMPENSATION MATTERS

SECTION 7.1 Workers' Compensation Liabilities. Effective as of the Separation Time, Spinco shall assume all Liabilities for Spinco Employees related to any and all workers' compensation claims and coverage, arising under any law of any state, territory, or possession of the U.S. or the District of Columbia, and arising prior to, at or after the Separation Time, and Spinco shall be fully responsible for the administration of all such claims. If Spinco is unable to assume any such Liability or the administration of any such claim because of the operation of applicable state law or for any other reason, WDC shall retain such Liabilities and Spinco shall reimburse and otherwise fully indemnify WDC for all such Liabilities, including the costs of administering the plans, programs or arrangements under which any such Liabilities have accrued or otherwise arisen.

SECTION 7.2 Code Section 409A. Notwithstanding anything in this Agreement to the contrary, the Parties agree to negotiate in good faith regarding the need for any treatment different from that otherwise provided herein with respect to the payment of compensation to ensure that the treatment of such compensation does not cause the imposition of a Tax under Section 409A of the Code. In no event, however, will any Party be liable to another in respect of any Taxes imposed under, or any other costs or Liabilities relating to, Section 409A of the Code.

SECTION 7.3 Payroll Matters. In the case of each Spinco Employee, the employer of such individual as of immediately before the Separation Date shall be responsible for paying (and the W-2 and other payroll reporting obligations for) the payroll amount due to such individual for the payroll period (or portion thereof) ending on the Separation Date, unless otherwise agreed to by WDC and Spinco (or the appropriate member of the Spinco Group).

SECTION 7.4 Cash Incentives

(a) Subject to applicable Law, cash incentives payable to participants under the WDC Cash Incentive Plans in respect of the first half of the fiscal year during which the Distribution Date occurs (the "Mid-Year Cash Incentives") shall be determined as of the Separation Time based on actual performance results and level of performance achieved (or actual commissions earned, as applicable) in respect of the first half of such fiscal year (including, if applicable, the portion of any performance period relating to the first half of such fiscal year) measured against the applicable targets under the applicable WDC Cash Incentive Plan.

(b) To the extent earned in accordance with Section 7.4(a), the Mid-Year Cash Incentives shall be paid to the eligible participants no later than at the time or times WDC otherwise would have paid such Mid-Year Cash Incentives in the ordinary course of business, subject to the terms and conditions of the applicable WDC Cash Incentive Plan (including, to the extent required, the participants' continued employment with the WDC Group or Spinco Group, as applicable, through the applicable payment date). The WDC Group shall be solely responsible for funding, paying, and discharging all obligations relating to any Mid-Year Cash Incentives that any WDC Employee or Former WDC Employee is eligible to receive under any WDC Cash Incentive Plan, and no member of the Spinco Group shall have any obligations with respect thereto. The Spinco Group shall be solely responsible for funding, paying, and discharging all obligations relating to any unpaid Mid-Year Cash Incentives as of the Separation Time, that any Spinco Employee or Former Spinco Employee is eligible to receive under any WDC Cash Incentive Plan at the time or times WDC otherwise would have paid such Mid-Year Cash Incentives in the ordinary course of business, and no member of the WDC Group shall have any obligations with respect thereto; provided, however, that pursuant to the Separation Agreement, WDC shall pay to Spinco (or an appropriate member of the Spinco Group) a cash payment equal to the aggregate Mid-Year Cash Incentives accrued, or expected to accrue, with respect to the Spinco Employees, which remain unpaid, as of the Separation Time, as well as an additional amount equal to the employer portion of Employment Taxes required to be paid with respect to such amount (and Spinco or the appropriate member of the Spinco Group shall timely pay such taxes to the appropriate Governmental Authority).

(c) Subject to applicable Law, and notwithstanding anything to the contrary herein, cash incentives for Spinco Employees in respect of the second half of the fiscal year during which the Distribution Date occurs (the "Remaining Cash Incentives") shall accrue at each Spinco Employee's target incentive award percentage (under the applicable WDC Cash Incentive Plan or otherwise) based on payroll for the portion of the second half of the fiscal year that occurs up to the Separation Time. The Spinco Group shall be solely responsible for funding, paying, and discharging all obligations relating to any Remaining Cash Incentives that any Spinco Employee is eligible to receive (under any Spinco Cash Incentive Plan or otherwise), to the extent earned following the Separation Time, and no member of the WDC Group shall have any obligations with respect thereto; provided, however, that pursuant to the Separation Agreement, WDC shall pay to Spinco (or an appropriate member of the Spinco Group) a cash payment equal to the aggregate Remaining Cash Incentives accrued, or expected to accrue, with respect to the Spinco Employees as of the Separation Time, as well as an additional amount equal to the employer portion of Employment Taxes required to be paid with respect to such amount (and Spinco or the appropriate member of the Spinco Group shall timely pay such taxes to the appropriate Governmental Authority).

(d) On or following the Distribution Date, WDC shall determine appropriate performance measures to be used for the remainder of the fiscal year for eligible WDC Employees under the WDC Cash Incentive Plans or such other plans as may be adopted by WDC for the grant of cash incentives to WDC Employees following the Distribution Date.

(e) Effective as of the Separation Time, Spinco (or the appropriate member of the Spinco Group) shall have adopted a cash incentive plan and such other plans (the "Spinco Cash Incentive Plans"), which shall permit the grant of cash incentives to Spinco Employees following the Distribution Date with terms substantially comparable to the terms of the WDC Cash Incentive Plans as in effect immediately prior to the Separation Time. Further, at any time following the Distribution Date, Spinco (or the appropriate member of the Spinco Group) shall determine, in compliance with applicable Law and any applicable Collective Bargaining Agreement, those Spinco Cash Incentive Plans in which the Spinco Employees will be eligible to participate and appropriate performance measures to be used for the remainder of the fiscal year during which the Distribution Date occurs.

SECTION 7.5 Severance Plans.

(a) Effective as of the Separation Time, Spinco (or the appropriate member of the Spinco Group) shall have adopted a severance plan and such other plans (the "Spinco Severance Plans") for the benefit of eligible Spinco Employees containing terms substantially similar to those set forth in the WDC Severance Plans. Further, following the Separation Time, Spinco (or the appropriate member of the Spinco Group) shall determine, in compliance with applicable Law and any applicable Collective Bargaining Agreement, those Spinco Severance Plans in which the Spinco Employees will be eligible to participate.

(b) Following the Separation Time, the WDC Group shall be solely responsible for funding, paying and discharging all obligations relating to any severance benefits that any WDC Employee or Former WDC Employee is eligible to receive under any WDC Severance Plan and no member of the Spinco Group shall have any obligations with respect thereto. Further, following the Separation Time, the Spinco Group shall be solely responsible for funding, paying and discharging all obligations relating to any severance benefits that any Spinco Employee is eligible to receive under any Spinco Severance Plan and no member of the WDC Group shall have any obligations with respect thereto.

(c) The Parties hereto agree that none of the transactions contemplated by the Separation Agreement or any of the Ancillary Agreements, including this Agreement, shall constitute a "change in control," "change of control" or similar term, as applicable, within the meaning of any WDC Benefit Arrangement or Spinco Benefit Arrangement relating to severance benefits, including under any WDC Severance Plan or Spinco Severance Plan.

(d) To the extent permitted by applicable Law, it is intended that the WDC Employees and Spinco Employees shall not experience a termination of employment or service solely as a result of the transactions contemplated by the Separation Agreement or any of the Ancillary Agreements, including any employment transfers contemplated by this Agreement. WDC shall cause each WDC Severance Plan to be interpreted and administered consistent with such intent and shall have taken all actions necessary or appropriate prior to the Separation Time to clarify that WDC Employees and Spinco Employees shall not be entitled to any severance payments or benefits under any WDC Severance Plan as a result of such transactions or transfers, as applicable.

SECTION 7.6 Additional Matters.

(a) See Schedule 7.6 hereto.

ARTICLE VIII

GENERAL AND ADMINISTRATIVE

SECTION 8.1 Sharing of Information. To the extent permitted by applicable Law and Section 5.3 of the Separation Agreement, WDC and Spinco shall provide to each other and their respective agents and vendors all Information (other than communications, documents and materials subject to any Privilege) as the other may reasonably request to enable the requesting Party to defend or prosecute claims, administer efficiently and accurately each of its Benefit Arrangements (including in connection with audits or other proceedings maintained by any Governmental Authority), to timely and accurately comply with and report under Section 14 of the Securities Exchange Act of 1934, as amended, and the Code, to determine the scope of, as well as fulfill, its obligations under this Agreement, and otherwise to comply with provisions of applicable Law. WDC shall comply with all applicable Privacy Laws and requirements when collecting, processing, sharing and/or transferring information relating to an individual or which on its own or with other information may identify or be used to identify an individual. Such Information shall, to the extent reasonably practicable, be provided in the format and at the times and places requested, but in no event shall the Party providing such Information be obligated to incur any out-of-pocket expenses not reimbursed by the Party making such request or make such Information available outside of its normal business hours and premises. Any Information shared or exchanged pursuant to this Agreement shall be subject to the confidentiality requirements set forth in Section 6.6 of the Separation Agreement; provided, that, notwithstanding anything in such Section 6.6 and without otherwise limiting the provisions of such Section 6.6, each of the Parties shall comply with any requirement of applicable Law in regard to the confidentiality of the Information (whether relating to employee records or otherwise) that is shared with another Party in accordance with this Section 8.1. The Parties also hereby agree to enter into any business associate agreements that may be required for the sharing of any Information pursuant to this Agreement to comply with the requirements of HIPAA. The Parties shall use their best efforts to secure Consents from employees, former employees and their respective dependents to the extent required by Law or otherwise to permit the Parties to share Information as contemplated in this Section 8.1. WDC shall indemnify, defend and hold harmless the Spinco Indemnitees for any Losses or Liabilities related to or resulting from the failure by any member of the WDC Group to provide timely and accurate Information prior to, at or after the Distribution Date in accordance with this Agreement. The Spinco Group shall indemnify, defend and hold harmless the WDC Indemnitees for any Losses or Liabilities related to or resulting from the failure to provide timely and accurate Information by any member of the Spinco Group, following the Distribution Date. Nothing in this Section 8.1 shall be construed to govern any matters of Privilege, which such matters shall be governed by Section 5.3 of the Separation Agreement.

SECTION 8.2 Commercially Reasonable Efforts/Cooperation. (i) Each of the Parties shall use commercially reasonable efforts (subject to, and in accordance with applicable Law) to take promptly, or cause to be taken promptly, all actions, and to do promptly, or cause to be done promptly, and to assist and cooperate with the other Parties in doing, all things reasonably necessary, proper or advisable to consummate and make effective the transactions contemplated by and carry out the intent and purposes of this Agreement, including adopting plans or plan amendments and using commercially reasonable efforts to obtain satisfaction of the conditions precedent to each Party's obligations hereunder within its reasonable control and to perform all covenants and agreements herein applicable to such Party and (ii) none of the Parties will, without the prior written consent of any other applicable Party, take any action which would reasonably be expected to prevent or materially impede, interfere with or delay the transactions contemplated by this Agreement. Without limiting the generality of the foregoing provisions of this Section 8.2, (A) where the cooperation of third parties, such as insurers or trustees, would be necessary in order for a Party to completely fulfill its obligations under this Agreement, such Party shall use commercially reasonable efforts to cause such third parties to provide such cooperation, (B) each of the Parties shall cooperate on any issue relating to the transactions contemplated by this Agreement for which the other Party seeks a determination letter or private letter ruling from the IRS, an advisory opinion from the Department of Labor or any other filing, consent or approval with respect to or by a Governmental Authority, (C) each of the Parties shall cooperate in connection with any audits of any Benefit Arrangement or payroll services with respect to which such Party may have Information, (D) each of the Parties shall cooperate in coordinating each of their respective payroll systems and to implement the actions contemplated pursuant to this Agreement, including under Section 6.5, Section 7.3 and Section 7.4, and (E) each of the Parties shall cooperate in good faith in connection with the notification and consultation with works councils, labor unions and other employee representatives of employees of the Spinco Group.

SECTION 8.3 Employer Rights. Without limiting Section 2.7 or Section 2.8 and except as otherwise expressly provided in this Agreement (including Section 2.3), nothing in this Agreement shall prohibit any Party or any of their respective Affiliates from amending, modifying or terminating any of their respective Benefit Arrangements at any time within their sole discretion.

SECTION 8.4 Consent of Third Parties. If any provision of this Agreement is dependent on the Consent of any third party and such Consent is withheld, the Parties shall use their commercially reasonable efforts to implement the applicable provisions of this Agreement to the fullest extent practicable. If any provision of this Agreement cannot be implemented due to the failure of such third party to consent, the Parties shall negotiate in good faith to implement the provision (as applicable) in a mutually satisfactory manner.

SECTION 8.5 Access to Employees. On and after the Separation Time, WDC and Spinco shall, and shall cause each of their respective Affiliates to, use their commercially reasonable efforts to make available to each other those of their employees who may reasonably be needed in order to defend or prosecute any legal or administrative Action (other than a legal action between or among any of the Parties) to which any employee, director or Benefit Arrangement of the WDC Group or Spinco Group is a party and which relates in any way to their respective employment or to their respective Benefit Arrangements prior to the Separation Time. The Party to whom an employee is made available in accordance with this Section 8.5 shall pay or reimburse the other Party for all reasonable expenses which may be incurred by such employee in connection therewith, including all reasonable travel, lodging, and meal expenses.

SECTION 8.6 Beneficiary Designation/Release of Information/Right to Reimbursement. To the extent permitted by applicable Law and except as otherwise provided for in this Agreement, all beneficiary designations, authorizations for the release of Information and rights to reimbursement made by or relating to Spinco Employees under WDC Benefit Arrangements shall be transferred to and be in full force and effect under the corresponding Spinco Benefit Arrangements until such beneficiary designations, authorizations or rights are replaced or revoked by, or no longer apply, to the relevant Spinco Employee.

ARTICLE IX

MISCELLANEOUS

SECTION 9.1 Entire Agreement. This Agreement and the Separation Agreement and the Ancillary Agreements, including any schedules, exhibits and amendments hereto and thereto, and the other agreements and documents referred to herein and therein, shall together constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and shall supersede all prior negotiations, agreements and understandings, both written and oral, among or between any of the Parties with respect to such subject matter hereof and thereof.

SECTION 9.2 Governing Law. This Agreement and the consummation of the transactions contemplated hereby, and any Action (whether at law, in contract, in tort or otherwise) arising out of or relating to this Agreement and the consummation of the transactions contemplated hereby, or the negotiation, validity, interpretation, performance, breach or termination of this Agreement and the consummation of the transactions contemplated hereby shall be governed by and construed in accordance with the internal law of the State of Delaware, regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof.

SECTION 9.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered: (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed; or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission when receipt is confirmed:

(a) If to WDC:

c/o Western Digital Corporation
5601 Great Oaks Parkway
San Jose, CA 95119
Attn: Cynthia Tregillis
Email: cynthia.tregillis@wdc.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
E-mail: thomas.ivey@skadden.com and christopher.bors@skadden.com

(b) If to Spinco:

c/o Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attn: Bernard Shek
Email: bernard.shek@sandisk.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

SECTION 9.4 Amendments and Waivers.

(a) This Agreement may be amended or supplemented in any and all respects and any provision of this Agreement may be waived and any such waiver shall be binding upon a Party, only if such waiver is set forth in a writing executed by such waiving party bound thereby, and any such amendment or supplement shall be effective only if set forth in a writing executed by each of the Parties; and any such waiver, amendment or supplement shall not be applicable or have any effect except in the specific instance in which it is given. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

(b) Notwithstanding the foregoing, no failure on the part of any Party to exercise any power, right, Privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, Privilege or remedy under this Agreement, shall operate as a waiver of such power, right, Privilege or remedy; and no single or partial exercise of any such power, right, Privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, Privilege or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that any Party would otherwise have. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement or any such waiver of any provision of this Agreement must satisfy the conditions set forth in Section 9.4(a) and shall be effective only to the extent in such writing specifically set forth.

SECTION 9.5 Early Termination. This Agreement shall terminate without further action at any time before the Distribution upon termination of the Separation Agreement. If so terminated, no Party shall have any Liability of any kind to the other Parties or any other Person on account of this Agreement, except as provided in the Separation Agreement, it being understood that this Section 9.5 shall not be deemed to limit or modify the provisions of Section 9.8 of the Separation Agreement (Termination).

SECTION 9.6 No Third-Party Beneficiaries. Except for the provisions of Section 3.1(i) and Section 8.1 with respect to indemnification of Spinco Indemnitees or WDC Indemnitees, as applicable, which are intended to benefit and be enforceable by the Persons specified therein as indemnitees, this Agreement is solely for the benefit of the Parties, and their respective successors and permitted assigns, and is not intended, and shall not be deemed, to (a) be construed as an amendment, waiver, or creation of any agreement of employment with any person, any Employee Benefit Plan or other employee benefit plan, (b) limit in any way the right of the WDC Group, Spinco Group or any of their respective Affiliates, to amend or terminate any Employee Benefit Plan at any time, (c) create any right to employment, continued employment, or any term or condition of employment with the WDC Group, Spinco Group or any of their respective Affiliates, (d) confer on third parties (including any employees of the Parties and their respective Affiliates) any remedy, claim, reimbursement, claim of action or other right in addition to those existing without reference to this Agreement, or (e) otherwise create any third-party beneficiary hereto.

SECTION 9.7 Assignability; Binding Effect. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and permitted assigns; provided, however, that neither this Agreement nor any Party's rights, interests or obligations hereunder may be assigned or delegated by any such Party, in whole or in part (whether by operation of law or otherwise), without the prior written consent of the other Parties, and any attempted assignment or delegation of this Agreement or any of such rights or obligations by any Party without the prior written consent of the other Parties shall be void and of no effect. Except as set forth in Section 9.6, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person (other than the Parties) any power, right, Privilege or remedy of any nature whatsoever under or by reason of this Agreement.

SECTION 9.8 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any situation in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement in any other jurisdiction or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

SECTION 9.9 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or electronic transmission shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

At the request of any Party, the other Parties shall re-execute original forms thereof and deliver them to the requesting Party. No Party shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation of a Contract, and each such Party forever waives any such defense.

SECTION 9.10 Dispute Resolution. Any controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, validity, termination or breach of this Agreement or otherwise arising out of, or in any way related to this Agreement or the transactions contemplated hereby or thereby shall be subject to the dispute resolutions procedures set forth in Sections 8.1 and 9.4 of the Separation Agreement.

SECTION 9.11 Waiver of Jury Trial. EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[*Remainder of this page intentionally left blank.*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

WESTERN DIGITAL CORPORATION

By: /s/ Wissam Jabre
Name: Wissam Jabre
Title: Executive Vice President and Chief Financial Officer

SANDISK CORPORATION

By: /s/ David V. Goeckeler
Name: David V. Goeckeler
Title: Chief Executive Officer

[*Signature Page to Employee Matters Agreement*]

IP CROSS-LICENSE AGREEMENT

This IP Cross-License Agreement (this "**Agreement**"), dated as of February 21, 2025 (the "**Effective Date**"), is made and entered into by and between Western Digital Corporation, a Delaware corporation ("**WDC**"), and Sandisk Corporation, a Delaware corporation and wholly owned Subsidiary of WDC ("**Spinco**") (each a "**Party**" and together, the "**Parties**"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in Article I.

RECITALS

WHEREAS, WDC and Spinco, have entered into the Separation and Distribution Agreement, dated as of February 21, 2025 (as amended, modified or supplemented from time-to-time in accordance with its terms, the "**SDA**"), pursuant to which (i) WDC has agreed to transfer to Spinco, and Spinco has agreed to receive and assume, certain assets and liabilities of the Flash Business and (ii) following such transfer and the other transactions specified in the SDA, WDC has agreed to effect the Distribution, all as more specifically described in, and subject to the terms of, the SDA;

WHEREAS, the Parties have executed various Ancillary Agreements, including a transitional cross-license of rights in Trademarks (the "**TTLA**") of even date herewith, pursuant to the SDA in connection with the consummation of the transactions contemplated by the SDA, and to facilitate the ongoing operations of the Flash Business and the WDC Retained Business;

WHEREAS, following the Separation, each Party will own certain Patents, Copyrights and Trade Secrets which may be used in the other Party's business; and

WHEREAS, each Party desires to obtain a non-exclusive license from the other Party to use such Intellectual Property Rights on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and agreements set forth in this Agreement, the SDA, the Parties agree as follows:

I. DEFINITIONS

Capitalized terms used, but not defined in this Agreement, shall have the meaning ascribed to such terms in the SDA. If a capitalized term is defined in both this Agreement and the SDA, the definition in this Agreement will control.

1.1 "**Agreement**" has the meaning ascribed to it in the Preamble.

1.2 "**Confidential Information**" has the meaning ascribed to it in Section 8.1.

1.3 "**Disclosing Party**" has the meaning ascribed to it in Section 8.2.

1.4 "**Effective Date**" has the meaning ascribed to it in the Preamble.

1.5 "**Flash Business**" means the "Flash" operating segment of the WDC Group, as described in WDC's Form 10-K for the fiscal year ended June 30, 2023, including the businesses of marketing, offering, selling, licensing, providing, distributing, developing, manufacturing, importing or exporting Flash Business Products.

1.6 "**Flash Business Products**" shall mean: (i) any semiconductor memory, including flash memory, MRAM, phase-change memory and ReRAM (collectively, "**Semiconductor Memory**"); (ii) any system or module primarily based on Semiconductor Memory; and (iii) any ancillary components, materials and software, including, but not limited to, controllers, firmware, housing, packaging and support means, to the extent incorporated into or primarily used with (i) and/or (ii).

1.7 "**Flash Business Field**" shall mean the field of the operation of the Flash Business.

1.8 "**HDD**" means a device designed to magnetically record and/or read digital information on or from a rotating disk ("**Rotating Magnetic Storage**") that contains one or more spindle motors, one or more magnetic heads, one or more controllers, and one or more actuators, all of which are incorporated into a single enclosure. The term "HDD" shall exclude any device if the primary storage medium of such device is not Rotating Magnetic Storage.

1.9 "**HDD Business Field**" means all fields outside the Flash Business Field, and the field of the operation of the businesses of marketing, offering, selling, licensing, providing, distributing, developing, manufacturing, importing or exporting Platforms Products and standalone SSDs.

1.10 "**Intellectual Property Rights**" means any and all statutory and/or common law intellectual property rights throughout the world, including any of the following: (i) all rights in United States and foreign patents and utility models and applications therefor (including provisional applications) and all reissues, divisions, renewals, extensions, provisionals, reexaminations, continuations and continuations in part thereof (collectively, "**Patents**"); (ii) all trade secret rights and similar rights in know-how, Information or other materials (collectively, "**Trade Secrets**"); (iii) all registered and

unregistered copyrights and all other rights corresponding thereto in any works of authorship, including Software (collectively, "**Copyrights**"); (iv) all Trademarks; (v) all design rights, maskwork rights, rights in databases and data collections (including knowledge databases, customer lists and customer databases); (vi) all rights to Uniform Resource Locators, Web site addresses, domain names and social media accounts; (vii) any similar, corresponding or equivalent rights to any of the foregoing; (viii) all intangible rights in Technology and (ix) any registrations and renewals of or applications to register any of the foregoing.

1.11 "**Intellectual Property Rights Obligations**" has the meaning ascribed to it in Section 9.1(b).

1.12 "**Licensable**" means, with respect to any Intellectual Property Right, the right to grant a license or sublicense to a Party within the scope of the licenses set forth in Article II or Article III, as applicable, without (i) the requirement to obtain consent from, give notice to, or take any other action with respect to any third party or Governmental Body or (ii) incurring additional fees, royalties or other costs in connection with such license or sublicense.

1.13 "**MRAM**" means a semiconductor-based magnetic device whose purpose is to store and retrieve information as a random-access memory, which may or may not include an Ovonic Threshold Switch (OTS).

1.14. "**MRAM and OTS Patents**" means patents that are essential to making MRAM and/or OTS.

1.15 "**Open Source Materials**" means open source software owned by a third party and subject to the licenses granted by either Party to the other Party pursuant to this Agreement.

1.16 "**Party**" or "**Parties**" have the meaning ascribed to them in the Preamble.

1.17 "**Platforms Products**" means:

(i) any storage system having one or more hard disk drive (HDD) slots,

(ii) any storage system having two or more solid state drive (SSD) slots, and if included, any SSD installed with and sold with such a system,

(iii) any standalone ASIC or semiconductor IC core that provides PCIe-to-NVMe-oF protocol bridge functionality,

(iv) any controller or controller card that encompasses (iii),

(v) any storage device (except for a standalone SSD) or system (except for one having a single SSD slot) that encompasses (iii) or (iv),

(vi) any storage device that is attached to a controller card that encompasses (iii), and

(vii) any standalone SSD for post-sale installation into a storage system in (i) or (ii) that was previously sold by WDC.

1.18 "**Receiving Party**" has the meaning ascribed to it in Section 8.2.

1.19 "**Representatives**" has the meaning ascribed to it in Section 8.2.

1.20 “**SDA**” has the meaning ascribed to it in the Recitals.

1.21 “**Spinco**” has the meaning ascribed to it in the Preamble.

1.22 “**Spinco Improvements**” means all modifications, derivative works, enhancements and improvements to any Intellectual Property Rights or Technology, which modifications, derivative works, enhancements and improvements are created, developed, discovered or conceived by or for the Spinco Group.

1.23 “**Spinco Licensed IP**” means the Intellectual Property Rights owned or Licensable by the Spinco Group (other than Trademarks, domain names (and similar internet properties), social media accounts and Patents), that (i) were used in the conduct of the WDC Retained Business prior to the Effective Date or (ii) are otherwise retained in the unaided memory of any WDC Personnel as of the Effective Date.

1.24 “**Spinco Licensed MRAM and OTS Patents**” means Spinco Licensed Patents that are MRAM and OTS Patents.

1.25 “**Spinco MRAM and OTS Licensed IP**” means Spinco Licensed IP that is required to manufacture MRAM and/or OTS.

1.26 “**Spinco Licensed Patents**” means the Spinco Patents (for the avoidance of doubt, as defined in the SDA).

1.27 “**Spinco Licensed Products**” means all Flash Business Products and any Technology, products or services that are licensed, under development or sold by the Spinco Group as of the Effective Date, and natural evolutions thereof.

1.28 “**Spinco Personnel**” means the officers, directors, employees, contractors and agents of the Spinco Group as of the Effective Date.

1.29 “**Technology**” means all technology, techniques, processes, designs, design rules, inventions (whether or not patented or patentable), plans, discoveries, ideas, concepts, methods, specifications, communication protocols, algorithms, routines, logic information, register-transfer levels, netlists, Verilog files, simulations, emulation and simulation reports, test vectors and procedures, protocols, works of authorship, mask works, software (in both source code and object code form), files, information, documentation, data, databases, firmware, devices and hardware and other scientific or technical information or materials, in whatever form, whether or not embodying proprietary Intellectual Property Rights. For the avoidance of doubt, Technology does not include any Intellectual Property Rights.

1.30 “**Trademarks**” shall have the meaning set forth in the TTLA.

1.31 “**Third-Party Materials**” means any Intellectual Property Rights or Technology, including any Open Source Materials, owned by a third party and subject to the licenses granted by either Party to the other Party pursuant to this Agreement.

1.32 “**WDC**” has the meaning ascribed to it in the Preamble.

1.33 “**WDC Improvements**” means all modifications, derivative works, enhancements and improvements to any Intellectual Property Rights or Technology, which modifications, derivative works, enhancements and improvements are created, developed, discovered or conceived by or for the WDC Group.

1.34 "**WDC Licensed IP**" means the Intellectual Property Rights owned or Licensable by the WDC Group (other than Trademarks, domain names (and similar internet properties), social media accounts and Patents), that (i) were used in the conduct of the Flash Business prior to the Effective Date or (ii) are otherwise retained in the unaided memory of any Spinco Personnel as of the Effective Date.

1.35 "**WDC Licensed Patents**" means the Patents (other than Spinco Patents (for the avoidance of doubt, as defined in the SDA)) owned by the WDC Group as of the Effective Date, together with: (i) any Patent that claims (or is entitled to validly claim) priority from any of the foregoing Patents; (ii) any Patent that is a continuation, continuation in part, divisional or reissue, of any of the foregoing Patents, or that is linked to any of the foregoing Patents by a terminal disclaimer; and (iii) any foreign counterpart of any of the foregoing Patents.

1.36 "**WDC Licensed Products**" means HDDs, standalone SSDs, Platforms Products, and any Technology, products or services that are licensed, under development or sold by the WDC Group as of the Effective Date, and natural evolutions thereof. Notwithstanding the foregoing, WDC Licensed Products do not include: (i) SD™ family products, including embedded variations, that conform to an SD Association specification and (ii) any SD™ hosts and ancillary devices that conform to an SD Association specification ("**SD Products**").

1.37 "**WDC Personnel**" means the officers, directors, employees, contractors and agents of the WDC Group as of the Effective Date.

1.38 "**WDC Retained Business**" means the businesses, product and service lines of the WDC Group, excluding the Flash Business.

II. LICENSE GRANTS TO SPINCO

2.1 License Under the WDC Licensed Patents. Subject to the terms and conditions of this Agreement and the SDA, WDC grants, and causes each other member of the WDC Group to grant, to the Spinco Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 2.3 below), under the WDC Licensed Patents, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of Spinco Licensed Products in the Flash Business Field.

2.2 License Under the WDC Licensed IP.

(a) Subject to the terms and conditions of this Agreement and the SDA, WDC grants, and causes each other member of the WDC Group to grant, to the Spinco Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 2.3 below), (i) to use, reproduce, modify, create derivative works of, (ii) subject to Article VIII (Confidentiality), perform or display and (iii) subject to the restrictions set forth in Section 2.2(b) below, otherwise exploit the WDC Licensed IP in connection with the research, development, design, manufacture, supply, marketing, promotion, distribution, importing, exporting, sale and other disposition, use and post-sale service of Spinco Licensed Products in the Flash Business Field.

(b) Restrictions. The Spinco Group shall provide source code for proprietary Software that is included in the WDC Licensed IP (to the extent provided by WDC to the Spinco Group in source code form) to third parties solely on terms no less protective than those governing the Spinco Group's proprietary Software of similar nature, as provided in Section 2.3 below and subject to Section 9.2. Spinco agrees not to cause or permit the reverse engineering, disassembly or decompilation of any Software included in the WDC Licensed IP that is not delivered or authorized by WDC to be used by the Spinco Group in source code form. The right to modify or to prepare derivative works of WDC Licensed IP that is Software will apply solely to Software in source code form.

2.3 Sublicense Rights. The Spinco Group may grant sublicenses under the licenses granted in Section 2.1 and Section 2.2 above (i) in connection with the making, having made, use, offering to sell, sale, leasing, importing, exporting, transferring, or other exploitation or disposition, design, development, manufacture, supply, marketing, promotion, distribution or post-sale service of Spinco Licensed Products or (ii) to any Subsidiary, business or product or service line which is divested by the Spinco Group; *provided* that such sublicense shall be limited to the products and services that are the subject of such divestiture, including, for the avoidance of doubt, products and services that are in development and not currently being commercialized at the time of such divestiture; *provided, further*, that such sublicense shall not extend to any products or services of any third party that acquires such divested Subsidiary, business or product or service line, even if such acquirer's products or services are of the same kind or are otherwise similar to those licensed hereunder and even if made, sold or provided by the divested business. Other than as expressly provided in this Section 2.3, the Spinco Group shall not have the right to grant any sublicenses hereunder.

2.4 Reservation of Rights by WDC. All rights not expressly granted by WDC in this Article II are reserved by WDC. Without limiting the generality of the foregoing sentence, the Parties acknowledge and agree that (a) nothing in this Agreement shall be construed or interpreted as a grant, by implication or otherwise, of any license to the WDC Group's Intellectual Property Rights other than the licenses expressly set forth in Section 2.1 and Section 2.2 and (b) WDC grants no licenses or rights (implied or otherwise) to the Spinco Group under this Agreement with respect to any WDC Improvements developed, discovered or conceived after the Effective Date, including licenses or rights (implied or otherwise) in Patents that may issue on any such WDC Improvements reduced to practice after the Effective Date.

2.5 Limitation Regarding HDDs. Notwithstanding anything to the contrary set forth herein, WDC does not grant to the Spinco Group hereunder any license to make, have made, sell, offer for sale, import or export HDDs, regardless of whether such HDDs are standalone or incorporated into any other product. Notwithstanding the previous sentence, the Spinco Group may purchase HDDs that are produced by a third party and include those purchased HDDs as a component in Flash Business Products which are then sold by the Spinco Group.

III. LICENSE GRANTS TO WDC

3.1 License Under the Spinco Licensed Patents.

(a) Subject to the terms and conditions of this Agreement and the SDA, Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed Patents, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of WDC Licensed Products in the HDD Business Field.

(b) Notwithstanding 3.1(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed MRAM and OTS Patents, (i) to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of MRAM and OTS that are used in non-memory products, such as neuromorphic computing, (ii) to perform internal research and development but not any commercial sales or other commercial activity, and (iii) to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of MRAM and/or OTS in a 1T-1R architecture so long as (a) the "1T" is a single crystal silicon transistor, (b) the "1T-1R" is not in a 3D arrangement, and (c) the MRAM and/or OTS, individually or jointly or either with a different element, is not in a 2-terminal application.

(c) Notwithstanding 3.1(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed Patents, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of non-volatile memory as required under any agreement between the WDC Group and a third party, provided the agreement was both signed and has an effective date between January 1, 2020 and the Effective Date. The license under this Section 3.1(c) does not extend to any amendment, extension, renewal, or other change to such an agreement if the amendment, extension, renewal, or other change was signed after the Effective Date. Moreover, notwithstanding the first sentence in this Section 3.1(c), Spinco does not grant to the WDC Group any license to (A) make, have made, sell, offer for sale, import or export NAND flash memory integrated circuits, regardless of whether such NAND flash memory integrated circuits are standalone or incorporated into any other product, or (B) provide foundry services to a third party. For the sake of clarity, notwithstanding anything in the previous sentences of this section (c) (but not part (A) of the third sentence beginning with "Moreover"), work by the WDC Group by or for (i) the Department of Defense (DoD) Commons, and/or its members as part of their membership in the DoD Commons, and/or (ii) the Air Force Research Laboratories (AFRL) under the ANGSTRM agreement; is fully licensed under this Section 3.1(c), regardless of whether such work, agreement, and/or extension or amendment was signed or commenced before or after the Effective Date.

(d) Notwithstanding 3.1(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed MRAM and OTS Patents, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of HDDs with MRAM and/or OTS as a component of the HDDs.

(e) Notwithstanding 3.1(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed Patents, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of phase change memory and ReRam. For the avoidance of doubt, an OTS is not considered phase change memory.

(f) Notwithstanding 3.1(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed MRAM and OTS Patents, if and only if Spinco either (a) discontinues MRAM development, or (b) is acquired by a third party. For the avoidance of doubt, no license is granted under the preceding sentence if Spinco divests its MRAM business. Spinco also grants to the WDC Group a first right of refusal to purchase Spinco's MRAM business if Spinco decides to divest substantially its entire MRAM business in a transaction that involves selling only the MRAM business. If Spinco divests any MRAM and OTS Patents as part of a transaction that includes selling only patents, then (a) Spinco grants to the WDC Group a first right of refusal to purchase the divested MRAM and OTS Patents, and (b) if the WDC Group does not purchase the divested MRAM and OTS Patents, then Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the divested MRAM and OTS Patents.

3.2 License Under the Spinco Licensed IP.

(a) Subject to the terms and conditions of this Agreement and the SDA, Spinco grants, and causes each other member of the Spinco Group to grant, to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), to (i) use, reproduce, modify, create derivative works of, (ii) subject to Article VIII (Confidentiality), perform or display and (iii) subject to the restrictions set forth in Section 3.2(b) below, otherwise exploit the Spinco Licensed IP in connection with the research, development, design, manufacture, supply, marketing, promotion, distribution, importing, exporting, sale and other disposition, use and post-sale service of WDC Licensed Products in the HDD Business Field.

(b) Notwithstanding 3.2(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco MRAM and OTS Licensed IP, (i) to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of MRAM and OTS that are used in non-memory products, such as neuromorphic computing, (ii) to perform internal research and development but not any commercial sales or other commercial activity, and (iii) to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of MRAM and/or OTS in a 1T-1R architecture so long as (a) the "1T" is a single crystal silicon transistor, (b) the "1T-1R" is not in a 3D arrangement, and (c) the MRAM and/or OTS, individually or jointly or either with a different element, is not in a 2-terminal application.

(c) Notwithstanding 3.2(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed IP, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of non-volatile memory as required under any agreement between the WDC Group and a third party, provided the agreement was both signed and has an effective date between January 1, 2020 and the Effective Date. The license under this Section 3.2(c) does not extend to any amendment, extension,

renewal, or other change to such an agreement if the amendment, extension, renewal, or other change was signed after the Effective Date. Moreover, notwithstanding the first sentence in this Section 3.2(c), Spinco does not grant to the WDC Group any license to (A) make, have made, sell, offer for sale, import or export NAND flash memory integrated circuits, regardless of whether such NAND flash memory integrated circuits are standalone or incorporated into any other product, or (B) provide foundry services to a third party. For the sake of clarity, notwithstanding anything in the previous sentences of this section (c) (but not part (A) of the third sentence beginning with "Moreover"), work by the WDC Group by or for (i) the Department of Defense (DoD) Commons, and/or its members as part of their membership in the DoD Commons, and/or (ii) the Air Force Research Laboratories (AFRL) under the ANGSTRM agreement; is fully licensed under this Section 3.2(c), regardless of whether such work, agreement, and/or extension or amendment was signed or commenced before or after the Effective Date.

(d) Notwithstanding 3.2(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco MRAM and OTS Licensed IP, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of HDDs with MRAM and/or OTS as a component of the HDDs.

(e) Notwithstanding 3.2(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco Licensed IP, to make, have made, use, offer to sell, sell, lease, import, export, transfer and otherwise exploit or dispose of phase change memory and ReRam. For the avoidance of doubt, OTS is not considered phase change memory.

(f) Notwithstanding 3.2(a), Spinco grants to the WDC Group a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, irrevocable, non-transferable (except as set forth in Section 9.1 below) license, without the right to sublicense (except as expressly provided in Section 3.3 below), under the Spinco MRAM Licensed IP, if and only if Spinco either (a) discontinues MRAM development, or (b) is acquired by a third party. For the avoidance of doubt, no license is granted under the preceding sentence if Spinco divests its MRAM business.

(g) Restrictions. The WDC Group shall provide source code for proprietary Software that is included in the Spinco Licensed IP (to the extent provided by Spinco to the WDC Group in source code form) to third parties solely on terms no less protective than those governing the WDC Group's proprietary Software of similar nature, as provided in Section 3.3 below and subject to Section 9.2. WDC agrees not to cause or permit the reverse engineering, disassembly or decompilation of any Software included in the Spinco Licensed IP that is not retained by the WDC Group prior to the Effective Date or is delivered by Spinco to the WDC Group in source code form. The right to modify or to prepare derivative works of Spinco Licensed IP that is Software will apply solely to Software in source code form.

3.3 Sublicense Rights. The WDC Group may grant sublicenses under the licenses granted in Section 3.1 and Section 3.2 above (i) in connection with the making, having made, use, offering to sell, sale, leasing, importing, exporting, transferring, or other exploitation or disposition, design, development, manufacture, supply, marketing, promotion, distribution or post-sale service of WDC Licensed Products or (ii) to any Subsidiary, business or product or service line which is divested by the WDC Group; *provided* that such sublicense shall be limited to the products and services that are the subject of such divestiture, including, for the avoidance of doubt, products and services that are in development and not currently being commercialized at the time of such divestiture; *provided, further*, that such sublicense shall not extend to any products or services of any third party that acquires such divested Subsidiary, business or product or service line, even if such acquirer's products or services are of the same kind or are otherwise similar to those licensed hereunder and even if made, sold or provided by the divested business. Other than as expressly provided in this Section 3.3, the WDC Group shall not have the right to grant any sublicenses hereunder.

3.4 Reservation of Rights by Spinco. All rights not expressly granted by Spinco in this Article III are reserved by Spinco. Without limiting the generality of the foregoing sentence, the Parties acknowledge and agree that (a) nothing in this Agreement shall be construed or interpreted as a grant, by implication or otherwise, of any license to the Spinco Group's Intellectual Property Rights other than the licenses expressly set forth in Section 3.1 and Section 3.2 and (b) Spinco grants no licenses or rights (implied or otherwise) to the WDC Group under this Agreement with respect to any Spinco Improvements developed, discovered or conceived after the Effective Date, including licenses or rights (implied or otherwise) in Patents that may issue on any such Spinco Improvements reduced to practice after the Effective Date.

3.5 Limitation Regarding NAND Flash Memory Integrated Circuits. Notwithstanding anything to the contrary set forth herein, Spinco does not grant to the WDC Group hereunder any license to make, have made, sell, offer for sale, import or export NAND flash memory integrated circuits, regardless of whether such NAND flash memory integrated circuits are standalone or incorporated into any other product. Notwithstanding the previous sentence, the WDC Group may purchase NAND flash memory integrated circuits that are produced by a third party and include those purchased circuits as a component in HDDs which are then sold by the WDC Group.

IV. OWNERSHIP

4.1 Ownership by WDC. As between the Parties, subject to the licenses granted by the WDC Group to the Spinco Group under Section 2.1 and Section 2.2, WDC owns all right, title and interest in and to (a) the WDC Licensed Patents and all WDC Improvements thereto and (b) the WDC Licensed IP and all WDC Improvements thereto.

4.2 Ownership by Spinco. As between the Parties, subject to the licenses granted by the Spinco Group to the WDC Group under Section 3.1 and Section 3.2, Spinco owns all right, title and interest in and to (a) the Spinco Licensed Patents and all Spinco Improvements thereto and (b) the Spinco Licensed IP and all Spinco Improvements thereto.

V. TERM

The term of this Agreement shall commence as of the Effective Date and shall continue in perpetuity; *provided* that the licenses granted under each of Section 2.1 and Section 3.1 above will terminate upon the expiration of the last-to-expire of the WDC Licensed Patents or the Spinco Licensed Patents, respectively.

VI. REPRESENTATIONS AND WARRANTIES

6.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that (a) it has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby, (b) the execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action on the part of such Party, (c) this Agreement has been duly and validly executed and delivered by such Party and constitutes legal, valid and binding obligations of such Party enforceable against such Party, except as such enforceability may be limited by bankruptcy, insolvency, moratorium and other similar applicable Laws affecting creditors' rights generally and by general principles of equity and (d) it has the right to grant the licenses granted by such Party pursuant to this Agreement.

6.2 Disclaimer of Representations and Warranties. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.1 ABOVE AND EXCEPT AS SET FORTH IN THE SDA, (a) NEITHER WDC NOR SPINCO MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT (INCLUDING THE WDC LICENSED IP, THE WDC LICENSED PATENTS, THE SPINCO LICENSED IP OR THE SPINCO LICENSED PATENTS), (b) WDC SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE WDC LICENSED IP OR THE WDC LICENSED PATENTS AND (c) SPINCO SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SPINCO LICENSED IP OR THE SPINCO LICENSED PATENTS. WITHOUT LIMITING THE FOREGOING, EXCEPT AS SET FORTH IN THE SDA, EACH PARTY SPECIFICALLY DISCLAIMS ANY WARRANTY THAT ANY OF THE THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS USED IN THE FLASH BUSINESS OR THE WDC RETAINED BUSINESS ARE SUBLICENSABLE TO THE OTHER PARTY OR ITS AFFILIATES OR SUBSIDIARIES, AS APPLICABLE.

VII. LIMITATION OF LIABILITY

SUBJECT TO THE TERMS AND CONDITIONS OF THE SDA, NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, EXCEPT WITH RESPECT TO A BREACH OF SECTION 9.1 OR ARTICLE VIII, IN NO EVENT SHALL A PARTY OR ITS AFFILIATES BE LIABLE WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY (a) CONSEQUENTIAL, INDIRECT, INCIDENTAL OR SPECIAL DAMAGES OR (b) LOST PROFITS OR LOST BUSINESS, IN THE CASE OF EACH OF (a) AND (b), EVEN IF THE REMEDIES PROVIDED FOR IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES.

VIII. CONFIDENTIALITY

8.1 Confidential Information. "**Confidential Information**" means any confidential and proprietary information of a Party, including know-how, trade secrets, algorithms, source code, specifications, methods of processing, techniques, research, development, inventions (whether or not patentable and whether or not reduced to practice), data, ideas, concepts, drawings, designs and schematics.

8.2 Confidentiality Obligations. Each Party (the "**Receiving Party**") that receives or otherwise obtains under this Agreement any Confidential Information of the other Party (the "**Disclosing Party**") shall, and shall cause its Affiliates to, (a) keep the Disclosing Party's Confidential Information confidential and not disclose or make available any of the Disclosing Party's Confidential Information to any third party without the prior written consent of the Disclosing Party (except in accordance with subclause (d) or subclause (e) in this Section 8.2 or in accordance with Section 8.4), (b) use the Disclosing Party's Confidential Information only as necessary to perform its obligations and exercise its rights under this Agreement, (c) use at least the same degree of care in keeping the Disclosing Party's Confidential Information confidential as it uses for its own Confidential Information of a similar nature (but in no event less than a reasonable degree of care), (d) limit access to the Disclosing Party's Confidential Information to its Affiliates and its authorized sublicensees who have a need to access or know such Confidential Information for the purpose of exercising such Affiliate's rights under this Agreement; *provided* that such Affiliate or sublicensee (other than any customer or end user of either Party) is bound in writing to confidentiality obligations at least as protective of the Disclosing Party's Confidential Information as the confidentiality provisions of this Agreement, and (e) limit access to the Disclosing Party's Confidential Information to its directors, employees, agents, consultants, advisors, Affiliates, sublicensees and contractors ("**Representatives**") who have a need to access or know such Confidential Information for the purpose of the Receiving Party's exercise of its rights under this Agreement; *provided* that such Representatives are bound in writing to confidentiality obligations at least as protective of the Disclosing Party's Confidential Information as the confidentiality provisions of this Agreement. Except as otherwise expressly provided in this Agreement, including in Article II and Article III, nothing in this Agreement is intended to grant to the Receiving Party any rights in or to any Confidential Information of the Disclosing Party.

8.3 Exceptions. The Receiving Party shall not be obligated under Section 8.2 above with respect to any information the Receiving Party can document (a) is or, through no improper action or inaction by the Receiving Party or any of its Representatives, becomes generally available and known to the public, (b) was rightfully in its possession or known by it without any obligation of confidentiality prior to receipt from the Disclosing Party, (c) was rightfully disclosed to it without restriction by a third party that, to the Receiving Party's knowledge, was authorized to make such disclosure, (d) was independently developed by the Receiving Party without the use of or reference to any Confidential Information of the Disclosing Party or (e) is disclosed by the Disclosing Party to a third party without restriction on such third party's rights to disclose or use the same.

8.4 Disclosure Required by Law. In the event the Receiving Party is requested or required by Law or judicial process to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall, if legally permitted, provide reasonable advance written notice to the Disclosing Party of such request or requirement so that the Disclosing Party may seek confidential treatment of such Confidential Information prior to its disclosure (whether through protective orders or otherwise). If, in the absence of a protective order, other confidential treatment or waiver under this Agreement, the Receiving Party is advised by its legal counsel that it is legally required to disclose such Confidential Information, the Receiving Party may disclose such Confidential Information without liability under this Article VIII; *provided, however*, that the Receiving Party exercises commercially reasonable efforts to obtain reliable assurances that confidential treatment will be accorded any such Confidential Information prior to its disclosure and discloses only the minimum amount of such Confidential Information necessary to comply with such legal requirement.

8.5 Disclosure in Connection with Due Diligence. A Party may provide this Agreement to any third party (subject to appropriate confidentiality obligations) if required to do so in connection with any diligence for any actual or potential bona fide business transaction with such third party related to the subject matter of this Agreement (including an acquisition, divestiture, merger, consolidation, asset sale, financing or public offering).

IX. MISCELLANEOUS

9.1 Assignment.

(a) Subject to the restrictions set forth below, (i) either Party may assign or delegate this Agreement, in whole or in part, without the prior written consent of the other Party in connection with a merger, acquisition, consolidation, reorganization or sale of all or substantially all of the assets of a Party (whether by operation of law or otherwise), with written notice of such assignment to the other Party within thirty (30) days after the effective date of such assignment, (ii) in the event either Party sells or otherwise transfers (whether by sale of assets, merger or otherwise) one or more lines of products or services licensed under this Agreement (each a "**Divested Product Line**") to a third party ("**Product Line Acquirer**"), such Party may assign the rights and license granted to such Party in Article II or Article III (as applicable) hereunder to such Product Line Acquirer; *provided, however*, the rights and licenses granted to the Product Line Acquirer shall not extend to any products or services of another entity including from the Product Line Acquirer, and (iii) in the event a Party divests itself of a Subsidiary (the "**Divested Subsidiary**") to a third party ("**Divested Subsidiary Acquirer**"), upon written notice to the other Party, such Party may assign the rights and license granted to such Party in Article II or Article III (as applicable) hereunder to such Divested Subsidiary; *provided, however*, the rights and licenses granted to the Divested Subsidiary shall not extend to any products or services transferred into the Divested Subsidiary from another entity including from the Divested Subsidiary Acquirer. Except as set forth herein above, neither Party may assign this Agreement (or any of its rights or obligations under this Agreement) without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Except as set forth herein above, any attempted assignment or delegation of this Agreement or any of such rights or obligations by any Party without the prior written consent of the other Party shall be void and of no effect. Any purported assignment or transfer in violation of this Section 9.1 shall be null and void ab initio.

(b) Each Party agrees that all of the licenses granted by it hereunder shall run with the applicable Intellectual Property Rights licensed by such Party hereunder ("**Intellectual Property Rights Obligations**") that are assigned or otherwise transferred to a third party. Each Party shall ensure that any assignee, transferee or successor to any of such Intellectual Property Rights (including the acquiring or surviving entity in connection with any acquisition or other change of control of either Party), or any other entity (such as an exclusive licensee) that obtains any proprietary or enforcement rights with respect to any such Intellectual Property Rights, is notified in advance of such assignment, transfer or grant, to acquire such Intellectual Property Rights subject to any and all applicable Intellectual Property Rights Obligations (including the obligation to provide such notice to any subsequent assignee, transferee, successor or grantee).

9.2 Third-Party Materials. The WDC Licensed IP and the Spinco Licensed IP may include Third-Party Materials, which Third-Party Materials are subject to third-party license agreements or open source license agreements. Each Party shall be solely responsible for its compliance (and the compliance of its Affiliates) with the applicable terms of such third-party or open source license agreements. To the extent of any conflict between this Agreement and the applicable third-party license agreement terms, the applicable third-party license agreement terms shall take precedence.

9.3 Export Control. The Technology included in the WDC Licensed IP and the Spinco Licensed IP may be subject to U.S. or foreign export control laws and regulations or licenses issued by the U.S. or foreign governments, and it may be subject to export or import regulations in other countries. Each Party agrees to comply with applicable U.S. and other relevant export control laws and regulations, as well as economic or financial sanctions or trade embargoes, imposed, administered or enforced from time-to-time by the U.S. and other relevant jurisdictions, with respect to the WDC Licensed IP (in the case of Spinco) and the Spinco Licensed IP (in the case of WDC).

9.4 Government Restricted Rights.

(a) The Technology covered by the WDC Licensed IP and the Spinco Licensed IP may be deemed "Commercial Product(s)" or "Commercial Services(s)" as defined in 48 C.F.R. § 2.101, and may consist of "**Commercial Computer Software**" and "**Commercial Computer Software Documentation**," as such terms are used in 48 C.F.R. § 12.212 or 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. § 12.212 or 48 C.F.R. § 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation will be licensed by any member of the Spinco Group (with respect to licensing of WDC Licensed IP) or any member of the WDC Group (with respect to licensing of Spinco Licensed IP) to U.S. Government end users (i) only as Commercial Products or Commercial Services and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein except that the government customers' end user rights may be modified where the end user rights would otherwise conflict with federal Law, including the types of end user rights set forth in 48 C.F.R. § 552.212-4(u) and (w).

(b) Any Software covered by the WDC Licensed IP or the Spinco Licensed IP that is not Commercial Computer Software ("**Noncommercial Computer Software**") shall only be provided by any member of the Spinco Group (in the case of the provision of Software covered by WDC Licensed IP) or any member of the WDC Group (in the case of the provision of Software covered by Spinco Licensed IP) to the U.S. Government with no more than "restricted rights" as that term is defined in 48 C.F.R. Parts 27 and 227 and subparts 52.227 and 252.227. If any member of the Spinco Group provides Noncommercial Computer Software covered by WDC License IP or any member of the WDC Group provides Noncommercial Computer Software covered by Spinco Licensed IP, in each case, to the U.S. Government, it shall take all available measures to protect the Noncommercial Computer Software including, at a minimum, affixing a "Restricted Rights Notice," as set forth in 48 C.F.R. § 52.227-14, Alt. III paragraph (g)(4) or 48 C.F.R. § 252.227-7014(f)(3) or other applicable Federal Acquisition Regulation (or agency supplement) "Restricted Rights Notice" to the Noncommercial Computer Software.

(c) Technology covered by WDC Licensed IP or Spinco Licensed IP may also be deemed "Technical Data" as that term is defined in 48 C.F.R. § 2.101. Each member of the Spinco Group shall only provide Technical Data covered by WDC Licensed IP and each member of the WDC Group shall only provide Technical Data covered by Spinco Licensed IP (including, in each case, Computer Software Documentation that is not a Commercial Product or Commercial Service) to the U.S. Government with no more than "limited rights" as that term is defined in 48 C.F.R. Parts 27 and 227 and subparts 52.227 and/or 252.227. If any member of the Spinco Group provides Technical Data covered by WDC Licensed IP or if any member of the WDC Group provides Technical Data covered by Spinco Licensed IP to the U.S. Government, it shall take all available measures to protect the Technical Data including, at a minimum, affixing a "Limited Rights Notice," as set forth in 48 C.F.R. § 52.227-14, Alt. II paragraph (g)(3) or 48 C.F.R. § 252.227-7013(f)(3) or other applicable Federal Acquisition Regulation (or agency supplement) "Limited Rights Notice" to the Technical Data.

9.5 Binding Effect. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person (other than the Parties and their permitted successors and assigns) any power, right, privilege or remedy of any nature whatsoever under or by reason of this Agreement.

9.6 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered: (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed; or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission when receipt is confirmed:

If to WDC:

c/o Western Digital Corporation
5601 Great Oaks Parkway
San Jose, CA 95119
Attn: Cynthia Tregillis
Email: cynthia.tregillis@wdc.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

If to Spinco:

c/o Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 9503
Attn: Bernard Shek
Email: bernard.shek@sandisk.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue, Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

9.7 Entire Agreement. This Agreement, including any schedules and amendments hereto and thereto, and the other agreements and documents referred to herein and therein, shall together constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and shall supersede all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter hereof and thereof.

9.8 Amendment and Waiver.

(a) This Agreement may be amended or supplemented in any and all respects and any provision of this Agreement may be waived; *provided, however,* that any such waiver shall be binding upon a Party, only if such waiver is set forth in a writing executed by such waiving Party bound thereby, and any such amendment or supplement shall be effective only if set forth in a writing executed by each of the Parties; and any such waiver, amendment or supplement shall not be applicable or have any effect except in the specific instance in which it is given. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend, supplement or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

(b) Notwithstanding the foregoing, no failure on the part of any Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that any Party would otherwise have. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement or any such waiver of any provision of this Agreement must satisfy the conditions set forth in Section 9.8(a) and shall be effective only to the extent in such writing specifically set forth.

9.9 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any situation in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement in any other jurisdiction or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

9.10 Governing Law; Specific Performance; Forum.

(a) This Agreement and the consummation of the transactions contemplated hereby, and any Action (whether at law, in contract, in tort or otherwise) arising out of or relating to this Agreement and the consummation of the transactions contemplated hereby, or the negotiation, validity, interpretation, performance, breach or termination of this Agreement and the consummation of the transactions contemplated hereby, shall be governed by and construed in accordance with the internal law of the State of Delaware, regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof.

(b) Except as otherwise provided herein, any and all remedies herein expressly conferred upon a Party shall be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy shall not preclude the exercise of any other remedy. Nothing in this Agreement shall be deemed a waiver by any Party of any right to specific performance or

injunctive relief. The Parties understand and agree that the covenants and agreements on each of their parts herein contained are uniquely related to the desire of the Parties and their respective Affiliates to consummate the transactions contemplated hereby, that the transactions contemplated hereby are a unique business opportunity at a unique time for each of WDC and Spinco and their respective Affiliates, and further agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms, and further agree that, although monetary damages may be available for the breach of such covenants and agreements, monetary damages would be an inadequate remedy therefor. It is accordingly agreed that, in addition to any other remedy that may be available to it, including monetary damages, each of the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties further agrees that no Party shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 9.10 and each Party waives any objection to the imposition of such relief or any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

(c) Each of the Parties irrevocably agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder, brought by the other Party or its respective successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement: (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 9.10; (ii) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (iii) to the fullest extent permitted by applicable Law, any claim that: (x) the suit, action or proceeding in such court is brought in an inconvenient forum; (y) the venue of such suit, action or proceeding is improper; or (z) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including, without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals. The Parties agree that service of any court paper may be made in any manner as may be provided under the applicable Laws or court rules governing service of process in such court. The Parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law.

9.11 Waiver of Jury Trial. EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9.12 Construction; Interpretation.

(a) For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include masculine and feminine genders.

(b) The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.”

(d) As used in this Agreement, the words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(e) The measure of a period of one (1) month or year for purposes of this Agreement will be the date of the following month or year corresponding to the starting date; and, if no corresponding date exists, then the end date of such period being measured will be the next actual date of the following month or year (for example, one month following February 18 is March 18 and one month following March 31 is May 1).

(f) As used in this Agreement, the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if.”

(g) As used in this Agreement, the word “will” shall be deemed to have the same meaning and effect as the word “shall.”

(h) As used in this Agreement, the terms “or,” “any” or “either” are not exclusive and shall be deemed to be “and/or.”

(i) As used in this Agreement, references to “written” or “in writing” include in electronic form.

(j) As used in this Agreement, references to the "date hereof" are to the date of this Agreement.

(k) Except as otherwise indicated, all references in this Agreement to "Sections," "Articles" and "Schedules" are intended to refer to Sections or Articles of this Agreement and Schedules to this Agreement.

(l) As used in this Agreement, the terms "or," "any" or "either" are not exclusive.

(m) Except as otherwise indicated, all references in this Agreement to "Sections" and "Schedules" are intended to refer to Sections of this Agreement and Schedules to this Agreement.

(n) The section and other headings and subheadings contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction, meaning or interpretation of this Agreement. The preamble and the recitals set forth at the beginning of this Agreement are incorporated by reference into and made a part of this Agreement.

(o) Any payment to be made pursuant hereto shall be made in U.S. dollars and by wire transfer of immediately available funds.

(p) All references to statutes shall include all regulations promulgated thereunder, and all references to statutes and related regulations shall include all amendments of the same and any successor or replacement statutes and regulations.

9.13 Counterpart Execution. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Party, it being understood that all Parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or electronic transmission shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. At the request of any Party, the other Party shall re-execute original forms thereof and deliver them to the requesting Party. No Party shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation of a contract and each such Party forever waives any such defense.

9.14 No Third-Party Rights. Except as specifically provided in the SDA or any Ancillary Agreement, this Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and is not intended, and shall not be deemed, to (a) create any agreement of employment with any person, (b) confer on third parties (including any employees of the Parties and their respective Groups) any remedy, claim, reimbursement, claim of action or other right in addition to those existing without reference to this Agreement, or (c) otherwise create any third-party beneficiary hereto.

9.15 Ancillary Agreement. The Parties hereby acknowledge and agree that nothing in this Agreement (including any breach hereof) shall affect any obligation of any Party under the SDA or the other Ancillary Agreements.

9.16 Early Termination. This Agreement shall terminate without further action at any time before the Distribution upon termination of the SDA. If so terminated, no Party shall have any Liability of any kind to the other Party or any other Person on account of this Agreement, except as provided in the SDA, it being understood that this Section 9.16 shall not be deemed to limit or modify the provisions of Section 9.8 of the SDA (Termination).

9.17 Survival. The covenants in this Agreement that by their terms are to be performed following the Separation Time will survive each of the Internal Restructuring and the Distribution and will remain in full force and effect in accordance with their terms.

9.18 Indemnification. If due to this Agreement, a counterparty of an existing patent cross-license agreement reduces the licensing fees and/or royalties paid to Spinco under a MFN provision (notwithstanding Spinco's best efforts to prove that such MFN provision is inapplicable to this Agreement), the WDC Group agrees to indemnify Spinco and pay Spinco an amount(s) equal to the reduction only until the termination date of such existing patent cross-license agreement and not to any extensions thereof, provided that the amount(s) paid shall not exceed $8M per year.

[*SIGNATURE PAGE FOLLOWS***]**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized officers as of the Effective Date.

WESTERN DIGITAL CORPORATION

By: /s/ Wissam Jabre
Name: Wissam Jabre
Title: Executive Vice President and Chief Financial Officer

SANDISK CORPORATION

By: /s/ David V. Goeckeler
Name: David V. Goeckeler
Title: Chief Executive Officer

Exhibit 10.5

TRANSITIONAL TRADEMARK LICENSE AGREEMENT

This Transitional Trademark License Agreement (this "**Agreement**"), dated as of February 21, 2025 (the "**Effective Date**"), is made and entered into by and between Western Digital Corporation, a Delaware corporation ("**WDC**"), and Sandisk Corporation, a Delaware corporation and wholly owned Subsidiary of WDC ("**Spinco**") (each a "**Party**" and together, the "**Parties**"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in Article I.

RECITALS

WHEREAS, WDC and Spinco have entered into the Separation and Distribution Agreement, dated as of February 21, 2025 (as amended, modified or supplemented from time-to-time in accordance with its terms, the "**SDA**"), pursuant to which (i) WDC has agreed to transfer to Spinco, and Spinco has agreed to receive and assume, certain assets and liabilities of the Flash Business and (ii) following such transfer and the other transactions specified in the SDA, WDC has agreed to effect the Distribution, all as more specifically described in, and subject to the terms of, the SDA;

WHEREAS, the Parties have executed various Ancillary Agreements, including a long-term cross-license of non-Trademark Intellectual Property Rights (the "**IPCLA**"), of even date herewith, pursuant to the SDA in connection with the consummation of the transactions contemplated by the SDA, and to facilitate the ongoing operations of the Flash Business and the WDC Retained Business;

WHEREAS, following the Separation, each Party will own certain Trademarks which may be used in the other Party's business; and

WHEREAS, each Party desires to obtain a non-exclusive license from the other Party to use such Trademarks on a transitional basis on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and agreements set forth in this Agreement, the SDA, the Parties agree as follows:

AGREEMENT

I. DEFINITIONS

Capitalized terms used, but not defined in this Agreement, shall have the meaning ascribed to such terms in the SDA. If a capitalized term is defined in both this Agreement and the SDA, the definition in this Agreement will control.

1.1 "**Agreement**" has the meaning ascribed to it in the Preamble.

1.2 "**Confidential Information**" has the meaning ascribed to it in Section 8.1.

1.3 "**Disclosing Party**" has the meaning ascribed to it in Section 8.2.

1.4 "**Effective Date**" has the meaning ascribed to it in the Preamble.

1.5 "**Flash Business**" shall have the meaning set forth in the SDA.

1.6 "**Indemnified Party**" has the meaning ascribed to it in Section 7.1.

1.7 "**Indemnifying Party**" has the meaning ascribed to it in Section 7.1.

1.8 "**Intellectual Property Rights**" shall have the meaning set forth in the IPCLA.

1.9 "**Intellectual Property Rights Obligations**" has the meaning ascribed to it in Section 9.1(b).

1.10 "**Internal Product Term**" means, with respect to any Specified Product, eight (8) years, and, with respect to any other Internal Trademark Product, five (5) years.

1.11 "**Internal Trademark Products**" means any products that, as of the Effective Date, are being actively commercialized, or are planned for commercialization on a written product roadmap, in the Flash Business, to the extent such products require Internal Use of the WDC Group Licensed Trademarks.

1.12 "**Internal Uses**" means, with respect to a Trademark, any uses of such Trademark: (i) as used as part of a model number or ID string within the firmware of a product; or (ii) by etching or other means, in an internal manner detectable by radiography but not the naked eye.

1.13 "**IPCLA**" has the meaning ascribed to it in the Recitals.

1.14 "**Licensed Product**" means (i) with respect to WDC or its Affiliates, a Spinco Group Licensed Product and (ii) with respect to Spinco or its Affiliates, a WDC Group Licensed Product.

1.15 "**Material Issue**" means any issue which would reasonably be expected to materially and adversely impact a Party's rights, operations or business in connection with this Agreement, including: any issue which would reasonably be expected to materially and adversely impact (i) the ownership by such Party of a Trademark, (ii) the validity or enforceability of a Trademark owned or purported to be owned by such Party or (iii) the ability of such Party to control the assignment or sublicense of a Trademark owned or purported to be owned by such Party.

1.16 "**Net Sales**" means the net amount of sales of Licensed Products, which is defined as gross amount of sales of Licensed Products at the invoiced selling price (*e.g.*, number of units of the Licensed Products multiplied by the invoiced sales price), irrespective of revenues actually receives, less: (i) actual returns of damaged or defective Licensed Products made to Licensee; (ii) documented and normal and reasonable cash and quantity/volume discounts and rebates (including point-of-sale rebates), credits (including price protection credits), allowances, MDF and refunds for claims, damaged goods, rejections or returns of Licensed Products actually given or provided; and (iii) any applicable and documented excise, sale, use or value added taxes, other than income taxes, paid by Licensee or its Affiliates due to the sale of the Licensed Products; *provided* that where Licensed Products are sold to an Affiliate at a price less than Licensee's regular price charged to third-party customers (unaffiliated with Licensee) in arms-length transactions, then Licensee shall use the comparable regular price that Licensee would have offered to third-party customers (unaffiliated with Licensee) as the price basis for the Earned Royalties calculation. For the avoidance of doubt, only a single Earned Royalty will be payable with respect to each Licensed Product, and it shall accrue on the date when such Licensed Product is first sold.

1.17 "**Party**" or "**Parties**" have the meaning ascribed to them in the Preamble.

1.18 "**Proceeding**" has the meaning ascribed to it in Section 2.8.

1.19 "**Quarterly Period**" means, with respect to any calendar year, each of the following three-month periods: (i) the three-month period commencing on the day after the Friday nearest to June 30; (ii) the three-month period immediately following the three-month period specified in (i); (iii) the three-month period immediately following the three-month period specified in (ii); and (iv) the three-month period immediately following the three-month period specified in (iii).

1.20 "**Receiving Party**" has the meaning ascribed to it in Section 8.2.

1.21 "**Representatives**" has the meaning ascribed to it in Section 8.2.

1.22 "**SDA**" has the meaning ascribed to it in the Recitals.

1.23 "**Specified Product**" means any of the following Internal Trademark Products (as identified by the applicable product name and marketing name (as of the Effective Date), which products shall remain "Specified Products" notwithstanding that such product name or marketing name may, in the future, change): (i) "Demeter" – ATEN610; and (ii) "SwiftProAuto" – EU552.

1.24 "**Spinco**" has the meaning ascribed to it in the Preamble.

1.25 "**Spinco Group Licensed Products**" means products or services manufactured, advertised, marketed, publicly displayed, distributed, offered for sale or sold using, displaying, bearing or under any Spinco Group Licensed Trademarks within the scope of the license grant to WDC and its Affiliates set forth in Section 3.1.

1.26 "**Spinco Group Licensed Trademarks**" means those certain Trademarks set forth on Schedule 3, as may be updated with additional or revised Trademarks from time-to-time upon the request or proposal of either Party and subsequent written approval of Spinco, *provided, however,* that Spinco will not unilaterally remove Trademarks from such Schedule that are in active use by WDC.

1.27 "**Spinco Guidelines**" has the meaning ascribed to it in Section 3.4.

1.28 "**Spinco Trademark Claim**" has the meaning ascribed to it in Section 3.8.

1.29 "**Spinco General Trademark License Term**" has the meaning ascribed to it in Section 2.1(a).

1.30 "**Spinco Internal-Use Trademark Term**" has the meaning ascribed to it in Section 2.1(d).

1.31 "**Spinco Royalty-Free Period**" has the meaning ascribed to it in Section 2.1(b).

1.32 "**Spinco Sell-Off Period**" has the meaning ascribed to it in Section 2.1(c).

1.33 "**Trademarks**" means all registered, applied-for and unregistered trademark rights and similar rights in trade names, logos, trade dress, trademarks and service marks, existing under the Laws of any jurisdiction anywhere in the world.

1.34 "**WDC**" has the meaning ascribed to it in the Preamble.

1.35 "**WDC Group Licensed Products**" means products or services manufactured, advertised, marketed, publicly displayed, distributed, offered for sale or sold using, displaying, bearing or under any WDC Group Licensed Trademarks within the scope of the license grant to Spinco and its Affiliates set forth in Section 2.1.

1.36 "**WDC Group Licensed Trademarks**" means those certain Trademarks set forth on Schedule 2, as may be updated with additional or revised Trademarks from time-to-time upon the request or proposal of either Party and subsequent written approval of WDC, provided, however, that WDC will not unilaterally remove Trademarks from such Schedule that are in active use by Spinco.

1.37 "**WDC Guidelines**" has the meaning ascribed to it in Section 2.4.

1.38 "**WDC Retained Business**" means the businesses, product and service lines of the WDC Group, excluding the Flash Business.

1.39 "**WDC Trademark Claim**" has the meaning ascribed to it in Section 2.8.

1.40 "**WDC General Trademark License Term**" has the meaning ascribed to it in Section 3.1(a).

1.41 "**WDC Royalty-Free Period**" has the meaning ascribed to it in Section 3.1(b).

1.42 "**WDC Sell-Off Period**" has the meaning ascribed to it in Section 3.1(c).

II. TRADEMARK LICENSE TO SPINCO

2.1 Limited Transitional Trademark License Grant.

(a) Subject to the terms and conditions of this Agreement, WDC and its Affiliates, as applicable, hereby grant to Spinco and its Affiliates a worldwide, non-exclusive, non-transferable, license to use the WDC Group Licensed Trademarks for a period of three (3) years (unless otherwise specified in Section 9.15 (Survival) in the event that this Agreement terminates) (such period, including any authorized extension thereof, the "**Spinco General Trademark License Term**") solely in the manner in which they have been used during the twelve (12)-month period prior to the Effective Date in connection with the Flash Business, in furtherance of Spinco's efforts to rebrand, establish and develop its independent activities in the Flash Business and transition its operations following WDC's divestment of Spinco under the SDA; *provided* that Spinco and its Affiliates shall not, without express prior written permission from the WDC Group in accordance with Section 2.5, use any WDC Group Licensed Trademarks on any publicly facing or widely distributed branding, press materials, marketing collateral or the like.

(b) The licenses granted pursuant to this Section 2.1 shall be royalty-free for the first twelve (12) months following the Effective Date (such period, including any authorized extension thereof, the "**Spinco Royalty-Free Period**"). If, despite Spinco's and its Affiliates' best efforts to complete a rebranding and cease use of the WDC Group Licensed Trademarks, the Spinco Group has not completed such rebranding before the expiration of the Spinco Royalty-Free Period, Spinco may, no later than thirty (30) days prior to the one (1)-year anniversary of the Effective Date, provide written notice to WDC of its desire to extend the Spinco Royalty-Free Period for specific, identified products for which Spinco and its Affiliates were not able to complete rebranding and cease use of the WDC Group Licensed Trademarks. Upon timely receipt of such notice, the Spinco Royalty-eFree Period shall, be extended for a single period of six (6) months with respect to such specific, identified products (provided, for the avoidance of doubt, that any such extension of the Spinco Royalty-Free Period shall not operate as an extension of the Spinco General Trademark License Term). Notwithstanding the foregoing, in the event that Spinco and its Affiliates were unable to complete a rebranding and cease use of the WDC Group Licensed Trademarks before the expiration of the then-current Spinco Royalty-Free Period due to reasons beyond Spinco's and its Affiliates' reasonable control and upon written approval by WDC (not to be unreasonably withheld or delayed), the Spinco Royalty-Free Period shall be extended for a single period of three (3) months with respect to specific, identified products if and only if Spinco provides written notice to WDC of its desire to extend the Spinco Royalty-Free Period for such specific, identified products no later than thirty (30) days prior to the end of the then-current Spinco Royalty-Free Period. After the Spinco Royalty-Free Period, the licenses granted pursuant to this Section 2.1 shall be royalty-bearing in accordance with Section 4.1.

(c) Spinco and its Affiliates shall have the right, following the expiration of the Spinco General Trademark License Term, to continue selling and distributing its existing inventory of Licensed Products bearing the WDC Group Licensed Trademarks as of the date of such expiration for a period of four (4) months following such expiration (unless otherwise specified in Section 9.15 (Survival) in the event that this Agreement terminates) (such period, the "**Spinco Sell-Off Period**"), under and subject to the same terms and conditions applicable to the license granted in Section 2.1(a) during the Spinco General Trademark License Term (except as otherwise set forth in this sentence).

(d) Spinco and its Affiliates shall have the right, following the expiration of the Spinco General Trademark License Term, to continue making the existing Internal Uses (but no public-facing or other use in connection with marketing, promotion or sales of Internal Trademark Products) of the WDC Group Licensed Trademarks in connection with Internal Trademark Products until, on a product-by-product basis, the earlier of (i) the end-of-life (EOL) of each such Internal Trademark Product and (ii) the Internal Product Term (unless otherwise specified in Section 9.15 (Survival) in the event that this Agreement terminates) (such period, the "**Spinco Internal-Use Trademark Term**"), under and subject to the same terms and conditions applicable to the license granted in Section 2.1(a) during the Spinco General Trademark License Term (except as otherwise set forth in this sentence); *provided* that Spinco shall (and shall cause its Affiliates to) complete a rebranding and cease all such Internal Uses as soon as reasonably practicable. For the avoidance of doubt, Internal Uses shall be subject to the consideration set forth in Section 2.1(f) but shall not be subject to royalties under Section 4.1.

(e) The licenses granted in this Section 2.1 shall be sublicensable only to Spinco's third-party contractors, customers, partners and vendors, solely in connection with the aforementioned permitted purpose; *provided* that Spinco shall first obtain WDC's prior written approval of any such third-party contractor prior to any grant of sublicense thereto; *provided, further,* that, for the avoidance of doubt, the foregoing consent requirement shall not apply with respect to grants of sublicenses under written, executed contracts existing as of the Effective Date. Spinco shall in any event be responsible hereunder for its sublicensees' compliance with the terms and restrictions herein contained.

(f) In consideration for the right to make Internal Uses with respect to the WDC Group Licensed Trademarks in connection with Internal Trademark Products as expressly set forth in this Article II, Spinco shall pay WDC a one-time payment of three million dollars ($3,000,000), to be invoiced within thirty (30) days of the Effective Date and paid within ninety (90) days of the Effective Date, notwithstanding any provision hereof that would mandate a different timing for invoice or payment.

2.2 Ownership. Spinco acknowledges that, as between the Parties, (i) the WDC Group is the sole owner of all right, title and interest in and to the WDC Group Licensed Trademarks and all related goodwill and (ii) all goodwill accruing from Spinco and its Affiliates' use of the WDC Group Licensed Trademarks will inure solely to the benefit of the WDC Group. Spinco covenants that it will not do or cause to be done, and that it shall cause its Affiliates to not do or cause to be done, any act or omission to impair, dilute or tarnish the WDC Group Licensed Trademarks or the right, title, interest or goodwill of the WDC Group in the WDC Group Licensed Trademarks. In connection with the use of the WDC Group Licensed Trademarks, Spinco shall not, and it shall cause its Affiliates to not, represent, in any manner, that a member of the Spinco Group has any ownership interest in the WDC Group Licensed Trademarks.

2.3 Quality of Products. Spinco acknowledges that the WDC Group Licensed Trademarks indicate to the public that the goods and services covered under the WDC Group Licensed Trademarks are of a commercially consistent high quality and standard. Accordingly, Spinco agrees that it and its Affiliates' and sublicensee's use of the WDC Group Licensed Trademarks pursuant to this Agreement shall be in a manner that does not have any detrimental impact on the WDC Group's reputation or the goodwill associated with WDC Group's business

or the WDC Group Licensed Trademarks. Spinco and its Affiliates acknowledge and agree that the level of quality of the goods and services produced bearing the WDC Group Licensed Trademarks shall at all times comply with WDC's requirements with respect thereto. Spinco shall, and shall cause its Affiliates and sublicensee to, in its and their use of the WDC Group Licensed Trademarks, adhere to a general level of quality that is consistent with or better than that used with respect to all goods, services and business operations using or associated with the WDC Group Licensed Trademarks in the twelve (12) months prior to the Effective Date.

2.4 Quality Guidelines. Without limiting Section 2.3, Spinco shall, and shall cause its Affiliates and sublicensees to, adhere to the trademark brand or style guidelines related to the WDC Group Licensed Trademarks (collectively, the "**WDC Guidelines**"); *provided* that WDC gives Spinco reasonable advance written notice of any changes to the WDC Guidelines previously provided, and further provided that Spinco shall not be in breach of this paragraph for failure to conform with such changes to prior WDC Guidelines so long as it is actively exercising good faith, commercially reasonable efforts to bring the affected goods and services into compliance.

2.5 Prior Approval. Spinco shall, and shall cause its Affiliates and sublicensees to, only use the WDC Group Licensed Trademarks upon receiving prior written approval by WDC, and only in the manner, form, and medium and for the purpose so approved; *provided* that prior written approval shall not be required to use (i) a previously approved one of the WDC Group Licensed Trademarks (ii) that has been used previously on approved material (iii) in a form, manner and medium that are the same, in all material respects, as in the previous use subject to WDC's prior written approval. For the avoidance of doubt, any existing uses in commerce of the WDC Group Licensed Trademarks as of the Effective Date are deemed to have been approved for purposes of this Section 2.5.

2.6 Compliance with Law. Spinco shall, and shall cause its Affiliates and sublicensees to, comply with all applicable Laws in connection with its and their operations and its and their use of the WDC Group Licensed Trademarks, including using all WDC Group Licensed Trademark legends, notices and markings as required by applicable Law. Without limiting the generality of the foregoing, Spinco shall not, and shall cause its Affiliates and sublicensees to not, use the WDC Group Licensed Trademarks: (i) in connection with any fraudulent, defamatory, deceptive, or otherwise tortious purpose; or (ii) in any manner which constitutes false endorsement, false advertisement, false designation of origin, unfair competition or any other violation of Law governing consumer protection.

2.7 Quarterly Review. Once per calendar quarter during the license term set forth in Section 2.1, WDC shall conduct a quarterly review of goods and services using the WDC Group Licensed Trademarks. The schedule, specifications and procedures for such quarterly review shall be as set forth in Schedule 2.7 attached hereto and incorporated by reference. In connection with such reviews, Spinco and its Affiliates and sublicensees shall provide samples of the applicable goods and services for review and written approval by WDC, and WDC shall have the right to test, inspect and subsequently approve or reject such samples based on their conformity or nonconformity with the applicable WDC Guidelines. Such samples shall be identical in quality, performance, character and form to the goods and services intended for general sale and distribution. In the event that WDC rejects such samples during the applicable quarterly review, Spinco and its Affiliates and sublicensees shall revise, improve or otherwise submit new samples that conform to the applicable WDC Guidelines, and WDC shall have the

right to approve or reject such new samples according to the same procedures as for the initial samples. Spinco and its Affiliates and sublicensees shall not finalize, reproduce, distribute, display or otherwise use any goods and services bearing the WDC Group Licensed Trademarks that have been rejected in writing by WDC during a quarterly review due to material nonconformity with the applicable WDC Guidelines; *provided* that Spinco shall not be in breach of this paragraph for failure to conform to the WDC Guidelines so long as it is actively exercising good faith, commercially reasonable efforts to promptly bring the affected goods and services into compliance.

2.8 Cooperation. For as long as any such Trademarks are licensed hereunder, the Parties shall fully cooperate with each other in their efforts to maintain and enforce WDC's rights in the WDC Group Licensed Trademarks; *provided* that all reasonable, documented costs and expenses incurred by Spinco and its Affiliates and sublicensees in fulfilling its and their obligations hereunder shall be borne by Spinco, unless otherwise agreed in writing by the Parties. With respect to any action, suit, opposition or other proceeding (collectively, "**Proceeding**") alleging the infringement, dilution, tarnishment, unfair competition or passing off by a third party of, or with respect to the WDC Group Licensed Trademarks, or contesting the validity of the WDC Group Licensed Trademarks or the WDC Group's ownership thereof (each a "**WDC Trademark Claim**"), WDC shall have primary responsibility therefor and shall assume, conduct and direct the prosecution and/or defense of such Proceeding, as applicable, utilizing counsel and other resources of its own choosing; *provided* that Spinco shall, and shall cause its Affiliates and sublicensees to, upon request by WDC, provide reasonable assistance, including the provision of evidence, witnesses, information, communications, documentation and declarations in furtherance of WDC's conduct of the Proceeding, and to make its and their relevant personnel, records and facilities reasonably available in connection with such assistance, each at Spinco's expense. For as long as any such Trademarks are licensed hereunder, each Party will promptly notify the other Party of its receipt or firsthand knowledge of any active or threatened WDC Trademark Claim. In addition, Spinco and its Affiliates and sublicensees shall promptly notify WDC of any third-party acts or other circumstances that come to its and their attention which are reasonably likely to result in a future WDC Trademark Claim. Spinco and its Affiliates and sublicensees shall promptly (i) notify WDC of any material developments with respect to a Proceeding; and (ii) deliver to WDC a copy of all pleadings, correspondence and other material documents respecting a Proceeding. Spinco and its Affiliates and sublicensees shall not enter into any settlement, release, waiver, quitclaim or similar disposition of any Proceeding or WDC Trademark Claim without first obtaining WDC's prior written authorization, and any purported agreement or understanding made by Spinco or its Affiliates or sublicensees to such effect in absence of such written authorization shall be void.

2.9 Marking. Unless otherwise expressly specified in the WDC Guidelines or in writing by WDC, Spinco shall, and shall cause its Affiliates and sublicensees to, cause the designation of "®" to be placed adjacent to the versions of the WDC Group Licensed Trademarks that are federally registered and "TM" or "SM" as appropriate, for any versions of the WDC Group Licensed Trademarks that are not federally registered, in connection with each use or display of the WDC Group Licensed Trademarks in connection with goods and services in the United States. In foreign jurisdictions, Spinco shall, and shall cause its Affiliates and sublicensees to, follow local rules and Laws, and apply the applicable trademark notices as designated by each such foreign jurisdiction, unless otherwise expressly specified in the WDC Guidelines or in writing by WDC.

2.10 Certain Agreed-Upon Restrictions. Spinco and its Affiliates and sublicensees shall not, on its or their own behalf, or on behalf of any other party, in any country or jurisdiction, register or attempt to register, or otherwise attempt to acquire any rights or ownership interests in or to, any of the WDC Group Licensed Trademarks or any other service mark, trademark, trade dress, design or trade name which is identical or confusingly similar to any of the WDC Group Licensed Trademarks without WDC's prior written consent. Spinco and its Affiliates and sublicensees shall not contest or assist any other party in contesting the validity of the WDC Group Licensed Trademarks or the WDC Group's ownership thereof.

2.11 Effects of Termination. Upon termination of the license rights granted in Section 2.1, all rights to use the WDC Group Licensed Trademarks shall expire and Spinco and its Affiliates and sublicensees shall immediately cease any and all use of the WDC Group Licensed Trademarks.

2.12 Reservation of Rights by WDC. All rights not expressly granted by WDC in this Article II are reserved by WDC. Without limiting the generality of the foregoing sentence, the Parties acknowledge and agree that nothing in this Agreement shall be construed or interpreted as a grant, by implication or otherwise, of any license to the WDC Group's Intellectual Property Rights other than the licenses expressly set forth in Section 2.1. Other than as expressly provided in Section 2.1(e), the Spinco Group shall not have the right to grant any sublicenses hereunder.

2.13 Suspension of Rights Under WDC Group Licensed Trademarks. Without limiting Section 9.7, if Spinco materially breaches any of its obligations under Section 2.3, Section 2.4, Section 2.5, Section 2.6, Section 2.7 or Section 2.9, then, for as long as such breach is ongoing, WDC may, upon written notice, suspend the licenses and rights granted by WDC under Section 2.1(a), Section 2.1(c) and Section 2.1(d) with respect to the applicable Trademarks, products or services, until such time as such material breach has been cured.

2.14 Derivative Mark Discussion. At Spinco's request no earlier than six (6) months prior to the end of the Spinco General Trademark License Term, the Parties will meet and confer in good faith to negotiate a royalty-bearing license for the use of a "BLACK" derivative mark or any other mark derived from a WDC Group Licensed Trademark to be used by the Spinco Group for a limited period as part of a brand-transition plan.

III. TRADEMARK LICENSE TO WDC

3.1 Limited Transitional Trademark License Grant.

(a) Subject to the terms and conditions of this Agreement, Spinco and its Affiliates, as applicable, hereby grant to WDC and its Affiliates a worldwide, non-exclusive, non-transferable, license to use the Spinco Group Licensed Trademarks for a period of three (3) years (unless otherwise specified in Section 9.15 (Survival) in the event that this Agreement terminates) (such period, including any authorized extension thereof, the "**WDC General Trademark License Term**") solely in the manner in which they have been used during the

twelve (12)-month period prior to the Effective Date in connection with the WDC Retained Business, in furtherance of WDC's efforts to rebrand, establish and develop its independent activities in the WDC Retained Business and transition its operations following WDC's divestment of Spinco under the SDA; *provided* that WDC and its Affiliates shall not, without express written permission from the Spinco Group in accordance with Section 3.5, use any Spinco Group Licensed Trademarks on any publicly facing or widely distributed branding, press materials, marketing collateral or the like.

(b) The licenses granted pursuant to this Section 3.1 shall be royalty-free for the first twelve (12) months following the Effective Date (such period, including any authorized extension thereof, the "**WDC Royalty-Free Period**"). If, despite WDC's and its Affiliates' best efforts to complete a rebranding and cease use of the Spinco Group Licensed Trademarks, the WDC Group has not completed such rebranding before the expiration of the WDC Royalty-Free Period, WDC may, no later than thirty (30) days prior to the one (1)-year anniversary of the Effective Date, provide written notice to Spinco of its desire to extend the WDC Royalty-Free Period for specific, identified products for which WDC and its Affiliates were not able to complete rebranding and cease use of the Spinco Group Licensed Trademarks. Upon timely receipt of such notice, the WDC Royalty-Free Period shall be extended for a single period of six (6) months with respect to such specific, identified products (provided, for the avoidance of doubt, that any such extension of the WDC Royalty-Free Period shall not operate as an extension of the WDC General Trademark License Term). Notwithstanding the foregoing, in the event that WDC and its Affiliates were unable to complete a rebranding and cease use of the Spinco Group Licensed Trademarks before the expiration of the then-current WDC Royalty-Free Period due to reasons beyond WDC's and its Affiliates' reasonable control and upon written approval by Spinco (not to be unreasonably withheld or delayed), the WDC Royalty-Free Period shall be extended for a single period of three (3) months with respect to specific, identified products if and only if WDC provides written notice to Spinco of its desire to extend the WDC Royalty-Free Period for such specific, identified products no later than thirty (30) days prior to the end of the then-current WDC Royalty-Free Period. After the WDC Royalty-Free Period, the licenses granted pursuant to this Section 3.1 shall be royalty-bearing in accordance with Section 4.1.

(c) WDC and its Affiliates shall have the right, following the expiration of the WDC General Trademark License Term, to (i) continue selling and distributing its existing inventory of products bearing the Spinco Group Licensed Trademarks as of the date of such expiration for a period of four (4) months following such expiration (unless otherwise specified in Section 9.15 (Survival) in the event that this Agreement terminates) (such period, the "**WDC Sell-Off Period**"), under and subject to the same terms and conditions applicable to the license granted in Section 3.1(a) during the WDC General Trademark License Term (except as otherwise set forth in this sentence).

(d) The licenses granted in this Section 3.1 shall be sublicensable only to WDC's third-party contractors, customers, partners and vendors, solely in connection with the aforementioned permitted purpose; *provided* that WDC shall first obtain Spinco's prior written approval of any such third-party contractor prior to any grant of sublicense thereto; *provided, further,* that, for the avoidance of doubt, the foregoing consent requirement shall not apply with respect to grants of sublicenses under contracts existing as of the Effective Date. WDC shall in any event be responsible hereunder for its sublicensees' compliance with the terms and restrictions herein contained.

3.2 Ownership. WDC acknowledges that, as between the Parties, (i) the Spinco Group is the sole owner of all right, title and interest in and to the Spinco Group Licensed Trademarks and all related goodwill and (ii) all goodwill accruing from WDC and its Affiliates' use of the Spinco Group Licensed Trademarks will inure solely to the benefit of Spinco. WDC covenants that it will not do or cause to be done, and that it shall cause its Affiliates to not do or

cause to be done, any act or omission to impair, dilute or tarnish the Spinco Group Licensed Trademarks or the right, title, interest or goodwill of the Spinco Group in the Spinco Group Licensed Trademarks. In connection with the use of the Spinco Group Licensed Trademarks, WDC shall not, and it shall cause its Affiliates to not, represent, in any manner, that a member of the WDC Group has any ownership interest in the Spinco Group Licensed Trademarks.

3.3 Quality of Products. WDC acknowledges that the Spinco Group Licensed Trademarks indicate to the public that the goods and services covered under the Spinco Group Licensed Trademarks are of a commercially consistent high quality and standard. Accordingly, WDC agrees that it and its Affiliates' and sublicensee's use of the Spinco Group Licensed Trademarks pursuant to this Agreement shall be in a manner that does not have any detrimental impact on the Spinco Group's reputation or the goodwill associated with the Spinco Group's business or the Spinco Group Licensed Trademarks. WDC and its Affiliates acknowledge and agree that the level of quality of the goods and services produced bearing the Spinco Group Licensed Trademarks shall at all times comply with Spinco's requirements with respect thereto. WDC shall, and shall cause its Affiliates and sublicensee to, in its and their use of the Spinco Group Licensed Trademarks, adhere to a general level of quality that is consistent with or better than that used with respect to all goods, services and business operations using or associated with the Spinco Group Licensed Trademarks in the twelve (12) months prior to the Effective Date.

3.4 Quality Guidelines. Without limiting Section 3.3, WDC shall, and shall cause its Affiliates and sublicensees to, adhere to the trademark brand or style guidelines related to the Spinco Group Licensed Trademarks (collectively, the "**Spinco Guidelines**"); *provided* that Spinco gives WDC reasonable advance written notice of any changes to the Spinco Guidelines previously provided, and further provided that WDC shall not be in breach of this paragraph for failure to conform with such changes to prior Spinco Guidelines so long as it is actively exercising good faith, commercially reasonable efforts to bring the affected goods and services into compliance.

3.5 Prior Approval. WDC shall, and shall cause its Affiliates and sublicensees to, only use the Spinco Group Licensed Trademarks upon receiving prior written approval by Spinco, and only in the manner, form, and medium and for the purpose so approved; *provided* that prior written approval shall not be required to use (i) a previously approved one of the Spinco Group Licensed Trademarks (ii) that has been used previously on approved material (iii) in a form, manner and medium that are the same, in all material respects, as in the previous use subject to Spinco's prior written approval. For the avoidance of doubt, any existing uses in commerce of the Spinco Group Licensed Trademarks as of the Effective Date are deemed to have been approved for purposes of this Section 3.5.

3.6 Compliance with Law. WDC shall, and shall cause its Affiliates and sublicensees to, comply with all applicable Laws in connection with its and their operations and its and their use of the Spinco Group Licensed Trademarks, including using all Spinco Group Licensed Trademark legends, notices and markings as required by applicable Law. Without limiting the generality of the foregoing, WDC shall not, and shall cause its Affiliates and sublicensees to not, use the Spinco Group Licensed Trademarks: (i) in connection with any fraudulent, defamatory, deceptive, or otherwise tortious purpose; or (ii) in any manner which constitutes false endorsement, false advertisement, false designation of origin, unfair competition or any other violation of Law governing consumer protection.

3.7 Quarterly Review. Once per calendar quarter during the license term set forth in Section 3.1, Spinco shall conduct a quarterly review of goods and services using the Spinco Group Licensed Trademarks. The schedule, specifications and procedures for such quarterly review shall be as set forth in Schedule 3.7 attached hereto and incorporated by reference. In connection with such reviews, WDC and its Affiliates and sublicensees shall provide samples of the applicable goods and services for review and written approval by Spinco, and Spinco shall have the right to test, inspect and subsequently approve or reject such samples based on their conformity or nonconformity with the applicable Spinco Guidelines. Such samples shall be identical in quality, performance, character and form to the goods and services intended for general sale and distribution. In the event that Spinco rejects such samples during the applicable quarterly review, WDC and its Affiliates and sublicensees shall revise, improve or otherwise submit new samples that conform to the applicable Spinco Guidelines, and Spinco shall have the right to approve or reject such new samples according to the same procedures as for the initial samples. WDC and its Affiliates and sublicensees shall not finalize, reproduce, distribute, display or otherwise use any goods and services bearing the Spinco Group Licensed Trademarks that have been rejected in writing by Spinco during a quarterly review due to material nonconformity with the applicable Spinco Guidelines; *provided* that WDC shall not be in breach of this paragraph for failure to conform to the Spinco Guidelines so long as it is actively exercising good faith, commercially reasonable efforts to promptly bring the affected goods and services into compliance.

3.8 Cooperation. For as long as any such Trademarks are licensed hereunder, the Parties shall fully cooperate with each other in their efforts to maintain and enforce Spinco's rights in the Spinco Group Licensed Trademarks; *provided* that all reasonable, documented costs and expenses incurred by WDC and its Affiliates and sublicensees in fulfilling its and their obligations hereunder shall be borne by WDC, unless otherwise agreed in writing by the Parties. With respect to any Proceeding alleging the infringement, dilution, tarnishment, unfair competition or passing off by a third party of, or with respect to the Spinco Group Licensed Trademarks, or contesting the validity of the Spinco Group Licensed Trademarks or the Spinco Group's ownership thereof (each a "**Spinco Trademark Claim**"), Spinco shall have primary responsibility therefor and shall assume, conduct and direct the prosecution and/or defense of such Proceeding, as applicable, utilizing counsel and other resources of its own choosing; *provided* that WDC shall, and shall cause its Affiliates and sublicensees to, upon request by Spinco, provide reasonable assistance, including the provision of evidence, witnesses, information, communications, documentation and declarations in furtherance of Spinco's conduct of the Proceeding, and to make its and their relevant personnel, records and facilities reasonably available in connection with such assistance, each at WDC's expense. For as long as any such Trademarks are licensed hereunder, each Party will promptly notify the other Party of its receipt or firsthand knowledge of any active or threatened Spinco Trademark Claim. In addition, WDC and its Affiliates and sublicensees shall promptly notify Spinco of any third-party acts or other circumstances that come to its and their attention which are reasonably likely to result in a future Spinco Trademark Claim. WDC and its Affiliates and sublicensees shall promptly (i) notify Spinco of any material developments with respect to a Proceeding; and (ii) deliver to Spinco a copy of all pleadings, correspondence and other material documents respecting a Proceeding. WDC and its Affiliates and sublicensees shall not enter into any settlement, release, waiver, quitclaim or similar disposition of any Proceeding or Spinco Trademark Claim without first obtaining Spinco's prior written authorization, and any purported agreement or understanding made by WDC or its Affiliates or sublicensees to such effect in absence of such written authorization shall be void.

3.9 Marking. Unless otherwise expressly specified in the WDC Guidelines or in writing by Spinco, WDC shall, and shall cause its Affiliates and sublicensees to, cause the designation of "®" to be placed adjacent to the versions of the Spinco Group Licensed Trademarks that are federally registered and "TM" or "SM" as appropriate, for any versions of the Spinco Group Licensed Trademarks that are not federally registered, in connection with each use or display of the Spinco Group Licensed Trademarks in connection with goods and services in the United States. In foreign jurisdictions, WDC shall, and shall cause its Affiliates and sublicensees to, follow local rules and Laws, and apply the applicable trademark notices as designated by each such foreign jurisdiction, unless otherwise expressly specified in the WDC Guidelines or in writing by Spinco.

3.10 Certain Agreed-Upon Restrictions. WDC and its Affiliates and sublicensees shall not, on its or their own behalf, or on behalf of any other party, in any country or jurisdiction, register or attempt to register, or otherwise attempt to acquire any rights or ownership interests in or to, any of the Spinco Group Licensed Trademarks or any other service mark, trademark, trade dress, design or trade name which is identical or confusingly similar to any of the Spinco Group Licensed Trademarks without Spinco's prior written consent. WDC and its Affiliates and sublicensees shall not contest or assist any other party in contesting the validity of the Spinco Group Licensed Trademarks or the Spinco Group's ownership thereof.

3.11 Effects of Termination. Upon termination of the license rights granted in Section 3.1, all rights to use the Spinco Group Licensed Trademarks shall expire and WDC and its Affiliates and sublicensees shall immediately cease any and all use of the Spinco Group Licensed Trademarks.

3.12 Reservation of Rights by Spinco. All rights not expressly granted by Spinco in this Article III are reserved by Spinco. Without limiting the generality of the foregoing sentence, the Parties acknowledge and agree that nothing in this Agreement shall be construed or interpreted as a grant, by implication or otherwise, of any license to the Spinco Group's Intellectual Property Rights other than the licenses expressly set forth in Section 3.1. Other than as expressly provided in Section 3.1(d), the WDC Group shall not have the right to grant any sublicenses hereunder.

3.13 Suspension of Rights Under Spinco Group Licensed Trademarks. Without limiting Section 9.7, if Spinco materially breaches any of its obligations under Section 3.3, Section 3.4, Section 3.5, Section 3.6, Section 3.7 or Section 3.9, then, for as long as such breach is ongoing, Spinco may, upon written notice, suspend the licenses and rights granted by Spinco under Section 3.1(a) and Section 3.1(c) with respect to the applicable Trademarks, products or services, until such time as such material breach has been cured.

IV. PAYMENT OBLIGATIONS AND FORM OF PAYMENTS

4.1 Earned Royalty. Starting after the Spinco Royalty-Free Period or the WDC Royalty-Free Period, as applicable, each Party (as "**Licensee**") shall, subject to Section 9.15(c) and Section 9.15(d), according to the terms and conditions of this Article IV, pay to the other Party (as "**Licensor**") a royalty (the "**Earned Royalty**") of five percent (5%) of Net Sales. Notwithstanding anything to the contrary herein, without limiting Section 2.1(f), no Earned Royalties shall accrue or be payable with respect to any Licensed Product solely as a result of an Internal Use of a Trademark in accordance with the terms and conditions of this Agreement.

4.2 Taxes. Earned Royalties and any other sums payable under this Agreement are exclusive of any taxes, including any direct or indirect taxes, customs duties, levies, fees, excises, tariffs, claims, counterclaims, deductions and demands, and must be paid free and clear of all deductions and withholdings whatsoever, unless the deduction or withholding is required by applicable Law. If any deduction or withholding is required by Law (the "**Withholding Taxes**"), Licensee shall (a) remit Withholding Taxes to the appropriate tax authority, (b) provide all original receipts or necessary documentation evidencing payment to the relevant government to Licensor, (c) cooperate with Licensor as reasonably requested to support foreign tax credits Licensor may claim attributable to Withholding Taxes, and (d) indemnify Licensor for any foreign tax credits disallowed by a tax authority, including any associated interest and penalties, solely attributable to Licensee's failure to timely provide the documentation required hereunder. The Parties shall cooperate in good faith to minimize any required deduction or withholding, to the extent consistent with applicable Law.

4.3 Royalty Statements. No later than three (3) weeks following the end of each Quarterly Period, Licensee shall submit or cause to be submitted to Licensor a true and correct statement in writing that includes the following information relevant to the calculation of such Earned Royalties:

(a) the Quarterly Period for which the Earned Royalties were calculated;

(b) the number of Licensed Products sold during such Quarterly Period;

(c) the Net Sales during such Quarterly Period;

(d) the amount of any applicable and documented excise, sale, use or value added taxes, other than income taxes, paid by Licensee due to the sale of the Licensed Products during such Quarterly Period, deductible or due to be deducted from the amount of Earned Royalties due and payable; and

(e) the total net amount of Earned Royalties due and payable for such Quarterly Period.

4.4 Invoicing; Manner of Payment. Promptly following receipt of a royalty statement pursuant to Section 4.3, Licensor shall issue an invoice to Licensee for the amounts due thereunder. Earned Royalties and any other sums payable under this Agreement must be paid within ninety (90) days after the receipt of an invoice from Licensor therefor, in U.S. dollars by wire transfer to a bank account to be designated in writing by Licensor. For the purpose of converting the local currency in which any royalties arise into U.S. dollars, the rate of exchange to be applied will be the rate of exchange in effect for the date when the relevant payment first becomes due as reported in the Wall Street Journal. For the avoidance of doubt, issuing an invoice or accepting a payment does not preclude Licensor from subsequently challenging (a) the validity or accuracy of any royalty statement or (b) the amount of Earned Royalties due and payable hereunder.

4.5 Late Payments. In the event Licensor does not receive payments due under this Agreement by the due date, Licensee shall pay to Licensor interest on the overdue payment from the date such payment was due to the date of actual payment at a rate of 1.5% per month, or if lower, the maximum amount permitted under Law.

4.6 Records and Audits. Licensee shall (and shall cause its Affiliates to) keep complete and accurate books and records showing the description, price, quantity, and date of manufacture and sale, distribution or supply of all Licensed Products manufactured, sold or distributed. Such books and records must be kept separate from any books and records not relating solely to the Licensed Products and be available during normal business hours for inspection and audit by Licensor's authorized representative, who may take copies of or extracts from the same. If any such inspection or audit shows that any payment is deficient, (a) Licensee shall immediately pay Licensor the deficient amount, including interest calculated in accordance with Section 4.5, and (b) if such payment is found deficient by more than five percent (5%), Licensee shall bear the cost of the audit or inspection and reimburse Licensor for any professional charges incurred. Such inspection and audit right of Licensor remains in effect for a period of two (2) years after the termination of this Agreement.

V. TERM AND TERMINATION

The term of this Agreement shall commence as of the Effective Date and shall, unless earlier terminated, continue until the expiration of the last to expire of the Spinco Sell-Off Period (if any), WDC Sell-Off Period (if any), Spinco General Trademark License Term, WDC General Trademark License Term and Spinco Internal-Use Trademark Term (if any), as set forth in Section 2.1 and Section 3.1 according to the terms and conditions of this Agreement. This Agreement may be terminated by either Party immediately upon written notice if the other Party materially breaches this Agreement and the breaching Party fails to cure such breach within thirty (30) days of receipt of a written notice specifying the nature of such breach; *provided* that if the existence of any such material breach is the subject of a good faith Dispute between the Parties, then this Agreement shall not be terminable prior to the resolution of the Second-Level Negotiation Period, in accordance with Section 9.7.

VI. REPRESENTATIONS AND WARRANTIES

6.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that (a) it has all requisite power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby, (b) the execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action on the part of such Party, (c) this Agreement has been duly and validly executed and delivered by such Party and constitutes legal, valid and binding obligations of such Party enforceable against such Party, except as such enforceability may be limited by bankruptcy, insolvency, moratorium and other similar applicable Laws affecting creditors' rights generally and by general principles of equity and (d) it has the right to grant the licenses granted by such Party pursuant to this Agreement.

6.2 Disclaimer of Representations and Warranties. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.1 ABOVE AND EXCEPT AS SET FORTH IN THE SDA, (a) NEITHER WDC NOR SPINCO MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT (INCLUDING THE WDC GROUP LICENSED TRADEMARKS AND THE SPINCO GROUP LICENSED TRADEMARKS), (b) WDC SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE WDC GROUP LICENSED TRADEMARKS AND (c) SPINCO SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SPINCO GROUP LICENSED TRADEMARKS. WITHOUT LIMITING THE FOREGOING, EXCEPT AS SET FORTH IN THE SDA, EACH PARTY SPECIFICALLY DISCLAIMS ANY WARRANTY THAT ANY OF THE THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS USED IN THE FLASH BUSINESS OR THE WDC RETAINED BUSINESS ARE SUBLICENSABLE TO THE OTHER PARTY OR ITS AFFILIATES OR SUBSIDIARIES, AS APPLICABLE.

VII. INDEMNIFICATION AND LIMITATION OF LIABILITY

7.1 Indemnification. Each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party and its Affiliates and its and their officers, directors, employees, agents, successors and assigns (collectively, "**Indemnified Parties**") from and against any and all Losses (as defined in the SDA) arising out of, relating to or resulting from any third-party claims based on (a) the Indemnifying Party's breach of Article II or Article III this Agreement; (b) in the context of the Indemnifying Party as a licensee of Trademarks hereunder, use of such licensed Trademarks by or on behalf of the Indemnifying Party or its Affiliates or sublicensees after the Effective Date; or (c) in the context of the Indemnifying Party as a licensee of Trademarks hereunder, any products or services of the Indemnifying Party or its Affiliates bearing or commercialized in connection with such licensed Trademarks after the Effective Date, except, in each case, to the extent that such Losses are caused by compliance with the WDC Guidelines or the express written instructions of WDC pursuant to the terms and conditions of Article II (in the case of Spinco as the Indemnifying Party) or by the Spinco Guidelines or the express written instructions of Spinco pursuant to Article III (in the case of WDC as the Indemnifying Party) or are subject to indemnification by the other Party pursuant to this Article VII or the SDA.

7.2 Indemnification Procedures. Upon an Indemnified Party's receipt of a claim subject to the Indemnifying Party's obligations under this Article VII, the Indemnified Party shall notify the Indemnifying Party in writing of such receipt; *provided* that any failure to so notify shall not relieve the Indemnifying Party of its indemnification obligations hereunder, except to the extent the Indemnifying Party is materially prejudiced by such failure. In addition, (i) the Indemnifying Party will assume the defense of any such Indemnifiable Claim, and the

Indemnified Party shall reasonably assist and cooperate with such defense, at the Indemnifying Party's cost and expense; and (ii) the Indemnifying Party must obtain the prior written approval of the Indemnified Party prior to entering into any settlement of any indemnifiable claim hereunder which involves the admission of any guilt, liability or wrongdoing on behalf of the Indemnified Party.

7.3 SUBJECT TO THE TERMS AND CONDITIONS OF THE SDA, NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, EXCEPT WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7.1 OR A BREACH OF SECTION 9.1 OR ARTICLE VIII, IN NO EVENT SHALL A PARTY OR ITS AFFILIATES BE LIABLE WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY (a) CONSEQUENTIAL, INDIRECT, INCIDENTAL OR SPECIAL DAMAGES OR (b) LOST PROFITS OR LOST BUSINESS, IN THE CASE OF EACH OF (a) AND (b), EVEN IF THE REMEDIES PROVIDED FOR IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES.

VIII. CONFIDENTIALITY

8.1 Confidential Information. "**Confidential Information**" means any confidential and proprietary information of a Party, including know-how, trade secrets, algorithms, source code, specifications, methods of processing, techniques, research, development, inventions (whether or not patentable and whether or not reduced to practice), data, ideas, concepts, drawings, designs and schematics.

8.2 Confidentiality Obligations. Each Party (the "**Receiving Party**") that receives or otherwise obtains under this Agreement any Confidential Information of the other Party (the "**Disclosing Party**") shall, and shall cause its Affiliates to, (a) keep the Disclosing Party's Confidential Information confidential and not disclose or make available any of the Disclosing Party's Confidential Information to any third party without the prior written consent of the Disclosing Party (except in accordance with subclause (d) or subclause (e) in this Section 8.2 or in accordance with Section 8.4), (b) use the Disclosing Party's Confidential Information only as necessary to perform its obligations and exercise its rights under this Agreement, (c) use at least the same degree of care in keeping the Disclosing Party's Confidential Information confidential as it uses for its own Confidential Information of a similar nature (but in no event less than a reasonable degree of care), (d) limit access to the Disclosing Party's Confidential Information to its Affiliates and its authorized sublicensees who have a need to access or know such Confidential Information for the purpose of exercising such Affiliate's rights under this Agreement; *provided* that such Affiliate or sublicensee (other than any customer or end user of either Party) is bound in writing to confidentiality obligations at least as protective of the Disclosing Party's Confidential Information as the confidentiality provisions of this Agreement, and (e) limit access to the Disclosing Party's Confidential Information to its directors, employees, agents, consultants, advisors, Affiliates, sublicensees and contractors ("**Representatives**") who have a need to access or know such Confidential Information for the purpose of the Receiving Party's exercise of its rights under this Agreement; *provided* that such Representatives are bound in writing to confidentiality obligations at least as protective of the Disclosing Party's Confidential Information as the confidentiality provisions of this Agreement.

8.3 Exceptions. The Receiving Party shall not be obligated under Section 8.2 above with respect to any information the Receiving Party can document (a) is or, through no improper action or inaction by the Receiving Party or any of its Representatives, becomes generally available and known to the public, (b) was rightfully in its possession or known by it without any obligation of confidentiality prior to receipt from the Disclosing Party, (c) was rightfully disclosed to it without restriction by a third party that, to the Receiving Party's knowledge, was authorized to make such disclosure, (d) was independently developed by the Receiving Party without the use of or reference to any Confidential Information of the Disclosing Party or (e) is disclosed by the Disclosing Party to a third party without restriction on such third party's rights to disclose or use the same.

8.4 Disclosure Required by Law. In the event the Receiving Party is requested or required by Law or judicial process to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall, if legally permitted, provide reasonable advance written notice to the Disclosing Party of such request or requirement so that the Disclosing Party may seek confidential treatment of such Confidential Information prior to its disclosure (whether through protective orders or otherwise). If, in the absence of a protective order, other confidential treatment or waiver under this Agreement, the Receiving Party is advised by its legal counsel that it is legally required to disclose such Confidential Information, the Receiving Party may disclose such Confidential Information without liability under this Article VIII; *provided, however*, that the Receiving Party exercises commercially reasonable efforts to obtain reliable assurances that confidential treatment will be accorded any such Confidential Information prior to its disclosure and discloses only the minimum amount of such Confidential Information necessary to comply with such legal requirement.

8.5 Disclosure in Connection with Due Diligence. A Party may provide this Agreement to any third party (subject to appropriate confidentiality obligations) if required to do so in connection with any diligence for any actual or potential bona fide business transaction with such third party related to the subject matter of this Agreement (including an acquisition, divestiture, merger, consolidation, asset sale, financing or public offering).

IX. MISCELLANEOUS

9.1 Assignment.

(a) Subject to the restrictions set forth below, (i) either Party may assign or delegate this Agreement, in whole or in part, without the prior written consent of the other Party in connection with a merger, acquisition, consolidation, reorganization or sale of all or substantially all of the assets of a Party (whether by operation of law or otherwise), with written notice of such assignment to the other Party within thirty (30) days after the effective date of such assignment, (ii) in the event either Party sells or otherwise transfers (whether by sale of assets, merger or otherwise) one or more lines of products or services licensed under this Agreement (each a "**Divested Product Line**") to a third party ("**Product Line Acquirer**"), such Party may assign the rights and license granted to such Party in Article II or Article III (as applicable) hereunder to such Product Line Acquirer; *provided, however*, the rights and licenses granted to the Product Line Acquirer shall not extend to any products or services of another entity including from the Product Line Acquirer, and (iii) in the event a Party divests itself of a Subsidiary (the "**Divested Subsidiary**") to a third party ("**Divested Subsidiary Acquirer**"), upon written notice to the other Party, such Party may assign the rights and license granted to such Party in Article II or Article III (as applicable) hereunder to such Divested Subsidiary; *provided, however*, the rights and licenses granted to the Divested Subsidiary shall not extend to any products or services transferred into the Divested Subsidiary from another entity including from the Divested Subsidiary Acquirer. Except as set forth herein above, neither Party may assign this Agreement (or any of its rights or obligations under this Agreement) without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Except as set forth herein above, any attempted assignment or delegation of this Agreement or any of such rights or obligations by any Party without the prior written consent of the other Party shall be void and of no effect. Any purported assignment or transfer in violation of this Section 9.1 shall be null and void ab initio.

(b) Each Party agrees that all of the licenses granted by it hereunder shall run with the applicable Intellectual Property Rights licensed by such Party hereunder ("**Intellectual Property Rights Obligations**") that are assigned or otherwise transferred to a third party. Each Party shall ensure that any assignee, transferee or successor to any of such Intellectual Property Rights (including the acquiring or surviving entity in connection with any acquisition or other change of control of either Party), or any other entity (such as an exclusive licensee) that obtains any proprietary or enforcement rights with respect to any such Intellectual Property Rights, is notified in advance of such assignment, transfer or grant, to acquire such Intellectual Property Rights subject to any and all applicable Intellectual Property Rights Obligations (including the obligation to provide such notice to any subsequent assignee, transferee, successor or grantee).

9.2 Binding Effect. This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the Parties and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person (other than the Parties and their permitted successors and assigns) any power, right, privilege or remedy of any nature whatsoever under or by reason of this Agreement.

9.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered: (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed; or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission when receipt is confirmed:

If to WDC:

c/o Western Digital Corporation
5601 Great Oaks Parkway
San Jose, CA 95119
Attn: Cynthia Tregillis
Email: cynthia.tregillis@wdc.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

If to Spinco:

c/o Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attn: Bernard Shek
Email: bernard.shek@sandisk.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue, Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

9.4 Entire Agreement. This Agreement, including any schedules and amendments hereto and thereto, and the other agreements and documents referred to herein and therein, shall together constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and shall supersede all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter hereof and thereof.

9.5 Amendment and Waiver.

(a) This Agreement may be amended or supplemented in any and all respects and any provision of this Agreement may be waived; *provided, however,* that any such waiver shall be binding upon a Party, only if such waiver is set forth in a writing executed by such waiving Party bound thereby, and any such amendment or supplement shall be effective only if set forth in a writing executed by each of the Parties; and any such waiver, amendment or supplement shall not be applicable or have any effect except in the specific instance in which it is given. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend, supplement or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

(b) Notwithstanding the foregoing, no failure on the part of any Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that any Party would otherwise have. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement or any such waiver of any provision of this Agreement must satisfy the conditions set forth in Section 9.5(a) and shall be effective only to the extent in such writing specifically set forth.

9.6 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any situation in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement in any other jurisdiction or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the Parties agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

9.7 Disputes.

(a) All disputes and other controversies arising out of or relating to this Agreement or the breach, termination or validity thereof, including all issues relating to a Person's ownership of or right to use any Intellectual Property Rights under this Agreement (each, a "**Dispute**"), shall be finally resolved in accordance with the procedures set forth in this Section 9.7.

(b) At such time as a Dispute arises, any Party may deliver notice of such Dispute in accordance with Section 9.3 (a "**Dispute Notice**"). Upon delivery of a Dispute Notice, the Dispute (unless concerning a Material Issue) will be referred to the designated representatives of the Parties set forth in Schedule 9.7(b) (the "**First-Level Negotiators**") for good faith discussion and negotiations for a period of thirty (30) days from the date of receipt by a Party of the Dispute Notice (such period, including any extension thereof mutually agreed to by the Parties in writing, the "**First-Level Negotiation Period**"); *provided* that (i) if the Dispute concerns a Material Issue or (ii) the First-Level Negotiators are unable to resolve the Dispute to each Party's satisfaction during the First-Level Negotiation Period, the Dispute will be referred to the senior management of the Parties (the "**Second-Level Negotiators**") for good faith discussion and negotiations for a period of thirty (30) days from the date of receipt by a Party of the Dispute Notice regarding the Material Issue or the expiration of the First-Level Negotiation Period, as applicable (such period, including any extension thereof mutually agreed to by the Parties in writing, the "**Second-Level Negotiation Period**"). The Parties shall use commercially reasonable efforts to resolve any Dispute during the First-Level Negotiation Period and Second-Level Negotiation Period, as applicable. Any resolution by the First-Level Negotiators or Second-Level Negotiators that is reduced to writing and executed by the First-Level Negotiators or Second-Level Negotiators, as applicable, shall be final and binding on the Parties. If, and only if, the Second-Level Negotiators do not reach a mutually acceptable written resolution of the Dispute by the end of the Second-Level Negotiation Period, without limiting any right of a Party to terminate this Agreement pursuant to Article V, either Party may seek resolution of the Dispute through the courts pursuant to Section 9.8.

(c) All offers, promises, conduct and statements, whether oral or written, made in the course of the Negotiation Period by any of the Parties or their agents, employees, experts or attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in any court proceeding involving the Parties; *provided* that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-disclosable as a result of its use in the negotiation.

9.8 Governing Law; Specific Performance; Forum.

(a) This Agreement and the consummation of the transactions contemplated hereby, and any Dispute or Action (whether at law, in contract, in tort or otherwise) arising out of or relating to this Agreement and the consummation of the transactions contemplated hereby, or the negotiation, validity, interpretation, performance, breach or termination of this Agreement and the consummation of the transactions contemplated hereby, shall be governed by and construed in accordance with the internal law of the State of Delaware, regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof.

(b) Except as otherwise provided herein, any and all remedies herein expressly conferred upon a Party shall be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy shall not preclude the exercise of any other remedy. Nothing in this Agreement shall be deemed a waiver by any Party of any right to specific performance or injunctive relief. The Parties understand and agree that the covenants and agreements on each of their parts herein contained are uniquely related to the desire of the Parties and their respective Affiliates to consummate the transactions contemplated hereby, that the transactions contemplated hereby are a unique business opportunity at a unique time for each of WDC and Spinco and their respective Affiliates, and further agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms, and further agree that, although monetary damages may be available for the breach of such covenants and agreements, monetary damages would be an inadequate remedy therefor. It is accordingly agreed that, in addition to any other remedy that may be available to it, including monetary damages, each of the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware).

(c) Each of the Parties further agrees that no Party shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 9.8 and each Party waives any objection to the imposition of such relief or any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument. In addition, each of the Parties irrevocably agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder, brought by the other Party or its respective successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement: (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 9.8; (ii) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (iii) to the fullest extent permitted by applicable Law, any claim that: (x) the suit, action or proceeding in such court is brought in an inconvenient forum; (y) the venue of such suit, action or proceeding is improper; or (z) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such Dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including, without limitation, such reasonable fees and expenses of attorneys and accountants,

which shall include, without limitation, all fees, costs and expenses of appeals. The Parties agree that service of any court paper may be made in any manner as may be provided under the applicable Laws or court rules governing service of process in such court. The Parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law.

9.9 Waiver of Jury Trial. EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

9.10 Construction; Interpretation.

(a) For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include masculine and feminine genders.

(b) The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.”

(d) As used in this Agreement, the words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(e) The measure of a period of one (1) month or year for purposes of this Agreement will be the date of the following month or year corresponding to the starting date; and, if no corresponding date exists, then the end date of such period being measured will be the next actual date of the following month or year (for example, one month following February 18 is March 18 and one month following March 31 is May 1).

(f) As used in this Agreement, the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if.”

(g) As used in this Agreement, the word “will” shall be deemed to have the same meaning and effect as the word “shall.”

(h) As used in this Agreement, the terms “or,” “any” or “either” are not exclusive and shall be deemed to be “and/or.”

(i) As used in this Agreement, references to “written” or “in writing” include in electronic form.

(j) As used in this Agreement, references to the “date hereof” are to the date of this Agreement.

(k) Except as otherwise indicated, all references in this Agreement to “Sections,” “Articles” and “Schedules” are intended to refer to Sections or Articles of this Agreement and Schedules to this Agreement.

(l) As used in this Agreement, the terms “or,” “any” or “either” are not exclusive.

(m) Except as otherwise indicated, all references in this Agreement to “Sections” and “Schedules” are intended to refer to Sections of this Agreement and Schedules to this Agreement.

(n) The section and other headings and subheadings contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction, meaning or interpretation of this Agreement. The preamble and the recitals set forth at the beginning of this Agreement are incorporated by reference into and made a part of this Agreement.

(o) Any payment to be made pursuant hereto shall be made in U.S. dollars and by wire transfer of immediately available funds.

(p) All references to statutes shall include all regulations promulgated thereunder, and all references to statutes and related regulations shall include all amendments of the same and any successor or replacement statutes and regulations.

9.11 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Party, it being understood that all Parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or electronic transmission shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. At the request of any Party, the other Party shall re-execute original forms thereof and deliver them to the requesting Party. No Party shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation of a contract and each such Party forever waives any such defense.

9.12 No Third-Party Rights. Except as specifically provided in the SDA or any Ancillary Agreement, except for the provisions of Article VII with respect to indemnification of the Indemnified Parties, which is intended to benefit and be enforceable by the Persons specified therein as the Indemnified Parties, this Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and is not intended, and shall not be deemed, to (a) create any agreement of employment with any person, (b) confer on third parties (including any employees of the Parties and their respective Groups) any remedy, claim, reimbursement, claim of action or other right in addition to those existing without reference to this Agreement, or (c) otherwise create any third-party beneficiary hereto.

9.13 Ancillary Agreement. The Parties hereby acknowledge and agree that nothing in this Agreement (including any breach hereof) shall affect any obligation of any Party under the SDA or the other Ancillary Agreements.

9.14 Early Termination. This Agreement shall terminate (with absolutely no surviving rights or obligations with respect to either Party) without further action at any time before the Distribution upon termination of the SDA. If so terminated, no Party shall have any Liability of any kind to the other Party or any other Person on account of this Agreement, except as provided in the SDA, it being understood that this Section 9.14 shall not be deemed to limit or modify the provisions of Section 9.8 of the SDA (Termination).

9.15 Survival.

(a) The covenants in this Agreement that by their terms are to be performed following the Separation Time will survive each of the Internal Restructuring and the Distribution and will remain in full force and effect in accordance with their terms.

(b) The rights and obligations of the Parties set forth in the following provisions of this Agreement shall survive any termination or expiration of this Agreement (except pursuant to Section 9.14 (Early Termination)): Article I (Definitions), Section 2.11 (Effects of Termination), Section 3.11 (Effects of Termination), Section 6.2 (Disclaimer of Warranties), Article VII (Indemnification), Article VIII (Confidentiality) and Article IX (Miscellaneous).

(c) In the event that WDC terminates this Agreement pursuant to Article V in response to a material uncured breach of this Agreement by Spinco, (i) the licenses and rights granted by WDC under Section 2.1(a), Section 2.1(c) and Section 2.1(d) shall immediately terminate and (ii) the licenses and rights granted by Spinco under Section 3.1(a) and Section 3.1(c) survive in accordance with their terms as set forth in this Agreement.

(d) In the event that Spinco terminates this Agreement pursuant to Article V in response to a material uncured breach of this Agreement by WDC, (i) the licenses and rights granted by Spinco under Section 3.1(a) and Section 3.1(c) shall immediately terminate and (ii) the licenses and rights granted by WDC under Section 2.1(a), Section 2.1(c) and Section 2.1(d) survive in accordance with their terms as set forth in this Agreement.

(e) Additionally, each Party acknowledges and agrees that any termination or expiration of this Agreement shall not release a Party from any liability or obligation that already has accrued as of the effective date of such termination or expiration nor not constitute a waiver or release of, or otherwise be deemed to adversely affect, any rights, remedies or claims which a Party may have hereunder, at law, in equity or otherwise, or which may arise out of or in connection with such termination or expiration.

[*SIGNATURE PAGE FOLLOWS***]**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized officers as of the Effective Date.

WESTERN DIGITAL CORPORATION

By: /s/ Wissam Jabre
Name: Wissam Jabre
Title: Executive Vice President and Chief Financial Officer

SANDISK CORPORATION

By: /s/ David V. Goeckeler
Name: David V. Goeckeler
Title: Chief Executive Officer

[Signature Page to the Intellectual Property Cross-License Agreement]

Exhibit 10.6

STOCKHOLDER'S AND REGISTRATION RIGHTS AGREEMENT

This STOCKHOLDER'S AND REGISTRATION RIGHTS AGREEMENT, dated as of February 21, 2025 (this "Agreement"), is by and between Sandisk Corporation, a Delaware corporation ("Spinco"), and Western Digital Corporation, a Delaware corporation ("WDC").

WHEREAS, WDC currently owns all of the issued and outstanding shares of common stock, par value $0.01 per share, of Spinco ("Spinco Common Stock");

WHEREAS, pursuant to the Separation and Distribution Agreement, dated as of February 21, 2025, by and between WDC and Spinco (the "SDA"), WDC will distribute 80.1% of the issued and outstanding shares of Spinco Common Stock to holders of shares of WDC common stock, on a pro rata basis (the "Distribution");

WHEREAS, WDC intends for the Distribution to take place pursuant to a registration statement on Form 10 (the "Distribution Registration Statement");

WHEREAS, following the Distribution, WDC shall retain 19.9% of the outstanding shares of Spinco Common Stock (the "Retained Shares") and within twelve (12) months following the date of the Distribution effect one or more distributions of the Retained Shares (i) to holders of WDC stock as dividends or in exchange for outstanding shares of WDC stock and/or (ii) through one or more transfers of the Retained Shares to certain Persons in exchange for certain debt obligations of WDC held by such Persons as principals for their own account;

WHEREAS, Spinco desires to grant to WDC the Registration Rights (as defined below) for the Registrable Securities (as defined below), subject to the terms and conditions of this Agreement; and

WHEREAS, WDC desires to grant to Spinco a proxy to vote the Retained Shares in proportion to the votes cast by Spinco's other stockholders, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and agreements of the parties hereto, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Action" has the meaning set forth in the SDA.

"Affiliate" has the meaning set forth in the SDA.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Ancillary Filings" has the meaning set forth in Section 2.4(a)(i).

"Business Day" has the meaning set forth in the SDA.

"Convertible or Exchange Registration" has the meaning set forth in Section 2.7(a).

"Debt" means any indebtedness of any member of the WDC Group, including debt securities, notes, credit facilities, credit agreements and other debt instruments, including, in each case, any amounts due thereunder.

"Demand Registration" has the meaning set forth in Section 2.1(a).

"Distribution" has the meaning set forth in the recitals to this Agreement.

"Distribution Registration Statement" has the meaning set forth in the recitals to this Agreement.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exchange Offer" means an exchange offer of Registrable Securities for outstanding securities of a Holder.

"Exchanges" means one or more Public Exchanges or Private Exchanges.

"Governmental Authority" has the meaning set forth in the SDA.

"Holder" means WDC or any of its Subsidiaries, so long as such Person holds any Registrable Securities, and any Person owning Registrable Securities who is a Permitted Transferee of rights under Section 4.4.

"Holder Indemnified Parties" has the meaning set forth in Section 2.9(a).

"Indemnified Parties" has the meaning set forth in Section 2.9(b).

"Initiating Holder" has the meaning set forth in Section 2.1(a).

"Loss" or "Losses" has the meaning set forth in Section 2.9(a).

"Participating Investors" means such investment banks or other Persons that are not part of the WDC Group that engage, directly or indirectly, in any Exchange with one or more members of the WDC Group.

"Permitted Transferee" means any Transferee and any Subsequent Transferee.

"Person" has the meaning set forth in the SDA.

"Piggyback Registration" has the meaning set forth in Section 2.2(a).

"Private Exchange" means a private exchange pursuant to which one or more members of the WDC Group shall Sell some or all of their Registrable Securities to one or more Participating Investors in exchange, directly or indirectly, for any equity interest of WDC or the satisfaction of Debt, in a transaction or series of transactions not required to be registered under the Securities Act.

"Prospectus" means the prospectus included in any Registration Statement, all amendments and supplements to such prospectus, including post-effective amendments, and all other material incorporated by reference in such prospectus.

"Public Exchange" means a public exchange pursuant to which one or more members of the WDC Group shall Sell some or all of their Registrable Securities to one or more Participating Investors in exchange, directly or indirectly, for any equity interest of WDC or the satisfaction of Debt, in a transaction or series of transactions registered under the Securities Act.

"Registrable Securities" means any Retained Shares and any securities issued or issuable directly or indirectly with respect to, in exchange for, upon the conversion of or in replacement of the Retained Shares, whether by way of a dividend or distribution or stock split or in connection with a combination of shares, recapitalization, merger, consolidation, exchange or other reorganization. The term "Registrable Securities" excludes any security (i) the offering and Sale of which has been effectively Registered under the Securities Act and which has been Sold in accordance with a Registration Statement, (ii) that has been Sold pursuant to Rule 144 (or any successor provision) under the Securities Act, (iii) that may be Sold pursuant to Rule 144 (or any successor provision) under the Securities Act without being subject to the volume limitations in subsection (e) of such rule or (iv) that has been sold by a Holder in a transaction in which such Holder's rights under this Agreement are not, or cannot be, assigned.

"Registration" means a registration with the SEC of the offer and Sale to the public of any Spinco Common Stock under a Registration Statement. The terms "Register," "Registered" and "Registering" shall have a correlative meaning.

"Registration Expenses" means all expenses incident to Spinco's performance of or compliance with this Agreement, including all (i) registration, qualification and filing fees; (ii) expenses incurred in connection with the preparation, printing and filing under the Securities Act of the Registration Statement, any Prospectus and any issuer free writing prospectus and the distribution thereof; (iii) the fees and expenses of Spinco's counsel and independent accountants (including the expenses of any comfort letters or costs associated with the delivery by Spinco Group members' independent certified public accountants of comfort letters customarily requested by underwriters); (iv) the reasonable fees and expenses of not more than one firm of attorneys acting as legal counsel for all of the Holders in the relevant Registration and Sale; (v) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Shares under the state or foreign securities or blue sky laws and the preparation, printing and distribution of a Blue Sky Memorandum (including the related fees and expenses of counsel); (vi) the costs and charges of any transfer agent and any registrar; (vii) all expenses and application fees incurred in connection with any filing with, and clearance of an offering by,

Financial Industry Regulatory Authority, Inc.; (viii) expenses incurred in connection with any "road show" presentation to potential investors; (ix) printing expenses, messenger, telephone and delivery expenses; (x) internal expenses of Spinco (including all salaries and expenses of employees of Spinco performing legal or accounting duties); and (xi) fees and expenses of listing any Registrable Securities on any securities exchange on which shares of Spinco Common Stock are then listed; but excluding any internal expenses of the Holder, any underwriting discounts or commissions attributable to the Sale of any Registrable Securities and any stock transfer taxes.

"Registration Period" has the meaning set forth in Section 2.1(c).

"Registration Rights" means the rights of the Holders to cause Spinco to Register Registrable Securities pursuant to this Agreement.

"Registration Statement" means any registration statement of Spinco filed with, or to be filed with, the SEC under the rules and regulations promulgated under the Securities Act, including the related Prospectus, amendments and supplements to such registration statement, including post-effective amendments, and all exhibits and all material incorporated by reference in such registration statement.

"Retained Shares" has the meaning set forth in the recitals to this Agreement.

"Sale" means the direct or indirect transfer, sale, assignment or other disposition of a security. The terms "Sell" and "Sold" have correlative meanings.

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shares" means all shares of Spinco Common Stock that are beneficially owned by WDC or any Permitted Transferee from time to time, whether or not held immediately following the Distribution.

"Shelf Registration" means a Registration Statement of Spinco for an offering to be made on a delayed or continuous basis of Spinco Common Stock pursuant to Rule 415 under the Securities Act (or similar provisions then in effect).

"Spinco" has the meaning set forth in the preamble to this Agreement and shall include its successors, by merger, acquisition, reorganization or otherwise.

"Spinco Common Stock" has the meaning set forth in the recitals to this Agreement.

"Spinco Group" has the meaning set forth in the SDA.

"Spinco Indemnified Parties" has the meaning set forth in Section 2.9(b).

"Spinco Notice" has the meaning set forth in Section 2.1(a).

"Spinco Public Sale" has the meaning set forth in Section 2.2(a).

"Spinco Takedown Notice" has the meaning set forth in Section 2.1(f).

"Subsequent Transferee" has the meaning set forth in Section 4.4(b).

"Subsidiary" has the meaning set forth in the SDA.

"Takedown Notice" has the meaning set forth in Section 2.1(f).

"Transferee" has the meaning set forth in Section 4.4(b).

"Underwritten Offering" means a Registration in which securities of Spinco are sold to an underwriter or underwriters on a firm commitment basis for reoffering to the public.

"WDC" has the meaning set forth in the preamble to this Agreement and shall include its successors, by merger, acquisition, reorganization or otherwise.

"WDC Group" has the meaning set forth in the SDA.

1.2 General Interpretive Principles.

(a) For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include masculine and feminine genders.

(b) The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation."

(d) As used in this Agreement, the words "hereof," "herein," "hereto" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(e) The measure of a period of one (1) month or year for purposes of this Agreement will be the date of the following month or year corresponding to the starting date; and, if no corresponding date exists, then the end date of such period being measured will be the next actual date of the following month or year (for example, one month following February 18 is March 18 and one month following March 31 is May 1).

(f) As used in this Agreement, the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if."

(g) As used in this Agreement, the word "will" shall be deemed to have the same meaning and effect as the word "shall."

(h) As used in this Agreement, the terms "or," "any" or "either" are not exclusive and shall be deemed to be "and/or."

(i) As used in this Agreement, references to "written" or "in writing" include in electronic form.

(j) As used in this Agreement, references to the "date hereof" are to the date of this Agreement.

(k) Except as otherwise indicated, all references in this Agreement to "Sections" and "Exhibits" are intended to refer to Sections of this Agreement and Exhibits to this Agreement.

(l) The section and other headings and subheadings contained in this Agreement and the Exhibit hereto are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction, meaning or interpretation of this Agreement. The preamble and the recitals set forth at the beginning of this Agreement are incorporated by reference into and made a part of this Agreement.

(m) Any payment to be made pursuant hereto shall be made in U.S. dollars and by wire transfer of immediately available funds.

(n) As used in this Agreement, references to "$" in this report are to the lawful currency of the United States of America.

ARTICLE II

REGISTRATION RIGHTS

2.1 Registration.

(a) Request. Any Holder(s) of Registrable Securities (collectively, the "Initiating Holder") shall have the right (including, for the avoidance of doubt, in connection with its rights pursuant to Section 2.7) to request that Spinco file a Registration Statement with the SEC on the appropriate registration form for all or part of the Registrable Securities held by such Initiating Holder by delivering a written request to Spinco specifying the number of shares of Registrable Securities such Initiating Holder wishes to Register (a "Demand Registration"). Spinco shall (i) within five (5) days of the receipt of such request, give written notice of such Demand Registration to all Holders of Registrable Securities (the "Spinco Notice"), (ii) use its reasonable best efforts to prepare and file a Registration Statement as expeditiously as possible in respect of such Demand Registration and in any event within thirty (30) days of receipt of the request, and (iii) use its reasonable best efforts to cause such Registration Statement to become effective as expeditiously as possible. Spinco shall include in such Registration all Registrable Securities that the Holders request to be included within the ten (10) days following their receipt of the Spinco Notice.

(b) Limitations of Demand Registrations. There shall be no limitation on the number of Demand Registrations pursuant to Section 2.1(a); provided, however, that the Holder(s) may not require Spinco to effect a Demand Registration within sixty (60) days after the effective date of a previous registration by Spinco, other than a Shelf Registration, effected pursuant to this Section 2.1 (it being understood that the Distribution Registration Statement shall not be treated as a Demand Registration). In the event that any Person shall have received rights to Demand Registrations pursuant to Section 2.7 or Section 4.4, and such Person shall have made a Demand Registration request, such request shall be treated as having been made by the Holder(s). The Registrable Securities requested to be Registered pursuant to Section 2.1(a) must represent (i) an aggregate offering price of Registrable Securities that is reasonably expected to equal at least $10,000,000 (or its equivalent if the Registrable Securities are to be offered in an Exchange Offer) or (ii) all of the remaining Registrable Securities owned by the requesting Holder and its Affiliates.

(c) Effective Registration. Spinco shall be deemed to have effected a Registration for purposes of Section 2.1(a) if the Registration Statement is declared effective by the SEC or becomes effective upon filing with the SEC, and remains effective until the earlier of (i) the date when all Registrable Securities thereunder have been sold and (ii) ninety (90) days from the effective date of the Registration Statement (the "Registration Period"). No Registration shall be deemed to have been effective if the conditions to closing specified in the underwriting agreement or dealer-manager agreement, if any, entered into in connection with such Registration are not satisfied by reason of any member of the Spinco Group. If, during the Registration Period, such Registration is interfered with by any stop order, injunction or other order or requirement of the SEC or other Governmental Authority or the need to update or supplement the Registration Statement, the Registration Period shall be extended on a day-for-day basis for any period the Holder is unable to complete an offering as a result of such stop order, injunction or other order or requirement of the SEC or other Governmental Authority.

(d) Underwritten Offering; Exchange Offer. If the Initiating Holder so indicates at the time of its request pursuant to Section 2.1(a), such offering of Registrable Securities shall be in the form of an Underwritten Offering or an Exchange Offer and Spinco shall include such information in the Spinco Notice. In the event that the Initiating Holder intends to Sell the Registrable Securities by means of an Underwritten Offering or Exchange Offer, the right of any Holder to include Registrable Securities in such Registration shall be conditioned upon such Holder's participation in such Underwritten Offering or Exchange Offer and the inclusion of such Holder's Registrable Securities in the Underwritten Offering or Exchange Offer.

(e) Priority of Securities in an Underwritten Offering. If the managing underwriter or underwriters of a proposed Underwritten Offering, including an Underwritten Offering from a Shelf Registration, pursuant to this Section 2.1 informs the Holders with Registrable Securities in the proposed Underwritten Offering in writing that, in its or their opinion, the number of Registrable Securities requested to be included in such Underwritten Offering exceeds the number that can be sold in such Underwritten Offering without being likely to have an adverse effect on the price, timing or distribution of the Registrable Securities offered or the market for the Registrable Securities offered, then the number of Registrable Securities to be included in such Underwritten Offering shall be reduced to such number that can be sold without such adverse effect and the Registrable Securities to be included in such Underwritten Offering shall be: (i) first, Registrable Securities requested by WDC to be included in such Underwritten Offering; (ii) second, Registrable Securities requested by all other Holders to be included in such Underwritten Offering on a pro rata basis calculated based on the number of shares requested to be registered; and (iii) third, all other Registrable Securities requested and otherwise eligible to be included in such Underwritten Offering (including Registrable Securities to be sold for the account of Spinco) on a pro rata basis calculated based on the number of shares requested to be registered. In the event the Initiating Holder notifies Spinco that such Registration Statement shall be abandoned or withdrawn, such Holder shall not be deemed to have requested a Demand Registration pursuant to Section 2.1(a), and Spinco shall not be deemed to have made a Demand Registration request pursuant to Section 2.1(a) and Section 2.1(c).

(f) Shelf Registration. Within thirty (30) days following the date hereof, Spinco shall use its reasonable best efforts to Register all of the Registrable Securities on a Shelf Registration on Form S-1 (or any successor form). There shall be no limitations on the number of Underwritten Offerings pursuant to a Shelf Registration. Any Holder of Registrable Securities included on a Shelf Registration shall have the right to request that Spinco cooperate in a shelf takedown at any time, including an Underwritten Offering, by delivering a written request thereof to Spinco specifying the number of shares of Registrable Securities such Holder wishes to include in the shelf takedown ("Takedown Notice"). Spinco shall (i) within five (5) days of the receipt of a Takedown Notice for an Underwritten Offering, give written notice of such Takedown Notice to all Holders of Registrable Securities included on such Shelf Registration ("Spinco Takedown Notice"), and (ii) take all actions reasonably requested by such Holder, including the filing of a Prospectus supplement and the other actions described in Section 2.4, in accordance with the intended method of distribution set forth in the Takedown Notice as expeditiously as possible. If the takedown is an Underwritten Offering, Spinco shall include in such Underwritten Offering all Registrable Securities that that the Holders request to be included within the two (2) days following their receipt of the Spinco Takedown Notice. If the takedown is an Underwritten Offering, the Registrable Securities requested to be included in a shelf takedown must represent (i) an aggregate offering price of Registrable Securities that is reasonably expected to equal at least $10,000,000 or (ii) all of the remaining Registrable Securities owned by the requesting Holder and its Affiliates. Notwithstanding anything else to the contrary in this Agreement, the requirement to deliver a Takedown Notice and the piggyback rights described in this Section 2.1(f) shall not apply to an Underwritten Offering that constitutes a block trade.

(g) SEC Form. Spinco may Register the Registrable Securities on Form S-3 (or any successor form) or Form S-1 (or any successor form) or Form S-4 (in the case of an Exchange Offer). If a Demand Registration is a Convertible or Exchange Registration, Spinco shall effect such Registration on the appropriate Form under the Securities Act for such Registrations. All Demand Registrations shall comply with applicable requirements of the Securities Act and, together with each Prospectus included, filed or otherwise furnished by Spinco in connection therewith, shall not contain any untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

2.2 Piggyback Registrations.

(a) Participation. If Spinco proposes to file a Registration Statement under the Securities Act with respect to any offering of Spinco Common Stock for its own account and/or for the account of any other Persons (other than a Registration (i) under Section 2.1 hereof, (ii) pursuant to a Registration Statement on Form S-8 or Form S-4 or similar form that relates to a transaction subject to Rule 145 under the Securities Act, (iii) pursuant to any form that does not include substantially the same information as would be required to be included in a Registration Statement covering the Sale of Registrable Securities, (iv) in connection with any dividend reinvestment or similar plan, (v) for the sole purpose of offering securities to another entity or its security holders in connection with the acquisition of assets or securities of such entity or any similar transaction or (vi) in which the only Spinco Common Stock being Registered is Spinco Common Stock issuable upon conversion of debt securities that are also being Registered) (a "Spinco Public Sale"), then, as soon as practicable (but in no event less than fifteen (15) days prior to the proposed date of filing such Registration Statement), Spinco shall give written notice of such proposed filing to each Holder, and such notice shall offer such Holders the opportunity to Register under such Registration Statement such number of Registrable Securities as each such Holder may request in writing (a "Piggyback Registration"). Subject to Section 2.2(a) and Section 2.2(c), Spinco shall include in such Registration Statement all such Registrable Securities that are requested to be included therein within fifteen (15) days after the receipt of any such notice; provided, however, that if, at any time after giving written notice of its intention to Register any securities and prior to the effective date of the Registration Statement filed in connection with such Registration, Spinco shall determine for any reason not to Register or to delay Registration of such securities, Spinco may, at its election, give written notice of such determination to each such Holder and, thereupon, (i) in the case of a determination not to Register, shall be relieved of its obligation to Register any Registrable Securities in connection with such Registration, without prejudice, however, to the rights of any Holder to request that such Registration be effected as a Demand Registration under Section 2.1, and (ii) in the case of a determination to delay Registration, shall be permitted to delay Registering any Registrable Securities for the same period as the delay in Registering such other shares of Spinco Common Stock. No Registration effected under this Section 2.2 shall relieve Spinco of its obligation to effect any Demand Registration under Section 2.1. If the offering pursuant to a Registration Statement pursuant to this Section 2.2 is to be an Underwritten Offering, then each Holder making a request for a Piggyback Registration pursuant to this Section 2.2(a) shall, and Spinco shall use reasonable best efforts to coordinate arrangements with the underwriters so that each such Holder may, participate in such Underwritten Offering. If the offering pursuant to such Registration Statement is to be on any other basis, then each Holder making a request for a Piggyback Registration pursuant to this Section 2.2(a) shall, and Spinco shall use reasonable best efforts to coordinate arrangements so that each such Holder may, participate in such offering on such basis. Spinco's filing of a Shelf Registration shall not be deemed to be a Spinco Public Sale; provided, however, that the proposal to file any Prospectus supplement filed pursuant to a Shelf Registration with respect to an offering of Spinco Common Stock for its own account and/or for the account of any other Persons will be a Spinco Public Sale unless such offering qualifies for an exemption from the Spinco Public Sale definition in this Section 2.2(a); provided, further that if Spinco files a Shelf Registration for its own account and/or for the account of any other Persons, Spinco agrees that it shall use its reasonable best efforts to include in such Registration Statement such disclosures as may be required by Rule 430B under the Securities Act in order to ensure that the Holders may be added to such Shelf Registration at a later time through the filing of a Prospectus supplement rather than a post-effective amendment.

(b) Right to Withdraw. Each Holder shall have the right to withdraw such Holder's request for inclusion of its Registrable Securities in any Underwritten Offering pursuant to this Section 2.2 at any time prior to the execution of an underwriting agreement with respect thereto by giving written notice to Spinco of such Holder's request to withdraw and, subject to the preceding clause, each Holder shall be permitted to withdraw all or part of such Holder's Registrable Securities from a Piggyback Registration at any time prior to the effective date thereof.

(c) Priority of Piggyback Registration. If the managing underwriter or underwriters of any proposed Underwritten Offering of a class of Registrable Securities included in a Piggyback Registration informs Spinco and the Holders in writing that, in its or their opinion, the number of securities of such class which such Holder and any other Persons intend to include in such Underwritten Offering exceeds the number which can be sold in such Underwritten Offering without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, then the securities to be included in such Underwritten Offering shall be reduced to such number that can be sold without such adverse effect and the securities to be included in the Underwritten Offering shall be (i) first, all securities of Spinco or any other Persons for whom Spinco is effecting the Underwritten Offering, as the case may be, proposes to Sell; (ii) second, Registrable Securities requested by WDC to be included in such Underwritten Offering; (iii) third, Registrable Securities requested by all other Holders to be included in such Underwritten Offering on a pro rata basis calculated based on the number of shares requested to be registered; and (iv) fourth, all other securities requested and otherwise eligible to be included in such Underwritten Offering (including securities to be sold for the account of Spinco) on a pro rata basis calculated based on the number of shares requested to be registered.

2.3 Selection of Underwriter(s), Etc. In any Underwritten Offering pursuant to Section 2.1 or Section 2.2 that is not a Spinco Public Sale, WDC, in the event WDC is participating in such Underwritten Offering, or the Holders of a majority of the outstanding Registrable Securities being included in the Underwritten Offering or Exchange Offer, in the event WDC is not participating in such Underwritten Offering or Exchange Offer, shall select the underwriter(s), dealer-manager(s), financial printer, solicitation and/or exchange agent (if any) and Holder's counsel for such Underwritten Offering or Exchange Offer. In any Spinco Public Sale, Spinco shall select the underwriter(s), dealer-manager(s), financial printer, solicitation and/or exchange agent (if any) and WDC, in the event WDC is participating in such Underwritten Offering or Exchange Offer, or the Holders of a majority of the outstanding Registrable Securities being included in the Spinco Public Sale, in the event WDC is not participating in such Underwritten Offering or Exchange Offer, shall select counsel to the Holder(s).

2.4 Registration Procedures.

(a) In connection with the Registration and/or Sale of Registrable Securities pursuant to this Agreement, through an Underwritten Offering or otherwise, Spinco shall use reasonable best efforts to effect or cause the Registration and the Sale of such Registrable Securities in accordance with the intended methods of Sale thereof and:

(i) prepare and file the required Registration Statement including all exhibits and financial statements and, in the case of an Exchange Offer, any document required under Rule 425 or Rule 165 with respect to such Exchange Offer (collectively, the "Ancillary Filings") required under the Securities Act to be filed therewith, and before filing with the SEC a Registration Statement or Prospectus, or any amendments or supplements thereto, (A) furnish to the underwriters or dealer-managers, if any, and to the Holders, copies of all documents prepared to be filed, which documents shall be subject to the review and comment of such underwriters or dealer-managers and such Holders and their respective counsel, and provide such underwriters or dealers managers, if any, and such Holders and their respective counsel reasonable time to review and comment thereon and (B) not file with the SEC any Registration Statement or Prospectus or amendments or supplements thereto or any Ancillary Filing to which the Holders or the underwriters or dealer-managers, if any, shall reasonably object;

(ii) except in the case of a Shelf Registration or Convertible or Exchange Registration, prepare and file with the SEC such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective and to comply with the provisions of the Securities Act with respect to the Sale of all of the Shares Registered thereon until the earlier of (A) such time as all of such Shares have been Sold in accordance with the intended methods of Sale set forth in such Registration Statement or (B) the expiration of nine (9) months after such Registration Statement becomes effective;

(iii) in the case of a Shelf Registration, prepare and file with the SEC such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective and to comply with the provisions of the Securities Act with respect to the Sale of all Shares subject thereto for a period ending thirty-six (36) months after the effective date of such Registration Statement;

(iv) in the case of a Convertible or Exchange Registration, prepare and file with the SEC such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective and to comply with the provisions of the Securities Act with respect to the Sale of all of the Shares subject thereto until such time as the rules, regulations and requirements of the Securities Act and the terms of any applicable convertible securities no longer require such Shares to be Registered under the Securities Act;

(v) notify the participating Holders and the managing underwriter or underwriters or dealer-managers, if any, and (if requested) confirm such advice in writing and provide copies of the relevant documents, as soon as reasonably practicable after notice thereof is received by Spinco (A) when the applicable Registration Statement or any amendment thereto has been filed or becomes effective, when the applicable Prospectus or any amendment or supplement to such Prospectus has been filed, or any Ancillary Filing has been filed, (B) of any written comments by the SEC or any request by the SEC or any other Governmental Authority for amendments or supplements to such Registration

Statement or such Prospectus or any Ancillary Filing or for additional information, (C) of the issuance by the SEC of any stop order suspending the effectiveness of such Registration Statement or any order preventing or suspending the use of any preliminary or final Prospectus or any Ancillary Filing or the initiation or threatening of any proceedings for such purposes, (D) if, at any time, the representations and warranties of Spinco in any applicable underwriting agreement or dealer-manager agreements cease to be true and correct in all material respects, and (E) of the receipt by Spinco of any notification with respect to the suspension of the qualification of the Registrable Securities for offering or Sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(vi) promptly notify each selling Holder and the managing underwriter or underwriters or dealer-managers, if any, when Spinco becomes aware of the occurrence of any event as a result of which the applicable Registration Statement or the Prospectus included in such Registration Statement (as then in effect) or any Ancillary Filing contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein (in the case of such Prospectus and any preliminary Prospectus, in light of the circumstances under which they were made) not misleading or, if for any other reason it shall be necessary during such time period to amend or supplement such Registration Statement or Prospectus or any Ancillary Filing in order to comply with the Securities Act and, in either case as promptly as reasonably practicable thereafter, prepare and file with the SEC, and furnish without charge to the selling Holder and the managing underwriter or underwriters or dealer-managers, if any, an amendment or supplement to such Registration Statement or Prospectus or any Ancillary Filing which will correct such statement or omission or effect such compliance;

(vii) use its reasonable best efforts to prevent or obtain the withdrawal of any stop order or other order suspending the use of any preliminary or final Prospectus;

(viii) promptly incorporate in a Prospectus supplement or post-effective amendment such information as the managing underwriters or dealer-managers, if any, and the Holders may reasonably request in order to permit the intended method of distribution of the Registrable Securities; and make all required filings of such Prospectus supplement or post-effective amendment as soon as reasonably practicable after being notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment;

(ix) furnish to each selling Holder and each underwriter or dealer-manager, if any, without charge, as many conformed copies as such Holder or underwriter or dealer-manager may reasonably request of the applicable Registration Statement and any amendment or post-effective amendment thereto, including financial statements and schedules, all documents incorporated therein by reference and all exhibits (including those incorporated by reference);

(x) deliver to each selling Holder and each underwriter or dealer-manager, if any, without charge, as many copies of the applicable Prospectus (including each preliminary Prospectus) and any amendment or supplement thereto as such Holder or underwriter or dealer-manager may reasonably request (it being understood that Spinco consents to the use of such Prospectus or any amendment or supplement thereto by each selling Holder and the underwriters or dealer-managers, if any, in connection with the offering and Sale of the Registrable Securities covered by such Prospectus or any amendment or supplement thereto) and such other documents as such selling Holder or underwriter or dealer-manager may reasonably request in order to facilitate the Sale of the Registrable Securities by such Holder or underwriter or dealer-manager;

(xi) on or prior to the date on which the applicable Registration Statement is declared effective or becomes effective, use its reasonable best efforts to register or qualify, and cooperate with each selling Holder, the managing underwriter or underwriters or dealer-managers, if any, and their respective counsel, in connection with the registration or qualification of such Registrable Securities for offer and Sale under the securities or "Blue Sky" laws of each state and other jurisdiction of the United States as any selling Holder or managing underwriter or underwriters or dealer-managers, if any, or their respective counsel reasonably request, and in any foreign jurisdiction mutually agreeable to Spinco and the participating Holders, in writing and do any and all other acts or things reasonably necessary or advisable to keep such registration or qualification in effect for so long as such Registration Statement remains in effect and so as to permit the continuance of Sales and dealings in such jurisdictions of the United States for so long as may be necessary to complete the distribution of the Registrable Securities covered by the Registration Statement; provided that Spinco will not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to take any action which would subject it to taxation or general service of process in any such jurisdiction where it is not then so subject;

(xii) in connection with any Sale of Registrable Securities that will result in such securities no longer being Registrable Securities, cooperate with each participating Holder and the managing underwriter or underwriters or dealer-managers, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive Securities Act legends; and to register such Registrable Securities in such denominations and such names as such selling Holder or the underwriters or dealer-managers, if any, may request at least two (2) Business Days prior to such Sale of Registrable Securities; provided that Spinco may satisfy its obligations hereunder without issuing physical stock certificates through the use of the Depository Trust Company's Direct Registration System;

(xiii) cooperate and assist in any filings required to be made with the Financial Industry Regulatory Authority and each securities exchange, if any, on which any of Spinco's securities are then listed or quoted and on each inter-dealer quotation system on which any of Spinco's securities are then quoted, and in the performance of any due diligence investigation by any underwriter or dealer-manager (including any "qualified independent underwriter") that is required to be retained in accordance with the rules and regulations of each such exchange, and use its reasonable best efforts to cause the Registrable Securities covered by the applicable Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the seller or sellers thereof or the underwriter or underwriters or dealer-managers, if any, to consummate the Sale of such Registrable Securities;

(xiv) not later than the effective date of the applicable Registration Statement, provide a CUSIP number for all Registrable Securities and provide the applicable transfer agent with printed certificates for the Registrable Securities which are in a form eligible for deposit with The Depository Trust Company; provided that Spinco may satisfy its obligations hereunder without issuing physical stock certificates through the use of the Depository Trust Company's Direct Registration System;

(xv) obtain for delivery to and addressed to each selling Holder and to the underwriter or underwriters or dealer-managers, if any, opinions from outside counsel and the general counsel for Spinco, in each case dated the effective date of the Registration Statement or, in the event of an Underwritten Offering, the date of the closing under the underwriting agreement or, in the event of an Exchange Offer, the date of the closing under the dealer-manager agreement or similar agreement or otherwise, and in each such case in customary form and content for the type of Underwritten Offering or Exchange Offer, as applicable;

(xvi) in the case of an Underwritten Offering or Exchange Offer, obtain for delivery to and addressed to Spinco and the underwriter or underwriters or dealer-managers and, to the extent requested, each participating Holder, a comfort letter from Spinco's or other applicable independent certified public accountants in customary form and content for the type of Underwritten Offering or Exchange Offer, dated the date of execution of the underwriting agreement or dealer-manager agreement, or, if none, the date of commencement of the Exchange Offer, and brought down to the closing, whether under the underwriting agreement or dealer-manager agreement, if applicable, or otherwise;

(xvii) in the case of an Exchange Offer that does not involve a dealer-manager, provide to each participating Holder such customary written representations and warranties or other covenants or agreements as may be requested by any participating Holder comparable to those that would be included in an underwriting agreement or dealer-manager agreement;

(xviii) use its reasonable best efforts to comply with all applicable rules and regulations of the SEC and make generally available to its security holders, as soon as reasonably practicable, but no later than ninety (90) days after the end of the twelve (12)-month period beginning with the first day of Spinco's first quarter commencing after the effective date of the applicable Registration Statement, an earnings statement satisfying the provisions of Section 11(a) of the Securities Act and the rules and regulations promulgated thereunder and covering the period of at least twelve (12) months, but not more than eighteen (18) months, beginning with the first month after the effective date of the Registration Statement;

(xix) provide and cause to be maintained a transfer agent and registrar for all Registrable Securities covered by the applicable Registration Statement from and after a date not later than the effective date of such Registration Statement;

(xx) cause all Registrable Securities covered by the applicable Registration Statement to be listed on each securities exchange on which any of Spinco's securities are then listed or quoted and on each inter-dealer quotation system on which any of Spinco's securities are then quoted;

(xxi) provide (A) each Holder participating in the Registration, (B) the underwriters (which term, for purposes of this Agreement, shall include a Person deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act), if any, of the Registrable Securities to be Registered, (C) the Sale or placement agent therefor, if any, (D) the dealer-manager therefor, (E) counsel for such underwriters or agent or dealer-manager, and (F) any attorney, accountant or other agent or representative retained by such Holder or any such underwriter or dealer-manager, as selected by such Holder, the opportunity to participate in the preparation of such Registration Statement, each Prospectus included therein or filed with the SEC, and each amendment or supplement thereto, and to require the insertion therein of material, furnished to Spinco in writing, which in the reasonable judgment of such Holder(s) and their counsel should be included; and for a reasonable period prior to the filing of such Registration Statement, upon receipt of such confidentiality agreements as Spinco may reasonably request, make available upon reasonable notice at reasonable times and for reasonable periods for inspection by the parties referred to in (A) through (F) above, all pertinent financial and other records, pertinent corporate and other documents and properties of Spinco that are available to Spinco, and cause all of Spinco's officers, directors and employees and the independent public accountants who have certified its financial statements to make themselves available at reasonable times and for reasonable periods to discuss the business of Spinco and to supply all information available to Spinco reasonably requested by any such Person in connection with such Registration Statement as shall be necessary to enable them to exercise their due diligence responsibility, subject to the foregoing;

(xxii) to cause the executive officers of Spinco to participate in customary "road show" presentations that may be reasonably requested by the managing underwriter or underwriters or dealer-managers in any Underwritten Offering or Exchange Offer and otherwise to facilitate, cooperate with, and participate in each proposed offering contemplated herein and customary selling efforts related thereto; and

(xxiii) take all other customary steps reasonably necessary to effect the Registration, offering and Sale of the Registrable Securities.

(b) As a condition precedent to any Registration hereunder, Spinco may require each Holder as to which any Registration is being effected to furnish to Spinco such information regarding the distribution of such securities and such other information relating to such Holder, its ownership of Registrable Securities and other matters as Spinco may from time to time reasonably request in writing. Each such Holder agrees to furnish such information to Spinco and to cooperate with Spinco as reasonably necessary to enable Spinco to comply with the provisions of this Agreement.

(c) WDC agrees, and any other Holder agrees by acquisition of such Registrable Securities, that, upon receipt of any written notice from Spinco of the occurrence of any event of the kind described in Section 2.4(a)(vi), such Holder will forthwith discontinue the Sale of Registrable Securities pursuant to such Registration Statement until such Holder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 2.4(a)(vi), or until such Holder is advised in writing by Spinco that the use of the Prospectus may be resumed, and if so directed by Spinco, such Holder will deliver to Spinco (at Spinco's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Registrable Securities current at the time of receipt of such notice. In the event Spinco shall give any such notice, the period during which the applicable Registration Statement is required to be maintained effective shall be extended by the number of days during the period from and including the date of the giving of such notice to and including the date when each seller of Registrable Securities covered by such Registration Statement either receives the copies of the supplemented or amended Prospectus contemplated by Section 2.4(a)(vi) or is advised in writing by Spinco that the use of the Prospectus may be resumed.

2.5 Holdback Agreements. To the extent requested in writing by the managing underwriter or underwriters of any Underwritten Offering, Spinco agrees not to, and shall exercise reasonable best efforts to obtain agreements (in the underwriters' customary form) from its directors, executive officers and beneficial owners of five percent (5%) or more of Spinco Common Stock not to, directly or indirectly offer, Sell, pledge, contract to Sell (including any short Sale), grant any option to purchase or otherwise Sell any equity securities of Spinco or enter into any hedging transaction relating to any equity securities of Spinco during the ninety (90) days beginning on pricing date of such Underwritten Offering (except as part of such Underwritten Offering or any Distribution or pursuant to registrations on Form S-8 or S-4 or any successor forms thereto) unless the managing underwriter or underwriters otherwise agree to a shorter period.

2.6 Underwritten Offerings; Exchange Offers. If requested by the managing underwriters for any Underwritten Offering or dealer-managers for any Exchange Offer, Spinco shall enter into an underwriting agreement or dealer-manager agreement with such underwriters or dealer-managers for such offering; provided, however, that no Holder shall be required to make any representations or warranties to Spinco or the underwriters or dealer-managers (other than representations and warranties regarding such Holder and such Holder's intended method of distribution) or to undertake any indemnification obligations to Spinco or the underwriters or dealer-managers with respect thereto, except as otherwise provided in Section 2.9 hereof.

2.7 Convertible or Exchange Registration; Registration Rights with Participating Investors.

(a) If any Holder of Registrable Securities offers any options, rights, warrants or other securities issued by it or any other Person that are offered with, convertible into or exercisable or exchangeable for any Registrable Securities, the Registrable Securities underlying such options, rights, warrants or other securities shall be eligible for Registration pursuant to Section 2.1 and Section 2.2 hereof (a "Convertible or Exchange Registration").

(b) If one or more members of the WDC Group decides to engage, directly or indirectly, in an Exchange with one or more Participating Investors, Spinco shall, upon WDC's request, enter into a registration rights agreement with the Participating Investors in connection with such Exchange, as applicable, on terms and conditions consistent with this Agreement (other than the voting provisions contained in Article III hereof) and reasonably satisfactory to Spinco and the WDC Group.

2.8 Registration Expenses Paid By Spinco. In the case of any Registration of Registrable Securities required pursuant to this Agreement (including any Registration that is delayed or withdrawn) or proposed Underwritten Offering pursuant to this Agreement, Spinco shall pay all Registration Expenses regardless of whether the Registration Statement becomes effective or the Underwritten Offering is completed.

2.9 Indemnification.

(a) Indemnification by Spinco. Spinco agrees to indemnify and hold harmless, to the fullest extent permitted by law, each Holder, such Holder's Affiliates and its and their respective officers, directors, employees, advisors, and agents and each Person who controls (within the meaning of the Securities Act or the Exchange Act) such Persons (collectively, the "Holder Indemnified Parties") from and against any and all losses, claims, damages, liabilities (or actions in respect thereof, whether or not such Holder Indemnified Party is a party thereto) and expenses, joint or several (including reasonable costs of investigation and legal expenses) (each, a "Loss" and collectively "Losses") arising out of or based upon (i) any untrue or alleged untrue statement of a material fact contained in any Registration Statement under which the Sale of such Registrable Securities was Registered under the Securities Act (including any final or preliminary Prospectus contained therein or any amendment thereof or supplement thereto or any documents incorporated by reference therein), or any such statement made in any free writing prospectus (as defined in Rule 405 under the Securities Act) that Spinco has filed or is required to file pursuant to Rule 433(d) under the Securities Act, or (ii) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a Prospectus, preliminary Prospectus or free writing prospectus, in light of the circumstances under which they were made) not misleading; provided, however, that Spinco shall not be liable to any particular Holder Indemnified Party in any such case to the extent that any such Loss arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in any such Registration Statement in reliance upon and in conformity with written information furnished to Spinco by such Holder Indemnified Party expressly for use in the preparation thereof. This indemnity shall be in addition to any liability Spinco may otherwise have. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder or any Holder Indemnified Party and shall survive the transfer of such securities by such Holder.

(b) Indemnification by the Selling Holder. Each selling Holder agrees (severally and not jointly) to indemnify and hold harmless, to the fullest extent permitted by law, Spinco and its directors, officers, employees, advisors, agents and each Person who controls Spinco (within the meaning of the Securities Act and the Exchange Act) (collectively, the "Spinco Indemnified Parties" and, together with the Holder Indemnified Parties, the "Indemnified Parties") from and against any Losses arising out of or based upon (i) any untrue or alleged untrue statement of a material fact contained in any Registration Statement under which the Sale of such Registrable Securities was Registered under the Securities Act (including any final or preliminary Prospectus contained therein or any amendment thereof or supplement thereto or any documents incorporated by reference therein), or any such statement made in any free writing prospectus that Spinco has filed or is required to file pursuant to Rule 433(d) under the Securities Act, or (ii) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a Prospectus, preliminary Prospectus or free writing prospectus, in light of the circumstances under which they were made) not misleading to the extent, but, in each case (i) or (ii), only to the extent, that such untrue statement or omission is contained in any information furnished in writing by such selling Holder to Spinco specifically for inclusion in such Registration Statement, Prospectus, preliminary Prospectus or free writing prospectus. In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the net proceeds received by such Holder under the Sale of the Registrable Securities giving rise to such indemnification obligation. This indemnity shall be in addition to any liability the selling Holder may otherwise have. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of Spinco or any Spinco Indemnified Party.

(c) Conduct of Indemnification Proceedings. Any Person entitled to indemnification hereunder will (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (*provided* that any delay or failure to so notify the indemnifying party shall relieve the indemnifying party of its obligations hereunder only to the extent that it is materially prejudiced by reason of such delay or failure) and (ii) permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the applicable Indemnified Party; provided, however, that any Person entitled to indemnification hereunder shall have the right to select and employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such Person unless (i) the indemnifying party has agreed in writing to pay such fees or expenses, (ii) the indemnifying party shall have failed to assume the defense of such claim within a reasonable time after receipt of notice of such claim from the Person entitled to indemnification hereunder and employ counsel reasonably satisfactory to such Person, (iii) the applicable Indemnified Party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other Indemnified Parties that are different from or in addition to those available to the indemnifying party, or (iv) in the reasonable judgment of any such Person, based upon advice of its counsel, a conflict of interest may exist between such Person and the indemnifying party with respect to such claims (in which case, if the Person notifies the indemnifying party in writing that such Person elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of such claim on behalf of such Person). If such defense is not assumed by the indemnifying party, the indemnifying party will not be subject to any liability for any settlement made without its consent, but such consent may not be unreasonably withheld, conditioned or delayed. If the indemnifying party assumes the defense, the indemnifying party shall not have the right to settle such action without the consent of the applicable Indemnified Party, which consent may not be unreasonably withheld, conditioned or delayed. No indemnifying party shall consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving

by the claimant or plaintiff to such Indemnified Party of an unconditional release from all liability in respect to such claim or litigation. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time from all such Indemnified Party or Indemnified Parties unless (x) the employment of more than one counsel has been authorized in writing by the indemnifying party, (y) an applicable Indemnified Party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it that are different from or in addition to those available to the other Indemnified Parties or (z) a conflict or potential conflict exists or may exist (based on advice of counsel to an applicable Indemnified Party) between such Indemnified Party and the other Indemnified Parties, in each of which cases the indemnifying party shall be obligated to pay the reasonable fees and expenses of such additional counsel or counsels.

(d) Contribution. If for any reason the indemnification provided for in Section 2.9(a) or Section 2.9(b) is unavailable to an Indemnified Party or insufficient to hold it harmless as contemplated by Section 2.9(a) or Section 2.9(b), then the indemnifying party shall contribute to the amount paid or payable by the Indemnified Party as a result of such Loss in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and the Indemnified Party on the other hand. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or the Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. Notwithstanding anything in this Section 2.9(d) to the contrary, no indemnifying party (other than Spinco) shall be required pursuant to this Section 2.9(d) to contribute any amount in excess of the amount by which the net proceeds received by such indemnifying party from the Sale of Registrable Securities in the offering to which the Losses of the Indemnified Parties relate (before deducting expenses, if any) exceeds the amount of any damages which such indemnifying party has otherwise been required to pay by reason of such untrue statement or omission. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 2.9(d) were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in this Section 2.9(d). No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The amount paid or payable by an Indemnified Party hereunder shall be deemed to include, for purposes of this Section 2.9(d), any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating, preparing to defend or defending against or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding. If indemnification is available under this Section 2.9, the indemnifying parties shall indemnify each Indemnified Party to the fullest extent provided in Section 2.9(a) and Section 2.9(b) hereof without regard to the relative fault of said indemnifying parties or Indemnified Party.

2.10 Reporting Requirements; Rule 144. Until the expiration or termination of this Agreement in accordance with its terms, Spinco shall be and remain in compliance with the periodic filing requirements imposed under the SEC's rules and regulations, including the Exchange Act, and any other applicable laws or rules, and shall timely file such information, documents and reports as the SEC may require or prescribe under Section 13 or 15(d) (whichever is applicable) of the Exchange Act. If Spinco is not required to file such reports, it will, upon the request of any Holder, make publicly available such necessary information for so long as necessary to permit Sales pursuant to Rule 144 or Regulation S under the Securities Act, and it will take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to Sell Registrable Securities without Registration under the Securities Act within the limitation of the exemptions provided by (a) Rule 144 or Regulation S under the Securities Act, as such Rules may be amended from time to time, or (b) any rule or regulation hereafter adopted by the SEC. From and after the date hereof through the first anniversary of the date upon which no Holder owns any Registrable Securities, Spinco shall forthwith upon request furnish any Holder (i) a written statement by Spinco as to whether it has complied with such requirements and, if not, the specifics thereof, (ii) a copy of the most recent annual or quarterly report of Spinco, and (iii) such other reports and documents filed by Spinco with the SEC as such Holder may reasonably request in availing itself of an exemption for the Sale of Registrable Securities without registration under the Securities Act.

2.11 Other Registration Rights. Spinco shall not grant to any Persons the right to request Spinco to Register any equity securities of Spinco, or any securities convertible or exchangeable into or exercisable for such securities, whether pursuant to "demand," "piggyback," or other rights, unless such rights are subject and subordinate to the rights of the Holders under this Agreement.

ARTICLE III

VOTING RESTRICTIONS

3.1 Voting of Spinco Common Stock.

(a) From the date of the Distribution until the earlier of (x) the date that the WDC Group ceases to own any Retained Shares and (y) the termination of this Agreement, WDC shall, and shall cause each member of the WDC Group to (in each case, to the extent that they own any Retained Shares), be present, in person or by proxy, at each and every Spinco stockholder meeting, and otherwise to cause all Retained Shares owned by them to be counted as present for purposes of establishing a quorum at any such meeting, and to vote or consent on any matter (including waivers of contractual or statutory rights), or cause to be voted or consented on any such matter, all such Retained Shares in proportion to the votes cast by the other holders of Spinco Common Stock on such matter.

(b) WDC hereby revokes, and shall cause each member of the WDC Group (to the extent that they own any Retained Shares) to revoke, any and all previous proxies granted by them with respect to the Retained Shares owned (whether beneficially or of record) by them as of the date of this Agreement. From the date of the Distribution until the earlier of (x) the date that the WDC Group ceases to own any Retained Shares and (y) the termination of this Agreement, WDC hereby grants to, and shall cause each member of the WDC Group (to the extent that they own any Retained Shares) to grant to, Spinco or its designees (determined in Spinco's sole discretion) an irrevocable proxy, with full power of substitution and resubstitution, which shall be deemed coupled with an interest sufficient in law to support an irrevocable proxy to Spinco or its designees (determined in

Spinco's sole discretion), to vote, with respect to any matter (including waivers of contractual or statutory rights), all Retained Shares owned (whether beneficially or of record) by them, in proportion to the votes cast by the other holders of Spinco Common Stock on such matter; provided that (i) such proxy shall automatically be revoked as to a particular Retained Share upon any Sale of such Retained Share from a member of the WDC Group to a Person other than a member of the WDC Group and (ii) nothing in this Section 3.1 shall limit or prohibit any such Sale.

ARTICLE IV
MISCELLANEOUS

4.1 Term. This Agreement shall terminate upon the earlier of (x) such time as there are no Registrable Securities and (y) the mutual agreement of the parties hereto, except for the provisions of Section 2.8 and Section 2.9 and all of this Article IV, which shall survive any such termination.

4.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered: (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed; or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission when receipt is confirmed:

To WDC:

c/o Western Digital Corporation
5601 Great Oaks Parkway
San Jose, CA 95119
Attn: Cynthia Tregillis
Email: cynthia.tregillis@wdc.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

To Spinco:

c/o Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attn: Bernard Shek
Email: bernard.shek@sandisk.com

with a copy to (which shall not constitute notice):

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue Suite 1400
Palo Alto, CA 94301
Attn: Thomas J. Ivey and Christopher J. Bors
Email: thomas.ivey@skadden.com and christopher.bors@skadden.com

4.3 Entire Agreement. This Agreement including any exhibits and amendments hereto, and the other agreements and documents referred to herein and therein, shall together constitute the entire agreement between WDC and Spinco with respect to the subject matter hereof and thereof and shall supersede all prior negotiations, agreements and understandings, both written and oral, between WDC and Spinco with respect to such subject matter hereof.

4.4 Successors, Assigns and Transferees.

(a) The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the parties and their respective successors and permitted assigns. Spinco may assign this Agreement at any time in connection with a Sale or acquisition of Spinco, whether by merger, consolidation, Sale of all or substantially all of Spinco's assets, or similar transaction, without the consent of the Holders; provided that the successor or acquiring Person agrees in writing to assume all of Spinco's rights and obligations under this Agreement. WDC may assign this Agreement to any member of the WDC Group or at any time in connection with a sale or acquisition of WDC, whether by merger, consolidation, sale of all or substantially all of WDC's assets, or similar transaction, without the consent of Spinco.

(b) In connection with the Sale of Registrable Securities, WDC may assign its Registration-related rights and obligations under this Agreement relating to such Registrable Securities to the following transferees in such Sale: (i) a member of the WDC Group to which Registrable Securities are Sold, (ii) one or more Participating Investors to which Registrable Securities are Sold, (iii) any other transferee to which Registrable Securities are Sold, if Spinco provides prior written consent to the transfer of such Registration-related rights and obligations along with the Sale of Registrable Securities or (iv) any other transferee that acquires at least five percent (5%) of the number of Registrable Securities beneficially owned by WDC immediately following the completion of the Distribution; provided, that in the case of clauses (i), (ii), (iii) or (iv), (x) Spinco is given written notice prior to or at the time of such Sale stating the name and address of the transferee and identifying the securities with respect to which the Registration-related rights and obligations are being Sold and (y) the transferee executes a counterpart in the form attached hereto as Exhibit A and delivers the same to Spinco (any such transferee in such Sale, a "Transferee"). In connection with the Sale of Registrable Securities, a Transferee or Subsequent Transferee (as defined below) may assign its Registration-related rights and obligations under this Agreement relating to such Registrable Securities to the following subsequent transferees: (A) an Affiliate of such Transferee to which Registrable Securities are Sold, (B) any subsequent transferee to which Registrable Securities are Sold, if Spinco provides prior written consent to the transfer of such Registration-related rights and obligations along with the Sale of Registrable Securities or (C) any other subsequent transferee that acquires at least five percent (5%) of the number of Registrable Securities beneficially owned by WDC immediately following the completion of the Distribution; provided, that in the case of clauses (A), (B) or (C), (x) Spinco is given written notice prior to or at the time of such Sale stating the name and address of the subsequent transferee and identifying the securities with respect to which the Registration-related rights and obligations are being assigned and (y) the subsequent transferee executes a counterpart in the form attached hereto as Exhibit A and delivers the same to Spinco (any such subsequent transferee, a "Subsequent Transferee").

4.5 GOVERNING LAW; NO JURY TRIAL.

(a) This Agreement and any Action (whether at law, in contract, in tort or otherwise) arising out of or relating to this Agreement or the negotiation, validity, interpretation, performance, breach or termination of this Agreement shall be governed by and construed in accordance with the internal law of the State of Delaware, regardless of the law that might otherwise govern under applicable principles of conflicts of law thereof.

(b) Each party hereto shall appoint a representative who shall be responsible for administering this dispute resolution provision (each, an "Appointed Representative"). The Appointed Representatives shall have the authority to resolve any such disputes. Except as otherwise provided in this Agreement, in the event of a controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance, nonperformance, validity, termination or breach of this Agreement or otherwise arising out of, or in any way related to, this Agreement (collectively, the "Agreement Disputes"), the Appointed Representatives shall negotiate in good faith for a reasonable period of time to settle such Agreement Dispute; *provided, however*, that: (i) such reasonable period shall not, unless otherwise agreed to by the parties hereto, exceed thirty (30) calendar days from the time of receipt by a party hereto; and (ii) the relevant employees from the relevant parties hereto shall first have tried to resolve the differences between the parties hereto. Nothing said or disclosed, nor any document produced, in the course of any negotiations, conferences and discussions in connection with efforts to settle an Agreement Dispute that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose, but shall be considered as to have been disclosed for settlement purposes. Unless otherwise agreed in writing, the parties hereto will continue to honor all commitments under this Agreement during the course of dispute resolution pursuant to the provisions of this Section 4.5 with respect to all matters not specifically subject to such dispute resolution.

(c) Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party hereto shall be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party hereto of any one remedy shall not preclude the exercise of any other remedy. Nothing in this Agreement shall be deemed a waiver by any party hereto of any right to specific performance or injunctive relief. The parties hereto understand and agree that the covenants and agreements on each of their parts herein contained are uniquely related to the desire of the parties hereto and their respective Affiliates to consummate the transactions contemplated herein, that the transactions contemplated herein are a unique business opportunity at a unique time for each of WDC and Spinco and their respective Affiliates, and further agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms, and further agree that, although monetary damages may be available for the breach of such covenants and agreements, monetary damages would be an inadequate remedy therefor. It is accordingly agreed that, in addition to any other remedy that may be available to it, including monetary damages, each of the parties hereto shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the parties hereto further agrees that no party hereto shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 4.5 and each party hereto waives any objection to the imposition of such relief or any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

(d) Each of the parties hereto irrevocably agrees that, subject (except in the case of any legal action or proceeding seeking specific performance) to prior compliance with Section 4.5(b), any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder, brought by any other party hereto or its successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware). Each of the parties hereto hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the parties hereto hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement: (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 4.5; (ii) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise); and (iii) to the fullest extent permitted by the applicable law, any claim that: (x) the suit, action or proceeding in such court is brought in an inconvenient forum; (y) the venue of such suit, action or proceeding is improper; or (z) this Agreement, or the subject matter hereof, may not be enforced in or by such courts (other than by reason of, except in the case of any action or proceeding for specific performance, needing to first comply with the provisions of Section 4.5(b)). In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including, without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals. The parties hereto agree that service of any court paper may be made in any manner as may be provided under the applicable laws or court rules governing service of process in such court. The parties hereto agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law.

(e) EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.

4.6 Headings. The article, section and paragraph headings contained in this Agreement are inserted for the convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

4.7 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

4.8 Amendment; Waiver.

(a) This Agreement may not be amended or modified and waivers and consents to departures from the provisions hereof may not be given, except by an instrument or instruments in writing making specific reference to this Agreement and signed by Spinco and the Holders of a majority of the Registrable Securities; provided that if WDC or any of its Affiliates owns Registrable Securities, no amendment to or waiver of any provision in this Agreement will be effected without the written consent of WDC if such amendment or waiver adversely affects the rights of WDC or such Affiliates of WDC. Any such waiver, amendment or supplement shall not be applicable or have any effect except in the specific instance in which it is given. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any party hereto under or by reason of this Agreement.

(b) Notwithstanding the foregoing, no failure on the part of any party hereto to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any party hereto in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. The rights and remedies hereunder are cumulative and not exclusive of any rights or remedies that any party hereto would otherwise have. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement or any such waiver of any provision of this Agreement must satisfy the conditions set forth in Section 4.8(a) and shall be effective only to the extent in such writing specifically set forth.

4.9 Registrations, Exchanges, etc. Notwithstanding anything to the contrary that may be contained in this Agreement, the provisions of this Agreement shall apply to the fullest extent set forth herein with respect to (a) any shares of Spinco Common Stock, now or hereafter authorized to be issued, (b) any and all securities of Spinco into which the shares of Spinco Common Stock are converted, exchanged or substituted in any recapitalization or other capital reorganization by Spinco and (c) any and all securities of any kind whatsoever of Spinco or any successor or permitted assign of Spinco (whether by merger, consolidation, Sale of assets or otherwise) which may be issued on or after the date hereof in respect of, in conversion of, in exchange for or in substitution of, the shares of Spinco Common Stock, and shall be appropriately adjusted for any stock dividends, or other distributions, stock splits or reverse stock splits, combinations, recapitalizations, mergers, consolidations, exchange offers or other reorganizations occurring after the date hereof.

4.10 Further Assurances. In addition to and without limiting the actions specifically provided for elsewhere in this Agreement and subject to the limitations expressly set forth in this Agreement each of the parties shall cooperate with each other and use (and shall cause its respective Subsidiaries and Affiliates to use) commercially reasonable efforts to take, or to cause to be taken, all actions, and to do, or to cause to be done, all things reasonably necessary on its part under applicable law or contractual obligations to consummate and make effective the transactions contemplated by this Agreement.

4.11 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each of the parties hereto and delivered to the other party hereto, it being understood that all parties hereto need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means. The exchange of a fully executed Agreement (in counterparts or otherwise) by facsimile or electronic transmission shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

[The remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

WESTERN DIGITAL CORPORATION

By: /s/ Wissam Jabre
Name: Wissam Jabre
Title: Executive Vice President and Chief Financial Officer

SANDISK CORPORATION

By: /s/ David V. Goeckeler
Name: David V. Goeckeler
Title: Chief Executive Officer

Exhibit 10.7

Execution Version

LOAN AGREEMENT

AMONG

SANDISK CORPORATION,
a Delaware corporation, as Lead Borrower,

VARIOUS LENDERS
FROM TIME TO TIME PARTY HERETO,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent and Collateral Agent,

JPMORGAN CHASE BANK, N.A.,
CITIBANK, N.A.,
DBS BANK LTD.,
MIZUHO BANK, LTD.,
MUFG BANK, LTD.,
RBC CAPITAL MARKETS,[1],
SUMITOMO MITSUI BANKING CORPORATION,
TD SECURITIES (USA) LLC,
BNP PARIBAS SECURITIES CORP.,
HSBC SECURITIES (USA) INC.,
KEYBANC CAPITAL MARKETS INC.,
PNC BANK, NATIONAL ASSOCIATION,
TRUIST SECURITIES, INC.
and
U.S. BANK NATIONAL ASSOCIATION,
as Joint Lead Arrangers and Joint Bookrunners,

and

JPMORGAN CHASE BANK, N.A.,
CITIBANK, N.A.,
DBS BANK LTD.,
MIZUHO BANK, LTD.,
MUFG BANK, LTD.,
RBC CAPITAL MARKETS,
SUMITOMO MITSUI BANKING CORPORATION,
TD SECURITIES (USA) LLC,
BNP PARIBAS SECURITIES CORP.,
HSBC SECURITIES (USA) INC.,
KEYBANC CAPITAL MARKETS INC.,
PNC BANK, NATIONAL ASSOCIATION,
TRUIST BANK
and
U.S. BANK NATIONAL ASSOCIATION,
as Co-Syndication Agents,

Dated as of February 21, 2025

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[1] RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.

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LOAN AGREEMENT

This Loan Agreement is entered into as of February 21, 2025, by and among SANDISK CORPORATION, a Delaware Corporation (the "*Lead Borrower*"), the Additional Borrowers party hereto from time to time, the various institutions from time to time party to this Agreement, as Lenders, and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent (in such capacities, the "*Administrative Agent*" or "*Collateral Agent*").

Preliminary Statements

Western Digital Corporation, a Delaware corporation and the parent company of the Lead Borrower (the "*Company*") has elected to spin off of its flash-based product segment which will be held, directly and/or through its subsidiaries, the Lead Borrower (the "*Spin-Off*").

The Lead Borrower (i) has requested that (a) the Revolving Lenders provide a revolving credit facility to the Lead Borrower on the Closing Date in an aggregate principal amount of $1,500,000,000 pursuant to this Agreement and (b) the Term B Lenders extend the Term B Loans to the Lead Borrower on the Closing Date in an aggregate principal amount of $2,000,000,000 pursuant to this Agreement, with the proceeds from the initial borrowings of the Term B Loans hereunder to be used on the Closing Date to pay a dividend, distribution or cash transfer to the Company or any of its subsidiaries in connection with the Spin-Off (the "*Closing Date Dividend*"), to fund cash to the balance sheet of the Lead Borrower and its Restricted Subsidiaries, to pay fees and expenses related to the Transactions and for general corporate purposes and (ii) will use the proceeds from Revolving Loans borrowed after the Closing Date and Letters of Credit for working capital needs and other general corporate purposes of the Lead Borrower and its subsidiaries.

On the Closing Date, substantially concurrently with the initial borrowings of the Term B Loans and establishment of the Revolving Credit Commitments and the Letter of Credit Commitments, (i) the Lead Borrower will make the Closing Date Dividend and (ii) thereafter the Company will consummate the Spin-Off, the effect of which will be that the Lead Borrower will no longer constitute a subsidiary of the Company.

The Lenders have indicated their willingness to lend on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE 1. DEFINITIONS; INTERPRETATION.

Section 1.1 *Definitions*. The following terms when used herein shall have the following meanings:

"*Acquired Debt*" means, with respect to any specified Person:

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, or to provide all or any portion of the funds or credit support utilized in connection with, such other Person merging with or into, or becoming a Subsidiary of, such specified Person; *provided*, *however*, that any Indebtedness of such acquired Person that is redeemed, defeased, retired or otherwise repaid at the time of or immediately upon consummation of the transactions by which such Person merges with or into, consolidates, amalgamates or otherwise combines with or becomes a Subsidiary of such Person shall not be considered to be Acquired Debt; and

(2) Indebtedness secured by an existing Lien encumbering any asset acquired by such specified Person (other than the proceeds or products thereof, replacements, accessions or additions thereto, or improvements thereon, or customary security deposits with respect thereto, and other than after-acquired property subject to a Lien securing Indebtedness and other obligations incurred prior to such time and which Indebtedness and other obligations are permitted hereunder that require or include, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition).

"*Acquisition*" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any line of business or division of a Person, (b) the acquisition of in excess of 50.00% of the capital stock, partnership interests, membership interests or equity of any Person (other than a Person that is a Restricted Subsidiary), but, at the Lead Borrower's option, including acquisitions of Equity Interests increasing the ownership of the Lead Borrower or a Subsidiary in an existing Subsidiary, or (c) a merger or consolidation or any other combination with another Person (other than a Person that is already a Restricted Subsidiary); *provided* that the Lead Borrower or a Restricted Subsidiary is the surviving entity or the surviving entity becomes a Restricted Subsidiary.

"*Act*" has the meaning provided in the definition of "Change of Control".

"*Additional Borrower*" means any Subsidiary of the Lead Borrower that becomes a Borrower pursuant to Section 10.28.

"*Additional Lender*" means any Additional Revolving Lender or any Additional Term Lender, as applicable.

"*Additional Revolving Lender*" means, at any time, any bank or other financial institution that agrees to provide any portion of any Revolving Credit Commitment Increase or Incremental Revolving Credit Facility pursuant to an Incremental Amendment in accordance with Section 2.14; *provided* that the relevant Persons under Section 10.10(b) (including those specified in the definition of "Eligible Assignee") shall have consented to such Additional Revolving Lender's providing such Commitment Increases, if such consent would be required under Section 10.10(b) for an assignment of Revolving Credit Commitments to such Additional Revolving Lender.

"*Additional Term Lender*" means, at any time, any bank or other financial institution that agrees to provide any portion of any Term Commitment Increase or Incremental Term Loan pursuant to an Incremental Amendment in accordance with Section 2.14; *provided* that the relevant Persons under Section 10.10(b) (including those specified in the definition of "Eligible Assignee") shall have consented to such Additional Term Lender's making such Incremental Term Loans, if such consent would be required under Section 10.10(b) for an assignment of Loans to such Additional Term Lender.

"*Adjusted Daily Simple SOFR*" means, with respect to any RFR Borrowing denominated in Dollars, an interest rate per annum equal to (a) the Daily Simple SOFR, *plus* (b) solely in the case of the Revolving Loans, 0.10%; *provided* that if the Adjusted Daily Simple SOFR as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"*Adjusted EURIBOR Rate*" means, with respect to any Term Benchmark Borrowing denominated in Euros for any Interest Period, an interest rate per annum equal to (a) the EURIBOR Rate for such Interest Period *multiplied by* (b) the Statutory Reserve Rate; *provided* that if the Adjusted EURIBOR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"*Adjusted Term SOFR Rate*" means, with respect to any Term Benchmark Borrowing denominated in Dollars for any Interest Period, an interest rate per annum equal to (a) the Term SOFR Rate for such Interest Period, *plus* (b) solely in the case of the Revolving Loans, 0.10%; *provided* that if the Adjusted Term SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"*Adjusted TIBOR Rate*" means, with respect to any Term Benchmark Borrowing denominated in Yen for any Interest Period, an interest rate per annum equal to (a) the TIBOR Rate for such Interest Period *multiplied by* (b) the Statutory Reserve Rate; *provided* that if the Adjusted TIBOR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"*Administrative Agent*" means JPMorgan Chase Bank, N.A. and its affiliates (including J.P. Morgan Europe Limited), as contractual representative for itself and the other Lenders and any successor pursuant to Section 9.7 hereof.

"*Administrative Questionnaire*" means, with respect to each Lender, an Administrative Questionnaire in a form supplied by the Administrative Agent and duly completed by such Lender.

"*Affected Financial Institution*" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"*Affected Lender*" is defined in Section 8.5 hereof.

"*Affiliate*" means any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for the purposes of this definition if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise.

"*Agent*" means the Administrative Agent, the Collateral Agent or any Co-Syndication Agent, as applicable.

"*Agreed Currencies*" means Dollars and each Alternative Currency.

"*Agreement*" means this Loan Agreement, as the same may be amended, modified, restated, amended and restated or supplemented from time to time pursuant to the terms hereof.

"*Alternative Currency*" means Euros, Yen and any additional currencies determined after the Closing Date in accordance with Section 1.8; *provided* that each such currency is a lawful currency that is readily available, freely transferable and not restricted and able to be converted into Dollars.

"*Ancillary Document*" is defined in Section 10.9(b) hereof.

"*Anti-Corruption Laws*" means all laws, rules and regulations of any jurisdiction, including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act, as amended, applicable to the Lead Borrower, the Lead Borrower's Subsidiaries or any Guarantor from time to time concerning or relating to bribery or corruption.

"*Applicable Discount*" has the meaning provided in clause (c) of the definition of "*Dutch Auction*".

"*Applicable Laws*" means, as to any Person, any law (including common law), statute, regulation, ordinance, rule, order, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority, in each case applicable to or binding on such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"*Applicable Margin*" means:

(a) with respect to any Term B Loan, (i) 3.00% per annum, in the case of a Term Benchmark Loan, and (ii) 2.00% per annum, in the case of a Base Rate Loan; and

(b) with respect to any Revolving Loan, (i) initially, (x) 2.00% per annum, in the case of a Term Benchmark Loan, (y) 2.00% per annum, in the case of a RFR Loan and (z) 1.00% per annum, in the case of a Base Rate Loan and (ii) from and after the date on which the Lead Borrower delivers the financial statements for the first full fiscal quarter ending after the Closing Date, the applicable rate per annum set forth below under the caption "Term Benchmark Loans", "Base Rate Loans" and "RFR Loans" based upon the Leverage Ratio as of the end of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b):

Level	Leverage Ratio	Term Benchmark Loans	Base Rate Loans	RFR Loans	Revolving Facility Commitment Fee
I	> 2.50 to 1.00	2.50%	1.50%	2.50%	0.40%
II	≤ 2.50 to 1.00 and > 1.50 to 1.00	2.25%	1.25%	2.25%	0.35%
III	≤ 1.50 to 1.00	2.00%	1.00%	2.00%	0.30%

For purposes of clause (b)(ii) above, each change in the Applicable Margin resulting from a change in the Leverage Ratio shall be effective during the period commencing on and including the date that is three (3) Business Days after the date of delivery to the Administrative Agent pursuant to Section 6.1(a) or 6.1(b) of the consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change; *provided* that the Leverage Ratio shall be deemed to be in Level I at the option of the Administrative Agent or at the request of the Required Lenders if the Lead Borrower fails to deliver the consolidated financial statements required to be delivered by it pursuant to Section 6.1(a) or 6.1(b) or the certificate required to be delivered by it pursuant to Section 6.1(e) during the period from the expiration of the time for delivery thereof until such consolidated financial statements and such certificate are delivered.

"*Applicable Time*" means, with respect to any Borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the Administrative Agent or the L/C Issuers, as the case may be, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

"*Application*" is defined in Section 2.3(b) hereof.

"*Approved Fund*" means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"*Assignment and Assumption*" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.10), and accepted by the Administrative Agent, in substantially the form of Exhibit G or any other form approved by the Administrative Agent and the Lead Borrower.

"*Auction*" has the meaning provided in the definition of "*Dutch Auction*".

"*Auction Amount*" has the meaning provided in clause (a) of the definition of "*Dutch Auction*".

"*Auction Notice*" has the meaning provided in clause (a) of the definition of "*Dutch Auction*".

"*Authorized Representatives*" means those persons shown on the list of officers provided by the Lead Borrower pursuant to Section 3.2(a)(iv) hereof or on any update of any such list provided by the Lead Borrower to the Administrative Agent, or any further or different officers of the Lead Borrower so named by any Authorized Representative of the Lead Borrower in a written notice to the Administrative Agent.

"*Available Amount*" means, at any time, an amount equal to, without duplication:

(a) the sum, without duplication, of:

(i) the greater of $100.0 million and 6.00% of Consolidated Adjusted EBITDA; *plus*

(ii) an amount equal to 50% of the cumulative amount of Consolidated Net Income for the period commencing on the first day of the fiscal quarter in which the Closing Date occurs and ending on the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b); *provided* that in no event shall such amount be less than zero; *plus*

(iii) the amount of any capital contributions or other equity issuances received as cash equity by the Lead Borrower, *plus* the fair market value, as determined in good faith by the Lead Borrower, of marketable securities or other property received by the Lead Borrower as a capital contribution or in return for issuances of equity, in each case, during the period from and including the Business Day immediately following the Closing Date through and including such time; *plus*

(iv) the aggregate principal amount of any Indebtedness or Disqualified Equity Interests, in each case, of the Lead Borrower or any Restricted Subsidiary issued after the Closing Date (other than Indebtedness or such Disqualified Equity Interests issued to the Lead Borrower or a Restricted Subsidiary), which has been converted into or exchanged for Equity Interests of the Lead Borrower that do not constitute Disqualified Equity Interests, together with the fair market value of any Cash Equivalents and the fair market value (as reasonably determined by the Lead Borrower) of any property or assets received by the Lead Borrower or any Restricted Subsidiary upon such exchange or conversion; *plus*

(v) the net proceeds received by the Lead Borrower or any Restricted Subsidiary after the Closing Date in connection with the sale or other disposition to a Person (other than the Borrowers or any Restricted Subsidiary) of any investment made pursuant to Section 6.19(o) (in an amount not to exceed the original amount of such investment); *plus*

(vi) the proceeds received by the Lead Borrower or any Restricted Subsidiary after the Closing Date in connection with returns, profits, distributions and similar amounts, repayments of loans and the release of guarantees received on any investment made pursuant to Section 6.19(o) (in an amount not to exceed the original amount of such investment); *plus*

(vii) the amounts of any Declined Proceeds since the Closing Date; *minus*

(b) the sum, without duplication, of:

(i) the aggregate amount of any investments made by the Lead Borrower or any Restricted Subsidiary pursuant to clause (b) of the defined term "Permitted Acquisition" in reliance on Section 6.19(l) after the Closing Date and prior to such time;

(ii) the aggregate amount of any investments, loans or advances made by the Lead Borrower or any Restricted Subsidiary pursuant to Section 6.19(o) after the Closing Date and prior to such time;

(iii) the aggregate amount of any Distributions made by the Lead Borrower pursuant to Section 6.20(f) after the Closing Date and prior to such time; and

(iv) the aggregate amount of any optional or voluntary payments, prepayments, repurchases, redemptions or defeasances made by the Lead Borrower or any Restricted Subsidiary pursuant to Section 6.22(a)(iv)(y) after the Closing Date and prior to such time.

"*Available Tenor*" means, as of any date of determination and with respect to the then-current Benchmark for any Agreed Currency, as applicable, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or otherwise, for determining any frequency of making payments of interest calculated pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to clause (e) of Section 8.3.

"*Bail-In Action*" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"*Bail-In Legislation*" means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"*Base Rate*" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day *plus* ½ of 1% and (c) the Adjusted Term SOFR Rate for a one month Interest Period as published two U.S. Government Securities Business Days prior to such day (or if such day is not a Business Day, the immediately preceding Business Day) *plus* 1%; *provided* that for the purpose of this definition, the Adjusted Term SOFR Rate for any day shall be based on the Term SOFR Reference Rate at approximately 5:00 a.m. Chicago time on such day (or any amended publication time for the Term SOFR Reference Rate, as specified by the CME Term SOFR Administrator in the Term SOFR Reference Rate methodology). Any change in the Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate, respectively. If the Base Rate is being used as an alternate rate of interest pursuant to Section 8.3 (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Section 8.3(c)), then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, (i) in the case of Revolving Loans, if the Base Rate as determined pursuant to the foregoing would be less than 1.00%, such rate shall be deemed to be 1.00% for purposes of this Agreement and (ii) in the case of Term Loans, if the Base Rate as determined pursuant to the foregoing would be less than 1.00%, such rate shall be deemed to be 1.00% for purposes of this Agreement.

"*Base Rate Loan*" means a Term B Loan or Revolving Loan bearing interest based on the Base Rate.

"*Benchmark*" means, initially, with respect to any (i) RFR Loan, the Daily Simple SOFR or (ii) Term Benchmark Loan, the Term SOFR Rate, EURIBOR Rate or TIBOR Rate, as applicable; *provided* that if a Benchmark Transition Event and the related Benchmark Replacement Date have occurred with respect to the Daily Simple SOFR, Term SOFR Rate, EURIBOR Rate or TIBOR Rate, as applicable, or the then-current Benchmark for the applicable Agreed Currency, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 8.3.

"*Benchmark Replacement*" means for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date; *provided* that, in the case of any Loan denominated in an Alternative Currency, "Benchmark Replacement" shall mean the alternative set forth in clause (2) below:

(1) in the case of any Loan denominated in Dollars, the Adjusted Daily Simple SOFR;

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Lead Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in the applicable Agreed Currency at such time in the United States and (b) the related Benchmark Replacement Adjustment.

If the Benchmark Replacement as determined pursuant to the above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

"*Benchmark Replacement Adjustment*" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Lead Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities in the applicable Agreed Currency at such time.

"*Benchmark Replacement Conforming Changes*" means, with respect to any Benchmark Replacement and/or any Term Benchmark Revolving Loan, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides after consultation with the Lead Borrower may be appropriate to reflect the adoption and implementation of such Benchmark and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"*Benchmark Replacement Date*" means, with respect to any Benchmark, the earliest to occur of the following events with respect to such then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; *provided*, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (1) or (2) above with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"*Benchmark Transition Event*" means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, the CME Term SOFR Administrator, the central bank for the Agreed Currency applicable to such Benchmark, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"*Benchmark Unavailability Period*" means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clause (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 8.3 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 8.3.

"*Beneficial Ownership Certification*" means a certification regarding beneficial ownership or control as required by the Beneficial Ownership Regulation.

"*Beneficial Ownership Regulation*" means 31 C.F.R. § 1010.230.

"*Benefit Plan*" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"*BHC Act Affiliate*" of a party means an "affiliate' (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"*Borrower Materials*" has the meaning assigned to such term in Section 10.25(a).

"*Borrowers*" means the Lead Borrower and any Additional Borrower that becomes a Borrower hereunder pursuant to Section 10.27.

"*Borrowing*" means the total of Loans of a single type advanced, continued for an additional Interest Period, or converted from a different type into such type by the Lenders under the applicable Facility on a single date and, in the case of Term Benchmark Loans, for a single Interest Period. Borrowings of Loans are made and maintained ratably from each of the Lenders under the applicable Facility according to their Percentages of such Facility. A Borrowing of Loans is "advanced" on the day Lenders advance funds comprising such Borrowing to a Borrower, is "continued" on the date a new Interest Period for the same type of Loans commences for such Borrowing, and is "converted" when such Borrowing is changed from one (1) type of Loan to the other, all as requested by a Borrower pursuant to Section 2.5(a) hereof. Base Rate Loans, RFR Loans and Term Benchmark Loans are each a "type" of Loan.

"*Business Day*" means, any day (other than a Saturday or Sunday) on which banks are not authorized or required to close in the State of New York*; provided*, *however*, that, (a) in relation to Loans denominated in Yen and in relation to the calculation or computation of TIBOR or the Japanese Prime Rate, any day (other than a Saturday or a Sunday) on which banks are open for business in Japan, (b) in relation to Loans denominated in Euros and in relation to the calculation or computation of EURIBOR, any day which is a TARGET Day, (c) in relation to RFR Loans and any interest rate settings, fundings, disbursements, settlements or payments of any such RFR Loan, or any other dealings of such RFR Loan, any such day that is only a U.S. Government Securities Business Day and (d) in relation to Loans referencing the Adjusted Term SOFR Rate and any interest rate settings, fundings, disbursements, settlements or payments of any such Loans referencing the Adjusted Term SOFR Rate or any other dealings of such Loans referencing the Adjusted Term SOFR Rate, any day that is a U.S. Government Securities Business Day.

"*Capital Lease*" means any lease of Property which in accordance with GAAP is required to be capitalized on the balance sheet of the lessee; *provided* that, notwithstanding the foregoing, only those leases and obligations that would constitute Capital Leases prior to the implementation of Accounting Standards Codification 842, Leases, will be considered to be Capital Leases for purposes of this Agreement.

"*Capitalized Lease Obligation*" means, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with GAAP.

"*Captive Insurance Subsidiary*" means any Restricted Subsidiary of the Lead Borrower that is subject to regulation as an insurance company (or any Restricted Subsidiary thereof).

"*Cash Equivalents*" means, as to any Person: (a) investments in direct obligations of the United States of America or any member of the European Union or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America or any member of the European Union or obligations guaranteed by the United States of America or any member of the European Union or any agency thereof; *provided* that any such obligations shall mature within one (1) year of the date of issuance thereof; (b) investments in commercial paper rated at least P-2 by Moody's or at least A-2 by S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service) maturing within 90 days from the date of issuance thereof; (c) investments in certificates of deposit or bankers' acceptances issued by any Lender or by any domestic or foreign bank having capital and surplus of not less than $500.0 million in the case of U.S. banks and $100.0 million in the case of non-U.S. banks which have a maturity of one (1) year or less; (d) investments in repurchase obligations with a term of not more than thirty (30) days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above; *provided* that all such agreements require physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System; (e) marketable short-term money market or similar securities having a rating of at least P-2 by Moody's or A-2 by S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service), (f) (i) Dollars, Canadian dollars, pounds, Euros or any national currency of any participating member state of the EMU; or (ii) in the case of any Foreign Subsidiary that is a Restricted Subsidiary or any jurisdiction in which the Lead Borrower and the Restricted Subsidiaries conduct business, such local currencies held by it from time to time in the ordinary course of business and (g) investments in money market funds that invest at least 90.0% of their assets in investments of the type described in the immediately

preceding clauses (a) through (f) above. In the case of investments by any Foreign Subsidiary that is a Restricted Subsidiary or investments made in a country outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (g) above of foreign obligors, which investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Foreign Subsidiaries that are Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (g) and in this sentence.

"*Cash Flow*" means, with reference to any period, the sum, without duplication, of (a) Consolidated Net Income for such period, *plus* (b) an amount equal to the amount of all Non-Cash Charges to the extent deducted in arriving at such Consolidated Net Income for such period; *plus* (c) decreases in Consolidated Working Capital for such period and long-term accounts receivable for such period (other than decreases relating to dispositions permitted by 6.17(a)) *plus* (d) an amount equal to the aggregate net non-cash loss on dispositions by the Lead Borrower and its Restricted Subsidiaries during such period (other than dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income for such period.

"*Cash Management Services*" means treasury, depository, overdraft, credit or debit card, including noncard payables services, purchase card, electronic funds transfer, automated clearing house fund transfer services and other cash management services.

"*CBR Loan*" means a Loan that bears interest at a rate determined by reference to the Central Bank Rate or the Japanese Prime Rate.

"*CBR Spread*" means the Applicable Margin, applicable to such Loan that is replaced by a CBR Loan.

"*Central Bank Rate*" means, the greater of (I)(A) for any Loan denominated in (a) Euro, one of the following three rates as may be selected by the Administrative Agent in its reasonable discretion: (1) the fixed rate for the main refinancing operations of the European Central Bank (or any successor thereto), or, if that rate is not published, the minimum bid rate for the main refinancing operations of the European Central Bank (or any successor thereto), each as published by the European Central Bank (or any successor thereto) from time to time, (2) the rate for the marginal lending facility of the European Central Bank (or any successor thereto), as published by the European Central Bank (or any successor thereto) from time to time or (3) the rate for the deposit facility of the central banking system of the participating member states of the EMU, as published by the European Central Bank (or any successor thereto) from time to time and (b) any other Alternative Currency determined after the Closing Date, a central bank rate as determined by the Administrative Agent in its reasonable discretion; *plus* (B) the applicable Central Bank Rate Adjustment and (II) the Floor.

"*Central Bank Rate Adjustment*" means, for any day, for any Loan denominated in (a) Euro, a rate equal to the difference (which may be a positive or negative value or zero) of (i) the average of the Adjusted EURIBOR Rate for the five most recent Business Days preceding such day for which the EURIBOR Screen Rate was available (excluding, from such averaging, the highest and the lowest Adjusted EURIBOR Rate applicable during such period of five Business Days) *minus* (ii) the Central Bank Rate in respect of Euro in effect on the last Business Day in such period and (b) any other Alternative Currency determined after the Closing Date, a Central Bank Rate Adjustment as determined by the Administrative Agent in its reasonable discretion. For purposes of this definition, (x) the term Central Bank Rate shall be determined disregarding clause (B) of the definition of such term and (y) the EURIBOR Rate on any day shall be based on the EURIBOR Screen Rate, on such day at approximately the time referred to in the definition of such term for deposits in the applicable Agreed Currency for a maturity of one month.

"*CFC*" means a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"*CFC Holdco*" means any Domestic Subsidiary with no material assets other than equity interests of one or more Foreign Subsidiaries that are CFCs.

A "*Change of Control*" shall be deemed to have occurred if any "person" or "group" (as such terms (and each other reference thereto in this clause) are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 (the "*Act*"), but excluding any employee benefit plan of such Person and its subsidiaries, and any Person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), shall become the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of more than 35.00% of outstanding Voting Stock of the Lead Borrower; *provided* that no Change of Control shall be deemed to occur as a result of the Spin-Off Transactions; *provided further* that, a transaction will not be deemed to involve a Change of Control if (x) the Lead Borrower becomes a direct or indirect wholly-owned Subsidiary of another Person and (y) (i) the shares of the Lead Borrower's Voting Stock outstanding immediately prior to such transaction constitute, or are converted into or exchanged for, a majority of the Voting Stock of such Person immediately after giving effect to such transaction or (ii) immediately following that transaction, no Person (other than a Person satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly, of a majority of the Voting Stock of such Person.

"*changed date*" shall have the meaning assigned to such term in the definition of the term "Fiscal Quarter End Date."

"*Charges*" means any charge, expense, cost, accrual or reserve of any kind.

"*Class*" means (a) with respect to Lenders, each of the following classes of Lenders: (i) Lenders having Term B Loan Commitments or outstanding Term B Loans or (ii) Lenders having Revolving Exposure and (b) with respect to Loans, each of the following classes of Loans: (i) Term B Loans and (ii) Revolving Loans.

"*Closing Date*" means February 21, 2025.

"*Closing Date Dividend*" has the meaning assigned to such term in the preliminary statements hereto.

"*CME Term SOFR Administrator*" means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

"*Co-Syndication Agents*" means, collectively, JPMorgan Chase Bank, N.A., Citibank, N.A., DBS Bank Ltd., Mizuho Bank, Ltd., MUFG Bank, Ltd., RBC Capital Markets, Sumitomo Mitsui Banking Corporation, TD Securities (USA) LLC, BNP Paribas Securities Corp., HSBC Securities (USA) INC., Keybanc Capital Markets Inc., PNC Bank, National Association, Truist Bank and U.S. Bank National Association.

"*Code*" means the Internal Revenue Code of 1986, as amended from time to time.

"*Collateral*" means all properties, rights, interests, and privileges of the Loan Parties on which a Lien is required to be granted to the Collateral Agent, or any security trustee therefor, by Section 4.1 and Section 4.2.

"*Collateral Account*" is defined in Section 7.4(b) hereof.

"*Collateral Agent*" means JPMorgan Chase Bank, N.A. and any successor pursuant to Section 9.7 hereof.

"*Collateral Documents*" means the Security Agreement (as supplemented by each Security Agreement Supplement), the Intellectual Property Security Agreements and all other security agreements, pledge agreements, assignments, financing statements and other documents pursuant to which Liens are granted to the Collateral Agent or such Liens are perfected, and as shall from time to time secure the Obligations, the Hedging Liability, and the Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, or any part thereof pursuant to Article 4.

"*Commitment Fee*" is defined in Section 2.13(a) hereof.

"*Commitment Increase*" is defined in Section 2.14(a) hereof.

"*Commitments*" means, with respect to any Lender, such Lender's applicable Revolving Credit Commitment and/or Term B Loan Commitment.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, and any successor statute.

"*Company*" has the meaning assigned to such term in the preliminary statements hereto.

"*Compliance Certificate*" means the Compliance Certificate to be delivered pursuant to Section 6.1(e) hereof, substantially in the form of Exhibit F hereof.

"*Consolidated Adjusted EBITDA*" means, for any period, the Consolidated Net Income for such period, *plus*:

(a) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income (other than in the case of clause (xii) below), the sum of the following amounts for such period:

(i) interest expense (including, to the extent deducted and not added back in computing Consolidated Net Income, (A) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (B) all commissions, premiums, discounts and other fees and charges owed with respect to letters of credit, surety bonds or bankers' acceptances, (C) non-cash interest payments, (D) the interest component of Capitalized Lease Obligations, (E) net payments, if any, made (less net amounts, if any, received) pursuant to interest rate hedging obligations with respect to Indebtedness, (F) amortization or write-off of deferred financing fees, debt issuance costs, commissions, fees and expenses, including commitment, letter of credit and administrative fees and charges with respect to Indebtedness permitted to be incurred hereunder, (G) any expensing of bridge, commitment and other financing fees, (H) premium payments, debt discount, fees, charges and related expenses incurred in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets and (I) any commissions, discounts, yield and other fees and charges (including any interest expense) related to any Permitted Receivables Financing), after giving effect to the impact of interest rate risk hedging, and, to the extent not reflected in such interest expense, unused line fees and letter of credit fees payable hereunder,

(ii) provision for taxes based on income, profits or capital, including federal, foreign, state, franchise, excise and similar taxes paid or accrued during such period (including in respect of repatriated funds) including penalties and interest related to such taxes or arising from any tax examinations (including, without limitation, any additions to such taxes, and any penalties and interest with respect thereto),

(iii) depreciation and amortization, including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs (which shall include, without duplication, payments by the Lead Borrower or the Restricted Subsidiaries to Flash Partners Ltd., Flash Alliance Ltd., Flash Forward Ltd. or any other joint venture with Kioxia Corporation or any of its Affiliates (or any of their respective successors) with respect to the Lead Borrower or a Restricted Subsidiary's 50% (or other) share of such joint venture's expense related to equipment depreciation),

(iv) any Charges (other than depreciation or amortization expense) related to any equity offering, investment, acquisition, disposition, recapitalization or the incurrence or repayment of Indebtedness (including a refinancing or amendment, waiver or other modification thereof) (whether or not successful), including in connection with the Transactions,

(v) Non-Cash Charges,

(vi) (A) extraordinary Charges and (B) unusual or nonrecurring Charges, in each case, to the extent not of a type described in clause (viii), and, in each case, fees and expenses incurred in connection with the foregoing,

(vii) any underutilization Charges; *provided* that (i) amounts added back pursuant to this clause (vii), together with any amounts added back pursuant to clauses (viii) and (xii) below and the amount of any Pro Forma Adjustment to Consolidated Adjusted EBITDA for such period, shall not exceed the greater of $510 million and 30% of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to any such add-back) and (ii) any underutilization Charges may only be added back pursuant to this clause (vii),

(viii) Charges attributable to the undertaking and/or implementation of cost savings initiatives, operating expense reductions and other restructuring, integration or transformational charges (including inventory optimization expenses, business optimization expenses, transaction costs and costs related to the opening, closure, consolidation or separation of facilities and curtailments, costs related to entry into new markets, consulting fees, recruiter fees, signing costs, retention or completion bonuses, transition costs, relocation costs, severance payments, and modifications to pension and post-retirement employee benefit plans); *provided* that amounts added back pursuant to this clause (viii), together with any amounts added back pursuant to clause (vii) above, clause (xii) below and the amount of any Pro Forma Adjustment to Consolidated Adjusted EBITDA for such period, shall not exceed the greater of $510 million and 30% of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to any such add-back),

(ix) the amount of any minority interest expense consisting of subsidiary income attributable to minority Equity Interests of third parties in any non-Wholly-owned Subsidiary,

(x) losses, expenses or charges (including all fees and expenses or charges relating thereto) (A) from abandoned, closed, disposed or discontinued operations and any losses on disposal of abandoned, closed or discontinued operations and (B) attributable to business dispositions or asset dispositions (other than in the ordinary course of business) as determined in good faith by a Financial Officer,

(xi) [reserved],

(xii) expected cost savings, operating expense reductions, restructuring charges and expenses and synergies (net of the amount of actual amounts realized) reasonably identifiable and factually supportable and reasonably anticipated to be realized within 18 months of the date thereof (in the good faith determination of the Lead Borrower) related to permitted asset sales, acquisitions, investments, dispositions, operating improvements, restructurings, cost savings initiatives and certain other similar initiatives and specified transactions conducted after the Closing Date; *provided* that amounts added back pursuant to this clause (xii), together with any amounts added back pursuant to clauses (vii) and (viii) above and the amount of any Pro Forma Adjustment to Consolidated Adjusted EBITDA for such period, shall not exceed the greater of $510 million and 30% of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to any such add-back),

(xiii) transaction fees, costs and expenses incurred to the extent reimbursable by third parties pursuant to indemnification provisions or insurance; *provided* that the Lead Borrower in good faith expects to receive reimbursement for such fees, costs and expenses within the next four (4) fiscal quarters (it being understood that to the extent not actually received within such fiscal quarters, such reimbursement amounts shall be deducted in calculating Consolidated Adjusted EBITDA at the end of such four fiscal quarter period),

(xiv) earn-out obligations, non-compete obligations, contingent obligation expenses and other post-closing obligations (including to the extent accounted for as bonuses) (in each case of the foregoing, including adjustments thereof and purchase price adjustments), to sellers incurred in connection with any Permitted Acquisitions or other investment (including any Permitted Acquisition or other investment consummated prior to the Closing Date), which are paid or accrued during the applicable period and on similar acquisitions,

(xv) casualty or business interruption insurance in an amount representing the losses for the applicable period that such proceeds are intended to replace (whether or not yet received so long as the Lead Borrower in good faith expects to receive the same within the next four (4) fiscal quarters (it being understood that to the extent not actually received within such fiscal quarters, such proceeds shall be deducted in calculating Consolidated Adjusted EBITDA for such fiscal quarters in the future)), and

(xvi) (i) losses or discounts in connection with any Permitted Receivables Financing or otherwise in connection with factoring arrangements or the sale of Receivables in connection with a Permitted Receivables Financing and (ii) amortization of (x) capitalized fees, (y) loan origination costs and (z) portfolio discounts, in each case in connection with any Permitted Receivables Financing; *less*

(b) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) extraordinary gains and unusual or non-recurring gains, and

(ii) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Adjusted EBITDA in any prior period); *provided*, in each case, that, if any non-cash gain represents an accrual or asset for future cash items in any future period, the cash payment in respect thereof shall in such future period be added to Consolidated Adjusted EBITDA for such period to the extent excluded from Consolidated Adjusted EBITDA in any prior period,

(c) increased or decreased by (without duplication):

(i) any net gain or loss resulting in such period from Hedging Obligations and the application of Accounting Standards Codification Topic 815 and International Accounting Standards No. 39 and their respective related pronouncements and interpretations; *plus* or *minus*, as applicable,

(ii) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk),

(iii) any effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such person and such Subsidiaries) in amounts required or permitted by GAAP, resulting from the application of purchase accounting in relation to any consummated acquisition or the amortization or write-off of any amounts thereof, net of Taxes, and

(iv) any adjustments resulting from the application of Accounting Standards Codification Topic 460, Guarantees, or any comparable regulation,

in each case, as determined on a consolidated basis for the Lead Borrower and its Restricted Subsidiaries in accordance with GAAP; *provided*, that for the purposes of Section 6.24(a), Consolidated Adjusted EBITDA shall be $548,479,424.00 for the fiscal quarter ended September 27, 2024, $425,945,915.00 for the fiscal quarter ended June 28, 2024, $306,830,800.00 for the fiscal quarter ended March 29, 2024 and $36,613,056.00 for the fiscal quarter ended December 29, 2023.

"*Consolidated Net Income*" means, for any period, the net income (loss) attributable to the Lead Borrower and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding, without duplication, (a) the cumulative effect of a change in accounting principles during such period to the extent included in net income (loss), (b) accruals and reserves that are established or adjusted as a result of the Transactions in accordance with GAAP or changes as a result of the adoption or modification of accounting policies during such period, (c) the income (or loss) of any Person in which any other Person has an ownership interest, except to the extent of the amount of dividends or other distributions actually paid to the Lead Borrower or any of its Restricted Subsidiaries by such Person during such period, (d) the income of any Restricted Subsidiary of the Lead Borrower (other than any other Loan Party) to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that income is subject to an absolute prohibition during such period by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary (other than any prohibition that has been waived or otherwise released), except to the extent of the amount of dividends or other distributions actually paid by such Restricted Subsidiary to the Lead Borrower or any other Restricted Subsidiary that is not subject to such prohibitions, (e) the income (or loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary of the Lead Borrower or is merged into or consolidated with the Lead Borrower or any of its Restricted Subsidiaries or that Person's assets are acquired by the Lead Borrower or any of its Subsidiaries (except as provided in the definition of "Pro Forma Basis"), (f) after tax gains or Charges (less all fees and expenses chargeable thereto) attributable to any asset dispositions outside the ordinary course of business (including asset retirement costs) or of returned surplus assets of any employee benefit plan, (g) any net gains or Charges with respect to (i) disposed, abandoned, divested and/or discontinued assets, properties or operations (other than assets, properties or operations pending the disposal, abandonment, divestiture and/or termination thereof) and (ii) facilities that have been closed during such period, (h) any net income or loss (less all fees and expenses or charges related thereto) attributable to the early extinguishment of Indebtedness, hedging obligations or other derivative instruments and (i) any write-off or amortization made in such period of deferred financing costs and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness.

"*Consolidated Senior Secured Debt*" means, at any date of determination, the aggregate principal amount of Total Funded Debt outstanding on such date that is secured by a Lien on any asset or property of the Lead Borrower or the Restricted Subsidiaries, which Total Funded Debt is not, by its terms, subordinated in right of payment to the Obligations.

"*Consolidated Total Assets*" means, at any time, all assets that would, in conformity with GAAP, be set forth under the caption "total assets" (or any like caption) on a consolidated balance sheet of the Lead Borrower and the Restricted Subsidiaries at such date.

"*Consolidated Working Capital*" means, at any time, Current Assets *minus* Current Liabilities, at such time.

"*Contingent Obligation*" means as to any Person, any obligation of such Person guaranteeing any Indebtedness ("*primary obligations*") of any other Person (the "*primary obligor*") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (x) for the purchase or payment of any such primary obligation or (y) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; *provided*, *however*, that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"*Contract Consideration*" shall have the meaning assigned to such term in clause (d) of the definition of the term "Excess Cash Flow."

"*Controlled Group*" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) or of an affiliated service group under common control which, together with the Lead Borrower, are treated as a single employer under Section 414 of the Code.

"*Convertible Indebtedness*" means Indebtedness of the Lead Borrower permitted to be incurred under the terms of this Agreement that is either (a) convertible or exchangeable into common stock of the Lead Borrower (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such common stock) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are in each case exercisable for common stock of the Lead Borrower and/or cash (in an amount determined by reference to the price of such common stock).

"*Corresponding Tenor*" with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

"*Covenant Increase*" has the meaning set forth in Section 6.24(a).

"*Covered Entity*" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"*Covered Party*" is defined in Section 10.29 hereof.

"*Credit Extension*" means the advancing of any Loan or the issuance or extension of, or increase in the amount of, any Letter of Credit.

"*Current Assets*" means, at any date, all assets of the Lead Borrower and its Restricted Subsidiaries which under GAAP would be classified as current assets on the consolidated balance sheet of the Lead Borrower and its Restricted Subsidiaries (excluding any (i) cash or Cash Equivalents (including cash and Cash Equivalents held on deposit for third parties by the Lead Borrower or any of its Restricted Subsidiaries), (ii) permitted loans to third parties or related parties, (iii) deferred bank fees and derivative financial instruments related to Indebtedness, (iv) the current portion of current and deferred income Taxes and Taxes based on profit or capital and (v) assets held for sale).

"*Current Liabilities*" means, at any date, all liabilities of the Lead Borrower and its Restricted Subsidiaries which under GAAP would be classified as current liabilities on the consolidated balance sheet of the Lead Borrower and its Restricted Subsidiaries, other than (i) current maturities of long-term debt, (ii) outstanding revolving loans and letter of credit reimbursement obligations, (iii) accruals of Interest Expense (excluding Interest Expense that is due and unpaid), (iv) obligations in respect of derivative financial instruments related to Indebtedness, (v) the current portion of current and deferred income Taxes and Taxes based on profit or capital (including obligations in respect of any tax receivable agreement), (vi) liabilities in respect of unpaid earnouts, (vii) accruals relating to restructuring reserves, (viii) liabilities in respect of funds of third parties on deposit with the Lead Borrower or any of its Restricted Subsidiaries, (ix) the current portion of any Capitalized Lease Obligation, (x) the current portion of any other long-term liability for borrowed money, (xi) permitted short term indebtedness from third parties or related parties and (xii) settlement obligations.

"*Daily Simple SOFR*" means, for any day (a "*SOFR Rate Day*"), a rate per annum equal SOFR for the day (such day, "*SOFR Determination Date*") that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Lead Borrower. If by 5:00 p.m. (New York City time) on the second (2nd) U.S. Government Securities Business Day immediately following any SOFR Determination Date, SOFR in respect of such SOFR Determination Date has not been published on the SOFR Administrator's Website and a Benchmark Replacement Date with respect to the Daily Simple SOFR has not occurred, then SOFR for such SOFR Determination Date will be SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator's Website.

"*Damages*" means all damages including, without limitation, punitive damages, liabilities, costs, expenses, losses, judgments, diminutions in value, fines, penalties, demands, claims, cost recovery actions, lawsuits, administrative proceedings, orders, response action, removal and remedial costs, compliance costs, investigation expenses, consultant fees, attorneys' and paralegals' fees and litigation expenses.

"*Declined Proceeds*" has the meaning provided in Section 2.8(c)(vii) hereof.

"*Default*" means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

"*Default Excess*" has the meaning provided in Section 2.8(d) hereof.

"*Default Right*" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"*Defaulting Lender*" means any Lender that (a) has failed to fund any portion of the Loans or participations in Reimbursement Obligations required to be funded by it hereunder within three (3) Business Days of the date required to be funded by it hereunder unless such failure has been cured, unless such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three (3) Business Days of the date when due, unless the subject of a good faith dispute or unless such failure has been cured, (c) has notified the Lead Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or generally under other agreements in which it commits to extend credit unless such Lender notifies the Administrative Agent in writing or such public statement that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (d) has failed, within three (3) Business Days after request by the Administrative Agent, to confirm to the Administrative Agent in a reasonably satisfactory manner that it will comply with its funding obligations (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (d) upon receipt by the Administrative Agent of such written confirmation) or (e) has, or has a direct or indirect parent company that has, (i) become the subject of a bankruptcy or insolvency proceeding, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment or (iv) become the subject of a Bail-In Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (e) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.18) upon delivery of written notice of such determination to the Lead Borrower, the Lenders and the L/C Issuer.

"*Departing Administrative Agent*" is defined in Section 9.7 hereof.

"*Designated Non-Cash Consideration*" means the fair market value (as determined by the Lead Borrower in good faith) of non-cash consideration received by the Lead Borrower or a Restricted Subsidiary in connection with a disposition pursuant to Section 6.17 (p) that is designated as Designated Non-Cash Consideration pursuant to a certificate of an officer of the Lead Borrower, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash or Cash Equivalents).

"*Discount Range*" has the meaning provided in clause (a) of the definition of "*Dutch Auction*".

"*Disposition*" means the sale, lease, conveyance or other disposition of Property pursuant to Section 6.17(p) or Section 6.17(q).

"*Disqualified Equity Interests*" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests or as a result of a Change of Control or asset sale so long as any rights of the holders thereof upon the occurrence of a Change of Control or asset sale shall be subject to the termination of the Facilities), pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), in whole or in part, (iii) provides for scheduled payments or dividends in cash, or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the later of the Final Maturity Date and the Final Revolving Termination Date.

"*Distributions"* has the meaning provided in Section 6.20 hereof.

"*Dollar Equivalent*" means, for any amount, at the time of determination thereof, (a) if such amount is expressed in dollars, such amount, (b) if such amount is expressed in an Alternative Currency, the equivalent of such amount in dollars determined by using the rate of exchange for the purchase of dollars with the Alternative Currency last provided (either by publication or otherwise provided to the Administrative Agent) by Reuters on the Business Day (New York City time) immediately preceding the date of determination or if such service ceases to be available or ceases to provide a rate of exchange for the purchase of dollars with the Alternative Currency, as provided by such other publicly available information service which provides that rate of exchange at such time in place of Reuters chosen by the Administrative Agent in its sole discretion (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion) and (c) if such amount is denominated in any other currency, the equivalent of such amount in dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion.

"*Dollars*" and "*$*" each means the lawful currency of the United States of America.

"*Domestic Subsidiary*" means each Subsidiary of the Lead Borrower that is organized under the Applicable Laws of the United States, any state thereof, or the District of Columbia.

"*Dutch Auction*" means an auction (an "*Auction*") conducted by the Lead Borrower or one (1) of its Restricted Subsidiaries in order to purchase Term B Loans (or any Term B Loans funded under a Term Commitment Increase, which for purposes of this definition shall be deemed to be Term B Loans (and the holders thereof, Term B Lenders)) in accordance with the following procedures:

(a) Notice Procedures. In connection with an Auction, the Lead Borrower will provide notification to the Administrative Agent (for distribution to the relevant Term B Lenders) of the Term B Loans that will be subject to the Auction (an "*Auction Notice*"). Each Auction Notice shall contain (i) the total cash value of the bid, in a minimum amount of $10.0 million with minimum increments of $1.0 million (the "*Auction Amount*"), (ii) the discount to par, which shall be a range (the "*Discount Range*") of percentages of the par principal amount of the Term B Loans at issue that represents the range of purchase prices that could be paid in the Auction and (iii) be extended, at the sole discretion of the Lead Borrower, to (x) each Term B Lender and/or (y) each Lender with respect to any Term B Loan of any Class.

(b) Reply Procedures. In connection with any Auction, each relevant Term B Lender may, in its sole discretion, participate in such Auction and may provide the Administrative Agent with a notice of participation (the "*Return Bid*") which shall specify (i) a discount to par that must be expressed as a percentage (the "*Reply Discount*"), which must be within the Discount Range, and (ii) a principal amount of such Term B Loans which must be in increments of $1.0 million (the "*Reply Amount*"). A Term B Lender may avoid the minimum amount condition solely when submitting a Reply Amount equal to the Term B Lender's entire remaining amount of such Class of Term B Loans. Term B Lenders may only submit one (1) Return Bid per Auction but each Return Bid may contain up to three (3) bids only one (1) of which can result in a Qualifying Bid (as defined below). In addition to the Return Bid, the participating Term B Lender must execute and deliver, to be held in escrow by the Administrative Agent, an Assignment and Assumption with the Dollar or Euro amount of the Term B Loan to be left in blank, which amount shall be completed by the Administrative Agent in accordance with the final determination of such Term B Lender's Qualifying Bid pursuant to subclause (c) below.

(c) Acceptance Procedures. Based on the Reply Discounts and Reply Amounts received by the Administrative Agent, the Administrative Agent, in consultation with the Lead Borrower, will determine the applicable discount (the "*Applicable Discount*") for the Auction, which will be the lowest Reply Discount for which the Lead Borrower or its Subsidiary, as applicable, can complete the Auction at the Auction Amount; *provided* that, in the event that the Reply Amounts are insufficient to allow the Lead Borrower or its Subsidiary, as applicable, to complete a purchase of the entire Auction Amount, the Lead Borrower or its Subsidiary shall either, at its election, (i) withdraw the Auction or (ii) complete the Auction at an Applicable Discount equal to the highest Reply Discount. The Lead Borrower or its Subsidiary, as applicable, shall purchase the applicable Term B Loans (or the respective portions thereof) from each such Term B Lender with a Reply Discount that is equal to or greater than the Applicable Discount ("*Qualifying Bids*") at the Applicable Discount; *provided* that, if the aggregate proceeds required to purchase all such Term B Loans subject to Qualifying Bids would exceed the Auction Amount for such Auction, the Lead Borrower or its Subsidiary, as applicable, shall purchase such Term B Loans at the Applicable Discount ratably based on the principal amounts of such Qualifying Bids (subject to rounding requirements specified by the Administrative Agent, which shall be conclusive absent manifest error). If a Term B Lender has submitted a Return Bid containing multiple bids at different Reply Discounts, only the bid with the highest Reply Discount that is equal to or greater than the Applicable Discount will be deemed the Qualifying Bid of such Term B Lender. Each participating Term B Lender will receive notice of a Qualifying Bid as soon as reasonably practicable but in no case later than five (5) Business Days from the date the Return Bid was due.

(d) Additional Procedures. Furthermore, in connection with any Auction, upon submission by a Term B Lender of a Qualifying Bid, such Term B Lender will be obligated to sell the entirety or its allocable portion of the Reply Amount, as the case may be, at the Applicable Discount.

"*ECF Payment*" is defined in Section 2.8(c)(iii) hereof.

"*EEA Financial Institution*" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"*EEA Member Country*" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"*EEA Resolution Authority*" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"*Electronic Signature*" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

"*Eligible Assignee*" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person) approved in writing by (i) the Administrative Agent, (ii) in the case of any assignment of a Revolving Credit Commitment, the L/C Issuers, and (iii) unless an Event of Default has occurred and is continuing under Section 7.1(a), (j) or (k) hereof, the Lead Borrower (each such approval not to be unreasonably withheld or delayed); *provided* that*,* in the case of assignments of Term B Loans, the Lead Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received written notice from the Administrative Agent of such request for its consent; *provided further* that, notwithstanding the foregoing, (A) "Eligible Assignee" shall not include (x) any Prohibited Lenders or any Defaulting Lenders, (y) any natural person or any holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or (z) except to the extent provided in Section 10.10(h), the Lead Borrower or any Subsidiary or Affiliate of the Lead Borrower and (B) in the case of assignments of Revolving Credit Commitments or Revolving Exposure, no Person shall be an Eligible Assignee pursuant to clause (a), (b) or (c) above unless such Person is, or is an Affiliate or an Approved Fund of, an existing Lender under the Revolving Facility.

"*EMU*" means the economic and monetary union as contemplated in the Treaty on European Union.

"*Environment*" means ambient air, indoor air, surface water, groundwater, drinking water, land surface, sediments, and subsurface strata and natural resources such as wetlands, flora and fauna.

"*Environmental Claim*" means any investigation, written notice, violation, written demand, written allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding or claim (whether administrative, judicial or private in nature) arising pursuant to, or in connection with (a) an actual or alleged violation of, any Environmental Law, (b) from any actual or threatened abatement, removal, remedial, corrective or response action in connection with the Release of Hazardous Material, (c) an order of a Governmental Authority under Environmental Law or (d) from any actual or alleged damage, injury, threat or harm to human health or safety as it relates to exposure to Hazardous Materials or the Environment.

"*Environmental Law*" means any Applicable Law pertaining to (a) the protection of the Environment, or health and safety as it relates to exposure to Hazardous Materials or (b) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, Release, threatened Release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material.

"*Environmental Liability*" means any liability, claim, action, suit, agreement, judgment or order arising under or relating to any Environmental Law for any damages, injunctive relief, losses, fines, penalties, fees, expenses (including reasonable fees and expenses of attorneys and consultants) or costs, whether contingent or otherwise, including those directly or indirectly resulting from or relating to: (a) any actual or alleged violation of any Environmental Law or permit, license or approval required thereunder, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threat of Release of any Hazardous Materials or (e) any contract or written agreement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"*Equity Interests*" means any and all shares, interests, participations or other equivalents (however designated) of capital stock or in the share capital of a corporation or company, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing, but excluding any debt security that is convertible into, or exchangeable for, any of the foregoing.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

"*ERISA Event*" means any one or more of the following: (a) the failure to make a required contribution to any Single Employer Plan that would result in the imposition of a lien or other encumbrance or the provision of security under Section 430 of the Code or Section 303 or 4068 of ERISA, or the arising of such a lien or encumbrance; (b) a Reportable Event with respect to any Single Employer Plan; (c) the filing of a notice of intent to terminate any Single Employer Plan, if such termination would require material additional contributions in order to be considered a standard termination within the meaning of Section 4041(b) of ERISA, the filing under Section 4041(c) of ERISA of a notice of intent to terminate any Single Employer Plan or the termination of any Single Employer Plan under Section 4041(c) of ERISA; (d) the institution by the PBGC of proceedings to terminate a Single Employer Plan pursuant to Section 4042 of ERISA; or (e) the complete or partial withdrawal of the Lead Borrower or its Subsidiaries or any Controlled Group member from a Multiemployer Plan.

"*EU Bail-In Legislation Schedule*" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"*EURIBOR Rate*" means, with respect to any Term Benchmark Borrowing denominated in Euros and for any Interest Period, the EURIBOR Screen Rate, two TARGET Days prior to the commencement of such Interest Period.

"*EURIBOR Screen Rate*" means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters as published at approximately 11:00 a.m. Brussels time two TARGET Days prior to the commencement of such Interest Period. If such page or service ceases to be available, the Administrative Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.

"*Euro*" or "*€*" means the official lawful currency of the participating member states of the EMU.

"*Event of Default*" means any event or condition identified as such in Section 7.1 hereof.

"*Event of Loss*" means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property.

"*Excess Cash Flow*" means, with respect to any period, the amount (if any, but which amount shall not be less than zero) by which (a) Cash Flow during such period exceeds (b) the sum of, to the extent each of the following is not deducted in computing Consolidated Net Income and without duplication,

(A) the amount of all non-cash credits included in arriving at such Consolidated Net Income (including any amounts included in Consolidated Net Income of proceeds received or due from business interruption insurance or reimbursement of expenses and charges that are covered by indemnification and other reimbursement provisions in connection with any acquisition or other Investment or any disposition of any asset permitted under this Agreement to the extent such amounts are due but not received during such period) and cash charges included in the definition of "Consolidated Net Income" (other than cash charges in respect of Transaction Costs paid on or about the Closing Date to the extent financed with the proceeds of Indebtedness incurred on the Closing Date or an equity investment on the Closing Date)

(B) the amount of capital expenditures, capitalized software expenses and acquisitions of intellectual property of the Lead Borrower and its Restricted Subsidiaries, in each case, made in cash during such period (or, at the option of the Lead Borrower, made prior to the date the applicable Excess Cash Flow payment is required to be made under Section 2.8(c)(iii) with respect to such period) or reasonably expected (as determined by the Lead Borrower in good faith) to be paid in cash in the period immediately following such period, to the extent not financed with the proceeds of long-term Indebtedness (other than the proceeds of any Revolving Loans); *provided* that if such capital expenditures, capitalized software expenses or acquisitions of intellectual property reasonably expected to be paid in cash in the period immediately following such period are not paid in cash during such period, the amount thereof shall be added back to the calculation of Excess Cash Flow for the next period;

(C) (i) the aggregate amount of all principal payments of Indebtedness (including any prepayment premiums, make-whole expenses, associated interest costs and fees and expenses) made during such period (or, at the option of the Lead Borrower, made prior to the date the applicable Excess Cash Flow payment is required to be made under Section 2.8(c)(iii) with respect to such period) in cash, other than to the extent financed with the proceeds of other long-term Indebtedness (other than the proceeds of any Revolving Loans) of the Lead Borrower or its Restricted Subsidiaries and (ii) any reduction in the principal amount of Indebtedness under this Agreement resulting from assignments to the Lead Borrower and its Affiliates; *provided*, that any such assignments are in compliance with the provisions of Section 10.10 herein;

(D) increases in Consolidated Working Capital for such period and long-term accounts receivable for such period;

(E) an amount equal to the aggregate net non-cash gain on dispositions by the Lead Borrower and its Restricted Subsidiaries during such period (other than dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income,

(F) cash payments by the Lead Borrower and its Restricted Subsidiaries during such period in respect of long-term liabilities of the Lead Borrower and its Restricted Subsidiaries other than Indebtedness,

(G) (i) cash payments in respect of Fixed Charges during such period, (ii) the amount of Taxes (including penalties and interest) paid in cash during such period, and (iii) reserves set aside or payable with respect to (i) and (ii) for such period in such period;

(H) the aggregate amount of payments and expenditures actually made by the Lead Borrower and its Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees and any premium, make-whole or penalty payments) to the extent that such payments and expenditures are not expensed or reimbursed during such period,

(I) without duplication of amounts deducted from Excess Cash Flow in a prior period, the aggregate consideration required to be paid in cash by the Lead Borrower and its Restricted Subsidiaries pursuant to binding contracts, commitments, letters of intent or purchase orders (the "*Contract Consideration*") entered into prior to or during such period or any planned cash expenditures (the "*Planned Expenditures*"), in each case, relating to investments permitted pursuant to Section 6.19, capital expenditures, capitalized software expenses or acquisitions of intellectual property to be consummated or made during the period of four (4) consecutive fiscal quarters of the Lead Borrower following the end of such period (except, in each case, to the extent financed with long-term Indebtedness (other than revolving Indebtedness)); *provided* that to the extent the aggregate amount of cash actually utilized to finance such investments permitted pursuant to Section 6.19, capital expenditures, capitalized software expenses or acquisitions of intellectual property during such following period of four consecutive fiscal quarters is less than the Contract Consideration and the Planned Expenditures, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters,

(J) the Lead Borrower and its Restricted Subsidiaries' portion of the gross capital expenditures of any Flash Venture,

(K) any cash prepayments in connection with Flash Ventures, *provided* that such credits will be added back to Excess Cash Flow for the succeeding fiscal year once obtained, and

(L) any standalone costs paid in relation to the Spin-Off actually incurred or estimated in good faith by the Lead Borrower to be incurred within 18 months of the Closing Date; *provided* that to the extent the amount of estimate costs is less than the amount actually incurred, the amount of such shortfall shall be added to the calculation of Excess Cash Flow in the following period.

"*Excess Interest*" is defined in Section 10.18 hereof.

"*Excluded Accounts*" means any Deposit Accounts (as defined in the Security Agreement) used solely as a payroll account, pension fund, escrow (including, without limitation, any escrow accounts for the benefit of customers), trust or similar account,, in each case for the benefit of third parties (other than the Loan Parties), or that otherwise contain funds held or received on behalf of third parties (together with the funds in such accounts).

"*Excluded Equity Interests*" means (a) any capital stock or other Equity Interests of any Person with respect to which the cost or other consequences (including any adverse tax consequences) of pledging such Equity Interests shall be excessive in view of the benefits to be obtained by the Lenders therefrom as reasonably determined by the Administrative Agent and the Lead Borrower, (b) solely in the case of any pledge of voting Equity Interests of any CFC Holdco or any First-Tier Foreign Subsidiary that is a CFC, any voting Equity Interests in excess of 65.00% of the outstanding voting Equity Interests of such entity, (c) any Equity Interests to the extent the pledge thereof would be prohibited by (i) any applicable law or would require governmental consent, approval, license or authorization (only to the extent such prohibition is applicable and not rendered ineffective by the UCC or other applicable law) or (ii) contractual obligation binding on such Equity Interests on the Closing Date or if later, at the time of the acquisition of such Equity Interests and not incurred in contemplation of such acquisition (only to the extent such prohibition is applicable and not rendered ineffective by the UCC or other applicable law), (d) margin stock or any interest in partnerships, joint ventures and non-Wholly-owned Subsidiaries which cannot be pledged without the consent of, or a pledge of which is restricted by (including as a result of a right of first refusal, call option or a similar right or a requirement to give notice that will trigger such right of first refusal, call option or a similar right), one or more third parties other than the Lead Borrower or any of its Subsidiaries (after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law), and (e) the Equity Interests of any (i) Immaterial Subsidiary (except to the extent the security interest in such Equity Interest may be perfected by the filing of a Form UCC-1 (or similar) financing statement), (ii) Unrestricted Subsidiary, (iii) Captive Insurance Subsidiary, (iv) not-for-profit subsidiary, (v) Receivables Financing Subsidiary, (vi) Subsidiary that is an Excluded Subsidiary described in clauses (e), (f), (g) and (h) of the definition of Excluded Subsidiary, (vii) Subsidiary of a Foreign Subsidiary that is a CFC and (viii) any entity whose Equity Interests are specifically agreed by the Administrative Agent to be Excluded Equity Interests as a result of such entity being disregarded as an entity separate from its owner (within the meaning of U.S. Treasury Regulation 301.7701-3(a)) that owns a Subsidiary that is a CFC, so long as such disregarded entity is a Subsidiary Guarantor and has provided a security interest in its assets pursuant to and to the extent provided in the Collateral Documents.

"*Excluded Property*" means (a) any Excluded Equity Interests, (b) any property, to the extent that the grant of a Lien thereon or perfection of a security interest therein (i) is prohibited by applicable law or contractual obligation, binding on such assets (including, without limitation, Capital Leases) on the Closing Date (or if later, at the time of the acquisition of such asset and not incurred in contemplation of such acquisition) (only to the extent such prohibition is applicable and not rendered ineffective by the UCC or other applicable law), (ii) requires the consent, approval, license or authorization of any governmental authority pursuant to such applicable law or any third party pursuant to any contract between the Lead Borrower or any Subsidiary and such third party binding on such assets on the Closing Date (or if later, at the time of the acquisition of such asset and not incurred in contemplation of such acquisition) or (iii) other than with respect to the Equity Interests of a Borrower or any Subsidiary Guarantor, would trigger a termination event pursuant to any "change of control" or similar provision binding on such assets on the Closing Date (or if later, at the time of the acquisition of such asset and not incurred in contemplation of such acquisition) (in each case of clauses (i), (ii) and (iii) of this clause (b), after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law), (c) United States intent-to-use trademark applications to the extent that, and solely during the period in which, the grant of a Lien thereon would impair the validity or enforceability of such intent-to-use trademark applications under applicable United States federal law, (d) all vehicles and other assets subject to certificates of title, (e) Property that is subject to a Lien securing a purchase money obligation or Capitalized Lease Obligation permitted to be incurred pursuant to this Agreement, if the contract or other agreement in which such Lien is granted (or the documentation providing for

such purchase money obligation or Capitalized Lease Obligation) validly prohibits the creation of any other Lien on such Property, (f) commercial tort claims with a value (as reasonably estimated by the Lead Borrower) of less than $30 million, (g) (i) any leasehold real property and (ii) any fee-owned real property, (h) any letter of credit rights that cannot be perfected by a UCC filing, (i) property to the extent a grant or perfection of a security interest in such assets could reasonably be expected to result in material adverse tax consequences or material adverse regulatory consequences to the Lead Borrower or its Subsidiaries (as determined by the Lead Borrower in good faith and in consultation with the Administrative Agent), (j) any receivables and related assets, pledged or transferred in connection with a Permitted Receivables Financing, (k) any property in respect of which the Administrative Agent and Borrower shall agree that the cost, burden, difficulty or consequence of obtaining or perfecting a security interest in such property is excessive in relation to the benefit of the pledge therefrom, (l) any Excluded Accounts and (m) any direct proceeds, substitutions or replacements of any of the foregoing, but only to the extent such proceeds, substitutions or replacements would otherwise constitute Excluded Property.

"*Excluded Subsidiary*" means (a) any Subsidiary that is prohibited by any applicable law, rule or regulation or by any contractual obligation existing on the Closing Date (or, if later, the date of the acquisition of such Restricted Subsidiary and not incurred in contemplation of such acquisition) from guaranteeing or providing collateral for the Obligations (only to the extent such prohibition is applicable and not rendered ineffective) or would require a governmental (including regulatory) consent, approval, license or authorization in order to provide such guarantee or provide collateral support, (b) any Foreign Subsidiary, (c) any CFC Holdco or any Subsidiary of a Foreign Subsidiary that is a CFC, (d) any Subsidiary that is not a Material Subsidiary, (e) any Receivables Financing Subsidiary, (f) any Captive Insurance Subsidiary, (g) any not-for-profit subsidiary, (h) subject to Section 9.12(iii), any Subsidiary that is not a Wholly-owned Subsidiary, (i) any Subsidiary the assets of which consist principally of minority venture investments and which otherwise have no material assets or operations (which as of the Closing Date shall be limited to Sandisk Capital LLC), (j) any Subsidiary that is (or, if it were a Loan Party, would be) an "investment company" under the Investment Company Act, (k) any Subsidiary for which the provision of a guarantee could reasonably be expected to result in material adverse tax consequences or material adverse regulatory consequences to the Lead Borrower and its Subsidiaries (as determined by the Lead Borrower in good faith and in consultation with the Administrative Agent) and (l) any other Subsidiary with respect to which the cost or other consequences of providing Collateral or guaranteeing the Obligations shall be excessive in view of the benefits to be obtained by the Lenders therefrom as reasonably determined by the Administrative Agent and the Lead Borrower.

"*Excluded Swap Obligation*" means, with respect to any Loan Party, any obligation (a "*Swap Obligation*") to pay or perform under any agreement, contract, or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act, if, and to the extent that, and only for so long as, all or a portion of the guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, as applicable, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation, or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guarantee given by such Loan Party or the grant of such security interest, as applicable, becomes effective with respect to such Swap Obligation.

"*Excluded Taxes*" means, with respect to the Administrative Agent and each Lender, (i) any Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case imposed as a result of the Administrative Agent or such Lender, as applicable, being organized or having its principal office (or, in the case of a Lender, its applicable Lending Office) located in, such jurisdiction (or any political subdivision thereof), or as a result of any other present or former connection between the Administrative Agent or such Lender, as applicable, and such jurisdiction (or any political subdivision thereof), other than a connection arising from executing, delivering, entering into, performing its obligations under, receiving payments under, receiving or perfecting a security interest under, engaging in any other transaction pursuant to, or enforcing any Loan Document, or selling or assigning an interest in any Loan or Loan Document, (ii) any Taxes attributable to such Lender's failure to comply with Section 10.1(c), (iii) in the case of a Lender (other than a Lender becoming a party hereto pursuant to the Lead Borrower's request under Section 8.5), any U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender pursuant to a law in effect at the time such Lender becomes a party to this Agreement (or designates a new Lending Office), except to the extent such Lender (or its assignor, if any) was entitled, immediately prior to the time of designation of a new Lending Office (or assignment), to receive additional amounts or indemnification under Section 10.1, or (iv) any U.S. federal withholding Taxes imposed under FATCA.

"*Existing Letters of Credit*" is defined in Section 2.3(h) hereof.

"*Extended Revolving Credit Commitment*" is defined in Section 2.15(a)(ii) hereof.

"*Extended Revolving Loans*" is defined in Section 2.15(a)(ii) hereof.

"*Extended Term B Loans*" means any Term B Loans extended pursuant to an Extension.

"*Extended Term Loans*" is defined in Section 2.15(a)(iii) hereof.

"*Extension*" is defined in Section 2.15(a) hereof.

"*Extension Offer*" is defined in Section 2.15(a) hereof.

"*Facility*" means any of the Revolving Facility and any Term Facility.

"*FATCA*" means Sections 1471-1474 of the Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and any current or future Treasury Regulations promulgated thereunder or official guidance or interpretations issued pursuant thereto and any agreement entered into pursuant to Section 1471(b)(1) of the Code as of the Closing Date (or any amended or successor version described above), any intergovernmental agreement implementing such sections of such Code, and any fiscal or regulatory legislation, rules or practices adopted implementing such intergovernmental agreement.

"*Federal Funds Rate*" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depositary institutions, as determined in such manner as shall be set forth on the NYFRB's Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; *provided* that if the Federal Funds Rate as so determined would be less than 0%, such rate shall be deemed to be 0% for the purposes of this Agreement.

"*Final Maturity Date*" means, as at any date, the latest to occur of (a) the Term B Termination Date, (b) the latest maturity date in respect of any outstanding Extended Term Loans and (c) the latest maturity date in respect of any Incremental Term Loans.

"*Final Revolving Termination Date*" means, as at any date, the latest to occur of (a) the Revolving Credit Termination Date, (b) the latest termination date in respect of any outstanding Extended Revolving Credit Commitments and (c) the latest termination date in respect of any Incremental Revolving Credit Facility.

"*First Lien Leverage Ratio*" means as of the date of determination thereof, the ratio of (a) Total Funded Debt of the Lead Borrower and its Restricted Subsidiaries as of such date secured by a first priority Lien including any lien that is *pari passu* with the Liens securing the Obligations to (b) Consolidated Adjusted EBITDA (i) consistent with the proviso in the definition of "Consolidated Adjusted EBITDA" for the fiscal quarters ended December 29, 2023, March 29, 2024, June 28, 2024 and September 27, 2024, (ii) as determined by the Lead Borrower in accordance with the definition of "Consolidated Adjusted EBITDA" and the financial statements filed in connection with the Lead Borrower's Form 10-Q for the fiscal quarter ended December 27, 2024 or (iii) for the period of four (4) fiscal quarters then most recently ended for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b), as applicable.

"*First-Tier Foreign Subsidiary*" means a Foreign Subsidiary, the Equity Interests of which are directly owned by the Lead Borrower or a Domestic Subsidiary that is not a Subsidiary of a Foreign Subsidiary.

"*Fiscal Quarter End Date*" means the last day of each fiscal quarter of the Lead Borrower, which shall be March 28, 2025, June 27, 2025, October 3, 2025, January 2, 2026, April 3, 2026, July 3, 2026, October 2, 2026, January 1, 2027, April 2, 2027, July 2, 2027, October 1, 2027, December 31, 2027, March 31, 2028, June 30, 2028, September 29, 2028, December 29, 2028, March 30, 2029, June 29, 2029, September 28, 2029, December 28, 2029, March 29, 2030, June 28, 2030, September 27, 2030, December 27, 2030, March 28, 2031, June 27, 2031, October 3, 2031 and January 2, 2032; *provided* that in each case if such day is not a Business Day, the Fiscal Quarter End Date shall be the immediately preceding Business Day; *provided*, *further*, that if the Lead Borrower changes the last day of any fiscal quarter to a date (a "*changed date*") on or about the date specified above (a "*specified date*"), such changed date shall be deemed to be the Fiscal Quarter End Date with respect to such specified date.

"*Fixed Amounts"* is defined in Section 1.3(a) hereof.

"*Fixed Charge Coverage Ratio*" shall mean, as of the date of determination thereof, the ratio of (i) Consolidated Adjusted EBITDA for the period of four (4) fiscal quarters then ended to (ii) the Fixed Charges of the Lead Borrower and its Restricted Subsidiaries as of the end of the period of four (4) fiscal quarters then ended.

"*Fixed Charges*" shall mean shall mean, with respect to any Person and its Restricted Subsidiaries for any period, the sum of:

(i) Interest Expenses of such Person and its Restricted Subsidiaries for such period, and

(ii) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests made during such period.

"*Fixed Dollar Incremental Amount*" is defined in Section 2.14(b) hereof.

"*Flash Ventures*" means Flash Partners Ltd., Flash Alliance Ltd., Flash Forward Ltd. or any other joint venture with Kioxia Corporation or any of its Affiliates (or any of their respective successors).

"*Floor*" means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Adjusted Term SOFR Rate, Adjusted EURIBOR Rate, Adjusted TIBOR Rate, the Adjusted Daily Simple SOFR, the Japanese Prime Rate or the Central Bank Rate, as applicable. For the avoidance of doubt the initial Floor for the Adjusted Term SOFR Rate shall be (x) in the case of Term B Loans, 0% and (y) in the case of Revolving Loans, 0%, and the initial Floor for the Adjusted Daily Simple SOFR, Adjusted EURIBOR Rate, Adjusted TIBOR Rate, the Japanese Prime Rate and the Central Bank Rate shall be 0%.

"*Foreign Subsidiary*" means each Subsidiary of the Lead Borrower that is not a Domestic Subsidiary.

"*Foreign Subsidiary Total Assets"* means the total assets of the Foreign Subsidiaries of the Lead Borrower, as determined in accordance with GAAP in good faith by the Lead Borrower without intercompany eliminations.

"*Form 10*" means that certain Form 10 for Sandisk Corporation (File No. 001-42420), filed with the Securities and Exchange Commission on November 25, 2024 (as amended on December 20, 2024, January 21, 2025 and January 27, 2025).

"*Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations*" means the liability of the Lead Borrower or any of its Restricted Subsidiaries that is (i) owing to any entity that was a Lender, an Agent or a Joint Lead Arranger or an Affiliate of a Lender, an Agent or a Joint Lead Arranger at the time the relevant transaction was entered into or (ii) outstanding on the Closing Date and owing to any entity that is a Lender, an Agent or a Joint Lead Arranger or an Affiliate of a Lender, an Agent or a Joint Lead Arranger on the Closing Date, in each case, arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of the Lead Borrower and/or any Restricted Subsidiary now or hereafter maintained, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts and (c) any other deposit, disbursement, and Cash Management Services afforded to the Lead Borrower or any such Restricted Subsidiary.

"*GAAP*" means generally accepted accounting principles in the United States of America, as in effect from time to time.

"*Global Intercompany Note*" means the Global Intercompany Note, substantially in the form of Exhibit L to this Agreement.

"*Governmental Authority*" means the government of the United States of America, any other nation or any political subdivision thereof, whether federal, state, provincial, territorial, local or otherwise, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra national bodies such as the European Union or the European Central Bank).

"*Grantors*" means the Borrowers and the Subsidiary Guarantors.

"*Guarantor*" is defined in Section 4.3 hereof.

"*Guaranty*" is defined in Section 4.3 hereof.

"*Hazardous Material*" means any (a) asbestos, asbestos-containing materials, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any substance, waste or material classified or regulated as "hazardous," "toxic," "contaminant" or "pollutant" or words of like import pursuant to any Environmental Law.

"*Hedge Agreement*" means any interest rate, currency or commodity swap agreements, cap agreements, collar agreements, floor agreements, exchange agreements, forward contracts, option contracts or similar interest rate or currency or commodity arrangements or precious metal hedging arrangements.

"*Hedging Liability*" means Hedging Obligations (other than with respect to any Loan Party's Hedging Liabilities that constitute Excluded Swap Obligations solely with respect to such Loan Party) owing by the Lead Borrower or any of its Restricted Subsidiaries (a) to any entity that was a Lender, an Agent or a Joint Lead Arranger or an Affiliate of a Lender, an Agent or a Joint Lead Arranger at the time the relevant Hedge Agreement was entered into or (b) with respect to Hedging Obligations outstanding on the Closing Date, to any entity that is a Lender, an Agent or a Joint Lead Arranger or an Affiliate of a Lender, an Agent or a Joint Lead Arranger on the Closing Date.

"*Hedging Obligations*" means, with respect to any Person, the obligations of such Person under Hedge Agreements.

"*Immaterial Subsidiary*" has the meaning set forth in the definition of "Material Subsidiary."

"*Incremental Amendment*" is defined in Section 2.14(a) herein.

"*Incremental Cap*" is defined in Section 2.14(b) herein.

"*Incremental Equivalent Debt"* is defined in Section 6.15 (u).

"*Incremental Facility*" means (a) any Incremental Term Facility, (b) any Incremental Revolving Credit Facility, (c) the commitments (if any) of Additional Revolving Lenders to make Incremental Revolving Loans in respect of any Revolving Credit Commitment Increase and the Incremental Revolving Loans in respect thereof and/or (d) the commitments (if any) of Additional Term Lender to make Incremental Term Loans in respect of any Term Commitment Increase and the Incremental Term Loans in respect thereof.

"*Incremental Loans*" means any loans made pursuant to Section 2.14(a).

"*Incremental Revolving Credit Facility*" is defined in Section 2.14(a) herein.

"*Incremental Revolving Loans*" means any revolving loans made under any Incremental Revolving Credit Facility or in respect of any Revolving Credit Commitment Increase.

"*Incremental Term B Facility*" means the commitments (if any) of Additional Term Lender to make Incremental Term B Loans in accordance with Section 2.14(a) and the Incremental Term B Loans in respect thereof.

"*Incremental Term B Loans*" means any term B loans made pursuant to Section 2.14(a).

"*Incremental Term Facility*" means the commitments (if any) of Additional Term Lender to make Incremental Term Loans in accordance with Section 2.14(a) and the Incremental Term Loans in respect thereof.

"*Incremental Term Loans*" means any term loans made pursuant to Section 2.14(a).

"*Indebtedness*" means for any Person (without duplication):

(a) all indebtedness of such Person for borrowed money, whether current or funded, or secured or unsecured,

(b) all indebtedness for the deferred purchase price of Property,

(c) all indebtedness secured by a purchase money mortgage or other Lien to secure all or part of the purchase price of Property subject to such mortgage or Lien,

(d) all obligations under leases which shall have been or must be, in accordance with GAAP, recorded as Capital Leases in respect of which such Person is liable as lessee,

(e) any liability in respect of banker's acceptances or letters of credit,

(f) any indebtedness of another Person, whether or not assumed, of the types described in clauses (a) through (c) above or clauses (g) and (h) below, secured by Liens on Property acquired by the Lead Borrower or its Subsidiaries at the time of acquisition thereof,

(g) [reserved], and

(h) all Contingent Obligations in respect of indebtedness of the types described in clauses (a) through (g) hereof,

provided that the term "Indebtedness" shall not include (i) trade payables, accruals for payroll and other liabilities accrued in the ordinary course of business or consistent with past practice or industry practice and accrued expenses arising in the ordinary course of business or consistent with past practice or industry practice, (ii) (x) any earn-out obligation, purchase price adjustment or holdback obligation in connection with an Acquisition until such obligation becomes a liability on the balance sheet of Person in accordance with GAAP and are not paid within 30 days after becoming due and payable following expiration of any dispute resolution mechanics set forth in any agreement governing the applicable transaction and (y) any purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the seller, (iii) prepaid or deferred revenue arising in the ordinary course of business, (iv) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase price of an asset to satisfy warrants or other unperformed obligations of the seller of such asset and (v) any leases or guarantees of leases, in each case that is not a Capital Lease, including of joint ventures. The amount of Indebtedness of any person for purposes of clause (f) above shall (unless such indebtedness has been assumed by such person or is otherwise recourse to such person) be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such indebtedness and (B) the fair market value of the property encumbered thereby.

"*Incurrence Based Amount*" is defined in Section 1.3(a) hereof.

"*Indemnified Taxes*" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"*Information*" has the meaning provided in Section 10.23.

"*Inside Maturity Exceptions*" means (x) Indebtedness in the form of a one year bridge loan that is convertible or exchangeable into, one or more other instruments meeting the applicable maturity requirement set forth in this Agreement for the Indebtedness to be incurred and (y) Indebtedness, together with all other Indebtedness incurred in reliance on this clause (y), with an aggregate outstanding principal amount of up to the greater of $850.0 million and 50% of Consolidated Adjusted EBITDA.

"*Intellectual Property Security Agreements*" means any of the following agreements executed on or after the Closing Date: (a) a Trademark Security Agreement substantially in the form of Exhibit I-1, (b) a Patent Security Agreement substantially in the form of Exhibit I-2 or (c) a Copyright Security Agreement substantially in the form of Exhibit I-3.

"*Interest Expense*" means, with reference to any period, (a) the sum of all interest expense (including imputed interest charges with respect to Capitalized Lease Obligations) of the Lead Borrower and its Restricted Subsidiaries payable in cash for such period determined on a consolidated basis in accordance with GAAP but excluding (i) any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP, amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, (ii) any expensing of bridge, commitment and other financing fees, (iii) any annual administrative or other agency fees, (iv) any premiums, fees or other charges incurred in connection with the refinancing, incurrence, purchase or redemption of Indebtedness (including in connection with the Transactions) and (v) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Permitted Receivables Financing, *minus* (b) interest income of the Lead Borrower and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

"*Interest Period*" means, with respect to Term Benchmark Loans, the period commencing on the date a Borrowing of Term Benchmark Loans is advanced, continued or created by conversion and ending 1, 3, 6 or, if agreed to by the applicable Lenders, 12 months thereafter (as selected by the applicable Borrowers and subject to the availability thereof); *provided*, *however*, that:

(i) whenever the last day of any Interest Period would otherwise be a day that is not a Business Day, the last day of such Interest Period shall be extended to the next succeeding Business Day; and

(ii) a month means a period starting on one (1) day in a calendar month and ending on the numerically corresponding day in the next calendar month; *provided*, *however*, that, if there is no numerically corresponding day in the month in which such an Interest Period is to end or if such an Interest Period begins on the last Business Day of a calendar month, then such Interest Period shall end on the last Business Day of the calendar month in which such Interest Period is to end.

"*Investments*" is defined in Section 6.19 hereof.

"*IRS*" means the United States Internal Revenue Service.

"*ISP*" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

"*Japanese Prime Rate*" means for any Loan denominated in Yen the greater of (a) (i) the Japanese local bank prime rate *plus* (ii) the Japanese Prime Rate Adjustment and (b) the Floor.

"*Japanese Prime Rate Adjustment*" means, for any day, for any Loan denominated in Yen, a rate equal to the difference (which may be a positive or negative value or zero) of (i) the average of the TIBOR Rate for the five most recent Business Days preceding such day for which the TIBOR Screen Rate was available (excluding, from such averaging, the highest and the lowest TIBOR Rate applicable during such period of five Business Days) *minus* (ii) the Japanese Prime Rate in effect on the last Business Day in such period; *provided*, that for purposes of this definition, the Japanese Prime Rate shall be determined disregarding clause (a)(ii) of the definition of such term. For purposes of this definition, the TIBOR Rate on any day shall be based on the TIBOR Screen Rate on such day at approximately the time referred to in the definition of such term for deposits in Yen for a maturity of one month.

"*Joint Lead Arrangers*" means, collectively, JPMorgan Chase Bank, N.A., Citibank, N.A., DBS Bank Ltd., Mizuho Bank, Ltd., MUFG Bank, Ltd., RBC Capital Markets, Sumitomo Mitsui Banking Corporation, TD Securities (USA) LLC, BNP Paribas Securities Corp., HSBC Securities (USA) INC., Keybanc Capital Markets Inc., PNC Bank, National Association, Truist Securities, Inc. and U.S. Bank National Association.

"*L/C Backstop*" means, in respect of any Letter of Credit, (a) a letter of credit delivered to the L/C Issuer which may be drawn by the L/C Issuer to satisfy any obligations of a Borrower in respect of such Letter of Credit or (b) cash or Cash Equivalents deposited with the "L/C Issuer" to satisfy any obligation of a Borrower in respect of such Letter of Credit, in each case, in an amount not to exceed 101.00% of the undrawn face amount and any unpaid Reimbursement Obligations with respect to such Letter of Credit and on terms and pursuant to arrangements (including, if applicable, any appropriate reimbursement agreement) reasonably satisfactory to the respective L/C Issuer.

"*L/C Disbursement*" means a payment or disbursement made by an L/C Issuer pursuant to a Letter of Credit.

"*L/C Exposure*" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time *plus* (b) the aggregate amount of all L/C Disbursements that have not yet been reimbursed by or on behalf of a Borrower at such time. The L/C Exposure of any Lender at any time shall be its Revolver Percentage of the total L/C Exposure at such time. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.13 or 3.14 of the ISP or Article 36 of the UCP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; *provided* that with respect to any Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

"*L/C Issuer*" means each of (a) JPMorgan Chase Bank, N.A., Citibank, N.A., Mizuho Bank, Ltd., MUFG Bank, Ltd., Royal Bank of Canada, Sumitomo Mitsui Banking Corporation and The Toronto-Dominion Bank, New York Branch, in each case with respect to up to $21,428,571.40 (or such greater amount as agreed to between the Lead Borrower and such L/C Issuer) of Letters of Credit, and (c) and any other L/C Issuer designated pursuant to Section 2.3(j) in each case in its capacity as an L/C Issuer, and its successors in such capacity as provided in Section 2.3(i). An L/C Issuer may, in its discretion, arrange for one (1) or more Letters of Credit to be issued by Affiliates of such L/C Issuer, in which case the term L/C Issuer shall include any such Affiliates with respect to Letters of Credit issued by such Affiliate.

"*L/C Obligations*" means the aggregate undrawn face amounts of all outstanding Letters of Credit and all unpaid Reimbursement Obligations.

"*L/C Sublimit*" means $150.0 million, as reduced pursuant to the terms hereof.

"*LCT Election*" is defined in Section 1.3(c) hereof.

"*LCT Test Date*" is defined in Section 1.3(c) hereof.

"*Lead Borrower*" is defined in the introductory paragraph of this Agreement.

"*Lender-Related Person*" is defined in Section 10.13(b) hereof.

"*Lenders*" means the several banks and other financial institutions and other lenders from time to time party to this Agreement (excluding Prohibited Lenders), including each assignee Lender pursuant to Section 10.10 hereof.

"*Lending Office*" is defined in Section 8.6 hereof.

"*Letter of Credit*" is defined in Section 2.3(a) hereof.

"*Letter of Credit Commitment*" is defined in Section 2.3(a) hereof.

"*Letter of Credit Usage*" means, as at any date of determination, the sum of (i) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding, and (ii) the aggregate amount of all drawings under Letters of Credit honored by the L/C Issuer and not theretofore reimbursed by or on behalf of a Borrower.

"*Leverage Ratio*" means, as of the date of determination thereof, the ratio of Total Funded Debt of the Lead Borrower and its Restricted Subsidiaries as of such date to Consolidated Adjusted EBITDA (i) consistent with the proviso in the definition of "Consolidated Adjusted EBITDA" for the fiscal quarters ended December 29, 2023, March 29, 2024, June 28, 2024 and September 27, 2024, (ii) as determined by the Lead Borrower in accordance with the definition of "Consolidated Adjusted EBITDA" and the financial statements filed in connection with the Lead Borrower's Form 10-Q for the fiscal quarter ended December 27, 2024 or (iii) for the period of four (4) fiscal quarters then ended for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b), as applicable.

"*Lien*" means, with respect to any Property, any deed of trust, mortgage, lien, security interest, pledge, charge or encumbrance in the nature of security in respect of such Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement; *provided* that in no event shall a lease that is not a Capital Lease be deemed to constitute a Lien.

"*Limited Condition Transaction*" means (x) any acquisition or investment, including by way of merger, amalgamation, consolidation or other business combination or the acquisition of Equity Interests or otherwise, by one or more of the Lead Borrower and its Restricted Subsidiaries of or in any assets, business or Person, in each case, whose consummation is not conditioned on the availability of, or on obtaining, third party financing or (y) any redemption, purchase, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Equity Interests or preferred stock by one or more of the Lead Borrower and its Restricted Subsidiaries requiring irrevocable notice in advance of such redemption, purchase, repurchase, defeasance, satisfaction and discharge or prepayment.

"*Loan*" means any Revolving Loan, Term Loan, any loan issued under any Incremental Facility, any Extended Revolving Loan or Extended Term Loan, any loan issued pursuant to the final paragraph of Section 10.11(a) hereof or any Refinancing Term Loans or Loans under any Replacement Revolving Facility.

"*Loan Documents*" means this Agreement, the Guaranty, the Collateral Documents, any intercreditor agreements contemplated by Section 9.12(v) hereof and, other than for purposes of Section 10.11, the Notes (if any) and the Letters of Credit.

"*Loan Parties*" means the Borrowers and each Subsidiary Guarantor.

"*Material Adverse Effect*" means (a) a material adverse effect upon the business, assets, financial condition or results of operations, in each case, of the Lead Borrower and its Restricted Subsidiaries taken as a whole, or (b) a material adverse effect upon the rights and remedies, taken as a whole, of the Administrative Agent and the Lenders under any Loan Document.

"*Material Indebtedness*" means Indebtedness (other than the Obligations) of any one (1) or more of the Lead Borrower and the Restricted Subsidiaries in an aggregate principal amount exceeding $350.0 million.

"*Material Intellectual Property*" mean intellectual property of the Lead Borrower or any Subsidiary that is material to the business of the Lead Borrower and its Subsidiaries, taken as a whole (as determined in good faith by the Lead Borrower).

"*Material Subsidiary*" means and includes (i) each Subsidiary that is a Restricted Subsidiary (other than an Excluded Subsidiary), except any Restricted Subsidiary that does not have (together with its Subsidiaries) at any time, Consolidated Total Assets the book value of which constitutes more than 5.00% of the book value of the Consolidated Total Assets of the Lead Borrower and its Restricted Subsidiaries at such time (any such Subsidiary, an "*Immaterial Subsidiary*" and all such Subsidiaries, the "*Immaterial Subsidiaries*"); *provided* that at no time shall the book value of the Consolidated Total Assets of all Immaterial Subsidiaries equal or exceed 10.00 % of the book value of the Consolidated Total Assets of the Lead Borrower and its Restricted Subsidiaries and (ii) each Restricted Subsidiary that the Lead Borrower has designated to the Administrative Agent in writing as a Material Subsidiary.

"*Maximum Rate*" is defined in Section 10.18 hereof.

"*Minimum Extension Condition*" is defined in Section 2.15(b) hereof.

"*Moody's*" means Moody's Investors Service, Inc.

"*Multiemployer Plan*" means any "multiemployer plan" (as defined in Section 4001(a)(3) of ERISA) and covered by Title IV of ERISA to which a member of the Controlled Group (including the Lead Borrower) is then making or accruing an obligation to make contributions or has within the preceding five (5) plan years made contributions.

"*Net Cash Proceeds*" means, with respect to any mandatory prepayment event pursuant to Section 2.8(c), (a) the gross cash and cash equivalent proceeds (including payments from time to time in respect of installment obligations, if applicable) received by or on behalf of the Lead Borrower or any of its Restricted Subsidiaries in respect of such prepayment event or issuance, as the case may be, *less* (b) the sum of:

(i) The Lead Borrower's good faith estimate of taxes paid or payable in connection with any such prepayment event,

(ii) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (i) above) associated with the assets that are the subject of such prepayment event, and retained by the Lead Borrower (or any of its members) or any of the Restricted Subsidiaries, including, with respect to Net Cash Proceeds from a Disposition, liabilities under any indemnification obligations or purchase price adjustment associated with such Disposition and other liabilities associated with the asset disposed of and retained by the Lead Borrower or any of its Restricted Subsidiaries after such Disposition, including pension and other post-employment benefit liabilities and liabilities related to environmental matters; *provided* that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a prepayment event occurring on the date of such reduction,

(iii) in the case of a Disposition, (x) the amount of any Indebtedness (other than Indebtedness under this Agreement or Indebtedness that is secured by Collateral on a *pari passu* or junior basis with Indebtedness under this Agreement (other than Capitalized Lease Obligations)) secured by a Lien permitted hereunder on the assets that are the subject of such prepayment event that is repaid upon consummation of such prepayment event or otherwise subject to mandatory prepayment as a result of such event and (y) the pro rata portion of net cash proceeds thereof (calculated without regard to this clause (y)) attributable to minority interests and not available for distribution to or for the account of the Lead Borrower or the Restricted Subsidiaries as a result thereof, and

(iv) attorneys' fees, accountants' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer Taxes, deed or mortgage recording Taxes, other customary expenses and brokerage, consultant and other customary costs and fees payable in connection therewith.

"*Non-Cash Charges*" means (a) any impairment charge or asset write-off or write-down related to intangible assets (including goodwill), long-lived assets, and investments in debt and equity securities pursuant to GAAP, (b) all non-cash losses from investments recorded using the equity method, (c) all Non-Cash Compensation Expenses, (d) the non-cash impact of purchase or recapitalization accounting, (e) depreciation and amortization (including, without limitation, as they relate to acquisition accounting, amortization of deferred financing fees or costs, capitalized software expenditures and amortization of unrecognized prior service costs and actuarial gains and losses related to pension and other post-employment benefits), (f) all non-cash charges attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP, (g) any effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such person and such Subsidiaries) in amounts required or permitted by GAAP, resulting from the application of purchase accounting in relation to any consummated acquisition or the amortization or write-off of any amounts thereof, net of Taxes, (h) net unrealized gain (after any offset) resulting in such period from currency translation and transaction gains (losses) including those related to currency remeasurements of Indebtedness (including any net gain (loss) resulting from (i) Hedging Obligations for currency exchange risk and (ii) resulting from intercompany indebtedness) and any other foreign currency transaction or translation gains and losses, to the extent such gains (losses) are non-cash items and (i) all other non-cash charges (*provided* that, in each case, if any non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Adjusted EBITDA or Cash Flow to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period).

"*Non-Cash Compensation Expense*" means any non-cash expenses and costs that result from the issuance of stock-based awards, limited liability company or partnership interest-based awards and similar incentive-based compensation awards or arrangements.

"*Non-Consenting Lender*" is defined in Section 8.5 hereof.

"*Note*" and "*Notes*" is defined in Section 2.12(d) hereof.

"*NYFRB*" means the Federal Reserve Bank of New York.

"*NYFRB Rate*" means, for any day, the greater of (a) the Federal Funds Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); *provided* that if none of such rates are published for any day that is a Business Day, the term "NYFRB Rate" means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; *provided*, *further*, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"*NYFRB's Website*" means the website of the NYFRB at http://www.newyorkfed.org, or any successor source.

"*Obligations*" means all obligations of the Borrowers to pay principal and interest on the Loans, all Reimbursement Obligations owing under the Applications, all fees and charges payable hereunder, and all other payment obligations of the Lead Borrower or any of its Restricted Subsidiaries arising under or in relation to any Loan Document, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired, including all interest, fees and other amounts which, but for the filing of any insolvency or bankruptcy proceeding with respect to any Loan Party, would have accrued on any Obligations, whether or not a claim is allowed against such Loan Party for such interest, fees or other amounts in such proceeding; *provided* that, notwithstanding anything to the contrary, the Obligations shall exclude any Excluded Swap Obligation.

"*OID*" is defined in Section 2.14(a)(H) hereof.

"*Other Applicable Indebtedness*" is defined in Section 2.8(c)(ii) hereof.

"*Other Taxes*" is defined in Section 10.4 hereof.

"*Outbound Investment Rules*" means the regulations administered and enforced, together with any related public guidance issued, by the United States Treasury Department under U.S. Executive Order 14105 of August 9, 2023, or any similar law or regulation, as of the date of this Agreement, and as codified at 31 C.F.R. Part 850.

"*Overnight Bank Funding Rate*" means, for any day, the rate comprised of both overnight federal funds and overnight eurodollar transactions denominated in Dollars by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the NYFRB's Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

"*Participant*" is defined in Section 10.10(d) hereof.

"*Participant Register*" is defined in Section 10.10(d) hereof.

"*Participating Interest*" is defined in Section 2.3(d) hereof.

"*Participating Lender*" is defined in Section 2.3(d) hereof.

"*Patriot Act*" is defined in Section 5.21(b) hereof.

"*Payment*" is defined in Section 9.14(a) hereof.

"*Payment Notice*" is defined in Section 9.14(b) hereof.

"*PBGC*" means the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

"*Percentage*" means for any Lender its Revolver Percentage or Term Loan Percentage, as applicable; and where the term "Percentage" is applied on an aggregate basis, such aggregate percentage shall be calculated by aggregating the separate components of the Revolver Percentage and Term Loan Percentage, and expressing such components on a single percentage basis.

"*Perfection Certificate*" means the perfection certificate dated as of the Closing Date executed by the Loan Parties, in form and substance reasonably satisfactory to the Collateral Agent.

"*Permitted Acquisition"* means any Acquisition by the Lead Borrower or a Restricted Subsidiary with respect to which all of the following conditions shall have been satisfied:

(a) after giving effect to the Acquisition, the Lead Borrower is in compliance with Section 6.13 hereof;

(b) any new Subsidiary (other than an Excluded Subsidiary) is formed or acquired as a result of or in connection with the Acquisition, such new Subsidiary shall have complied with the requirements of Article 4 hereof in connection therewith (as and when required by Article 4); and

(c) (i) no Event of Default (or in the case of Permitted Acquisitions that are Limited Condition Transactions, no Event of Default under Section 7.1(a), (j) or (k)) shall exist and (ii) the Leverage Ratio does not exceed the then-applicable Leverage Ratio required under Section 6.24 hereof, in the case of each of clauses (i) and (ii) above, subject to an LCT Election, on the date the relevant Acquisition is consummated and after giving effect thereto.

"*Permitted Bond Hedge Transaction*" means any call or capped call option (or substantively equivalent derivative transaction) on the Lead Borrower's common stock purchased by the Lead Borrower in connection with the issuance of any Convertible Indebtedness; *provided* that the purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Lead Borrower from the sale of any related Permitted Warrant Transaction, does not exceed the net proceeds received by the Lead Borrower from the sale of such Convertible Indebtedness issued in connection with the Permitted Bond Hedge Transaction.

"*Permitted Liens*" is defined in Section 6.16 hereof.

"*Permitted Receivables Financing*" means any transaction or series of transactions that may be entered into by the Lead Borrower or any Restricted Subsidiary pursuant to which it sells, conveys or contributes to capital or otherwise transfers (which sale, conveyance, contribution to capital or transfer may include or be supported by the grant of a security interest in) Receivables or interests therein and all collateral securing such Receivables, all contracts and contract rights, purchase orders, security interests, financing statements or other documentation in respect of such Receivables, any guarantees, indemnities, warranties or other obligations in respect of such Receivables, any other assets that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving receivables similar to such Receivables and any collections or proceeds of any of the foregoing (collectively, the "*Related Assets*"), all of which such sales, conveyances, contributions to capital or transfers shall be made by the transferor for fair value as reasonably determined by the Lead Borrower (calculated in a manner typical for such transactions including a fair market discount from the face value of such Receivables) (a) to a trust, partnership, corporation or other Person (other than the Lead Borrower or any Subsidiary other than any Receivables Financing Subsidiary), which transfer is funded in whole or in part, directly or indirectly, by the incurrence or issuance by the transferee or any successor transferee of Indebtedness, fractional undivided interests or other securities that are to receive payments from, or that represent interests in, the cash flow derived from such Receivables and Related Assets or interests in such Receivables and Related Assets, or (b) directly to one or more investors or other purchasers (other than the Lead Borrower or any Subsidiary), it being understood that a Permitted Receivables Financing may involve (i) one or more sequential transfers or pledges of the same Receivables and Related Assets, or interests therein (such as a sale, conveyance or other transfer to any Receivables Financing Subsidiary followed by a pledge of the transferred Receivables and Related Assets to secure Indebtedness incurred by the Receivables Financing Subsidiary), and all such transfers, pledges and Indebtedness incurrences shall be part of and constitute a single Permitted Receivables Financing, and (ii) periodic transfers or pledges of Receivables and/or revolving transactions in which new Receivables and Related Assets, or interests therein, are transferred or pledged upon collection of previously transferred or pledged Receivables and Related Assets, or interests therein, *provided* that any such transactions shall provide for recourse to such Subsidiary (other than any Receivables Financing Subsidiary) or the Lead Borrower (as applicable) only in respect of the cash flows in respect of such Receivables and Related Assets and to the extent of breaches of representations and warranties relating to the Receivables, dilution of the Receivables, customary indemnities and other customary securitization undertakings in the jurisdiction relevant to such transactions.

"*Permitted Warrant Transaction*" means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) on the Lead Borrower's common stock sold by the Lead Borrower substantially concurrently with any purchase by the Lead Borrower of a related Permitted Bond Hedge Transaction.

"*Person*" means any natural person, partnership, corporation, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or agency or political subdivision thereof.

"*Plan*" means any Single Employer Plan or Multiemployer Plan.

"*Planned Expenditures*" shall have the meaning assigned to such term in clause (d) of the definition of the term "Excess Cash Flow."

"*Platform*" has the meaning assigned to such term in Section 10.25(a) hereof.

"*Post-Transaction Period*" means, with respect to any Specified Transaction, the period beginning on the date such Specified Transaction is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such Specified Transaction is consummated.

"*primary obligations*" has the meaning provided in the definition of "Contingent Obligation".

"*primary obligor*" has the meaning provided in the definition of "Contingent Obligation".

"*Prime Rate*" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as reasonably determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as reasonably determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"*Pro Forma Adjustment*" means, for any period that includes all or any part of a fiscal quarter included in any Post-Transaction Period, the pro forma increase or decrease in Consolidated Adjusted EBITDA projected by the Lead Borrower in good faith based on the Lead Borrower's reasonable assumptions as a result of (a) actions taken, prior to or during such Post-Transaction Period, for the purposes of realizing reasonably identifiable and factually supportable cost savings within 18 months of the date hereof, or (b) any additional costs incurred prior to or during such Post-Transaction Period in connection with the combination of operations resulting from the Specified Transaction; *provided* that, (A) so long as such actions are taken prior to or during such Post-Transaction Period or such costs are incurred prior to or during such Post-Transaction Period it may be assumed, for purposes of projecting such pro forma increase or decrease to Consolidated Adjusted EBITDA, that such cost savings will be realizable during the entirety of such period, or such additional costs will be incurred during the entirety of such period, and (B) any such pro forma increase or decrease to Consolidated Adjusted EBITDA shall be without duplication for cost savings or additional costs already included in Consolidated Adjusted EBITDA for such period. Notwithstanding the foregoing, any Pro Forma Adjustment to Consolidated Adjusted EBITDA for any period, together with any amounts added back pursuant to clauses (a)(vii), (a)(viii) and (a)(xii) of the definition of "Consolidated Adjusted EBITDA" for such period, shall not exceed the greater of $510 million and 30% of Consolidated Adjusted EBITDA for such period (calculated prior to such add-back).

"*Pro Forma Basis*," "*Pro Forma Compliance*" and "*Pro Forma Effect*" means, with respect to compliance with any test or covenant hereunder, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified Transactions and the following transactions in connection therewith that have been made during the applicable period of measurement or subsequent to such period and prior to or simultaneously with the event for which the calculation is made shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all capital stock in any Subsidiary of the Lead Borrower or any division or product line of the Lead Borrower or any of its Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or investment described in the definition of the term "Specified Transaction," shall be included, (b) any retirement or repayment of Indebtedness, (c) any Indebtedness incurred by the Lead Borrower or any of its Subsidiaries in connection therewith and if such indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness at the relevant date of determination and interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period and (d) the acquisition of any Consolidated Total Assets, whether pursuant to any Specified Transaction or any Person becoming a Subsidiary or merging, amalgamating or consolidating with or into the Lead Borrower or any of its Subsidiaries or the Lead Borrower or any of its

Subsidiaries; *provided* that, without limiting the application of the Pro Forma Adjustment pursuant to clause (A) above (but without duplication thereof or in addition thereto), the foregoing pro forma adjustments described in clause (a) above may be applied to any such test or covenant solely to the extent that such adjustments are consistent with the definition of "Consolidated Adjusted EBITDA" and give effect to events (including operating expense reductions) that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Lead Borrower and its Subsidiaries and (z) reasonably expected to occur or (ii) otherwise consistent with the definition of the term "Pro Forma Adjustment."

"*Prohibited Lender*" means (a) (i) any Person identified in writing by the Lead Borrower to the Administrative Agent on or before the Closing Date as a "Prohibited Lender" and (ii) any Person identified in writing upon two (2) Business Days' notice by the Lead Borrower to the Administrative Agent that is (1) at the time a competitor of the Lead Borrower or any of its Subsidiaries or (2) otherwise identified in such notice as a "Prohibited Lender" and, with respect to this clause (2), consented to by the Administrative Agent, (b) any Affiliate of any Person described in clause (a) above to the extent such Affiliate is clearly identifiable solely on the basis of the similarity of such Affiliate's name to any Person described in clause (a) (but excluding any Affiliate of such Person that is a bona fide debt fund or investment vehicle that is primarily engaged, or that advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course and with respect to which such Person does not, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such entity), in each case, solely to the extent (x) the notice described in the clause (a) is sent via email to the Administrative Agent at JPMDQ_Contact@jpmorgan.com and (y) the list of Prohibited Lenders described in clause (a) is made available to all Lenders (either by the Lead Borrower or by the Administrative Agent with the Lead Borrower's express authorization) on the Platform; it being understood that to the extent the Lead Borrower provides such list (or any supplement thereto) to the Administrative Agent, the Administrative Agent is authorized to and shall post such list (and any such supplement thereto) on the Platform; *provided* that no supplement to the list of Prohibited Lenders described in clause (a) above shall apply retroactively to disqualify any Persons that have previously acquired an assignment or participation interest in the Loans.

"*Property*" means, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its Subsidiaries under GAAP.

"*PTE*" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"*Public Lender*" has the meaning assigned to such term in Section 10.25(a).

"*Purchaser*" is defined in Section 10.10(h) hereof.

"*Qualified Acquisition*" means an Acquisition (a) of (i) assets comprising all or substantially all or any significant portion of a business or an operating unit or division of a business or (ii) at least a majority (in number of votes) of the capital stock or other Equity Interests of a Person, (b) the aggregate cash consideration for which equals or exceeds $200 million, (c) the Leverage Ratio after giving Pro Forma Effect to such Qualified Acquisition is greater than the Leverage Ratio immediately prior to such Qualified Acquisition and (d) that the Lead Borrower notifies the Administrative Agent in writing at least five (5) Business Days (or such shorter period as may be reasonably acceptable to the Administrative Agent) prior to the consummation of such Acquisition that such Acquisition shall be a "Qualified Acquisition" for purposes of this Agreement along with a certificate signed by a Responsible Officer of the Lead Borrower setting forth a calculation of (x) the Leverage Ratio immediately prior to such Qualified Acquisition and (y) the Leverage Ratio after giving Pro Forma Effect to such Qualified Acquisition; *provided* that if the Lead Borrower publicly announces such Acquisition later than five (5) Business Days prior to consummation of the Acquisition, the Lead Borrower shall deliver such notice (and certificate, if applicable) on the date of announcement.

"*Qualified Public Offering"* means the issuance by the Lead Borrower of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the U.S. Securities and Exchange Commission in accordance with the Securities Act of 1933, as amended.

"*Qualifying Bids*" has the meaning provided in clause (c) of the definition of "*Dutch Auction*".

"*QFC*" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"*QFC Credit Support*" has the meaning assigned to it in Section 10.29.

"*Ratio-Based Incremental Amount*" is defined in Section 2.14(b) herein.

"*RCRA*" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 *et seq.*, and any future amendments.

"*Receivables*" means accounts receivable (including all rights to payment created by or arising from the sale of goods, leases of goods or the rendition of services, no matter how evidenced (including in the form of a chattel paper)).

"*Receivables Financing Subsidiary*" means any Wholly-owned Subsidiary of the Lead Borrower formed solely for the purpose of, and that engages only in, one or more Permitted Receivables Financings.

"*Reference Time*" with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the Term SOFR Rate, 5:00 a.m. (Chicago time) on the day that is two Business Days preceding the date of such setting, (2) if such Benchmark is EURIBOR Rate, 11:00 a.m. Brussels time two TARGET Days preceding the date of such setting, (3) if such Benchmark is TIBOR Rate, 11:00 a.m. Japan time two Business Days preceding the date of such setting, (4) if the RFR for such Benchmark is Daily Simple SOFR, then four Business Days prior to such setting, or (5) if such Benchmark is none of the Term SOFR Rate, the EURIBOR Rate, the TIBOR Rate or Daily Simple SOFR, the time determined by the Administrative Agent in its reasonable discretion.

"*Refinancing Amendment*" is defined in Section 2.16(f) hereof.

"*Refinancing Effective Date*" has the meaning set forth in Section 2.16(a) hereof.

"*Refinancing Indebtedness*" means any incurrence by the Lead Borrower or any Restricted Subsidiary of Indebtedness which serves to refund or refinance other Indebtedness or any Indebtedness issued to so refund, replace or refinance (herein, "*refinance")* such Indebtedness, including, in each case, additional Indebtedness incurred to pay accrued but unpaid interest, premiums (including tender premiums), defeasance costs and fees and expenses in connection therewith; *provided*, *however*, that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded or refinanced;

(B) to the extent such Refinancing Indebtedness refinances Indebtedness that was originally (1) subordinated or *pari passu* to the Obligations (other than Indebtedness incurred under clause (w) of Section 6.15), such Refinancing Indebtedness is subordinated or *pari passu* to the Obligations at least to the same extent as the Indebtedness being refinanced or refunded, (2) secured by the Collateral on a *pari passu* or junior basis, such Refinancing Indebtedness is secured only by the Collateral and only to the extent as the Indebtedness being refinanced or refunded (but, for the avoidance of doubt, may be unsecured), (3) secured by assets other than the Collateral, such Refinancing Indebtedness is secured only by assets other than the Collateral or (4) unsecured, such Refinancing Indebtedness is unsecured; and

(C) shall not include Indebtedness of a non-Loan Party that refinances Indebtedness of a Loan Party.

"*Refinancing Notes*" means any secured or unsecured notes issued by a Borrower or any Guarantor (whether under an indenture or otherwise) and the Indebtedness represented thereby; *provided* that (a) 100% of the Net Cash Proceeds of such Refinancing Notes are used to permanently reduce Loans and/or replace Commitments no later than five (5) Business Days after the date on which such Refinancing Notes are issued; (b) the principal amount (or accreted value, if applicable) of such Refinancing Notes does not exceed the principal amount (or accreted value, if applicable) of the aggregate portion of the Loans so reduced and/or Commitments so replaced (*plus* unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses); (c) the final maturity date of such Refinancing Notes is on or after the termination date of the Term Loans so reduced or the Revolving Credit Commitments so replaced; *provided* that any Refinancing Notes incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement; (d) the Weighted Average Life to Maturity of such Refinancing Notes is greater than or equal to the Weighted Average Life to Maturity of the Term Loans so repaid or the Revolving Credit Commitments so replaced; *provided* that any Refinancing Notes incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement; (e) the terms of such Refinancing Notes do not provide for any scheduled repayment, mandatory redemption or sinking fund obligations prior to the termination date of the Term Loans so reduced or the Revolving Credit Commitments so replaced, as applicable (other than (x) in the case of notes, customary offers to repurchase or mandatory prepayment provisions upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default and (y) in the case of loans, customary amortization and mandatory and voluntary prepayment provisions which are, when taken as a whole, consistent in all material respects with, or not materially more restrictive to the Lead Borrower and its Subsidiaries than (as reasonably determined by the Lead Borrower), those applicable to the Term Loans and/or Revolving Credit Commitments, as the case may be, with such Indebtedness to provide that any such mandatory prepayments as a result of asset sales, events of loss, or excess cash flow, shall be allocated on a *pro rata* basis or a less than *pro rata* basis (but not a greater than *pro rata* basis) with the Term Loans outstanding pursuant to this Agreement); (f) there shall be no obligor with respect thereto that is not a Loan Party; (g) if such Refinancing Notes are secured, the security agreements relating to such assets shall not extend to any assets not constituting Collateral and shall be no more favorable to the secured party or parties, taken as a whole (as reasonably determined by the Lead Borrower) than the Collateral Documents (with such differences as are reasonably satisfactory to the Administrative Agent); (h) if such Refinancing Notes are secured, such Refinancing Notes shall be secured by all or a portion of the Collateral, but shall not be secured by any assets of the Lead Borrower or its subsidiaries other than the Collateral; (i) Refinancing Notes that are secured by Collateral shall be subject to the provisions of a customary intercreditor agreement and (j) all other terms applicable to such Refinancing Notes (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in this clause (j))), when taken as a whole, shall (as reasonably determined by the Lead Borrower) be substantially similar to, or not materially less favorable to the Lead Borrower and its Subsidiaries than, the terms applicable to the Term Loans so reduced or the Revolving Credit Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the latest maturity date applicable to such Term Loans or Revolving Credit Commitments or are added for the benefit of the Lenders); *provided* that a certificate of a Responsible Officer of the Lead Borrower delivered to the Administrative Agent for posting to the Lenders at least five (5) Business Days prior to the issuance of such Refinancing Notes, together with a reasonably detailed description of the material terms and conditions of such Refinancing Notes or drafts of the documentation relating thereto, stating that the Lead Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement in clause (j) shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Required Lenders through the Administrative Agent notify the Lead Borrower within such five (5) Business Day period that they disagree with such determination (including a reasonable description of the basis upon which they disagree).

"*Refinancing Term Loans*" is defined in Section 2.16(a) hereof.

"*Refunding Capital Stock*" is defined in Section 6.20(g) hereof.

"*Register*" is defined in Section 10.10(c)(i) hereof.

"*Regulatory Authority*" is defined in Section 10.23 hereof.

"*Reimbursement Obligations*" is defined in Section 2.3(c) hereof.

"*Rejecting Lender*" is defined in Section 2.8(c)(vii) hereof.

"*Related Assets*" has the meaning specified in the definition of "Permitted Receivables Financing".

"*Related Parties*" means, with respect to any Person, such Person's Affiliates and the partners, directors, trustees, officers, administrators, employees and agents of such Person and of such Person's Affiliates.

"*Release*" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migration on, at, under or into the Environment.

"*Relevant Existing Facility*" is defined in Section 2.14(a)(H) hereof.

"*Relevant Governmental Body*" means (i) with respect to a Benchmark Replacement in respect of Loans denominated in Dollars, the Federal Reserve Board and/or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB or, in each case, any successor thereto, (ii) with respect to a Benchmark Replacement in respect of Loans denominated in Euros, the European Central Bank, or a committee officially endorsed or convened by the European Central Bank or, in each case, any successor thereto, (iii) with respect to a Benchmark Replacement in respect of Loans denominated in Yen, the Bank of Japan, or a committee officially endorsed or convened by the Bank of Japan or, in each case, any successor thereto and (vi) with respect to a Benchmark Replacement in respect of Loans denominated in any other currency, (a) the central bank for the currency in which such Benchmark Replacement is denominated or any central bank or other supervisor which is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement or (b) any working group or committee officially endorsed or convened by (1) the central bank for the currency in which such Benchmark Replacement is denominated, (2) any central bank or other supervisor that is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement, (3) a group of those central banks or other supervisors or (4) the Financial Stability Board or any part thereof.

"*Relevant Rate*" means (i) with respect to any Term Benchmark Borrowing denominated in Dollars, the Adjusted Term SOFR Rate, (ii) with respect to any Term Benchmark Borrowing denominated in Euros, the Adjusted EURIBOR Rate, (iii) with respect to any Term Benchmark Borrowing denominated in Yen, the Adjusted TIBOR Rate, or (iv) with respect to any RFR Borrowing denominated in Dollars, the Adjusted Daily Simple SOFR, as applicable.

"*Relevant Screen Rate*" means (i) with respect to any Term Benchmark Borrowing denominated in Dollars, the Term SOFR Reference Rate, (ii) with respect to any Term Benchmark Borrowing denominated in Euros, the EURIBOR Screen Rate, or (iii) with respect to any Term Benchmark Borrowing denominated in Yen, the TIBOR Screen Rate, as applicable.

"*Replacement Revolving Credit Commitments*" is defined in Section 2.16(c) hereof.

"*Replacement Revolving Facility*" is defined in Section 2.16(c) hereof.

"*Replacement Revolving Facility Effective Date*" is defined in Section 2.16(c) hereof.

"*Replacement Revolving Loans*" is defined in Section 2.16(c) hereof.

"*Reply Amount*" has the meaning provided in clause (b) of the definition of "*Dutch Auction*".

"*Reply Discount*" has the meaning provided in clause (b) of the definition of "*Dutch Auction*"

"*Reportable Event*" means any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the thirty day notice period is waived under subsections 27, 28, 29, 30, 31, 32, 34 or 35 of PBGC Regulation Section 4043.

"*Repricing Transaction*" means each of (a) the prepayment, repayment, refinancing, substitution or replacement of all or a portion of the Term B Loans with the proceeds of any secured term loans incurred or guaranteed by any Borrower or any Guarantor incurred for the primary purpose (as determined by the Lead Borrower in good faith) of reducing the effective yield (with the comparative determinations to be made by the Administrative Agent in a manner consistent with generally accepted financial practices, and in any event consistent with Section 2.14(a)(H)) to less than the effective yield (as determined by the Administrative Agent on the same basis) applicable to such Term B Loans so prepaid, repaid, refinanced, substituted or replaced and (b) any amendment, waiver or other modification to, or consent under, this Agreement incurred for the primary purpose of reducing the effective yield (to be determined by the Administrative Agent on the same basis as set forth in preceding clause (a)) of the Term B Loans; *provided* that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver, modification or consent in connection with a prepayment pursuant to Section 2.8(c) or a Change of Control, constitute a Repricing Transaction. Any determination by the Administrative Agent of any effective interest rate as contemplated by preceding clauses (a) and (b) shall be conclusive and binding on all Lenders, and the Administrative Agent shall have no liability to any Person with respect to such determination.

"*Required Lenders*" means, as of the date of determination thereof, Lenders whose outstanding Loans and interests in Letters of Credit and Unused Revolving Credit Commitments constitute more than 50.00% of the sum of the total outstanding Loans, interests in Letters of Credit and Unused Revolving Credit Commitments; *provided* that the Revolving Credit Commitment of, and the portion of the outstanding Loans, interests in Letters of Credit and Unused Revolving Credit Commitments held or deemed held by, any Defaulting Lender (so long as such Lender is a Defaulting Lender) or the Borrowers or any Borrower's Affiliates shall be excluded for purposes of making a determination of Required Lenders.

"*Required RC Lenders*" means, at any time, Lenders having Revolving Exposures and unused Revolving Credit Commitments representing more than 50% of the sum of the total Revolving Exposures and unused Revolving Credit Commitments at such time; *provided* that the Revolving Exposures and unused Revolving Credit Commitments held or deemed held by any Defaulting Lender (so long as such Lender is a Defaulting Lender) or the Borrowers or any Borrower's Affiliates shall be excluded for purposes of making a determination of Required RC Lenders.

"*Resolution Authority*" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"*Responsible Officer*" of any person means any executive officer (including, without limitation, the chief executive officer, president, chief financial officer, treasurer, assistant treasurer, director, controller, any vice president, secretary and assistant secretary), any authorized person or financial officer of such person, any other officer or similar official or authorized person thereof with responsibility for the administration of the obligations of such person in respect of this Agreement and with respect to any Loan Party that is a limited liability company, any manager thereof appointed pursuant to the organizational documents of such Loan Party.

"*Restricted Asset Sale Amount*" is defined in Section 2.8(c)(vi) hereof.

"*Restricted Debt Payment"* is defined in Section 6.22(a) hereof.

"*Restricted ECF Amount*" is defined in Section 2.8(c)(vi)(II) hereof.

"*Return Bid*" has the meaning provided in clause (b) of the definition of "*Dutch Auction*"

"*Restricted Subsidiary*" means any Subsidiary other than an Unrestricted Subsidiary. As of the Closing Date, all of the Subsidiaries of the Lead Borrower will be Restricted Subsidiaries.

"*Reuters*" means, as applicable, Thomson Reuters Corp., Refinitiv, or any successor thereto.

"*Revaluation Date*" shall mean (a) with respect to any Loan denominated in any Alternative Currency, each of the following: (i) the date of the Borrowing of such Loan and (ii) (A) with respect to any Term Benchmark Loan, each date of a conversion into or continuation of such Loan pursuant to the terms of this Agreement and (B) with respect to any RFR Loan, each date that is on the numerically corresponding day in each calendar month that is one month after the Borrowing of such Loan (or, if there is no such numerically corresponding day in such month, then the last day of such month); (b) with respect to any Letter of Credit denominated in an Alternative Currency, each of the following: (i) the date on which such Letter of Credit is issued, (ii) the first Business Day of each calendar month and (iii) the date of any amendment of such Letter of Credit that has the effect of increasing the face amount thereof; and (c) any additional date as the Administrative Agent may determine at any time when an Event of Default exists.

"*Revolver Percentage*" means, for each Revolving Lender, the percentage of the aggregate Revolving Credit Commitments represented by such Revolving Lender's Revolving Credit Commitment or, if the Revolving Credit Commitments have been terminated, the percentage held by such Revolving Lender (including through participation interests in Reimbursement Obligations) of the aggregate principal amount of all Revolving Loans and L/C Obligations then outstanding.

"*Revolving Credit Commitments*" means, as to any Lender, the obligation of such Lender to make Revolving Loans and to participate in Letters of Credit issued for the account of a Borrower hereunder in an aggregate principal or face amount at any one time outstanding not to exceed the amount set forth opposite such Revolving Lender's name on Schedule 1 and made a part hereof, as the same may be reduced, increased or otherwise modified at any time or from time to time pursuant to the terms hereof. The aggregate amount of the Revolving Lenders' Revolving Credit Commitments on the Closing Date is $1,500.0 million.

"*Revolving Credit Commitment Increase*" is defined in Section 2.14(a) hereof.

"*Revolving Credit Termination Date*" means the earlier of (a) February 21, 2030 and (b) such earlier date on which the Revolving Credit Commitments are terminated in whole pursuant to Section 2.10, 7.2 or 7.3 hereof.

"*Revolving Exposure*" means, with respect to any Lender as of any date of determination, (i) prior to the termination of the Revolving Credit Commitments, that Lender's Revolving Credit Commitment; and (ii) after the termination of the Revolving Credit Commitments, the sum of (a) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (b) in the case of an L/C Issuer, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit) and (c) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit.

"*Revolving Facility*" means the credit facility for making Revolving Loans and issuing Letters of Credit described in Sections 2.2 and 2.3 hereof.

"*Revolving Lender*" means any Lender holding all or a portion of the Revolving Facility.

"*Revolving Loan*" is defined in Section 2.2 hereof and, as so defined, includes a Base Rate Loan or a Term Benchmark Loan, each of which is a "type" of Revolving Loan hereunder.

"*Revolving Note*" is defined in Section 2.12(d) hereof.

"*RFR Borrowing*" means, as to any Borrowing, the RFR Loans comprising such Borrowing.

"*RFR Loan*" means a Loan that bears interest at a rate based on the Adjusted Daily Simple SOFR.

"*S&P*" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

"*Sanctioned Country*" means, at any time, any country or territory that is, or whose government is, the subject or target of any Sanctions that broadly restrict or prohibit trade and investment or other dealings with that country, territory or government. As of the Closing Date, the following countries or territories are "Sanctioned Countries": Crimea, Cuba, Iran, North Korea, Syria, the so-called Donetsk People's Republic, the so-called Luhansk People's Republic and the non-Ukrainian government controlled areas of the Kherson and Zaporizhzhia regions of Ukraine.

"*Sanctioned Person*" means, at any time, any Person with whom dealings are restricted or prohibited under Sanctions, including, without limitation, (a) any Person listed in any Sanctions-related list of designated Persons maintained and published by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the U.S. Department of Commerce, the United Nations Security Council, the European Union or His Majesty's Treasury of the United Kingdom, (b) any Person located, organized or resident in, or any Governmental Authority or governmental instrumentality of, a Sanctioned Country or (c) any Person controlled by, or acting for the benefit of or on behalf of, any such Person.

"*Sanctions*" means any economic or trade sanctions enacted, imposed, administered or enforced by the U.S. government (including the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State or the U.S. Department of Commerce), the United Nations Security Council, the European Union, any European Union member state, His Majesty's Treasury of the United Kingdom.

"*SEC*" means the Securities and Exchange Commission of the United States of America.

"*Secured Parties*" has the meaning assigned to that term in the Security Agreement.

"*Security Agreement*" means that certain Security Agreement, substantially in the form of Exhibit J, dated as of the Closing Date by and between the Loan Parties party thereto and the Collateral Agent.

"*Security Agreement Supplement*" means an Assumption and Supplemental Security Agreement in the form attached to the Security Agreement as Schedule F.

"*Senior Secured Leverage Ratio*" means, as of the date of determination thereof, the ratio of (a) Consolidated Senior Secured Debt as of such date to (b) Consolidated Adjusted EBITDA (i) consistent with the proviso in the definition of "Consolidated Adjusted EBITDA" for the fiscal quarters ended December 29, 2023, March 29, 2024, June 28, 2024 and September 27, 2024, (ii) as determined by the Lead Borrower in accordance with the definition of "Consolidated Adjusted EBITDA" and the financial statements filed in connection with the Lead Borrower's Form 10-Q for the fiscal quarter ended December 27, 2024 or (iii) for the period of four (4) fiscal quarters then most recently ended for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b), as applicable.

"*Significant Subsidiary*" means any Subsidiary of the Lead Borrower that would be a "significant subsidiary" of the Lead Borrower within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

"*Single Employer Plan"* means any "employee pension benefit plan" covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that is maintained by a member of the Controlled Group (including the Lead Borrower) for current or former employees of a member of the Controlled Group (including the Lead Borrower).

"*SOFR*" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"*SOFR Administrator*" means the NYFRB (or a successor administrator of the secured overnight financing rate).

"*SOFR Administrator's Website"* means the NYFRB's website, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"*SOFR Determination Date*" has the meaning specified in the definition of "Daily Simple SOFR".

"*SOFR Rate Day*" has the meaning specified in the definition of "Daily Simple SOFR".

"*Solvency Certificate*" means a Solvency Certificate substantially in the form of Exhibit E to this Agreement.

"*specified date*" has the meaning assigned to such term in the definition of the term "Fiscal Quarter End Date."

"*Specified Transaction*" means, with respect to any period, (a) the Transactions, (b) any Acquisition or the making of other investments pursuant to which all or substantially all of the assets or stock of a Person (or any line of business or division thereof) are acquired, (c) the disposition of all or substantially all of the assets or stock of a Subsidiary (or any line of business or division of the Lead Borrower or such Subsidiary), (d) any retirement or repayment of Indebtedness or (e) any other event that by the terms of the Loan Documents requires Pro Forma Compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis or after giving Pro Forma Effect thereto.

"*Spin-Off*" has the meaning assigned to such term in the preliminary statements hereto.

"*Spin-Off Transactions*" means the Spin-Off, the Closing Date Dividend and any transactions incidental to or reasonably necessary to effectuate any of the foregoing.

"*Statutory Reserve Rate*" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one *minus* the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Federal Reserve Board to which the Administrative Agent is subject with respect to the Adjusted EURIBOR Rate or Adjusted TIBOR Rate, as applicable, for eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D) or any other reserve ratio or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Loans. Such reserve percentage shall include those imposed pursuant to Regulation D. Term Benchmark Loans for which the associated Benchmark is adjusted by reference to the Statutory Reserve Rate (per the related definition of such Benchmark) shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"*Subsidiary*" means, as to any particular parent corporation or organization, any other corporation or organization more than 50.00% of the outstanding Voting Stock of which is at the time directly or indirectly owned by such parent corporation or organization or by any one (1) or more other entities which are themselves subsidiaries of such parent corporation or organization. Unless otherwise expressly noted herein, the term "Subsidiary" means a Subsidiary of the Lead Borrower or of any of its direct or indirect Subsidiaries.

"*Subsidiary Guarantor*" is defined in Section 4.3 hereof.

"*Subsidiary Indebtedness*" means any Indebtedness of a Subsidiary; *provided* that Indebtedness of an Additional Borrower solely as it relates to the Obligations under this Agreement shall not be included as "Subsidiary Indebtedness".

"*Supported QFC*" is defined in Section 10.29 hereof.

"*Swap Obligation*" has the meaning assigned to that term in the definition of "Excluded Swap Obligation."

"*T2*" means the real time gross settlement system operated by the Eurosystem, or any successor system.

"*TARGET Day*" means any day on which T2 (or, if such payment system ceases to be operative, such other payment system, if any, determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

"*Taxes*" means all present or future taxes, levies, imposts, duties, deduction, withholdings (including backup withholding), value added taxes, sales and use taxes, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"*Term B Facility*" means the credit facility for the Term B Loans described in Section 2.1(a) hereof.

"*Term B Lender*" means a Lender with an outstanding Term B Loan Commitment or an outstanding Term B Loan.

"*Term B Loan*" is defined in Section 2.1(a) hereof.

"*Term B Loan Commitment*" means, as to any Lender, the obligation of such Lender to make Term B Loans hereunder in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced pursuant to Section 2.10. The aggregate amount of the Term B Lenders' Term B Loan Commitments on the Closing Date is $2,000.0 million.

"*Term B Loan Percentage*" means, for any Term B Lender, the percentage held by such Term B Lender of the aggregate principal amount of all Term B Loans then outstanding.

"*Term B Note*" is defined in Section 2.12(d) hereof.

"*Term B Termination Date*" means February 21, 2032.

"*Term Benchmark*" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted Term SOFR Rate, the Adjusted EURIBOR Rate and the Adjusted TIBOR Rate.

"*Term Commitment Increase*" is defined in Section 2.14(a) hereof.

"*Term Facility*" means the Term B Facility.

"*Term Loan Percentage*" means the Term B Loan Percentage.

"*Term Loans*" means the Term B Loans.

"*Term SOFR Determination Day*" has the meaning assigned to it under the definition of "Term SOFR Reference Rate".

"*Term SOFR Rate*" means, with respect to any Term Benchmark Borrowing denominated in Dollars and for any tenor comparable to the applicable Interest Period, the Term SOFR Reference Rate at approximately 5:00 a.m., Chicago time, two U.S. Government Securities Business Days prior to the commencement of such tenor comparable to the applicable Interest Period, as such rate is published by the CME Term SOFR Administrator.

"*Term SOFR Reference Rate*" means, for any day and time (such day, the "*Term SOFR Determination Day*"), with respect to any Term Benchmark Borrowing denominated in Dollars and for any tenor comparable to the applicable Interest Period, the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR. If by 5:00 pm (New York City time) on such Term SOFR Determination Day, the "Term

SOFR Reference Rate" for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then the Term SOFR Reference Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding Business Day is not more than five (5) Business Days prior to such Term SOFR Determination Day.

"*Termination Date*" is defined in the lead-in of Article 6 hereof.

"*TIBOR Rate*" means, with respect to any Term Benchmark Borrowing denominated in Yen and for any Interest Period, the TIBOR Screen Rate two Business Days prior to the commencement of such Interest Period.

"*TIBOR Screen Rate*" means the Tokyo interbank offered rate administered by the Ippan Shadan Hojin JBA TIBOR Administration (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on page DTIBOR01 of the Reuters screen (or, in the event such rate does not appear on such Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate as selected by the Administrative Agent from time to time in its reasonable discretion) as published at approximately 1:00 p.m. Japan time two Business Days prior to the commencement of such Interest Period.

"*Total Consideration"* means the total amount (but without duplication) of (a) cash paid in connection with any Acquisition, *plus* (b) Indebtedness for borrowed money payable to the seller in connection with such Acquisition, *plus* (c) the fair market value of any equity securities, including any warrants or options therefor, delivered to the seller in connection with any Acquisition, *plus* (d) the amount of Indebtedness assumed in connection with any Acquisition.

"*Total Funded Debt*" means, at any time the same is to be determined, the aggregate amount of all Indebtedness under clauses (a), (c), (d) and (e) of such definition (to the extent, in the case of clause (e), that such obligations are funded obligations that have not been reimbursed within two (2) Business Days following the funding thereof) of the Lead Borrower and its Restricted Subsidiaries, as determined on a consolidated basis in accordance with GAAP; *provided*, that the principal amount of any Refinancing Term Loans or Refinancing Notes that have not yet been applied to permanently reduce Loans and/or replace Commitments in accordance in accordance with the terms of this Agreement shall be excluded; *provided further*, that any Refinancing Indebtedness in respect of convertible debt instruments, the proceeds of which are held in a segregated account and shown as restricted cash on the consolidated balance sheet of the Lead Borrower and its Subsidiaries until the maturity of such convertible debt instrument, shall be excluded; *provided further*, that solely for the determination of the First Lien Leverage Ratio, Senior Secured Leverage Ratio or Leverage Ratio for the purposes of Article 6 hereof (other than Section 6.24) and Section 2.14 hereof, Total Funded Debt shall include the product of (x) the aggregate amount of all Indebtedness under clauses (a), (c), (d) and (e) of such definition (to the extent, in the case of clause (e), that such obligations are funded obligations that have not been reimbursed within two (2) Business Days following the funding thereof) of the Flash Ventures (but excluding (i) any Indebtedness of the Flash Ventures comprising guarantees of equipment leases and (ii) any Indebtedness of the Flash Ventures owing to their direct or indirect parent entities) *multiplied by* (y) the percentage of the Equity Interests of the Flash Ventures held by the Lead Borrower or any of its Subsidiaries.

"*Trade Date*" has the meaning set forth in Section 10.10(b)(ii)(A).

"*Transactions*" means, collectively, (a) the transactions contemplated by this Agreement and the other Loan Documents, (b) the Spin-Off Transactions and (C) the payment of fees and expenses in connection with the foregoing.

"*Transaction Costs*" means any fees, costs or expenses incurred or paid by the Lead Borrower or any of its Restricted Subsidiaries in connection with the Transactions (including OID).

"*tranche*" is defined in Section 2.15(a) hereof.

"*Treasury Capital Stock*" is defined in Section 6.20(g) hereof.

"*Treasury Regulations*" means the regulations issued by the Internal Revenue Service under the Code, as such regulations may be amended from time to time.

"*UCC*" means the Uniform Commercial Code or any successor provision thereof as in effect from time to time (except as otherwise specified) in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

"*UK Financial Institutions*" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"*UK Resolution Authority*" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"*Unadjusted Benchmark Replacement*" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"*Unrestricted Subsidiary*" means (a) any Subsidiary designated by the Lead Borrower as an Unrestricted Subsidiary pursuant to Section 6.9 subsequent to the Closing Date and (b) any Subsidiary of an Unrestricted Subsidiary.

"*Unused Revolving Credit Commitments*" means, at any time, the difference between the Revolving Credit Commitments then in effect and the aggregate outstanding principal amount of Revolving Loans and L/C Obligations.

"*U.S. Government Securities Business Day*" means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"*U.S. Person*" means a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"*U.S. Special Resolution Regimes*" is defined in Section 10.29 hereof.

"*U.S. Tax Compliance Certificate*" is defined in Section 10.1(c)(ii)(B)(iii) hereof.

"*Voting Stock*" of any Person means capital stock, shares or other Equity Interests of any class or classes (however designated) having ordinary power for the election of directors or other similar governing body of such Person (including, without limitation, general partners of a partnership), other than stock, shares or other Equity Interests having such power only by reason of the happening of a contingency.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the quotient obtained by dividing:

(a) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness *multiplied by* the amount of such payment; by

(b) the sum of all such payments.

"*Welfare Plan*" means a "welfare plan" as defined in Section 3(1) of ERISA.

"*Wholly-owned Subsidiary*" means, at any time, any Subsidiary of which all of the issued and outstanding shares of capital stock (other than directors' qualifying shares and shares held by a resident of the jurisdiction, in each case, as required by law) or other Equity Interests are owned by any one (1) or more of the Lead Borrower and the Lead Borrower's other Wholly-owned Subsidiaries at such time.

"*Write-Down and Conversion Powers*" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

"*Yen*" or "~~¥~~" mean the lawful currency of Japan.

Section 1.2 *Interpretation*. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) Terms Generally. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms. The words "herein," "hereto," "hereof" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof. Unless otherwise specified therein, references in a particular agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-clause in, such agreement. The term "including" is by way of example and not limitation. The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form. Any reference herein to any Person shall be construed to include such Person's successors and permitted assigns. In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including." The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. Unless the context requires otherwise, any definition of or reference to any agreement, instrument or other document herein or in any Loan Document shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified, extended, refinanced or replaced (subject to any restrictions or qualifications on such amendments, restatements, amendment and restatements, supplements or modifications, extensions, refinancings or replacements set forth herein or in any other Loan Document). All terms that are used in this Agreement or any other Loan Document which are defined in the UCC of the State of New York shall have the same meanings herein as such terms are defined in the New York UCC, unless this Agreement or such other Loan Document shall otherwise specifically provide.

(b) Times of Day. All references to time of day herein are references to New York City, New York time unless otherwise specifically provided.

(c) Accounting Terms; GAAP. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done in accordance with GAAP, (a) except as otherwise provided herein in the definition of "Capital Lease" and (b) without giving effect to (i) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other

liabilities by the Lead Borrower or any Subsidiary at "fair value," as defined therein and (ii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Account Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

Section 1.3 *Certain Determinations*.

(a) Notwithstanding anything to the contrary herein, with respect to any amounts incurred or transactions entered into (or consummated) in reliance on a provision of any covenant in this Agreement that does not require compliance with a financial ratio or test (including any First Lien Leverage Ratio, any Senior Secured Leverage Ratio, any Leverage Ratio or any Fixed Charge Coverage Ratio) (any such amounts, the "*Fixed Amounts*") substantially concurrently or in a series of related transactions with any amounts incurred or transactions entered into (or consummated) in reliance on a provision in such covenant that requires compliance with any such financial ratio or test (any such amounts, the "*Incurrence Based Amounts*"), it is understood and agreed that the Fixed Amounts (and any cash proceeds thereof) in such covenant shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence Based Amounts in such covenant in connection with such incurrence, but full Pro Forma Effect shall be given to all applicable and related transactions (including the use of proceeds of all Indebtedness to be incurred and any repayments, repurchases and redemptions of Indebtedness) and all other permitted Pro Forma Adjustments. For purposes of determining compliance at any time with Sections 6.15, 6.16, 6.17, 6.19, 6.20 and 6.22 in the event that any Indebtedness, Lien, asset sale, investment, Distribution and/or Restricted Debt Payment, as applicable, meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such Sections 6.15 (other than Sections 6.15(a)), 6.16 (other than Sections 6.16(d)), 6.17, 6.19, 6.20 and 6.22 the Lead Borrower, in its sole discretion, may, from time to time, classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one category, including reclassifying any utilization of Fixed Amounts as incurred under any available Incurrence Based Amounts and if any applicable ratios or financial tests for such Incurrence Based Amounts would be satisfied in any subsequent fiscal quarter, such reclassification shall be deemed to have automatically occurred if not elected by the Lead Borrower. It is understood and agreed that any Indebtedness, Lien, asset sale, investment, Distribution and/or Restricted Debt Payment need not be permitted solely by reference to one category of permitted Indebtedness, Lien, asset sale, investment, Distribution and/or Restricted Debt Payment, respectively, but may instead be permitted in part under any combination thereof.

(b) Notwithstanding anything to the contrary herein, financial ratios and tests (including the First Lien Leverage Ratio, the Senior Secured Leverage Ratio, the Leverage Ratio and the Fixed Charge Coverage Ratio (and the components of each of the foregoing)) and the amount of Consolidated Total Assets, but excluding Excess Cash Flow (and the components thereof) contained in this Agreement that are calculated with respect to any test period shall be calculated on a Pro Forma Basis.

(c) In connection with any action being taken in connection with a Limited Condition Transaction, for purposes of:

(i) determining compliance with any provision of this Agreement which requires the calculation of the First Lien Leverage Ratio, the Senior Secured Leverage Ratio, the Leverage Ratio or the Fixed Charge Coverage Ratio; or

(ii) testing availability under baskets set forth in this Agreement (including baskets measured as a percentage of Consolidated Total Assets or Consolidated Adjusted EBITDA);

in each case, at the option of the Lead Borrower (the Lead Borrower's election to exercise such option in connection with any Limited Condition Transaction, an "*LCT Election*"), the date of determination of whether any such action is permitted hereunder, shall be deemed to be the date (i) the definitive agreement or letter of intent for such Limited Condition Transaction is entered into, (ii) irrevocable notice of redemption, purchase, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Equity Interests or preferred stock is given or (iii) solely in connection with an acquisition to which the United Kingdom City Code on Takeovers and Mergers applies, on which a "Rule 2.7 announcement" of a firm intention to make an offer is published on a regulatory

information services in respect of a target of a Limited Condition Transaction, as applicable (the "*LCT Test Date*"), and if, after giving Pro Forma Effect to the Limited Condition Transaction and the other transactions to be entered into in connection therewith (including any incurrence or discharge of Indebtedness and the use of proceeds thereof) as if they had occurred at the beginning of the most recent four consecutive fiscal quarters ending prior to the LCT Test Date for which consolidated financial statements of the Lead Borrower are available, the Lead Borrower could have taken such action on the relevant LCT Test Date in compliance with such ratio, basket or amount, such ratio, basket or amount shall be deemed to have been complied with; *provided* that compliance with such ratios, baskets or amounts (and any related requirements and conditions) (including as to the absence of any continuing Default or Event of Default) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transactions being taken in connection therewith (including any incurrence or discharge of Indebtedness and the use of proceeds of such incurrence). For the avoidance of doubt, if the Lead Borrower has made an LCT Election and any of the ratios, baskets or amounts for which compliance was determined or tested as of the LCT Test Date is exceeded as a result of fluctuations in any such ratio, basket or amount, including due to fluctuations in Consolidated Adjusted EBITDA or Consolidated Total Assets of the Lead Borrower or the Person subject to such Limited Condition Transaction or any applicable currency exchange rate, at or prior to the consummation of the relevant transaction or action, such baskets, ratios or amounts will not be deemed to have been exceeded as a result of such fluctuations. If the Lead Borrower has made an LCT Election for any Limited Condition Transaction, then in connection with any subsequent calculation of any ratio, basket or amount (other than the testing of any ratio for purposes of Section 6.24 and the definition of "Applicable Margin") on or following the relevant LCT Test Date and prior to the earlier of (i) the date on which such Limited Condition Transaction is consummated or (ii) the date that the definitive agreement for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, any such ratio, basket or amount shall be calculated on a Pro Forma Basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence or discharge of Indebtedness and the use of proceeds thereof) have been consummated.

Section 1.4 *Change in Accounting Principles*. If, after the Closing Date, there shall occur any change in GAAP (except as otherwise provided herein in the definition of "Capital Lease") from those used in the preparation of the financial statements referred to in Section 6.1 hereof and such change shall result in a change in the method of calculation of any financial covenant, standard or term found in this Agreement, either the Lead Borrower or the Required Lenders may by notice to the Lenders and the Lead Borrower, respectively, require that the Lenders and the Lead Borrower negotiate in good faith to amend such covenants, standards, and term so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Lead Borrower and its Restricted Subsidiaries shall be the same as if such change had not been made. No delay by the Lead Borrower or the Required Lenders in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with Section 1.3(b), financial covenants (and all related defined terms) shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles. Without limiting the generality of the foregoing, the Lead Borrower shall neither be deemed to be in compliance with any covenant hereunder nor out of compliance with any covenant hereunder if such state of compliance or noncompliance, as the case may be, would not exist but for the occurrence of a change in accounting principles after the Closing Date.

Section 1.5 *Currency Generally*. Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Lead Borrower's consent to appropriately reflect a change in currency of any country, the adoption of the Euro by any member state of the European Union and any relevant market convention or practice relating to such change in currency or relating to the Euro.

Section 1.6 *Interest Rates; Benchmark Notifications*. The interest rate on a Loan denominated in Dollars or an Alternative Currency may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 8.3(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation,

whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

Section 1.7 *Divisions*. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

Section 1.8 *Additional Currencies*.

(a) The Lead Borrower may from time to time request that Revolving Loans be made and/or Letters of Credit be issued in a currency other than those specifically listed in the definition of "*Alternative Currency*"; *provided* that each such currency is a lawful currency that is readily available, freely transferable and not restricted and able to be converted into Dollars. In the case of any such request with respect to the making of Revolving Loans, such request shall be subject to the approval of the Administrative Agent and each Revolving Lender; and in the case of any such request with respect to the issuance of Letters of Credit, such request shall be subject to the approval of the Administrative Agent and the L/C Issuer.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m., twenty (20) Business Days prior to the date of the desired Credit Extension (or such other time or date as may be agreed by the Administrative Agent and, in the case of any such request pertaining to Letters of Credit, the L/C Issuer, in its or their sole discretion). In the case of any such request pertaining to Revolving Loans, the Administrative Agent shall promptly notify each Revolving Lender thereof; and in the case of any such request pertaining to Letters of Credit, the Administrative Agent shall promptly notify the applicable L/C Issuers thereof. Each Revolving Lender (in the case of any such request pertaining to Revolving Loans) or the L/C Issuer (in the case of a request pertaining to Letters of Credit) shall notify the Administrative Agent, not later than 11:00 a.m., ten (10) Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Revolving Loans or the issuance of Letters of Credit, as the case may be, in such requested currency.

(c) Any failure by a Revolving Lender or the L/C Issuer, as the case may be, to respond to such request within the time period specified in the preceding clause (b) shall be deemed to be a refusal by such Revolving Lender or the L/C Issuer, as the case may be, to permit Revolving Loans to be made or Letters of Credit to be issued in such requested currency. If the Administrative Agent and all the Revolving Lenders consent to making Revolving Loans in such requested currency and the Administrative Agent and such Revolving Lenders reasonably determine that an appropriate interest rate is available to be used for such requested currency, the Administrative Agent shall so notify the Lead Borrower and, upon the Lead Borrower's consent to the appropriate interest rate, (i) the Administrative Agent, such Revolving Lenders or the Lead Borrower may amend this Agreement to the extent necessary to add the applicable rate for such currency and any applicable adjustment for such rate (and any other administrative changes in the Administrative Agent's reasonable discretion in consultation with the Lead Borrower) and (ii) to the extent this Agreement has been amended to reflect the appropriate rate for such currency, such currency shall thereupon be deemed for all purposes to be an Alternative Currency for purposes of any Borrowings of Revolving Loans. If the Administrative Agent and the L/C Issuer consent to the issuance of Letters of Credit in such requested currency, the Administrative Agent shall so notify the Lead Borrower and (i) the

Administrative Agent, the L/C Issuer or the Lead Borrower may amend this Agreement to the extent necessary to add the applicable rate for such currency and any applicable adjustment for such rate (and any other administrative changes in the Administrative Agent's reasonable discretion in consultation with the Lead Borrower) and (ii) to the extent this Agreement has been amended to reflect the appropriate rate for such currency, such currency shall thereupon be deemed for all purposes to be an Alternative Currency for purposes of any Letter of Credit issuances. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.8, the Administrative Agent shall promptly so notify the Lead Borrower.

Section 1.9 *Exchange Rates; Currency Equivalents*. (a) The Administrative Agent or the L/C Issuers, as applicable, shall determine the Dollar Equivalent amounts of Term Benchmark Borrowings or RFR Borrowings or Letter of Credit extensions denominated in Alternative Currencies. Such Dollar Equivalent shall become effective as of such Revaluation Date and shall be the Dollar Equivalent of such amounts until the next Revaluation Date to occur. Except for purposes of financial statements delivered by the Lead Borrower hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any Agreed Currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or the L/C Issuers, as applicable.

(b) Wherever in this Agreement in connection with a Borrowing, conversion, continuation or prepayment of a Term Benchmark Loan or an RFR Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Borrowing, Loan or Letter of Credit is denominated in an Alternative Currency, such amount shall be the Dollar Equivalent of such amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the L/C Issuers, as the case may be.

ARTICLE 2. THE LOAN FACILITIES.

Section 2.1 *The Term Loans*.

(a) Subject to the terms and conditions set forth herein, each Term B Lender agrees, severally and not jointly, to and shall make a term loan (each individually, a "*Term B Loan*" and, collectively, the "*Term B Loans*") in Dollars to the Lead Borrower on the Closing Date in a principal amount not to exceed such Term B Lender's Term B Loan Commitment. As provided in Section 2.5(a) and subject to the terms hereof, the Lead Borrower may elect that the Term B Loans comprising the Borrowing hereunder of Term B Loans be either Base Rate Loans or Term Benchmark Loans.

(b) Amounts repaid or prepaid in respect of Term Loans may not be reborrowed.

Section 2.2 *Revolving Credit Commitments*. Prior to the Revolving Credit Termination Date, each Revolving Lender severally and not jointly agrees, subject to the terms and conditions hereof, to make revolving loans (each individually, a "*Revolving Loan*" and, collectively, the "*Revolving Loans*") in Dollars and in any other Agreed Currency to the Borrowers from time to time during the period from the Closing Date to the Revolving Credit Termination Date up to the amount of such Lender's Revolving Credit Commitment in effect at such time; *provided*, *however*, that the sum of the aggregate principal amount of Revolving Loans and L/C Obligations at any time outstanding shall not exceed the sum of the total Revolving Credit Commitments in effect at such time. Each Borrowing of Revolving Loans shall be made ratably by the Lenders in proportion to their respective Revolver Percentages. As provided in Section 2.5(a), and subject to the terms hereof, the Borrowers may elect that each Borrowing of Revolving Loans be (i) in the case of Revolving Loans denominated in Dollars, Term Benchmark Loans, Base Rate Loans or RFR Loans and (ii) in the case of Revolving Loans denominated in an Alternative Currency, Term Benchmark Loans. Revolving Loans may be repaid and reborrowed before the Revolving Credit Termination Date, subject to the terms and conditions hereof.

Section 2.3 *Letters of Credit*.

(a) *General Terms*. Subject to the terms and conditions hereof, as part of the Revolving Facility, commencing with the Closing Date, the L/C Issuers shall issue standby and documentary letters of credit (each, a "*Letter of Credit*") for any Borrower's account and/or its Subsidiaries' account (*provided* that each shall be jointly and severally liable) in an aggregate undrawn face amount up to the L/C Sublimit; *provided*, *however*, that the sum of the Revolving Loans and L/C Obligations at any time outstanding shall not exceed the sum of all Revolving Credit Commitments in effect at such time; *provided further* that there shall not at any time be more than a total of twenty (20) Letters of Credit outstanding; and *provided further* that (i) no L/C Issuer shall have any obligation to issue any Letter of Credit if, after giving effect to such issuance, the aggregate L/C Obligations in respect of Letters of Credit issued by such L/C Issuer would exceed the amount stipulated for it in the definition of "L/C Issuer" (such amount, such L/C Issuer's "*Letter of Credit Commitment*"), (ii) Royal Bank of Canada and its Affiliates shall not be obligated to issue any documentary Letters of Credit and (iii) no L/C Issuer shall be required to issue any Letter of Credit if doing so would result in the aggregate Revolving Loans and Letters of Credit extended by such L/C Issuer to exceed its Revolving Credit Commitment. Each Revolving Lender shall be obligated to reimburse the L/C Issuers for such Revolving Lender's Revolver Percentage of the amount of each drawing under a Letter of Credit and, accordingly, each Letter of Credit shall constitute usage of the Revolving Credit Commitment of each Revolving Lender *pro rata* in an amount equal to its Revolver Percentage of the L/C Obligations then outstanding. The Lead Borrower may, at any time and from time to time, reduce the Letter of Credit Commitment of any L/C Issuer with the consent of such L/C Issuer; *provided* that the Lead Borrower shall not reduce the Letter of Credit Commitment of any L/C Issuer if, after giving effect of such reduction, the conditions set forth in clauses (i) and (iii) above shall not be satisfied.

(b) *Applications*. At any time after the Closing Date and before the Revolving Credit Termination Date, the L/C Issuers shall, at the request of a Borrower, issue one (1) or more Letters of Credit in Dollars or in any Alternative Currency, in form and substance acceptable to the applicable L/C Issuer, with expiration dates no later than the earlier of (i) 12 months from the date of issuance (or which are cancelable not later than 12 months from the date of issuance and each renewal) or (ii) five (5) Business Days prior to the Revolving Credit Termination Date, in an aggregate face amount as requested by such Borrower subject to the limitations set forth in clause (a) of this Section 2.3, upon the receipt of a duly executed application for the relevant Letter of Credit in the form then customarily prescribed by the applicable L/C Issuer for the Letter of Credit requested (each, an "*Application*"); *provided* that any Letter of Credit with a 12-month tenor may provide for the renewal thereof for additional 12-month periods (which shall in no event extend beyond the date referred to in clause (ii) above, unless an L/C Backstop has been provided to the L/C Issuers thereof). Notwithstanding anything contained in any Application to the contrary: (i) the Borrowers shall pay fees in connection with each Letter of Credit as set forth in Section 2.13(b) hereof, and (ii) if the applicable L/C Issuer is not timely reimbursed for the amount of any drawing under a Letter of Credit as required pursuant to clause (c) of this Section 2.3, the Borrowers' obligation to reimburse such L/C Issuer for the amount of such drawing shall bear interest (which the Borrowers hereby promise to pay) from and after the date such drawing is paid to but excluding the date of reimbursement by the Borrowers at a rate per annum equal to the sum of 2.00% *plus* the Applicable Margin *plus* the Base Rate from time to time in effect (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed). Without limiting the foregoing, each L/C Issuer's obligation to issue a Letter of Credit or increase the amount of a Letter of Credit is subject to the terms or conditions of this Agreement (including the conditions set forth in Section 3.1 and the other terms of this Section 2.3).

(c) *The Reimbursement Obligations*. Subject to Section 2.3(b) hereof, the Borrowers shall reimburse the applicable L/C Issuer for all drawings under a Letter of Credit (a "*Reimbursement Obligation*") by no later than (x) 2:00 p.m. (New York time) on the Business Day after the date of such payment by such L/C Issuer under a Letter of Credit, if the applicable Borrower has been informed of such drawing by the applicable L/C Issuer on or before 10:00 a.m. (New York time) on the date of the payment of such drawing, or (y) if notice of such drawing is given to the applicable Borrower after 10:00 a.m. (New York time) on the date of the payment of such drawing, reimbursement shall be made within two Business Days following the date of the payment of such drawing, by the end of such day, in all instances in the currency of the applicable Letter of Credit and in immediately available funds at the Administrative Agent's principal office in New York, New York or such other office as the Administrative Agent may designate in writing to such Borrower, and the Administrative Agent shall thereafter cause to be distributed to the applicable L/C Issuer such amount(s) in like funds; *provided* that (x) if such Letter of Credit drawing is denominated in Dollars and is not less than $100,000, the Lead Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.05 that such payment be financed with a Base Rate Loan under the Revolving Facility or swingline loan in an equivalent amount or (y) if such Letter of Credit drawing is denominated in an Alternative Currency and is not less than the Dollar Equivalent of $100,000, the Lead

Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.05 that such payment be converted into an equivalent amount of Base Rate Loan under the Revolving Facility denominated in Dollars in an amount equal to the Dollar Equivalent of such Alternative Currency, and, in each case, to the extent so financed, the Borrowers' obligation to make such payment shall be discharged and replaced by the resulting Base Rate Loan or swingline loan, as applicable. If the applicable Borrower does not make any such reimbursement payment on the date due and the Participating Lenders fund their participations in the manner set forth in Section 2.3(d) below, then all payments thereafter received by the Administrative Agent in discharge of any of the relevant Reimbursement Obligations shall be distributed in accordance with Section 2.3(d) below. In addition, for the benefit of the Administrative Agent, the L/C Issuers and each Lender, the Borrowers agree that, notwithstanding any provision of any Application, its obligations under this Section 2.3(c) and each Application shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement and the Applications, under all circumstances whatsoever, and irrespective of any claim or defense that the Borrowers may otherwise have against the Administrative Agent, the L/C Issuers or any Lender, including without limitation (i) any lack of validity or enforceability of any Loan Document; (ii) any amendment or waiver of or any consent to departure from all or any of the provisions of any Loan Document; (iii) the existence of any claim of setoff the Borrowers may have at any time against a beneficiary of a Letter of Credit (or any Person for whom a beneficiary may be acting), the Administrative Agent, the L/C Issuers, any Lender or any other Person, whether in connection with this Agreement, another Loan Document, the transaction related to the Loan Document or any unrelated transaction; (iv) any statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (v) payment by the Administrative Agent or an L/C Issuer under a Letter of Credit against presentation to the Administrative Agent or an L/C Issuer of a draft or certificate that does not comply with the terms of the Letter of Credit; *provided* that the Administrative Agent's or an L/C Issuer's determination that documents presented under the Letter of Credit complied with the terms thereof did not constitute gross negligence, bad faith or willful misconduct of the Administrative Agent or an L/C Issuer (as determined by the final, non-appealable judgment of a court of competent jurisdiction); (vi) any other act or omission to act or delay of any kind by the Administrative Agent or an L/C Issuer, any Lender or any other Person or any other event or circumstance whatsoever that might, but for the provisions of this Section 2.3(c), constitute a legal or equitable discharge of each Borrower's obligations hereunder or under an Application; or (vii) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to each Borrower or any Subsidiary or in the relevant currency markets generally.

(d) *The Participating Interests*. Each Revolving Lender (other than the Lender acting as L/C Issuer) severally and not jointly agrees to purchase from the L/C Issuers, and each L/C Issuer hereby agrees to sell to each such Revolving Lender (a "*Participating Lender*"), an undivided participating interest (a "*Participating Interest*") to the extent of its Revolver Percentage in each Letter of Credit issued by, and each Reimbursement Obligation owed to, the L/C Issuers. Upon a Borrower's failure to pay any Reimbursement Obligation on the date and at the time required, or if an L/C Issuer is required at any time to return to a Borrower or to a trustee, receiver, liquidator, custodian or other Person any portion of any payment of any Reimbursement Obligation, each Participating Lender shall, not later than the Business Day it receives a certificate in the form of Exhibit A hereto from such L/C Issuer (with a copy to the Administrative Agent) to such effect, if such certificate is received before 12:00 noon, or not later than 12:00 noon the following Business Day, if such certificate is received after such time, pay to the Administrative Agent for the account of such L/C Issuer an amount equal to such Participating Lender's Revolver Percentage of such unpaid Reimbursement Obligation together with interest on such amount accrued from the date such L/C Issuer made the related payment to the date of such payment by such Participating Lender at a rate per annum equal to: (i) from the date such L/C Issuer made the related payment to the date two (2) Business Days after payment by such Participating Lender is due hereunder, the Federal Funds Rate for each such day and (ii) from the date two (2) Business Days after the date such payment is due from such Participating Lender to the date such payment is made by such Participating Lender, the Base Rate in effect for each such day. Each such Participating Lender shall, after making its appropriate payment, be entitled to receive its Revolver Percentage of each payment received in respect of the relevant Reimbursement Obligation and of interest paid thereon, with each L/C Issuer retaining its Revolver Percentage thereof as a Revolving Lender hereunder.

The several obligations of the Participating Lenders to the L/C Issuers under this Section 2.3 shall be absolute, irrevocable and unconditional under any and all circumstances and shall not be subject to any setoff, counterclaim or defense to payment which any Participating Lender may have or has had against a Borrower, the L/C Issuers, the Administrative Agent, any Lender or any other Person. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of the Revolving Credit Commitment of any Revolving Lender, and each payment by a Participating Lender under this Section 2.3 shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) *Indemnification*. The Participating Lenders shall, to the extent of their respective Revolver Percentages, indemnify the L/C Issuers (to the extent not reimbursed by the applicable Borrower and without relieving such Borrower of its obligation to do so) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except as a result from any L/C Issuer's gross negligence or willful misconduct as determined by the final, non-appealable judgment of a court of competent jurisdiction) that such L/C Issuer may suffer or incur in connection with any Letter of Credit issued by it. The obligations of the Participating Lenders under this Section 2.3(e) and all other parts of this Section 2.3 shall survive termination of this Agreement and of all Applications, Letters of Credit, and all drafts and other documents presented in connection with drawings thereunder.

(f) *Manner of Requesting a Letter of Credit*. The applicable Borrower shall provide at least three (3) Business Days' advance written notice to the Administrative Agent and the applicable L/C Issuer (or such lesser notice as the Administrative Agent and the L/C Issuers may agree in their sole discretion) of each request for the issuance of a Letter of Credit, each such notice to be accompanied by a properly completed and executed Application for the requested Letter of Credit and, in the case of an extension or amendment or an increase in the amount of a Letter of Credit, a written request therefor, in a form acceptable to the Administrative Agent and the applicable L/C Issuer, in each case, together with the fees called for by this Agreement. The L/C Issuers shall promptly notify the Administrative Agent and the Lenders of the issuance, extension or amendment of a Letter of Credit.

(g) *Conflict with Application*. In the event of any conflict or inconsistency between this Agreement and the terms of any Application, the terms of this Agreement shall control.

(h) *Existing Letters of Credit*. Notwithstanding anything to the contrary provided in this Agreement, each letter of credit outstanding on the Closing Date, if any, and listed on Schedule 2.3(a) (each, an "*Existing Letter of Credit*") shall be deemed issued under the Revolving Facility to the extent the applicable letter of credit issuer under such facility is an L/C Issuer under the Revolving Facility.

(i) *Resignation or Replacement of L/C Issuer*. An L/C Issuer may resign as an L/C Issuer hereunder at any time upon at least thirty (30) days' prior written notice to the Lenders, the Administrative Agent and the Lead Borrower. An L/C Issuer may be replaced at any time by written agreement among the Lead Borrower, the Administrative Agent, the replaced L/C Issuer and the successor L/C Issuer. The Administrative Agent shall notify the Lenders of any such replacement of an L/C Issuer. At the time any such resignation or replacement shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the replaced L/C Issuer pursuant to Section 2.13(b). From and after the effective date of any such resignation or replacement, (i) the successor L/C Issuer shall have all the rights and obligations of the replaced L/C Issuer under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "L/C Issuer" shall be deemed to refer to such successor or to any previous L/C Issuer, or to such successor and all previous L/C Issuers, as the context shall require. After the resignation or replacement of an L/C Issuer hereunder, the replaced L/C Issuer shall remain a party hereto and shall continue to have all the rights and obligations of such L/C Issuer under this Agreement with respect to Letters of Credit issued by it prior to such resignation or replacement but shall not be required to issue additional Letters of Credit.

(j) *Additional L/C Issuers*. From time to time, the Lead Borrower may by notice to the Administrative Agent designate additional Lenders as an L/C Issuer each of which agrees (in its sole discretion) to act in such capacity and is reasonably satisfactory to the Administrative Agent. Each such additional L/C Issuer shall execute a counterpart of this Agreement upon the approval of the Administrative Agent (which approval shall not be unreasonably withheld) and shall thereafter be an L/C Issuer hereunder for all purposes.

(k) *Provisions Related to Extended Revolving Credit Commitments.* If the maturity date in respect of any tranche of Revolving Credit Commitments occurs prior to the expiration of any Letter of Credit issued under such tranche, then (i) if one (1) or more other tranches of Revolving Credit Commitments in respect of which the maturity date shall not have occurred are then in effect, (x) the outstanding Revolving Loans shall be repaid pursuant to Section 2.7(b) on such maturity date to the extent and in an amount sufficient to permit the reallocation of the Letter of Credit Usage relating to the outstanding Letters of Credit contemplated by clause (y) below and (y) such Letters of Credit shall automatically be deemed to have been issued (including for purposes of the obligations of the Revolving Lenders to purchase participations therein and to make payments in respect thereof pursuant to Section 2.3(d)) under (and ratably participated in by Revolving Lenders pursuant to) the Revolving Credit Commitments in respect of such non-terminating tranches up to an aggregate amount not to exceed the aggregate principal amount of the Revolving Credit Commitments in respect of such non-terminating tranches at such time (it being understood that (1) the participations therein of Revolving Lenders under the maturing tranche shall be correspondingly released and (2) no partial face amount of any Letter of Credit may be so reallocated) and (ii) to the extent not reallocated pursuant to the immediately preceding clause (i), but without limiting the obligations with respect thereto, the Borrowers shall provide an L/C Backstop with respect to any such Letter of Credit in a manner reasonably satisfactory to the applicable L/C Issuer. If, for any reason, such L/C Backstop is not provided or the reallocation does not occur, the Revolving Lenders under the maturing tranche shall continue to be responsible for their participating interests in the Letters of Credit; *provided* that, notwithstanding anything to the contrary contained herein, upon any subsequent repayment of the Revolving Loans, the reallocation set forth in clause (i) shall automatically and concurrently occur to the extent of such repayment (it being understood that no partial face amount of any Letter of Credit may be so reallocated). Except to the extent of reallocations of participations pursuant to clause (i) of the second preceding sentence, the occurrence of a maturity date with respect to a given tranche of Revolving Credit Commitments shall have no effect upon (and shall not diminish) the percentage participations of the Revolving Lenders in any Letter of Credit issued before such maturity date. Commencing with the maturity date of any tranche of Revolving Credit Commitments, the L/C Sublimit under any tranche of Revolving Credit Commitments that has not so then matured shall be as agreed with such Revolving Lenders; *provided* that in no event shall such sublimit be less than the sum of (x) the Letter of Credit Usage with respect to the Revolving Lenders under such extended tranche immediately prior to such maturity date and (y) the face amount of the Letters of Credit reallocated to such tranche of Revolving Credit Commitments pursuant to clause (i) of the first sentence of this clause (k) (assuming Revolving Loans are repaid in accordance with clause (i)(x)).

(l) *Applicability of ISP; Limitation of Liability*. Unless otherwise expressly agreed by the applicable L/C Issuer and the Borrowers when a Letter of Credit is issued, the rules of the ISP shall apply to each standby Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to the Borrowers for, and no L/C Issuer's rights and remedies against the Borrowers shall be impaired by, any action or inaction of an L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the law or any order of a jurisdiction where L/C Issuer or the beneficiary is located, the practice stated in the ISP, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade—International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

Section 2.4 *Applicable Interest Rates*.

(a) *Term Base Rate Loans*. Each Term Loan that is a Base Rate Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 360 days (or, at times when the Base Rate is based on the Prime Rate, 365 or 366 days, as the case may be) and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or created by conversion from a Term Benchmark Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin *plus* the Base Rate from time to time in effect, payable in arrears on each Fiscal Quarter End Date and at maturity (whether by acceleration or otherwise).

(b) *Term Benchmark Term Loans*. Each Term Loan that is a Term Benchmark Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Base Rate Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin *plus* the Adjusted Term SOFR Rate applicable for such Interest Period, payable in arrears on the last day of the Interest Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three (3) months, on each day occurring every three (3) months after the commencement of such Interest Period.

(c) *[Reserved]*.

(d) *Revolving Base Rate Loans*. Each Revolving Loan that is a Base Rate Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 360 days (or, at times when the Base Rate is based on the Prime Rate, 365 or 366 days, as the case may be) and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or created by conversion from a Term Benchmark Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin *plus* the Base Rate from time to time in effect, payable in arrears on each Fiscal Quarter End Date and at maturity (whether by acceleration or otherwise).

(e) *Revolving Term Benchmark Loans*. Each Revolving Loan that is a Term Benchmark Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Base Rate Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin *plus* the Adjusted Term SOFR Rate, the Adjusted EURIBOR Rate or the Adjusted TIBOR Rate, as applicable for such Interest Period, payable in arrears on the last day of the Interest Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three (3) months, on each day occurring every three (3) months after the commencement of such Interest Period.

(f) *Revolving RFR Loans*. Each Revolving Loan that is a RFR Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 360 days and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or created by conversion from a Base Rate Loans until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin *plus* the Adjusted Daily Simple SOFR from time to time in effect, payable in arrears on each date that is on the numerically corresponding day in each calendar month that is one month after the Borrowing of such Loan (or, if there is no such numerically corresponding day in such month, then the last day of such month) and at maturity (whether by acceleration or otherwise).

(g) *Default Rate*. While any Event of Default under Section 7.1(a) (with respect to the late payment of principal, interest, Reimbursement Obligations or fees), or, with respect to any Borrower, Section 7.1(j) or (k) exists or after acceleration, such Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the overdue amounts of all Loans, Reimbursement Obligations, interest or fees owing hereunder by it at a rate equal to 2.00% per annum *plus* (i) in the case of Loans, the interest rate otherwise applicable thereto and (ii) otherwise, the rate applicable to Revolving Loans that are Base Rate Loans. Such interest shall be paid on demand subject, except in the case of any Event of Default under Section 7.1(j) or (k), to the request of the Administrative Agent at the request or with the consent of the Required Lenders.

(h) Rate Determinations. The Administrative Agent shall determine each interest rate applicable to the Revolving Loans and the Reimbursement Obligations hereunder, and its determination thereof shall be conclusive and binding except in the case of manifest error.

Section 2.5 *Manner of Borrowing Loans and Designating Applicable Interest Rates*.

(a) *Notice to the Administrative Agent*. The applicable Borrower shall give notice to the Administrative Agent by no later than: (i) 1:00 p.m. (New York time) at least three (3) Business Days before the date on which such Borrower requests the Lenders to advance a Borrowing of Loans that are Term Benchmark Loans denominated in Dollars, (ii) 12:00 p.m. (New York time) three (3) Business Days before the date on which such Borrower requests the Lenders to advance a Borrowing of Loans that are Term Benchmark Loans denominated in Euros, (iii) 12:00 p.m. (New York time) four (4) Business Days before the date on which such Borrower requests the Lenders to advance a Borrowing of Loans that are Term Benchmark Loans denominated in Yen, (iv) solely with respect to the Revolving Loans, 1:00 p.m. (New York time) at least five (5) Business Days before the date on which such Borrower requests the Lenders to advance a Borrowing of Loans that are RFR Loans denominated in Dollars

and (v) 1:00 p.m. (New York time) on the date such Borrower requests the Lenders to advance a Borrowing of Loans that are Base Rate Loans. The Loans included in each Borrowing of Loans shall bear interest initially at the type of rate specified in such notice. Thereafter, with respect to Base Rate Loans, RFR Loans (solely with respect to the Revolving Loans) and Term Benchmark Loans that are denominated in Dollars, the Borrowers may from time to time elect to change or continue the type of interest rate borne by each Borrowing of Loans or, subject to Section 2.6 hereof, a portion thereof, as follows: (i) if such Borrowing of Loans is of Term Benchmark Loans, on the last day of the Interest Period applicable thereto, the Borrowers may continue part or all of such Borrowing as Term Benchmark Loans or convert part or all of such Borrowing (other than Term Benchmark Loans denominated in an Alternative Currency) into RFR Loans (solely with respect to the Revolving Loans) or Base Rate Loans, (ii) if such Borrowing of Loans is of Base Rate Loans, on any Business Day, the Borrowers may convert all or part of such Borrowing into RFR Loans or Term Benchmark Loans that are denominated in Dollars for an Interest Period or Interest Periods specified by the applicable Borrower or (iii) solely with respect to the Revolving Loans, if such Borrowing of Loans is of RFR Loans, on any Business Day, the Borrowers may convert all or part of such Borrowing into Base Rate Loans. The Borrowers shall give all such notices requesting the advance, continuation or conversion of a Borrowing of Loans to the Administrative Agent by telephone or telecopy (which notice shall be irrevocable once given and, if by telephone, shall be promptly confirmed in writing), substantially in the form attached hereto as Exhibit B (Notice of Borrowing) or Exhibit C (Notice of Continuation/Conversion), as applicable, or in such other form acceptable to the Administrative Agent. Notice of the continuation of a Borrowing of Loans that are Term Benchmark Loans for an additional Interest Period must be given by no later than 1:00 p.m. (New York time) at least three (3) Business Days before the date of the requested continuation of a Borrowing of Loans that are denominated in Agreed Currencies. Notice of the conversion of part or all of a Borrowing of Loans that are denominated in Dollars shall be given no later than: (i) 1:00 p.m. (New York time) at least three (3) Business Days before the date on which such Borrower requests the Lenders to convert a Borrowing of Loans into Term Benchmark Loans denominated in Dollars, (ii) solely with respect to the Revolving Loans, 1:00 p.m. (New York time) at least five (5) Business Days before the date on which such Borrower requests the Lenders to convert a Borrowing of Loans into RFR Loans denominated in Dollars and (iii) 1:00 p.m. (New York time) on the date such Borrower requests the Lenders to convert a Borrowing of Loans into Base Rate Loans. All notices concerning the advance, continuation or conversion of a Borrowing of Loans shall specify the date of the requested advance, continuation or conversion of a Borrowing of Loans (which shall be a Business Day), the amount of the requested Borrowing to be advanced, continued or converted, the type of Loans (Base Rate Loans, Term Benchmark Loans and RFR Loans) to comprise such new, continued or converted Borrowing, if such Borrowing is to be comprised of Revolving Loans, the currency in which such Revolving Loan is to be borrowed, and, if such Borrowing is to be comprised of Term Benchmark Loans, the Interest Period applicable thereto. If no Interest Period is specified in any such notice with respect to any conversion to or continuation as a Borrowing of Term Benchmark Loans, the applicable Borrower shall be deemed to have selected an Interest Period of one (1) month's duration. If no currency is specified in any such notice with respect to any advance as a Borrowing of Revolving Loans that are Term Benchmark Loans, the applicable Borrower shall be deemed to have selected Dollars. The Borrowers agree that the Administrative Agent may rely on any such telephonic or telecopy notice given by any person the Administrative Agent in good faith believes is an Authorized Representative without the necessity of independent investigation (the Borrowers hereby indemnify the Administrative Agent from any liability or loss ensuing from such reliance) and, in the event any such notice by telephone conflicts with any written confirmation, such telephonic notice shall govern if the Administrative Agent has acted in reliance thereon.

(b) *Notice to the Lenders*. The Administrative Agent shall give prompt telephonic or telecopy notice to each Lender of any notice from a Borrower received pursuant to Section 2.5(a) above and, if such notice requests the Lenders to make Term Benchmark Loans, the Administrative Agent shall give notice to the applicable Borrower and each Lender of the interest rate applicable thereto promptly after the Administrative Agent has made such determination.

(c) *A Borrower's Failure to Notify; Automatic Continuations and Conversions*. If a Borrower fails to give proper notice of the continuation or conversion of any outstanding Borrowing of Loans that are Term Benchmark Loans before the last day of its then current Interest Period within the period required by Section 2.5(a) and such Borrowing is not prepaid in accordance with Section 2.8(a) or (b), such Borrowing shall, at the end of the Interest Period applicable thereto, (i) in the case of Term Benchmark Loans denominated in Dollars, automatically be converted into a Borrowing of Base Rate Loans and (ii) in the case of Term Benchmark Loans denominated in an Alternative Currency, automatically continued as a Term Benchmark Loan with a one month Interest Period. In the

event a Borrower fails to give notice pursuant to Section 2.5(a) of a Borrowing of Loans equal to the amount of a Reimbursement Obligation and has not notified the Administrative Agent by 1:00 p.m. (New York time) on the day such Reimbursement Obligation becomes due that it intends to repay such Reimbursement Obligation through funds not borrowed under this Agreement, such Borrower shall be deemed to have requested a Borrowing of Loans that are Base Rate Loans on such day in the amount of the Reimbursement Obligation then due, which Borrowing, if otherwise available hereunder, shall be applied to pay the Reimbursement Obligation then due.

(d) *Disbursement of Loans*. Not later than 2:00 p.m. on the date of any requested advance of a new Borrowing of Loans, subject to Article 3 hereof, each Lender shall make available its Loan comprising part of such Borrowing in funds immediately available at the principal office of the Administrative Agent in New York, New York. The Administrative Agent shall promptly wire transfer the proceeds of each new Borrowing of Loans to an account designated by the applicable Borrower in the applicable notice of borrowing.

(e) *Administrative Agent Reliance on Lender Funding*. Unless the Administrative Agent shall have been notified by a Lender prior to the date (or, in the case of a Borrowing of Base Rate Loans, by 1:00 p.m. on such date) on which such Lender is scheduled to make payment to the Administrative Agent of the proceeds of a Loan (which notice shall be effective upon receipt) that such Lender does not intend to make such payment, the Administrative Agent may assume that such Lender has made such payment when due and the Administrative Agent, in reliance upon such assumption may (but shall not be required to) make available to a Borrower the proceeds of the Loan to be made by such Lender and, if any Lender has not in fact made such payment to the Administrative Agent, such Lender shall, on demand, pay to the Administrative Agent the amount made available to such Borrower attributable to such Lender together with interest thereon in respect of each day during the period commencing on the date such amount was made available to such Borrower and ending on (but excluding) the date such Lender pays such amount to the Administrative Agent at a rate per annum equal to: (i) from the date the related advance was made by the Administrative Agent to the date two (2) Business Days after payment by such Lender is due hereunder, the greater of, for each such day, (x) the Federal Funds Rate and (y) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, *plus* any standard administrative or processing fees charged by the Administrative Agent in connection with such Lender's non-payment and (ii) from the date two (2) Business Days after the date such payment is due from such Lender to the date such payment is made by such Lender, the Base Rate in effect for each such day. If such amount is not received from such Lender by the Administrative Agent immediately upon demand, the Borrowers will, on demand, repay to the Administrative Agent the proceeds of the Loan attributable to such Lender with interest thereon at a rate per annum equal to the interest rate applicable to the relevant Loan, but without such payment being considered a payment or prepayment of a Loan under Section 8.1 hereof so that the Borrowers will have no liability under such Section with respect to such payment.

Section 2.6 *Minimum Borrowing Amounts; Maximum Term Benchmark Loans*. Each Borrowing of Base Rate Loans and RFR Loans advanced under the applicable Facility shall be in an amount not less than $1.0 million or such greater amount that is an integral multiple of $1.0 million. Each Borrowing of Term Benchmark Loans advanced, continued or converted under the applicable Facility shall be in an amount equal to the Dollar Equivalent of $1.0 million or such greater amount that is an integral multiple of the Dollar Equivalent of $1.0 million. Without the Administrative Agent's consent, there shall not be more than fifteen (15) Borrowings of Term Benchmark Loans outstanding at any one time.

Section 2.7 *Maturity of Loans*.

(a) *Scheduled Payments of Term B Loans*. Subject to Section 2.15, the Lead Borrower shall make principal payments on the Term B Loans in installments on each Fiscal Quarter End Date, commencing with the first full fiscal quarter ended after the Closing Date, in an aggregate amount equal to 0.25% of the aggregate principal amount of the Term B Loans made on the Closing Date, in each case per fiscal quarter (which payments in each case shall be (x) reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.8(a), Section 2.8(c) and Section 2.8(e), as applicable or (y) increased for necessary technical adjustments in connection with a Term Commitment Increase); it being further agreed that a final payment comprised of all principal and interest not sooner paid on the Term B Loans, shall be due and payable on the Term B Termination Date.

(b) *Revolving Loans*. Each Revolving Loan, both for principal and interest, shall mature and become due and payable by the Borrowers on the Revolving Credit Termination Date.

Section 2.8 *Prepayments*.

(a) *Voluntary Prepayments of Term Loans*.

(i) The Lead Borrower may, at its option, upon notice as herein provided, prepay without premium or penalty (subject to the requirements of Section 2.8(a)(iii) below and except as set forth in Section 8.1 below) at any time all, or from time to time any part of, the Term Loans, in each case, in a minimum aggregate amount of $5.0 million or such greater amount that is an integral multiple of $1.0 million or, if less, the entire principal amount thereof then outstanding. The Lead Borrower will give the Administrative Agent written notice (or telephone notice promptly confirmed by written notice) of each prepayment under this Section 2.8 prior to 1:00 p.m. (New York time) at least one (1) Business Day (or such shorter period as the Administrative Agent may agree to) in the case of Base Rate Loans or two (2) Business Days (or such shorter period as the Administrative Agent may agree to) in the case of Term Benchmark Loans prior to the date fixed for such prepayment (which notice may be revoked at the Lead Borrower's option). Each such notice shall specify the date of such prepayment (which shall be a Business Day), the principal amount of such Term Loans to be prepaid and the interest to be paid on the prepayment date with respect to such principal amount being repaid. Such notice of prepayment may state that such notice is conditioned upon the occurrence of any other event, in which case such notice may be revoked by the Lead Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any prepayments made pursuant to this Section 2.8(a) shall be applied against the Class of Term Loans and the remaining scheduled installments of principal due in respect of such Term Loans in the manner specified by the Lead Borrower or, if not so specified on or prior to the date of such optional prepayment, on a *pro rata* basis to all Classes of Term Loans in direct order of maturity and may not be reborrowed.

(ii) [Reserved].

(iii) In the event that, on or prior to the date that is six (6) months after the Closing Date, the Lead Borrower (x) prepays, repays, refinances, substitutes or replaces any Term B Loans in connection with a Repricing Transaction (including, for the avoidance of doubt, any prepayment made pursuant to Section 2.8(c)(i) that constitutes a Repricing Transaction), or (y) effects any amendment, waiver or other modification of, or consent under, this Agreement resulting in a Repricing Transaction, the Lead Borrower shall pay to the Administrative Agent, for the ratable account of each of the applicable Term B Lenders, (A) in the case of clause (x), a premium of 1.00% of the aggregate principal amount of the Term B Loans so prepaid, repaid, refinanced, substituted or replaced and (B) in the case of clause (y), a fee equal to 1.00% of the aggregate principal amount of the Term B Loans outstanding immediately prior to such amendment, waiver, modification or consent that are the subject of such Repricing Transaction. If, on or prior to the date that is six (6) months after the Closing Date, all or any portion of the Term B Loans held by any Term B Lender are prepaid, repaid, refinanced, substituted or replaced pursuant to Section 8.5 as a result of, or in connection with, such Term B Lender being a Non-Consenting Lender with respect to any amendment, waiver, modification or consent referred to in clause (y) above (or otherwise in connection with a Repricing Transaction), such prepayment, repayment, refinancing, substitution or replacement will be made at 101% of the principal amount so prepaid, repaid, refinanced, substituted or replaced. All such amounts shall be due and payable on the date of effectiveness of such Repricing Transaction.

(b) *Voluntary Prepayments of Revolving Loans*. The Borrowers may prepay without premium or penalty (except as set forth in Section 8.1 below) and in whole or in part any Borrowing of (i) Revolving Loans that are Term Benchmark Loans denominated in Dollars at any time upon at least two (2) Business Days (or such shorter period as the Administrative Agent may agree to in its sole discretion) prior notice by the applicable Borrower to the Administrative Agent, (ii) Revolving Loans that are Term Benchmark Loans denominated in Euros at any time upon at least three (3) Business Days prior notice (or such shorter period as the Administrative Agent may agree to in its sole discretion) by the applicable Borrower to the Administrative Agent, (iii) Revolving Loans that are Term Benchmark Loans denominated in Yen at any time upon at least four (4) Business Days prior notice (or such shorter period as the Administrative Agent may agree to in its sole discretion) by the applicable Borrower to the

Administrative Agent, (iv) Revolving Loans that are RFR Loans at any time upon at least five (5) Business Days' prior notice (or such shorter period as the Administrative Agent may agree to in its sole discretion) by the applicable Borrower to the Administrative Agent or (v) Revolving Loans that are Base Rate Loans at any time upon at least one (1) Business Day's prior notice by the applicable Borrower to the Administrative Agent (in the case of each of clauses (i), (ii), (iii), (iv) and (v), such notice must be in writing (or telephone notice promptly confirmed by written notice) and received by the Administrative Agent prior to 2:00 p.m. (New York time) on such date), in each case, such prepayment to be made by the payment of the principal amount to be prepaid and, in the case of any Term Benchmark Loans, accrued interest thereon to the date fixed for prepayment *plus* any amounts due the Lenders under Section 8.1; *provided*, *however*, that no Borrower may partially repay a Borrowing (i) if such Borrowing is of Base Rate Loans or RFR Loans, in a principal amount less than $0.5 million, and (ii) if such Borrowing is of Term Benchmark Loans, in a principal amount less than the Dollar Equivalent of $1.0 million, except, in each case, in such lesser amount of the entire principal amount thereof then outstanding. Any such notice of prepayment may state that such notice is conditioned upon the occurrence of any other event, in which case such notice may be revoked by a Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(c) *Mandatory Prepayments*.

(i) From and after the Closing Date, if the Lead Borrower or any Restricted Subsidiary shall at any time or from time to time incur any Indebtedness (other than with respect to any Indebtedness permitted to be incurred pursuant to Section 6.15 (other than Refinancing Indebtedness, Refinancing Notes, Refinancing Term Loans and Replacement Revolving Credit Commitments to the extent the proceeds are used to refinance Term Loans)), then promptly and in any event within five (5) Business Days of receipt by the Lead Borrower or the Restricted Subsidiary of the Net Cash Proceeds from the incurrence of such Indebtedness, the Lead Borrower shall prepay the Term Loans in an aggregate amount equal to 100.00% of the amount of all such Net Cash Proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses. The amount of each such prepayment shall be applied to the outstanding Term Loans of each Class, pro rata, until paid in full; *provided* that, in the case of any prepayment under this clause (i) made using the Net Cash Proceeds of any Refinancing Indebtedness, each such prepayment shall be applied (A) first, to the Class or Classes of Term Loans, as directed by the Lead Borrower, with the earliest maturity date (ratably among Classes, if multiple Classes exist with the same maturity date), until all such Term Loans of such Class or Classes have been repaid or terminated in full and (B) thereafter, to the successive Class or Classes of Term Loans with the next earliest maturity date (ratably among Classes, if multiple Classes exist with the same maturity date), and so on, until 100% of Net Cash Proceeds of such Refinancing Indebtedness has been applied to the Term Loans as required under this clause (i).

(ii) From and after the Closing Date, if the Lead Borrower or any Restricted Subsidiary shall at any time or from time to time make a Disposition or shall suffer an Event of Loss resulting in Net Cash Proceeds in excess of $15.0 million in a single transaction or in a series of related transactions or $25.0 million in the aggregate for all such Dispositions or Events of Loss during such fiscal year, then promptly and in any event within five (5) Business Days of receipt by the Lead Borrower or the Restricted Subsidiary of the Net Cash Proceeds of such Disposition or such Event of Loss, the Lead Borrower shall prepay the Term Loans, in an aggregate amount equal to 100.00% of the amount of all such Net Cash Proceeds in excess of the amount specified above; *provided* that, in the case of each Disposition and Event of Loss, if the Lead Borrower or the applicable Restricted Subsidiary intends to invest or reinvest, as applicable, within twelve (12) months of the applicable Disposition or receipt of Net Cash Proceeds from an Event of Loss, the Net Cash Proceeds thereof in assets used or useful in the operations of the Lead Borrower or its Subsidiaries or otherwise invest in the business of the Lead Borrower or its Subsidiaries, then the Lead Borrower shall not be required to make a mandatory prepayment under this Section in respect of such Net Cash Proceeds to the extent such Net Cash Proceeds are actually invested or reinvested within such twelve-month period, or the Lead Borrower or a Restricted Subsidiary has committed to so invest or reinvest such Net Cash Proceeds during such twelve-month period and such Net Cash Proceeds are so reinvested within 180 days after the expiration of such twelve-month period; *provided*, *however*, that if any Net Cash Proceeds have not been so invested or reinvested prior to the expiration of the applicable period, the Lead Borrower shall promptly prepay the Term Loans in the amount of such Net Cash Proceeds in excess of the amount specified above not so invested or reinvested; *provided*, *further*, that if, at the time that any such prepayment would be required hereunder, the Lead Borrower is required to prepay or offer to repurchase any other Indebtedness secured on a *pari passu* basis (or any

Refinancing Indebtedness in respect thereof that is secured on a *pari passu* basis) with the Obligations pursuant to the terms of the documentation governing such Indebtedness with such Net Cash Proceeds (such Indebtedness (or Refinancing Indebtedness in respect thereof) required to be prepaid or offered to be so repurchased, the "*Other Applicable Indebtedness*"), then the Lead Borrower may apply such Net Cash Proceeds on a *pro rata* basis to the prepayment of the Term Loans and to the repurchase or prepayment of the Other Applicable Indebtedness (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness (or accreted amount if such Other Applicable Indebtedness is issued with original issue discount) at such time; *provided* that the portion of such Net Cash Proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of such Net Cash Proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such Net Cash Proceeds shall be allocated to the Term Loans in accordance with the terms hereof), and the amount of the prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.8(c)(ii) shall be reduced accordingly; *provided*, *further*, that to the extent the holders of the Other Applicable Indebtedness decline to have such Indebtedness prepaid or repurchased, the declined amount shall promptly be applied to prepay the Term Loans in accordance with the terms hereof. The amount of each such prepayment shall be applied to the outstanding Term Loans of each Class *pro rata*, until paid in full.

(iii) No later than the fifth Business Day after the date on which financial statements with respect to each fiscal year of the Lead Borrower are required to be delivered pursuant to Section 6.1(b) (beginning with the first full fiscal year ended after the Closing Date), the Lead Borrower shall prepay the then outstanding Term B Loans by an amount equal to (A) 50% of Excess Cash Flow of the Lead Borrower and its Restricted Subsidiaries for the most recently completed fiscal year of the Lead Borrower; *provided* that the foregoing percentage shall be reduced to 25% when the First Lien Leverage Ratio calculated on a Pro Forma Basis as of the last day of the relevant fiscal year is equal to or less than 1.75 to 1.00 but greater than 1.25 to 1.00, and 0% when the First Lien Leverage Ratio calculated on a Pro Forma Basis as of the last day of the relevant fiscal year is equal to or less than 1.25 to 1.00 *minus* without duplication of any deductions set forth in the definition of "Excess Cash Flow" (B) the principal amount of (1) any Term Loans, and, to the extent *pari passu* with the Term Loans in right of payment and with respect to security, Incremental Term Loans, Incremental Equivalent Debt, Refinancing Term Loans, Refinancing Notes and Refinancing Indebtedness in the form of term loans and (2) any Revolving Loans, Incremental Revolving Loans and Refinancing Indebtedness in the form of revolving loans (in each case, to the extent accompanied by a permanent reduction of the relevant revolving commitment) voluntarily prepaid pursuant to paragraphs (a) and (b) of this Section 2.8 or purchased by the Lead Borrower or any of its Subsidiaries in cash pursuant to Section 10.10(h) (with the amount of the deduction pursuant to this subclause (B) for Loans purchased pursuant to Section 10.10(h) being limited to the amount of cash paid by the Lead Borrower or any of its Subsidiaries in connection therewith) or voluntarily prepaid or purchased pursuant to the applicable provisions of the documentation governing such Refinancing Indebtedness, Incremental Equivalent Debt, Refinancing Notes or Refinancing Term Loans, in each case, during such fiscal year on or, at the option of the Lead Borrower, prior to the date of the required prepayment under this Section 2.8(c)(iii) in respect of such fiscal year; *provided* that (x) no such voluntary prepayments or purchases shall reduce the payments required to be made under this Section 2.8(c)(iii) for more than one fiscal year, (y) no such voluntary prepayments or purchases shall reduce the payments required to be made under this Section 2.8(c)(iii) to the extent financed with long-term Indebtedness (other than revolving Indebtedness) and (z) no mandatory prepayment shall be required under this Section 2.8(c)(iii) to the extent the amount calculated hereby does not exceed $20.0 million; *provided further* that any amounts permitted to be deducted from Excess Cash Flow pursuant to the definition thereof may instead be applied to reduce the amount of any ECF Payment on a dollar for dollar basis, in the sole discretion of the Lead Borrower. The amount of each such prepayment shall be applied to the outstanding Term B Loans *pro rata* until paid in full. Any payment under this clause (iii) shall be an "*ECF Payment*."

(iv) [Reserved].

(v) The Borrowers shall, on each date the Revolving Credit Commitments are reduced pursuant to Section 2.10, prepay the Revolving Loans and, if necessary after such Revolving Loans have been repaid in full, replace or cause to be cancelled (or provide an L/C Backstop or make other arrangements reasonably satisfactory to the L/C Issuers) outstanding Letters of Credit by the amount, if any, necessary to reduce the sum of the aggregate principal amount of Revolving Loans and L/C Obligations then outstanding to the amount to which the Revolving Credit Commitments have been so reduced. Each prefunding of L/C Obligations that the Borrowers choose to make to the Administrative Agent as a result of the application of this clause (v) by the deposit of cash or Cash Equivalents with the Administrative Agent shall be made in accordance with Section 7.4.

(vi) (I) Notwithstanding any provision under this Section 2.8(c) to the contrary, (A) any amounts that would otherwise be required to be paid by the Lead Borrower pursuant to Section 2.8(c)(ii) above shall not be required to be so prepaid to the extent any such Disposition is consummated by a Foreign Subsidiary, such Net Cash Proceeds in respect of any Event of Loss are received by a Foreign Subsidiary or such Indebtedness is incurred by a Foreign Subsidiary, for so long as the repatriation to the United States of any such amounts would be prohibited under any Applicable Laws (including any such laws with respect to financial assistance, corporate benefit, thin capitalization, capital maintenance, liquidity maintenance and similar legal principles, restrictions on upstreaming of cash intra group and the fiduciary and statutory duties of the directors of the relevant Subsidiaries) and (B) if the Lead Borrower determines in good faith that the repatriating of any amounts required to mandatorily prepay the Loans pursuant to Section 2.8(c)(ii) above would result in a tax liability that is material to the amount of funds otherwise required to be repatriated (including any withholding tax) (such amount in clauses (A) and (B), a "*Restricted Asset Sale Amount*"), the amount the Lead Borrower shall be required to mandatorily prepay pursuant to Section 2.8(c)(ii) shall be reduced by the Restricted Asset Sale Amount until such time as it may repatriate such Restricted Asset Sale Amount without incurring such tax liability.

(II) Notwithstanding any provision under this Section 2.8(c) to the contrary, for purposes of calculating the amount of the ECF Payment in Section 2.8(c)(iii), "Excess Cash Flow" will be deemed to be reduced by the amount of Excess Cash Flow generated by a Foreign Subsidiary (A) that would be prohibited under any Applicable Laws (including any such laws with respect to financial assistance, corporate benefit, thin capitalization, capital maintenance, liquidity maintenance and similar legal principles, restrictions on upstreaming of cash intra group and the fiduciary and statutory duties of directors of the relevant Subsidiaries) from being repatriated to the United States or (B) that the Lead Borrower determines in good faith would result in a tax liability that is material to the amount of funds otherwise required to be repatriated (including any withholding tax) if repatriated to the United States (the amount of such Foreign Subsidiary Excess Cash Flow in clauses (A) and (B) without duplication, the "*Restricted ECF Amount*"); *provided* that such amounts in clause (A) shall only constitute a Restricted ECF Amount for so long as such repatriation to the United States is prohibited under Applicable Laws, and in clause (B) shall only constitute Restricted ECF Amount for so long as such repatriation would result in such tax liability.

(vii) Notwithstanding the foregoing, each Term B Lender shall have the right to reject its applicable Term B Loan Percentage of any mandatory prepayment of the Term B Loans pursuant to Section 2.8(c) (i) (other than Refinancing Indebtedness in respect of the Term Loans), (ii) and (iii) above (each such Lender, a "*Rejecting Lender*"); *provided* that any amount rejected by a Rejecting Lender may be retained by the Lead Borrower (the aggregate amount of such proceeds so rejected as of any date of determination, the "*Declined Proceeds*").

(viii) Unless the applicable Borrower otherwise directs, prepayments of Revolving Loans under this Section 2.8(c) shall be applied first to Borrowings of Base Rate Loans until payment in full thereof with any balance applied to Borrowings of Term Benchmark Loans in the order in which their Interest Periods expire. Each prepayment of Loans under this Section 2.8(c) shall be made by the payment of the principal amount to be prepaid and, in the case of any Term Benchmark Loans, accrued interest thereon to the date of prepayment together with any amounts due the Lenders under Section 8.1. Except as otherwise provided in Section 2.8(c)(i) or Section 2.8(c)(ii), mandatory prepayments of the Term Loans shall be applied to each Class of Term Loans on a *pro rata* basis (other than with respect to prepayments made under Section 2.8(c)(iii)) and applied to the installments thereof as directed by the Lead Borrower, or if not so specified before the date of required payment, in the direct order of maturity other than with respect to that portion of any installment held by a Rejecting Lender.

(d) *Defaulting Lenders*. Until such time as the Default Excess (as defined below) with respect to any Defaulting Lender has been reduced to zero, (i) any voluntary prepayment of the Revolving Loans pursuant to Section 2.8(b) shall, if the applicable Borrower so directs at the time of making such voluntary prepayment, be applied to the Revolving Loans of other Lenders as if such Defaulting Lender had no loans outstanding and the Revolving Credit Commitments of such Defaulting Lender were zero and (ii) any mandatory prepayment of the Loans pursuant to Section 2.8(c) shall, if the applicable Borrower so directs at the time of making such mandatory prepayment, be applied to the Loans of other Lenders (but not to the Loans of such Defaulting Lender) as if such Defaulting Lender has funded all defaulted Loans of such Defaulting Lender, it being understood and agreed that the

Borrowers shall be entitled to retain any portion of any mandatory prepayment of the Loans that is not paid to such Defaulting Lender solely as a result of the operation of the provisions of this clause (d). "*Default Excess*" means, with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender's Percentage of the aggregate outstanding principal amount of the applicable Loans of all the applicable Lenders (calculated as if all Defaulting Lenders (including such Defaulting Lender) had funded all of their respective defaulted Loans) over the aggregate outstanding principal amount of the applicable Loans of such Defaulting Lender.

(e) The Administrative Agent will promptly advise each Lender of any notice of prepayment it receives from a Borrower, and in the case of any partial prepayment under Section 2.8(a) hereof, such prepayment shall be applied to the Class of Term Loans and the remaining amortization payments on such Term Loans in the manner specified by the Lead Borrower or, if not so specified on or prior to the date of such optional prepayment, on a *pro rata* basis to all Classes of Term Loans in the direct order of maturity.

Section 2.9 *Place and Application of Payments.* All payments of principal of and interest on the Loans and the Reimbursement Obligations, and of all other Obligations payable by the Borrowers under this Agreement and the other Loan Documents, shall be made by the Borrowers to the Administrative Agent by no later than (i) except with respect to principal of and interest on Loans denominated in an Alternative Currency, 2:00 p.m. on the due date thereof at the office of the Administrative Agent in New York, New York (or such other location as the Administrative Agent may designate to the Borrowers in writing) for the benefit of the Lender or Lenders entitled thereto and (ii) in the case of payments with respect to principal and interest on Loans denominated in an Alternative Currency, the Applicable Time specified by the Administrative Agent on the dates specified herein in the applicable Alternative Currency, in each case, at the office of the Administrative Agent in New York, New York (or such other location as the Administrative Agent may designate to the Borrowers in writing) for the benefit of the relevant Lender or Lenders entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments, except with respect to principal of and interest on Loans denominated in an Alternative Currency, shall be made in Dollars, in immediately available funds at the place of payment, in each case without setoff or counterclaim, except as provided in Section 10.7. If, for any reason, a Borrower is prohibited by any law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans and on Reimbursement Obligations in which the Lenders have purchased Participating Interests ratably to the Lenders and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement.

Anything contained herein to the contrary notwithstanding, (x) pursuant to the exercise of remedies under Sections 7.2 and 7.3 hereof or (y) after written instruction by the Required Lenders, after the occurrence and during the continuation of an Event of Default, all payments and collections received in respect of the Obligations by the Administrative Agent or any of the Lenders, shall be remitted to the Administrative Agent and distributed as follows:

(a) *first*, to the payment of any outstanding costs and expenses incurred by the Administrative Agent, and any security trustee therefor, in monitoring, verifying, protecting, preserving or enforcing the Liens on the Collateral, in protecting, preserving or enforcing rights under the Loan Documents, and in any event all costs and expenses of a character which the Borrowers have agreed to pay the Administrative Agent under Section 10.13 hereof (such funds to be retained by the Administrative Agent for its own account unless it has previously been reimbursed for such costs and expenses by the Lenders, in which event such amounts shall be remitted to the Lenders to reimburse them for payments theretofore made to the Administrative Agent);

(b) *second*, to the payment of any outstanding interest and fees due under the Loan Documents to be allocated *pro rata* in accordance with the aggregate unpaid amounts owing to each holder thereof;

(c) *third*, to the payment of principal on the Term Loans, Revolving Loans and unpaid Reimbursement Obligations (together with amounts to be held by the Administrative Agent as collateral security for any outstanding L/C Obligations pursuant to Section 7.4 hereof (until the Administrative Agent is holding an amount of cash equal to the then outstanding amount of all Letters of Credit, to the extent the same have not been replaced or cancelled or otherwise provided for to the reasonable satisfaction of the L/C Issuers)), Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, the aggregate amount paid to (or held as collateral security for) the Lenders and, in the case of Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, their Affiliates and other Secured Parties, to be allocated *pro rata* in accordance with the aggregate unpaid amounts owing to each holder thereof;

(d) *fourth*, to the payment of all other unpaid Obligations and all other indebtedness, obligations, and liabilities of the Borrowers and their Subsidiaries secured by the Collateral Documents to be allocated *pro rata* in accordance with the aggregate unpaid amounts owing to each holder thereof; and

(e) *fifth*, to the Borrowers or whoever else may be lawfully entitled thereto.

Notwithstanding the foregoing, no amounts received from any Guarantor shall be applied to any Excluded Swap Obligations of such Guarantor.

Section 2.10 *Commitment Terminations*. The Term B Loan Commitments shall automatically terminate upon the making, conversion or continuance, as applicable, of the Term B Loans on the Closing Date. The Borrowers shall have the right at any time and from time to time, upon three (3) Business Days' prior written notice to the Administrative Agent (which notice may conditioned upon the occurrence of any other event, in which case such notice may be revoked by the Borrowers (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied), to terminate the Revolving Credit Commitments in whole or in part, any partial termination to be (i) in an amount not less than the Dollar Equivalent of $1.0 million or any greater amount that is an integral multiple of the Dollar Equivalent of $0.1 million and (ii) allocated ratably among the Lenders in proportion to their respective Revolver Percentages; *provided* that the Revolving Credit Commitments may not be reduced to an amount less than the sum of the aggregate principal amount of Revolving Loans and of L/C Obligations then outstanding; *provided further* that all Revolving Credit Commitments shall terminate automatically on the Revolving Credit Termination Date. Any termination of the Revolving Credit Commitments below the L/C Sublimit then in effect shall reduce the L/C Sublimit by a like amount. The Administrative Agent shall give prompt notice to each Lender of any such termination (in whole or in part) of the Revolving Credit Commitments. Any termination of the Revolving Credit Commitments pursuant to this Section 2.10 may not be reinstated.

Section 2.11 [*Reserved*].

Section 2.12 *Evidence of Indebtedness*.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder, with respect to Revolving Loans, the type thereof and, with respect to Term Benchmark Loans, the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrowers and each Lender's share thereof.

(c) The entries maintained in the accounts maintained pursuant to clauses (a) and (b) above shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded; *provided*, *however*, that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Obligations in accordance with their terms.

(d) Any Lender may request that its Loans be evidenced by a promissory note or notes in the forms of Exhibit D-1 (in the case of its Term B Loan and referred to herein as a "*Term B Note*"), Exhibit D-4 (in the case of its Revolving Loans and referred to herein as a "*Revolving Note*"), as applicable (the Term B Notes and Revolving Notes being hereinafter referred to collectively as the "*Notes*" and individually as a "*Note*"). In such event, the Borrowers shall prepare, execute and deliver to such Lender a Note payable to such Lender in the amount of such Lender's Percentage of the applicable Term Loan or Revolving Credit Commitment, as applicable. Thereafter, the Loans evidenced by such Note or Notes and interest thereon shall at all times (including after any assignment pursuant to Section 10.10) be represented by one (1) or more Notes, except to the extent that any such Lender or assignee subsequently returns any such Note for cancellation and requests that such Loans once again be evidenced as described in subsections (a) and (b) above.

Section 2.13 *Fees*.

(a) *Revolving Credit Commitment Fee*. The Borrowers shall pay to the Administrative Agent for the ratable account of the Lenders according to their Revolver Percentages a commitment fee at a rate per annum equal to the Applicable Margin (computed on the basis of a year of 360 days and the actual number of days elapsed) on the average daily Unused Revolving Credit Commitments (the "*Commitment Fee*"); *provided*, *however*, that no Commitment Fee shall accrue to the Unused Revolving Credit Commitment of a Defaulting Lender, or be payable for the benefit of such Lender, so long as such Lender shall be a Defaulting Lender. Such Commitment Fee shall be payable quarterly in arrears on the fifteenth day following each Fiscal Quarter End Date (commencing on the first such date occurring after the Closing Date).

(b) *Letter of Credit Fees*. Quarterly in arrears, on the fifteenth day following each Fiscal Quarter End Date, commencing on the first such date occurring after the Closing Date, and on the Revolving Credit Termination Date, the Borrowers shall pay to the L/C Issuer for its own account a fronting fee equal to 0.125% of the face amount of (or of the increase in the face amount of) each outstanding Letter of Credit. Quarterly in arrears, on the fifteenth day following each Fiscal Quarter End Date, commencing on the first such date occurring after the Closing Date, and on the Revolving Credit Termination Date, the Borrowers shall pay to the Administrative Agent, for the ratable benefit of the Lenders according to their Revolver Percentages, a letter of credit fee at a rate per annum equal to the Applicable Margin then in effect with respect to Term Benchmark Loans under the Revolving Facility (computed on the basis of a year of 360 days and the actual number of days elapsed) during each day of such quarter applied to the daily average face amount of Letters of Credit outstanding during such quarter; *provided* that while any Event of Default under Section 7.1(a) (with respect to the late payment of principal, interest, Reimbursement Obligations or fees) or Section 7.1(j) or Section 7.1(k) exists or after acceleration (but without duplication of the rate set forth in Section 2.4(g)), such rate with respect to overdue fees shall increase by 2.00% over the rate otherwise payable and such fee shall be paid on demand subject, except in the case of any Event of Default under Section 7.1(j) or (k), to the request of the Administrative Agent at the request or with the consent of the Required Lenders; *provided further* that no letter of credit fee shall accrue to the Revolver Percentage of a Defaulting Lender, or be payable for the benefit of such Lender, so long as such Lender shall be a Defaulting Lender. In addition, the Borrowers shall pay to the L/C Issuers for their own account the L/C Issuers' standard drawing, negotiation, amendment, transfer and other administrative fees for each Letter of Credit. Such standard fees referred to in the preceding sentence may be established by the L/C Issuers from time to time.

(c) *[Reserved]*.

(d) *Administrative Agent Fees*. The Lead Borrower agrees to pay to the Administrative Agent, for its own account, the administrative fees payable in the amounts and at the times separately agreed upon between the Lead Borrower and the Administrative Agent.

(e) *Fees Generally*. All fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the applicable Lenders, except that the Borrowers shall pay the fronting fees directly to the applicable L/C Issuer. Once paid when due and payable, none of the fees shall be refundable under any circumstances.

Section 2.14 *Incremental Credit Extensions*.

(a) At any time and from time to time after the Closing Date, subject to the terms and conditions set forth herein, the Lead Borrower may, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly make such notice available to each of the Lenders), pursuant to an Incremental Amendment ("*Incremental Amendment*") request to effect (i) one (1) or more additional term loan facilities hereunder or increases in the aggregate amount of any Term Facility (each such increase, a "*Term Commitment Increase*") from one (1) or more Additional Term Lender or (ii) additional revolving credit facilities (each such additional facility, an "*Incremental Revolving Credit Facility*") or increases in the aggregate amount of the Revolving Credit Commitments (each such increase, a "*Revolving Credit Commitment Increase*" and together with any Term Commitment Increase, any Incremental Term Facility and any Incremental Revolving Credit Facility, a "*Commitment Increase*") from Additional Revolving Lenders; *provided* that, unless otherwise provided below, upon the effectiveness of each Incremental Amendment:

(A) no Default or Event of Default shall have occurred and be continuing or would exist after giving effect thereto (or in the case of an Incremental Facility used to finance a Limited Condition Transaction, no Event of Default as those described in subsection (a), (j) or (k) of Section 7.1 hereof exists or would exist after giving effect thereto);

(B) [reserved];

(C) [reserved];

(D) each Incremental Term B Facility and each other Incremental Term Facility shall have a final maturity date no earlier than the Term B Termination Date then in effect; *provided*, that any Incremental Term Facility incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement;

(E) [reserved];

(F) the Weighted Average Life to Maturity of any Incremental Term B Loans and any other Incremental Term Loans shall not be shorter than the Weighted Average Life to Maturity of the Term B Loans then outstanding; *provided* that any Incremental Term Loans incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement;

(G) any Incremental Revolving Loans will mature no earlier than, and will require no scheduled amortization or mandatory reduction of the commitments related thereto prior to, the Revolving Credit Termination Date then in effect and all other terms of any such Incremental Revolving Credit Facility (except with respect to margin, pricing and fees and as set forth in the foregoing clauses and clause (J) below and other than any terms which are applicable only after the then-existing maturity date with respect to the Revolving Facility) shall be substantially identical to the Revolving Facility or otherwise reasonably acceptable to the Administrative Agent;

(H) the pricing terms (including interest rate and margin, fees, original issue discount (if any), funding discount (if any), premiums (if any), interest rate floors (if any), amortization), mandatory prepayment and redemptions terms, financial covenants (if any), assignment provisions applicable to any Incremental Facility or Incremental Loans will be determined by the Lead Borrower and the Additional Lenders providing such Incremental Facility or Incremental Loans; *provided* that, (i) any maintenance financial covenants shall be no more restrictive to the Lead Borrower and its Restricted Subsidiaries than the maintenance financial covenant set forth in Section 6.24 or shall otherwise only apply after the Final Revolving Termination Date and (ii) in the case of Incremental Term Loans or Incremental Term Facilities that are denominated in Dollars and secured *pari passu* in right of payment and with respect to security with any then existing Term B Loans and incurred within twenty-four (24) months of the Closing Date (the "*Relevant Existing Facility*"), such interest rate will not be more than 0.50% higher than the corresponding interest rate applicable to the Relevant

Existing Facility unless the interest rate with respect to the Relevant Existing Facility is adjusted to be equal to the interest rate with respect to the relevant Incremental Term Loans or Incremental Term Facility, *minus* 0.50%; *provided*, *further*, that in determining the applicable interest rate under this clause (H): (x) original issue discount ("*OID*") or upfront fees paid in connection with the Relevant Existing Facility or such Incremental Term Facility or Incremental Term Loans (based on a four-year average life to maturity), shall be included, (y) any amendments to or changes in the Applicable Margin with respect to the Relevant Existing Facility that became effective subsequent to the Closing Date but prior to the time of (or concurrently with) the addition of such Incremental Term Facility or Incremental Term Loans shall be included and (z) arrangement, syndication, commitment, ticking, structuring, underwriting and other similar fees and any amendment fees paid or payable to the Joint Lead Arrangers (or their affiliates) in their respective capacities as such in connection with the Relevant Existing Facility or to one or more arrangers (or their affiliates) in their capacities as such applicable to such Incremental Term Facility or Incremental Term Loans shall be excluded,

(I) all Incremental Facilities shall rank *pari passu* or junior in right of payment and right of security in respect of the Collateral (if any) with the Term Loans and the Revolving Loans or may be unsecured; *provided* that to the extent any such Incremental Facilities are subordinated in right of payment or right of security, or *pari passu* in right of security and subject to separate documentation, they shall be subject to intercreditor arrangements reasonably satisfactory to the Administrative Agent;

(J) no Incremental Facility shall be guaranteed by any Person which is not a Loan Party;

(K) any mandatory prepayment (other than scheduled amortization payments) of Incremental Term Loans that are *pari passu* in right of payment with any then-existing Term Loans shall be made on a *pro rata* basis with such then-existing Term Loans (and all other then-existing Incremental Term Loans requiring ratable prepayment), except that the Lead Borrower and the Additional Lenders in respect of such Incremental Term Loans shall be permitted, in their sole discretion, to elect to prepay or receive, as applicable, any prepayments on a less than *pro rata* basis (but not on a greater than *pro rata* basis);

(L) the Lead Borrower shall have delivered to the Administrative Agent a certificate of a financial officer certifying to the effect set forth in subclauses (A) and (B) above, together with reasonably detailed calculations demonstrating compliance with subclause (B) above (which calculations shall, if made as of the last day of any fiscal quarter of the Lead Borrower for which the Lead Borrower has not delivered to the Administrative Agent the financial statements and Compliance Certificate required to be delivered by Section 6.1(e), be accompanied by a reasonably detailed calculation of Consolidated Adjusted EBITDA for the relevant period);

(M) all fees or other payments owing pursuant to Section 10.13 or as otherwise agreed in writing in respect of such Commitment Increase to the Administrative Agent and the Additional Lenders shall have been paid; and

(N) the other terms and conditions (excluding those referenced in clauses (A) through (L)) of such Incremental Facility shall be substantially similar to, or (taken as a whole) no more favorable (as reasonably determined by the Lead Borrower) to the lenders providing such Incremental Facility than those applicable to the Term Loans (except for covenants or other provisions applicable only to periods after the latest final maturity date other than existing Term Loans or Commitments); *provided* that (i) to the extent the terms of any Incremental Term Loans are not substantially similar to the terms applicable to the relevant Term Facility (except with respect to pricing and fees and to the extent permitted by the foregoing clauses above and other than any terms which are applicable only after the then-existing maturity date with respect to the relevant Term Facility), such terms shall be reasonably satisfactory to the Administrative Agent and (ii) any Incremental Term B Loans will not have the benefit of the financial covenant set forth in section 6.24.

(b) Notwithstanding anything to contrary herein, the aggregate principal amount of all Commitment Increases incurred after the Closing Date shall not exceed the sum of (i) the greater of $850 million and 50% of Consolidated Adjusted EBITDA (*less* (I) the aggregate principal amount of Incremental Equivalent Debt incurred pursuant to Section 6.15 (u) in reliance on this clause (i) of the Incremental Cap) (the amount under this clause (i),

the "*Fixed Dollar Incremental Amount*"), (ii) the principal amount of all voluntary permanent commitment reductions in respect of the Revolving Facility or any Incremental Revolving Credit Facility incurred using the Fixed Dollar Incremental Amount, and the principal amount of any voluntary prepayment or assignment to a Borrower of any loan under the Term Loan Facility or any Incremental Term Facility incurred using the Fixed Dollar Incremental Amount (in each case other than with the proceeds of long-term indebtedness) and (iii) an unlimited amount so long as in the case of this clause (iii), (A) in the case of an Incremental Facility secured on a *pari passu* lien basis with the Obligations, the First Lien Leverage Ratio does not exceed 1.75 to 1.00, (B) in the case of an Incremental Facility that is secured on a junior lien basis with the Obligations, the Senior Secured Leverage Ratio does not exceed 2.50 to 1.00 and (C) in the case of an Incremental Facility that is unsecured, (x) the Fixed Charge Coverage Ratio is no less than 2.00 to 1.00 or (y) the Lead Borrower and its Restricted Subsidiaries are in compliance with the financial covenant set forth in Section 6.24, in each case, determined on a Pro Forma Basis after giving effect to such Commitment Increase assuming in the case of an Incremental Revolving Credit Facility, such Incremental Revolving Credit Facility has been drawn in full and any related transaction as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b) (such amount under this clause (iii), the "*Ratio-Based Incremental Amount*"); *provided* that (x) any Incremental Facility may be incurred under clause (i), clause (ii) or clause (iii) as selected by the Lead Borrower in its sole discretion, including by designating any portion of any Incremental Facility in excess of an amount permitted to be incurred under clause (iii) at the time of such incurrence as incurred under clause (i) or clause (ii), and unless the Lead Borrower otherwise elects, any portion of any Commitment Increase that could be established in reliance on this clause (iii) at the time of incurrence shall be deemed to have been incurred in reliance on the Ratio-Based Incremental Amount without reducing the Fixed Dollar Incremental Amount (the total aggregate amount described under clauses (i), (ii) and (iii) hereof, the "*Incremental Cap*") and (y) any Incremental Facility originally designated as incurred under clause (i) or clause (ii) shall automatically redesignated as having been incurred under clause (iii), so long as at the time of such redesignation, the Lead Borrower would be permitted to incur such Incremental Facility under clause (iii). Each Commitment Increase shall be in a minimum principal amount of $50.0 million and integral multiples of $1.0 million in excess thereof; *provided* that such amount may be less than $50.0 million if such amount represents all the remaining availability under the aggregate principal amount of Commitment Increases set forth above. No Lender shall be obligated to provide any Commitment Increase unless it so agrees.

(c) Each notice from the Lead Borrower pursuant to this Section 2.14 shall set forth the requested amount of the relevant Commitment Increase.

(d) Upon the implementation of any Incremental Revolving Credit Facility or Revolving Credit Commitment Increase pursuant to this Section 2.14:

(i) with respect to any Revolving Credit Commitment Increase, (A) each Revolving Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each relevant Additional Revolving Lender, and each relevant Additional Revolving Lender will automatically and without further act be deemed to have assumed a portion of such Revolving Lender's Participating Interests such that, after giving effect to each deemed assignment and assumption of participations, all of the Revolving Lenders' (including each Additional Revolving Lender's) Participating Interests shall be held on a *pro rata* basis on the basis of their Revolver Percentage (after giving effect to any Revolving Credit Commitment Increase) and (B) the existing Revolving Lenders of the applicable Class shall assign Revolving Loans to certain other Revolving Lenders of such Class (including the Additional Revolving Lenders providing the relevant Revolving Credit Commitment Increase), and such other Revolving Lenders (including the Additional Revolving Lenders providing the relevant Revolving Credit Commitment Increase) shall purchase such Revolving Loans, in each case to the extent necessary so that all of the Revolving Lenders of such Class participate in each outstanding Borrowing of Revolving Loans of such Class *pro rata* on the basis of their Revolver Percentage (after giving effect to any Revolving Credit Commitment Increase); it being understood and agreed that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence; and

(ii) with respect to any Incremental Revolving Credit Facility, (A) the borrowing and repayment (except for (x) payments of interest and fees at different rates on the existing Revolving Facilities and such Incremental Revolving Credit Facility, (y) repayments required upon the maturity date of the then-existing Revolving Facility and such Incremental Revolving Credit Facility and (z) repayments made in connection with any permanent repayment and termination of commitments (subject to clause (C) below)) of Incremental Revolving Loans after the effective date of such Incremental Revolving Credit Facility shall be made on a pro rata basis with the then-existing Revolving Facility and any other then outstanding Incremental Revolving Credit Facility, (B) all letters of credit made or issued, as applicable, under such Incremental Revolving Credit Facility shall be participated in on a pro rata basis by all Revolving Lenders under such Incremental Revolving Credit Facility and (C) the permanent repayment of Loans with respect to, and termination of commitments under, such Incremental Revolving Credit Facility shall be made on a pro rata basis with the then-existing Revolving Facility and any other then-outstanding Incremental Revolving Credit Facility, except that the Lead Borrower shall be permitted to permanently repay and terminate commitments under any revolving facility on a greater than pro rata basis as compared with any other revolving facility with a later maturity date than such revolving facility.

(e) Effective on the date of each Incremental Revolving Credit Facility the maximum amount of Letter of Credit Usage permitted hereunder shall increase by an amount, if any, agreed upon by the Administrative Agent, the L/C Issuers and the Lead Borrower; *provided* that the Letter of Credit Usage shall not exceed the Revolving Credit Commitment after giving effect to the Incremental Revolving Credit Facility.

(f) An Incremental Amendment may, subject to Section 2.14(a), without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary, in the reasonable opinion of the Administrative Agent and the Lead Borrower, to effect the provisions of this Section 2.14 (including, in connection with a Revolving Credit Commitment Increase, to reallocate Revolving Exposure on a pro rata basis among the relevant Revolving Lenders).

Section 2.15 *Extensions of Term Loans and Revolving Credit Commitments*.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one (1) or more offers (each, an "*Extension Offer*") made from time to time by the Lead Borrower after the Closing Date to all Lenders holding Term B Loans with a like maturity date or Revolving Credit Commitments with a like maturity date, in each case on a *pro rata* basis (based on the aggregate outstanding principal amount of the respective Term Loans or Revolving Credit Commitments with a like maturity date, as the case may be) and on the same terms to each such Lender, the Lead Borrower is hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in such Extension Offers to extend the maturity date of all or a portion of each such Lender's Term Loans and/or Revolving Credit Commitments and otherwise modify the terms of such Term Loans and/or Revolving Credit Commitments pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate or fees payable in respect of such Term Loans and/or Revolving Credit Commitments (and related outstandings) and/or modifying the amortization schedule in respect of such Term Loans) (each, an "*Extension*," and each group of Term Loans or Revolving Credit Commitments, as applicable, in each case as so extended, as well as the original Term Loans and the original Revolving Credit Commitments (in each case not so extended), being a "*tranche*"; any Extended Term Loans shall constitute a separate tranche of Term Loans from the tranche of Term Loans from which they were converted and any Extended Revolving Credit Commitments shall constitute a separate tranche of Revolving Credit Commitments from the tranche of Revolving Credit Commitments from which they were converted), so long as the following terms are satisfied:

(i) no Default or Event of Default shall have occurred and be continuing at the time the offering document in respect of an Extension Offer is delivered to the Lenders;

(ii) except as to interest rates, fees and final maturity (which shall be determined by the Lead Borrower and set forth in the relevant Extension Offer), the Revolving Credit Commitment of any Lender that agrees to an extension with respect to such Revolving Credit Commitment extended pursuant to an Extension (an "*Extended Revolving Credit Commitment*"; and the Loans thereunder, "*Extended Revolving Loans*"), and the related outstandings, shall be a Revolving Credit Commitment (or related outstandings, as the case may be) with the same terms (or terms not less favorable to existing Lenders) as the original Revolving Credit Commitments (and related outstandings); *provided* that (x) subject to the provisions of Section 2.3(k) to the extent dealing with Letters of Credit which mature or expire after a maturity date when there exist Extended Revolving Credit Commitments with a longer maturity date, all Letters of Credit

shall be participated in on a *pro rata* basis by all Lenders with Extended Revolving Credit Commitments in accordance with their Revolver Percentages (and except as provided in Section 2.3(k), without giving effect to changes thereto on an earlier maturity date with respect to Letters of Credit theretofore incurred or issued), (y) all borrowings and repayments (except for (A) payments of interest and fees at different rates on Extended Revolving Credit Commitments (and related outstandings), (B) repayments required upon the maturity date of the non-extending Revolving Credit Commitments and (C) repayments made in connection with a permanent repayment and reduction or termination of commitments) of Extended Revolving Loans after the applicable Extension date shall be made on a *pro rata* basis with all other Revolving Credit Commitments and (z) at no time shall there be Revolving Credit Commitments hereunder (including Extended Revolving Credit Commitments, any commitments with respect to any Incremental Revolving Credit Facility and any original Revolving Credit Commitments) that have more than three (3) different maturity dates;

(iii) except as to interest rates, fees, amortization, final maturity date, premium, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iv), (v) and (vi), be determined by the Lead Borrower and set forth in the relevant Extension Offer), the Term Loans of any Lender that agrees to an extension with respect to such Term Loans extended pursuant to any Extension (any such extended Term Loans, "*Extended Term Loans*") shall have the same terms as the tranche of Term Loans subject to such Extension Offer until the maturity of such Term Loans;

(iv) (A) the final maturity date of any Extended Term B Loans shall be no earlier than the Term B Termination Date;

(v) (A) the Weighted Average Life to Maturity of any Extended Term B Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term B Loans extended thereby;

(vi) any Extended Term Loans may participate on a *pro rata* basis or a less than *pro rata* basis (but not greater than a *pro rata* basis) in any voluntary or mandatory repayments or prepayments in respect of the applicable Term Facility, in each case as specified in the respective Extension Offer;

(vii) if the aggregate principal amount of Term Loans (calculated on the face amount thereof) or Revolving Credit Commitments, as the case may be, in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans or Revolving Credit Commitments, as the case may be, offered to be extended by the Lead Borrower pursuant to such Extension Offer, then the Term Loans or Revolving Loans, as the case may be, of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer;

(viii) the Extensions shall be in a minimum amount of $50.0 million;

(ix) any applicable Minimum Extension Condition shall be satisfied or waived by the Lead Borrower; and

(x) all documentation in respect of such Extension shall be consistent with the foregoing.

(b) With respect to all Extensions consummated by the Lead Borrower pursuant to this Section 2.15, (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments or commitment reductions for purposes of Section 2.8, 2.9, 2.10 or 2.12, (ii) the amortization schedules (insofar as such schedule affects payments due to Lenders participating in the relevant Facility) set forth in Section 2.7 shall be adjusted to give effect to the Extension of the relevant Facility and (iii) except as required by clause (a)(viii) above, no Extension Offer is required to be in any minimum amount or any minimum increment; *provided* that the Lead Borrower may at its election specify as a condition (a "*Minimum Extension Condition*") to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the Lead Borrower's sole discretion and which may be waived by the Lead Borrower) of Term Loans or Revolving Credit Commitments (as

applicable) of any or all applicable tranches to be tendered. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section 2.15 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans and/or Extended Revolving Credit Commitments on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement (including Section 2.8, 2.9, 2.10 or 2.12) or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.15.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than (A) the consent of each Lender agreeing to such Extension with respect to one (1) or more of its Term Loans and/or Revolving Credit Commitments (or a portion thereof) and (B) with respect to any Extension of the Revolving Credit Commitments (or a portion thereof), the consent of the L/C Issuers, which consent shall not be unreasonably withheld or delayed. All Extended Term Loans and Extended Revolving Credit Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that are secured by the Collateral and guaranteed on a *pari passu* basis with all other applicable Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents with the Lead Borrower as may be necessary in order to establish new tranches or sub-tranches in respect of Revolving Credit Commitments or Term Loans so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Lead Borrower in connection with the establishment of such new tranches or sub-tranches, in each case on terms consistent with this Section 2.15. In addition, if so provided in such amendment and with the consent of the L/C Issuers, participants in Letters of Credit expiring on or after the latest maturity date (but in no event later than the date that is five (5) Business Days prior to the Final Revolving Termination Date) in respect of the Revolving Credit Commitments shall be re-allocated from Lenders holding non-extended Revolving Credit Commitments to Lenders holding Extended Revolving Credit Commitments in accordance with the terms of such amendment; *provided*, *however*, that such participation interests shall, upon receipt thereof by the relevant Lenders holding Revolving Credit Commitments, be deemed to be participation interests in respect of such Revolving Credit Commitments and the terms of such participation interests (including, without limitation, the commission applicable thereto) shall be adjusted accordingly.

(d) In connection with any Extension, the Lead Borrower shall provide the Administrative Agent at least ten (10) Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.15.

Section 2.16 *Refinancing Facilities*.

(a) Notwithstanding anything to the contrary in this Agreement, the Lead Borrower may by written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (such loans, "*Refinancing Term Loans*"), all Net Cash Proceeds of which are used to refinance in whole or in part any Class of Term Loans pursuant to Section 2.8(c)(i). Each such notice shall specify the date (each, a "*Refinancing Effective Date*") on which the Lead Borrower proposes that the Refinancing Term Loans shall be made, which shall be a date not earlier than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); *provided* that:

(i) before and after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date each of the conditions set forth in Section 3.1 shall be satisfied;

(ii) the final maturity date of the Refinancing Term Loans shall be no earlier than the maturity date of the refinanced Term Loans; *provided* that any Refinancing Term Loans incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement;

(iii) the Weighted Average Life to Maturity of such Refinancing Term Loans shall be no shorter than the then-remaining Weighted Average Life to Maturity of the refinanced Term Loans; *provided* that any Refinancing Term Loans incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement;

(iv) the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Term Loans *plus* amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith;

(v) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in Section 2.14(a)(H)), amortization, assignment provisions and optional prepayment or mandatory prepayment or redemption terms, which shall be as agreed between the Lead Borrower and the Lenders providing such Refinancing Term Loans) shall be substantially similar to, or no less favorable to the Lead Borrower and its Subsidiaries, when taken as a whole, than (as reasonably determined by the Lead Borrower), the terms, taken as a whole, applicable to the Term Loans being refinanced (except to the extent such covenants and other terms apply solely to any period after the latest maturity date applicable to the Term Loans being refinanced unless less favorable terms are added for the benefit of the existing Lenders); *provided* that a certificate of a Responsible Officer of the Lead Borrower delivered to the Administrative Agent for posting to the Lenders at least five (5) Business Days prior to the incurrence of such Refinancing Term Loans, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Lead Borrower has determined in good faith that such terms and conditions satisfy the requirements in this clause (v) shall be conclusive evidence that such terms and conditions satisfy the requirements in this clause (v) unless the Required Lenders through the Administrative Agent notify the Lead Borrower within such five (5) Business Day period that they disagree with such determination (including a reasonable description of the basis upon which they disagree);

(vi) with respect to Refinancing Term Loans secured by Liens on the Collateral that rank *pari passu* or junior in right of security to the Term Loans, such Liens will be subject to a customary intercreditor agreement;

(vii) there shall be no borrower (other than the Lead Borrower) and no guarantors (other than the Guarantors) in respect of such Refinancing Term Loans; and

(viii) Refinancing Term Loans shall not be secured by any assets of the Borrowers and their Subsidiaries other than the Collateral.

(b) The Lead Borrower may approach any Lender or any other person that would be an Eligible Assignee to provide all or a portion of the Refinancing Term Loans; *provided* that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; *provided*, *further*, that any Refinancing Term Loans may, to the extent provided in the applicable Refinancing Amendment governing such Refinancing Term Loans, be designated as an increase in any previously established Class of Term Loans made to the Lead Borrower.

(c) Notwithstanding anything to the contrary in this Agreement, the Lead Borrower may by written notice to the Administrative Agent establish one or more additional Facilities ("*Replacement Revolving Facility*") providing for revolving commitments ("*Replacement Revolving Credit Commitments*" and the revolving loans thereunder, "*Replacement Revolving Loans*"), which replace in whole or in part any Class of Revolving Credit Commitments under this Agreement. Each such notice shall specify the date (each, a "*Replacement Revolving Facility Effective Date*") on which the Lead Borrower proposes that the Replacement Revolving Credit Commitments shall become effective, which shall be a date not less than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion); *provided* that:

(i) before and after giving effect to the establishment of such Replacement Revolving Credit Commitments on the Replacement Revolving Facility Effective Date, each of the conditions set forth in Section 3.1 shall be satisfied;

(ii) after giving effect to the establishment of any Replacement Revolving Credit Commitments and any concurrent reduction in the aggregate amount of any other Revolving Credit Commitments, the aggregate amount of Revolving Credit Commitments shall not exceed the aggregate amount of the Revolving Credit Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date *plus* amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith;

(iii) no Replacement Revolving Credit Commitments shall have a final maturity date (or require commitment reductions or amortizations) prior to the Revolving Credit Termination Date for the Revolving Credit Commitments being replaced;

(iv) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Lead Borrower and the Lenders providing such Replacement Revolving Credit Commitments and (y) the amount of any letter of credit sublimit and swingline commitment under such Replacement Revolving Facility, which shall be as agreed between the Lead Borrower, the Lenders providing such Replacement Revolving Credit Commitments, the Administrative Agent and the replacement issuing bank and replacement swingline lender, if any, under such Replacement Revolving Credit Commitments), when taken as a whole, shall be substantially similar to, or no less favorable to the Lead Borrower and its Subsidiaries than (as reasonably determined by the Lead Borrower), those, taken as a whole, applicable to the Revolving Credit Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the latest Revolving Credit Termination Date in effect at the time of incurrence or added for the benefit of the existing Lenders); *provided* that a certificate of a Responsible Officer of the Lead Borrower delivered to the Administrative Agent for posting to the Lenders at least five (5) Business Days prior to the incurrence of such Replacement Revolving Credit Commitments, together with a reasonably detailed description of the material terms and conditions of such Replacement Revolving Credit Commitments or drafts of the documentation relating thereto, stating that the Lead Borrower has determined in good faith that such terms and conditions satisfy the requirements in this clause (iv) shall be conclusive evidence that such terms and conditions satisfy the requirements in this clause (iv) unless the Required Lenders through the Administrative Agent notify the Lead Borrower within such five (5) Business Day period that they disagree with such determination (including a reasonable description of the basis upon which they disagree);

(v) there shall be no borrower (other than the Borrowers) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility;

(vi) Replacement Revolving Credit Commitments and extensions of credit thereunder shall not be secured by any asset of the Borrowers and their Subsidiaries other than the Collateral; and

(vii) if such Replacement Revolving Facility is secured by Liens on the Collateral that rank *pari passu* or junior in right of security to the Revolving Loans, such Liens will be subject to a customary intercreditor agreement.

(d) In addition, the Lead Borrower may establish Replacement Revolving Credit Commitments to refinance and/or replace all or any portion of a Term Loan hereunder (regardless of whether such Term Loan is repaid with the proceeds of Replacement Revolving Loans or otherwise), so long as the aggregate amount of such Replacement Revolving Credit Commitments does not exceed the aggregate amount of Term Loans repaid at the time of establishment thereof *plus* amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith (it being understood that such Replacement Revolving Credit Commitment may be provided by the Lenders holding the Term Loans being repaid and/or by any other person that would be a permitted assignee hereunder) so long as (i) before and after giving effect to the establishment such

Replacement Revolving Credit Commitments on the Replacement Revolving Facility Effective Date each of the conditions set forth in Section 3.1 shall be satisfied to the extent required by the relevant agreement governing such Replacement Revolving Credit Commitments, (ii) the remaining life to termination of such Replacement Revolving Credit Commitments shall be no shorter than the Weighted Average Life to Maturity then applicable to the refinanced Term Loans, (iii) the final termination date of the Replacement Revolving Credit Commitments shall be no earlier than the termination date of the refinanced Term Loans, (iv) with respect to Replacement Revolving Loans secured by Liens on Collateral that rank *pari passu* or junior in right of security to the Revolving Loans, such Liens will be subject to a customary intercreditor agreement, (v) there shall be no borrower (other than the Borrowers) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility; and (vi) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Lead Borrower and the Lenders providing such Replacement Revolving Credit Commitments and (y) the amount of any letter of credit sublimit and swingline commitment under such Replacement Revolving Facility, which shall be as agreed between the Lead Borrower, the Lenders providing such Replacement Revolving Credit Commitments, the Administrative Agent and the replacement issuing bank and replacement swingline lender, if any, under such Replacement Revolving Credit Commitments), when taken as a whole, shall be substantially similar to, or no more restrictive to the Lead Borrower and its Subsidiaries than (as reasonably determined by the Lead Borrower), those applicable to the Term Loans being refinanced (except to the extent such covenants and other terms apply solely to any period after the latest maturity date applicable to the Term Loans being refinanced or are added for the benefit of the Lenders). Solely to the extent that an L/C Issuer is not a replacement issuing bank under a Replacement Revolving Facility, it is understood and agreed that such L/C Issuer shall not be required to issue any letters of credit under such Replacement Revolving Facility and, to the extent it is necessary for such L/C Issuer to withdraw as an L/C Issuer at the time of the establishment of such Replacement Revolving Facility, such withdrawal shall be on terms and conditions reasonably satisfactory to such L/C Issuer in its sole discretion. The Lead Borrower agrees to reimburse each L/C Issuer in full upon demand, for any reasonable and documented out-of-pocket cost or expense attributable to such withdrawal.

(e) The Lead Borrower may approach any Lender or any other person that would be an Eligible Assignee of a Revolving Credit Commitment to provide all or a portion of the Replacement Revolving Credit Commitments; *provided* that any Lender offered or approached to provide all or a portion of the Replacement Revolving Credit Commitments may elect or decline, in its sole discretion, to provide a Replacement Revolving Credit Commitment. Any Replacement Revolving Credit Commitment made on any Replacement Revolving Facility Effective Date shall be designated an additional Class of Revolving Credit Commitments for all purposes of this Agreement; *provided* that any Replacement Revolving Credit Commitments may, to the extent provided in the applicable Refinancing Amendment, be designated as an increase in any previously established Class of Revolving Credit Commitments.

(f) The Lead Borrower and each Lender providing the applicable Refinancing Term Loans and/or Replacement Revolving Credit Commitments (as applicable) shall execute and deliver to the Administrative Agent an amendment to this Agreement (a "*Refinancing Amendment*") and such other documentation as the Administrative Agent shall reasonably specify to evidence such Refinancing Term Loans and/or Replacement Revolving Credit Commitments (as applicable). For purposes of this Agreement and the other Loan Documents, (A) if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have a Term Loan having the terms of such Refinancing Term Loan and (B) if a Lender is providing a Replacement Revolving Credit Commitment, such Lender will be deemed to have a Revolving Credit Commitment having the terms of such Replacement Revolving Credit Commitment. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.16), (i) no Refinancing Term Loan or Replacement Revolving Credit Commitment is required to be in any minimum amount or any minimum increment, (ii) there shall be no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Credit Commitment at any time or from time to time other than those set forth in clause (a) or (c) above, as applicable, and (iii) all Refinancing Term Loans, Replacement Revolving Credit Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that rank equally and ratably in right of security with the Term Loans and other Obligations (other than Incremental Term Loans and Refinancing Term Loans that rank junior in right of security with the Term Loans, and except to the extent any such Refinancing Term Loans are secured by the Collateral on a junior lien basis in accordance with the provisions above).

Section 2.17 *Lead Borrower*.

(a) Each Additional Borrower hereby designates the Lead Borrower as its representative and agent for all purposes under the Loan Documents, including requests for Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, preparation and delivery of financial reports, receipt and payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with the Administrative Agent, any L/C Issuer or any Lender. The Lead Borrower hereby accepts such appointment. The Administrative Agent and the Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any Notice of Borrowing) delivered by the Lead Borrower on behalf of any Additional Borrower. The Administrative Agent and the Lenders may give any notice or communication with a Borrower hereunder to the Lead Borrower on behalf of such Borrower. Each of the Administrative Agent, the L/C Issuers and the Lenders shall have the right, in its discretion, to deal exclusively with the Lead Borrower for any or all purposes under the Loan Documents. Each Additional Borrower agrees that any notice, election, communication, representation, agreement or undertaking made on its behalf by the Lead Borrower shall be binding upon and enforceable against it.

(b) The Lead Borrower hereby accepts joint and several liability hereunder and under the other Loan Documents in consideration of the Credit Extensions to be provided by the Lenders under this Agreement and the other Loan Documents, for the mutual benefit, directly and indirectly, of each of the Borrowers. The Lead Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with each other Borrower, with respect to the payment and performance of all of the Obligations of such other Borrower. If and to the extent that a Borrower shall fail to make any payment with respect to any of such Borrower's Obligations as and when due or to perform any of such Borrower's Obligations in accordance with the terms thereof, then in each such event, the Lead Borrower will make such payment with respect to, or perform, such Borrower's Obligation.

(c) Each Additional Borrower is liable only for their portion of the Obligation. Subject to the terms and conditions hereof, the Obligations of each Borrower under the provisions of this Section 2.17 constitute the absolute and unconditional, full recourse Obligations of such Borrower, enforceable against such Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of this Agreement, the other Loan Documents or any other circumstances whatsoever. The provisions of this Section 2.17 are made for the benefit of the Agents, the Lenders and their successors and assigns, and may be enforced by them from time to time against any or all of the applicable Borrowers as often as occasion therefor may arise and without requirement on the part of the Agents, the Lenders or such successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any other applicable Borrower or to exhaust any remedies available to it or them against any other applicable Borrowers or to resort to any other source or means of obtaining payment of any of the Obligations hereunder or to elect any other remedy.

(d) No Additional Borrower shall have liability with respect to the obligations, including any Credit Extension hereunder, of any other Additional Borrower. Any representation, covenant or other obligation included in this Agreement shall only be made with respect to itself and on its own behalf.

(e) The provisions of this Section 2.17 shall remain in effect until all of the Obligations shall have been paid in full or otherwise fully satisfied; *provided* that each Additional Borrower shall be released from these provisions to the extent it is released as an Additional Borrower pursuant to Section 10.27.

Section 2.18 *Defaulting Lenders*. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) Fees shall cease to accrue for such Defaulting Lender pursuant to Section 2.13.

(b) The Commitments, Loans and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders or Required RC Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 10.11); *provided* that this Section 2.18(b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification effecting (i) an increase or extension of such Defaulting Lender's Revolving Credit Commitment or (ii) the reduction or excuse of principal amount of, or interest or fees payable on, such Defaulting Lender's Loans or the postponement of the scheduled date of payment of such principal amount, interest or fees to such Defaulting Lender.

(c) If any Letters of Credit exist at the time such Lender becomes a Defaulting Lender then:

(i) Such Defaulting Lender's L/C Exposure shall be reallocated among the non-Defaulting Lenders in accordance with their respective Revolver Percentages (but excluding the Revolving Credit Commitments of all the Defaulting Lenders from both the numerator and the denominator) but only to the extent (x) the sum of all the Revolving Exposure owed to all non-Defaulting Lenders does not exceed the total of all non-Defaulting Lenders' unused Revolving Credit Commitments, (y) the representations and warranties of each Loan Party set forth in the Loan Documents to which it is a party are true and correct at such time, except to the extent that any such representation and warranty relates to an earlier date, and (z) no Default shall have occurred and be continuing at such time;

(ii) If the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall, within two Business Days following notice by the Administrative Agent, cash collateralize for the benefit of relevant L/C Issuers such Defaulting Lender's L/C Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) for so long as any Letters of Credit are outstanding;

(iii) If the Borrowers cash collateralize any portion of such Defaulting Lender's L/C Exposure pursuant clause (ii) above, the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.13(b) with respect to such Defaulting Lender's L/C Exposure during the period such Defaulting Lender's L/C Exposure is cash collateralized by the Borrowers;

(iv) If L/C Exposures of the non-Defaulting Lenders are reallocated pursuant to clause (i) above, then the fees payable to the Revolving Lenders pursuant to Section 2.13(a) and Section 2.13(b) shall be adjusted to reflect such non-Defaulting Lenders' L/C Exposure as reallocated; and

(v) If any Defaulting Lender's L/C Exposure is neither cash collateralized nor reallocated pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the L/C Issuers or any Revolving Lender hereunder, all letter of credit fees payable under Section 2.13(b) with respect to such Defaulting Lender's L/C Exposure shall be payable to each applicable L/C Issuer until such L/C Exposure is cash collateralized and/or reallocated.

(d) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 2.09 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.14 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any L/C Issuer hereunder; third, to cash collateralize L/C Exposure with respect to such Defaulting Lender in accordance with this Section; fourth, as the Lead Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Lead Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize future L/C Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with this Section; sixth, to the payment of any amounts owing to the Lenders the L/C Issuer as a result of any judgment of a court of competent jurisdiction obtained by any Lender or the L/C Issuers against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by a Borrower against such

Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or L/C Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 3.1 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Disbursements owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in the Borrowers' obligations corresponding to such Defaulting Lender's L/C Exposure are held by the Lenders pro rata in accordance with the Commitments without giving effect to clause (b) above. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(e) So long as such Defaulting Lender is a Defaulting Lender, the L/C Issuers shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related L/C Exposure will be 100% covered by the unused Revolving Credit Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrowers in accordance with Section 2.18(c)(ii), and the participating interests in any such newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.18(c)(i) (and such Defaulting Lender shall not participate therein).

The rights and remedies against a Defaulting Lender under this Agreement are in addition to other rights and remedies that Borrowers may have against such Defaulting Lender with respect to any funding default and that the Administrative Agent or any Lender may have against such Defaulting Lender with respect to any funding default. In the event that the Administrative Agent, the Borrowers and each applicable L/C Issuer each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Revolving Exposure shall be readjusted to reflect the inclusion of such Lender's unused Revolving Credit Commitment and on such date such Lender shall purchase at par such of the Revolving Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause such outstanding Revolving Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Revolving Lenders (including such Lender) in accordance with their applicable percentages, whereupon such Lender will cease to be a Defaulting Lender and will be a non-Defaulting Lender and any applicable cash collateral shall be promptly returned to the Borrowers and any L/C Exposure of such Lender reallocated pursuant to the requirements above shall be reallocated back to such Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; *provided* that, subject to Section 10.26 and except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

ARTICLE 3. CONDITIONS PRECEDENT.

Section 3.1 *All Credit Extensions*. At the time of each Credit Extension made after the Closing Date under the Revolving Facility hereunder:

(a) each of the representations and warranties set forth herein and in the other Loan Documents shall be and remain true and correct in all material respects (or in all respects, if qualified by a materiality threshold) as of said time, except to the extent the same expressly relate to an earlier date;

(b) no Default or Event of Default shall have occurred and be continuing or would occur as a result of such Credit Extension;

(c) after giving effect to any requested extension of credit, the aggregate principal amount of all Revolving Loans and L/C Obligations under this Agreement shall not exceed the aggregate Revolving Credit Commitments; and

(d) (i) in the case of a Borrowing, the Administrative Agent shall have received the notice required by Section 2.5 hereof, (ii) in the case of the issuance of any Letter of Credit the applicable L/C Issuer shall have received a duly completed Application, and/or (iii) in the case of an extension or increase in the amount of a Letter of Credit, a written request therefor in a form reasonably acceptable to the applicable L/C Issuer.

Each request for a Borrowing covered under this Section 3.1 and each request for the issuance of, increase in the amount of, or extension of the expiration date of, a Letter of Credit covered under this Section 3.1 shall be deemed to be a representation and warranty by the applicable Borrower on the date of such Credit Extension as to the facts specified in subsections (a) through (d), both inclusive, of this Section 3.1.

Section 3.2 *Initial Credit Extensions and Effectiveness on Closing Date*. The obligations of each Term B Lender to make their Term B Loans on the Closing Date and the effectiveness of the Revolving Credit Commitments hereunder are subject solely to the satisfaction or waiver of the following conditions precedent:

(a) the Administrative Agent shall have received each of the following, each of which shall be originals or facsimiles (or delivered by other electronic transmission, including pdf) unless otherwise specified:

(i) counterparts of this Agreement signed on behalf of the Lead Borrower;

(ii) copies of the certificate of formation, certificate of incorporation, certificate of organization, operating agreement, articles of incorporation, memorandum and articles of association and bylaws, as applicable (or comparable organizational documents) of the Lead Borrower and each Subsidiary Guarantor and any amendments thereto, certified in each instance by its Director, Secretary, Assistant Secretary or Chief Financial Officer or any other Responsible Officer and, with respect to organizational documents filed with a Governmental Authority, to the extent applicable, by the applicable Governmental Authority;

(iii) a Note executed by the Lead Borrower in favor of each Lender that has requested such a Note at least ten (10) Business Days in advance of the Closing Date;

(iv) copies of resolutions of the board of directors, manager or similar governing body of the Lead Borrower and each Subsidiary Guarantor approving and authorizing the execution, delivery and performance of the Loan Documents to which it is a party, together with specimen signatures of the persons authorized to execute such documents on the Lead Borrower's and such Subsidiary Guarantor's behalf, all certified as of the Closing Date in each instance by its Director, Secretary, Assistant Secretary or Chief Financial Officer or any other Responsible Officer as being in full force and effect without modification or amendment;

(v) copies of the certificates of good standing (if available) for the Lead Borrower and each Subsidiary Guarantor from the office of the secretary of state or other appropriate governmental department or agency of the state of its formation, incorporation or organization;

(vi) the results of a recent Lien search with respect to each Grantor to the extent customary in the applicable jurisdiction and reasonably requested by the Administrative Agent with respect to the Grantors;

(vii) a certificate signed by a Responsible Officer of the Lead Borrower certifying as to the satisfaction of the conditions set forth in paragraphs (c) and (d) of this Section 3.2 as of the Closing Date;

(viii) an executed Solvency Certificate signed on behalf of the Lead Borrower, dated the Closing Date;

(ix) a Guaranty, duly executed by each Guarantor;

(x) the Security Agreement, duly executed by each Grantor, together with:

(A) the certificates representing the shares of Equity Interests that do not constitute Excluded Equity Interests and that are required to be pledged by any Grantor pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof;

(B) each promissory note (if any) required to be pledged to the Collateral Agent by any Grantor pursuant to the Security Agreement, endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof;

(C) proper financing statements in form appropriate for filing under the UCC of all jurisdictions that the Administrative Agent may deem reasonably necessary in order to perfect the Liens created under the Security Agreement, covering the Collateral of the Grantors;

(xi) the Intellectual Property Security Agreements, duly executed by each Grantor party thereto;

(xii) the Perfection Certificate, duly executed and delivered by the Grantors;

(xiii) the Global Intercompany Note, duly executed by the Lead Borrower and each of the Grantors and any other certificated intercompany note payable to a Grantor and outstanding as of the Closing Date, duly executed by the parties thereto;

(xiv) (A) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of Cleary Gottlieb Steen & Hamilton LLP, special counsel to the Lead Borrower and Subsidiary Guarantors and (B) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of Young Conaway Stargatt & Taylor, LLP, local counsel to the Lead Borrower and the Subsidiary Guarantors in the state of Delaware.

(b) (i) The Administrative Agent and each Lender shall have received, no later than three (3) Business Days in advance of the Closing Date, all documentation and other information about the Lead Borrower as shall have been reasonably requested in writing at least ten (10) Business Days prior to the Closing Date by the Administrative Agent and the Lenders through the Administrative Agent that is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the Patriot Act and (ii) to the extent the Lead Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, at least three (3) Business Day days prior to the Closing Date, any Lender that has requested, in a written notice to the Lead Borrower at least seven (7) Business Days prior to the Closing Date, a Beneficial Ownership Certification in relation to the Lead Borrower shall have received such Beneficial Ownership Certification (*provided* that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (b) shall be deemed to be satisfied).

(c) As of the Closing Date, no Default or Event of Default shall have occurred and be continuing.

(d) Each of the representations and warranties of the Lead Borrower set forth in this Agreement and in the other Loan Documents shall be and remain true and correct in all material respects (or, if qualified as to "materiality," "material adverse effect" or similar language, shall be true and correct in all respects (after giving effect to any such qualification therein)) as of the Closing Date, except to the extent the same expressly relate to an earlier date .

(e) the Lead Borrower shall have made arrangements reasonably satisfactory to the Joint Lead Arrangers for the payment of (which amounts may be offset against the proceeds of the Term B Loans) all fees and expenses required to be paid hereunder or under any separate written agreement among the Lead Borrower and the Joint Lead Arrangers to the extent invoiced at least three (3) Business Days prior to the Closing Date (or such later date as the Lead Borrower may reasonably agree);

(f) in the case of each Borrowing to be made on the Closing Date, the Administrative Agent shall have received the notice required by Section 2.5;

(g) the Loan Parties shall have been released from their obligations in respect of the Amended and Restated Loan Agreement dated as of January 7, 2022 among Western Digital Corporation as lead borrower, JPMorgan Chase Bank as administrative agent and collateral agent and the other parties thereto (as amended, amended and restated, supplement or otherwise modified from time to time) and associated liens released substantially concurrently with the Closing Date; and

(h) the Spin-Off shall have been or shall be consummated substantially concurrently with the Closing Date.

For purposes of determining compliance with the conditions specified in this Section 3.2, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless an officer of the Administrative Agent responsible for the transactions contemplated by this Agreement shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto in reasonable detail. The Administrative Agent shall promptly notify the Lenders and the Lead Borrower in writing of the occurrence of the Closing Date and such notification shall be conclusive and binding.

ARTICLE 4. THE COLLATERAL AND THE GUARANTY.

Section 4.1 *Collateral*. As of the Closing Date, subject to Section 4.5 below, the Obligations, Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall be secured by (a) valid, perfected and enforceable Liens in favor of the Collateral Agent for the benefit of the Secured Parties on all right, title and interest of each Grantor in all capital stock and other Equity Interests (other than Excluded Equity Interests) held by such Person in each of its Subsidiaries, whether now owned or hereafter formed or acquired, and all proceeds thereof, and (b) valid, perfected and enforceable Liens in favor of the Collateral Agent for the benefit of the Secured Parties on all right, title and interest of each Grantor in all personal property and fixtures, whether now owned or hereafter acquired or arising, and all proceeds thereof (other than Excluded Property).

Section 4.2 *Reserved.*

Section 4.3 *Guaranty*. As of the Closing Date, the payment and performance of the Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall at all times be guaranteed by each Borrower (other than with respect to its own Obligations) and each Restricted Subsidiary (other than an Excluded Subsidiary), including any Immaterial Subsidiary which becomes a Material Subsidiary (each such Restricted Subsidiary, a "*Subsidiary Guarantor*" and, collectively, the "*Subsidiary Guarantors*" and the Subsidiary Guarantors together with the Borrowers, the "*Guarantors*") pursuant to a guaranty agreement in substantially the form attached as Exhibit K, as the same may be amended, restated, amended and restated, modified or supplemented from time to time (the "*Guaranty*").

Section 4.4 *Further Assurances*. On and after the Closing Date, each Borrower agrees that it shall, and shall cause each Grantor to, from time to time at the request of the Administrative Agent, the Collateral Agent or the Required Lenders, execute and deliver such documents and do such acts and things as the Administrative Agent or the Required Lenders may reasonably request in order to provide for or perfect or protect such Liens on the Collateral. In the event any Borrower or any Restricted Subsidiary (other than an Excluded Subsidiary) forms or acquires any other Restricted Subsidiary (other than an Excluded Subsidiary), any Restricted Subsidiary ceases to be

an Excluded Subsidiary, or any Immaterial Subsidiary becomes a Material Subsidiary (other than an Excluded Subsidiary) after the Closing Date, on or prior to the later to occur of (a) 60 days following the date of such acquisition or formation or event and (b) the date of the required delivery of the Compliance Certificate following the date of such acquisition, formation or event (or such longer period as to which the Administrative Agent may consent), the Lead Borrower shall cause such Restricted Subsidiary to execute such guaranties and Collateral Documents (or supplements, assumptions or amendments to existing guaranty and Collateral Documents) as the Administrative Agent may then require, and the Lead Borrower shall also deliver to the Administrative Agent or the Collateral Agent, or cause such Restricted Subsidiary to deliver to the Administrative Agent or the Collateral Agent, at the Lead Borrower's cost and expense, such other instruments, documents, certificates, and opinions reasonably required by the Administrative Agent or the Collateral Agent in connection therewith; *provided* that no control agreements shall be required.

Section 4.5 *Limitation on Collateral*. Notwithstanding anything to the contrary in Sections 4.1 through 4.4, any other provision of this Agreement or any Collateral Document (a) no Grantor shall be required to grant a security interest in any asset or perfect a security interest in any Collateral to the extent the cost, burden, difficulty or consequence of granting or perfecting a Lien (including any mortgage, stamp, intangible or other tax or expenses relating to such Lien) outweighs the benefit to the Lenders of the security afforded thereby as reasonably determined by the Lead Borrower and the Administrative Agent, (b) no Grantor shall be required to complete any filings or take any other action (including the execution of a foreign law security or pledge agreement or the act of a foreign intellectual property filing or search) with respect to the grant or perfection of a security interest on any Collateral in any jurisdiction other than the United States, (c) no Grantor shall be required to make any filing with respect to any intellectual property rights other than filing the Intellectual Property Security Agreements with the U.S. Patent and Trademark Office or the U.S. Copyright Office, as applicable, (d) Liens required to be granted pursuant to Section 4.4 shall be subject to exceptions and limitations consistent with those set forth in the Collateral Documents as in effect on the Closing Date (to the extent appropriate in the applicable jurisdiction), (e) no Grantor shall be required to seek any landlord lien waiver, estoppel, warehouseman waiver or other collateral access or similar letter or agreement, and (f) the security interests in the following Collateral shall not be required to be perfected other than by UCC filing: (i) assets requiring perfection through control agreements or other control arrangements (other than control of pledged Equity Interests to the extent otherwise required by any Loan Document and promissory notes in a principal amount in excess of $30 million); (ii) vehicles and any other assets subject to certificates of title; and (iii) letter of credit rights to the extent not perfected by the filing of a Form UCC-1 financing statement.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES.

On the Closing Date and on the dates to the extent required pursuant to Section 3.1 and 3.2 hereof, as applicable, (i) the Lead Borrower, on behalf of itself, and (ii) solely with respect to Sections 5.2, 5.3, 5.4, 5.5, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, 5.17, 5.18, 5.19, 5.21(c) and 5.23, the Lead Borrower on behalf of each Additional Borrower and each Additional Borrower, severally and jointly in the case of the Lead Borrower and severally but not jointly in the case of any Additional Borrower, represent and warrant to each Lender and the Administrative Agent that:

Section 5.1 *Financial Statements*.

(a) The Lead Borrower's audited combined balance sheet and related audited combined statements of operations, comprehensive income, cash flows and changes in parent company net investment as of and for the fiscal years ended June 28, 2024 and June 30, 2023, (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein and (ii) fairly present in all material respects in accordance with GAAP the financial condition of the Lead Borrower and its Subsidiaries as of such dates and for such periods and their results of operations for the periods covered thereby.

(b) [Reserved].

(c) The unaudited combined balance sheet and related unaudited statements of operations, comprehensive income and cash flows of the Lead Borrower as of and for the fiscal quarter ended September 27, 2024, (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects in accordance with GAAP the financial condition of the Lead Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

Section 5.2 *Organization and Qualification*. Such Borrower and each of its Restricted Subsidiaries (i) is duly organized or incorporated, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation, except to the extent the failure of any Restricted Subsidiary to be in existence and good standing would not reasonably be expected to have a Material Adverse Effect, (ii) has the power and authority to own its property and to transact the business in which it is engaged and proposes to engage, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and (iii) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except, in each case, under this clause (iii) where the same would not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.3 *Authority and Enforceability*. Such Borrower has the power and authority to enter into this Agreement and the other Loan Documents executed by it, to make the borrowings herein provided for, to issue its Notes (if any), to grant to the Collateral Agent the Liens described in the Collateral Documents executed by such Borrower, and to perform all of its obligations hereunder and under the other Loan Documents executed by it. Each other Loan Party has the power and authority to enter into the Loan Documents executed by it, to grant to the Collateral Agent the Liens described in the Collateral Documents executed by such Person, and to perform all of its obligations under the Loan Documents executed by it. The Loan Documents delivered by the Loan Parties have been duly authorized by proper corporate and/or other organizational proceedings, executed, and delivered by such Person and constitute valid and binding obligations of such Person enforceable against it in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law); and this Agreement and the other Loan Documents do not, nor does the performance or observance by any Loan Party, if any, of any of the matters and things herein or therein provided for, (a) violate any provision of law or any judgment, injunction, order or decree binding upon any Loan Party, (b) contravene or constitute a default under any provision of the organizational documents (e.g., charter, articles of incorporation, by-laws, articles of association, operating agreement, partnership agreement or other similar document) of any Loan Party, (c) contravene or constitute a default under any covenant, indenture or agreement of or affecting any Loan Party or any of its Property, or (d) result in the creation or imposition of any Lien on any Property of any Loan Party other than the Liens granted in favor of the Collateral Agent pursuant to the Collateral Documents (if applicable) and Permitted Liens, except with respect to clauses (a), (c) or (d), to the extent, individually or in the aggregate, that such violation, contravention, breach, conflict, default or creation or imposition of any Lien would not reasonably be expected to result in a Material Adverse Effect.

Section 5.4 *No Material Adverse Change*. Since June 28, 2024, there has been no event or circumstance which individually or in the aggregate would reasonably be expected to have a Material Adverse Effect.

Section 5.5 *Litigation and Other Controversies*. Except as specifically disclosed on Schedule 5.5, there is no litigation, arbitration or governmental proceeding pending or, to the knowledge of the Borrowers and their Restricted Subsidiaries, threatened in writing against a Borrower or any of its Restricted Subsidiaries that would reasonably be expected to have a Material Adverse Effect.

Section 5.6 *True and Complete Disclosure*.

(a) As of the Closing Date, all written information (other than projections and any other forward-looking information of a general economic or industry nature) furnished by or on behalf of the Lead Borrower or any of its Restricted Subsidiaries to the Administrative Agent, any L/C Issuer or any Lender for purposes of or in connection with this Agreement, or any transaction contemplated herein, is complete and correct when taken as a whole, in all material respects, and does not, taken as a whole, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not materially misleading (after giving effect to all supplements and

updates with respect thereto); *provided* that, with respect to projected financial information furnished by or on behalf of the Lead Borrower or any of its Restricted Subsidiaries, the Lead Borrower only represents and warrants that such information has been prepared in good faith based upon assumptions believed to be reasonable at the time furnished (it being understood that such projections are as to future events and are not viewed as facts or a guarantee of financial performance or achievement and that such projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Lead Borrower, that actual results may differ significantly from the projections and such differences may be material).

(b) As of the Closing Date, the information included in the Beneficial Ownership Certification provided on or prior to the Closing Date to any Lender in connection with this Agreement is true and correct in all respects.

Section 5.7 *Margin Stock*. Neither the making of any Loan or other extension of credit hereunder nor the use of the proceeds thereof will violate the provisions of Regulations U or X of the Board of Governors of the Federal Reserve System and any successor to all or any portion of such regulations. None of the Loan Parties is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), or extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System).

Section 5.8 *Taxes*. Such Borrower and each of its Restricted Subsidiaries has filed or caused to be filed all Tax returns required to be filed by such Borrower and/or any of its Restricted Subsidiaries, except where failure to so file would not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect. Such Borrower and each of its Restricted Subsidiaries has paid all Taxes payable by them (whether or not shown on any Tax returns, and including in its capacity as withholding agent), except those (a) not overdue by more than thirty (30) days or (b) if more than 30 days overdue, (i) those that are being contested in good faith and by proper legal proceedings and as to which appropriate reserves have been provided for in accordance with GAAP or (ii) those the non-payment of which would not be reasonably expected to result, either individually or in the aggregate, in a Material Adverse Effect.

Section 5.9 *ERISA*. Such Borrower and each other member of its Controlled Group has fulfilled its obligations under the minimum funding standards of, and is in compliance in all material respects with, ERISA and the Code to the extent applicable to it and, other than premiums due but not delinquent under Section 4007 of ERISA, has not incurred any liability to the PBGC or a Plan, except where the failure, noncompliance or incurrence of such would not be reasonably expected, individually or in the aggregate, to have a Material Adverse Effect. Such Borrower and its Restricted Subsidiaries have no contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in article 6 of Title 1 of ERISA, and except as would not be reasonably expected to have a Material Adverse Effect.

Section 5.10 *Subsidiaries*. Schedule 5.10 correctly sets forth, as of the Closing Date, each Subsidiary of the Lead Borrower, its respective jurisdiction of organization or incorporation and the percentage ownership (whether directly or indirectly) of the Lead Borrower in each class of capital stock or other Equity Interests of each of its Subsidiaries. As of the Closing Date, all of the Subsidiaries of the Lead Borrower will be Restricted Subsidiaries.

Section 5.11 *Compliance with Laws*. Such Borrower and each of its Restricted Subsidiaries is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authority in respect of the conduct of their businesses and the ownership of their property, except such noncompliance as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.12 *Environmental Matters*. Except as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

(a) Such Borrower and each of its Restricted Subsidiaries is in compliance with all Environmental Laws and has obtained and is in compliance with all permits required under such Environmental Laws;

(b) There are no pending or, to the knowledge of such Borrower or any of its Restricted Subsidiaries, threatened Environmental Claims against the Borrowers or any of their respective Restricted Subsidiaries or any real property, including leaseholds, currently or, to the knowledge of the Borrowers, formerly owned or operated by the Borrowers or any of their respective Restricted Subsidiaries;

(c) To the knowledge of the Borrowers or any of their respective Restricted Subsidiaries, there are no facts, circumstances, conditions or occurrences that could reasonably be expected to (i) form the basis of an Environmental Claim against or result in an Environmental Liability of a Borrower or any Restricted Subsidiary, or (ii) cause any real property of a Borrower or any Restricted Subsidiary to be subject to any restrictions on the use or transferability of such real property by a Borrower or any of its Restricted Subsidiaries under any Environmental Law;

(d) Hazardous Materials have not been Released on, at, under or from any facility currently or, to the knowledge of the Borrowers, formerly owned or operated by any Borrower or any of its Restricted Subsidiaries that would reasonably be expected to result in any liability of a Borrower or any of its Restricted Subsidiaries.

Section 5.13 *Investment Company*. None of the Loan Parties is required to register as an "investment company" under the Investment Company Act of 1940, as amended.

Section 5.14 *Intellectual Property*. Such Borrower and each of its Restricted Subsidiaries own all the patents, trademarks, service marks, trade names, copyrights, trade secrets, know-how or other intellectual property rights, or each has obtained licenses or other rights of whatever nature necessary for the present conduct of its businesses, in each case without any known conflict with the rights of others which, or the failure to obtain which, as the case may be, would reasonably be expected to result in a Material Adverse Effect.

Section 5.15 *Good Title*. Such Borrower and its Restricted Subsidiaries have good and indefeasible title, to, or valid leasehold interests in, to their material properties and assets as reflected on the Lead Borrower's most recent consolidated balance sheet provided to the Administrative Agent (except for sales of assets permitted hereunder, and such defects in title or the validity of leasehold interests that would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect) and is subject to no Liens, other than Permitted Liens.

Section 5.16 *Labor Relations*. Neither any Borrower nor any of its Restricted Subsidiaries is engaged in any unfair labor practice that would reasonably be expected to have a Material Adverse Effect. There is (i) no strike, labor dispute, slowdown or stoppage pending against any Borrower or any of its Restricted Subsidiaries or, to the knowledge of such Borrower and its Restricted Subsidiaries, threatened in writing against a Borrower or any of its Restricted Subsidiaries and (ii) to the knowledge of such Borrower and its Restricted Subsidiaries, no union representation proceeding is pending with respect to the employees of a Borrower or any of its Restricted Subsidiaries and no union organizing activities are taking place, except (with respect to any matter specified in clause (i) or (ii) above, either individually or in the aggregate) such as would not reasonably be expected to have a Material Adverse Effect.

Section 5.17 *Capitalization*. Except as set forth on Schedule 5.17, all outstanding Equity Interests of the Lead Borrower and its Restricted Subsidiaries have been duly authorized and validly issued, and, to the extent applicable, are fully paid and nonassessable, and as of the Closing Date there are no outstanding commitments or other obligations of any Restricted Subsidiary to issue, and no rights of any Person to acquire, any Equity Interests in any Restricted Subsidiary.

Section 5.18 *Governmental Authority and Licensing*. Such Borrower and its Restricted Subsidiaries have received all licenses, permits, and approvals of each Governmental Authority necessary to conduct their businesses, in each case where the failure to obtain or maintain the same would reasonably be expected to have a Material Adverse Effect. No investigation or proceeding that could reasonably be expected to result in revocation or denial of any license, permit or approval is pending or, to the knowledge of the Borrowers, threatened in writing, except where such revocation or denial would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.19 *Approvals*. No authorization, consent, license or exemption from, or filing or registration with, any Governmental Authority, nor any approval or consent of any other Person, is or will be necessary to the valid execution, delivery or performance by the Borrowers of any Loan Document, except (a) for such approvals which have been obtained prior to the Closing Date and remain in full force and effect, (b) filings necessary to perfect Liens created by the Loan Documents and (c) consents, approvals, registrations, filings, permits or actions the failure to obtain or perform which would not be reasonably expected to have a Material Adverse Effect.

Section 5.20 *Solvency*. As of the Closing Date, as applicable, and after giving effect to the Transactions and the incurrence of the indebtedness and obligations being incurred in connection with this Agreement and the Transactions, (a) the fair value of assets of the Lead Borrower and its Subsidiaries is more than the existing debts of the Lead Borrower and its Subsidiaries as they become absolute and matured, (b) the present fair saleable value of the assets of the Lead Borrower and its Subsidiaries is greater than the amount that will be required to pay the probable liability on existing debts of the Lead Borrower and its Subsidiaries as they become absolute and matured, (c) the capital of the Lead Borrower and its Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of the Lead Borrower or its Subsidiaries, taken as a whole, contemplated as of the Closing Date and as proposed to be conducted following the Closing Date; and (d) the Lead Borrower and its Subsidiaries are able to meet their debts as they generally become due. For the purposes of this Section 5.20, the amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

Section 5.21 *Anti-Corruption Laws, Sanctions and Anti-Money Laundering*.

(a) *Anti-Corruption and Sanctions*. The Lead Borrower has implemented and maintains in effect policies and procedures designed to promote compliance by the Lead Borrower and its Subsidiaries and, in connection with the activities of the Lead Borrower and its Subsidiaries, their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Lead Borrower and its Subsidiaries and, in connection with the activities of the Lead Borrower and its Subsidiaries, their respective directors and officers and, to the knowledge of a Responsible Officer of the Lead Borrower, its employees, agents and Affiliates are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of the Lead Borrower or its Subsidiaries or any of their respective directors or officers or any of the respective employees or Affiliates of the Lead Borrower or any of its Subsidiaries is a Sanctioned Person or located, organized or resident in a Sanctioned Country.

(b) *Patriot Act*. The Lead Borrower and its Restricted Subsidiaries are in compliance in all material respects with the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "*Patriot Act*"), Sanctions, anti-money-laundering laws and Anti-Corruption Laws.

(c) *Use of Proceeds*. The proceeds of any Loans or Letter of Credit will not (x) be made available to any Person, directly or indirectly, (I) for the purpose of financing or facilitating any activity in any Sanctioned Country, or any activity with any Sanctioned Person or (II) in any other manner which, in each case, would result in a violation of Sanctions by any Person party to this Agreement or (y) be used for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the U.S. Foreign Corrupt Practices Act, as amended, or any other Anti-Corruption Laws.

Section 5.22 *Security Interest in Collateral*.

(a) [Reserved].

(b) As of the Closing Date, the provisions of the Collateral Documents create legal, valid and enforceable Liens on all of the Collateral in favor of the Collateral Agent (or any designee or trustee on its behalf), for the benefit of itself and the other Secured Parties, subject, as to enforceability, to applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and to general principles of equity and principles of good faith and dealing, and upon the making of such filings and taking of such other actions required to be taken by the applicable Collateral Documents (including the filing of appropriate financing statements with the office of the Secretary of State of the state of organization of each Grantor, the filing of appropriate assignments or notices with the U.S. Patent and Trademark Office and the U.S. Copyright Office, in each case in favor of the Collateral Agent (or any designee or trustee on its behalf) for the benefit of itself and the other Secured Parties and the delivery to the Collateral Agent of any certificates representing Equity Interests or promissory notes required to be delivered pursuant to the applicable Collateral Documents), such Liens constitute perfected Liens (with the priority such Liens are expressed to have within the relevant Collateral Document) on the Collateral (to the extent such Liens are required to be perfected under the terms of the Loan Documents), securing the Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, in each case as and to the extent set forth therein.

Section 5.23 *Outbound Investment Rules*. No Loan Party is a "covered foreign person" as that term is used in the Outbound Investment Rules.

ARTICLE 6. COVENANTS.

The Lead Borrower covenants and agrees that, from and after the Closing Date until the Loans and other Obligations hereunder shall have been paid in full and all Letters of Credit have terminated (other than with respect to contingent indemnification obligations for which no claim has been made and Letters of Credit that have been cash collateralized or otherwise backstopped (including by "grandfathering" into future credit agreements on terms acceptable to the applicable L/C Issuer)) and the Commitments shall have been terminated (the "*Termination Date*"):

Section 6.1 *Information Covenants*. The Lead Borrower will furnish to the Administrative Agent (for delivery to the Lenders):

(a) *Quarterly Reports*. Within 45 days after the end of each fiscal quarter of the Lead Borrower not corresponding with the fiscal year end, commencing with the fiscal quarter ending March 28, 2025, the Lead Borrower's consolidated balance sheet as at the end of such fiscal quarter and the related consolidated statements of income, comprehensive income and cash flows for such fiscal quarter and for the elapsed portion of the fiscal year-to-date period then ended, each in reasonable detail, prepared by the Lead Borrower in accordance with GAAP, and (commencing with the fiscal quarter ending April 3, 2026) setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by the chief financial officer or other financial or accounting officer of the Lead Borrower that they fairly present in all material respects in accordance with GAAP the financial condition of the Lead Borrower and its Subsidiaries as of the dates indicated and the results of their operations and changes in their cash flows for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

(b) *Annual Statements*. Within 90 days after the close of each fiscal year of the Lead Borrower (commencing with the fiscal year ending June 27, 2025), a copy of the Lead Borrower's consolidated balance sheet as of the last day of the fiscal year then ended and the Lead Borrower's consolidated statements of income, comprehensive income, cash flows and shareholders' equity for the fiscal year then ended, and accompanying notes thereto, each in reasonable detail and (commencing with the fiscal year ending July 3, 2026) showing in comparative form the figures for the previous fiscal year, accompanied by a report thereon of KPMG LLP or another firm of independent public accountants of recognized national standing, selected by the Lead Borrower, to the effect that the consolidated financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the consolidated financial condition of the Lead Borrower and its Subsidiaries as of the close of such fiscal year and the results of their operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance

with generally accepted auditing standards (which report shall be unqualified as to scope of such audit and shall not contain any "going concern" or like qualification; *provided* that such report may contain a "going concern" qualification, explanatory paragraph or emphasis solely as a result of an impending maturity within 12 months of any of the Facilities (including Incremental Facilities, Incremental Equivalent Debt and Refinancing Indebtedness in respect of any of the foregoing)).

(c) *Annual Budget*. Within 45 days after the commencement of each fiscal year of the Lead Borrower, an annual budget for the Lead Borrower and its Subsidiaries for such fiscal year in a form customarily prepared by management of the Lead Borrower for its internal use (including a projected consolidated balance sheet and consolidated statements of profits and losses and capital expenditures as of the end of and for such fiscal year).

(d) *Management Discussion and Analysis.* Within 45 days after the close of each of the first three (3) fiscal quarters of each fiscal year, a management discussion and analysis of the Lead Borrower's and its Subsidiaries' financial performance for that fiscal quarter and (commencing with the fiscal quarter ending April 3, 2026) a comparison of financial performance for that financial quarter to the corresponding fiscal quarter of the previous fiscal year. Within 90 days after the close of each fiscal year, a management discussion and analysis of the Lead Borrower's and its Subsidiaries' financial performance for that fiscal year and (commencing with the fiscal year ending July 3, 2026) a comparison of financial performance for that fiscal year to the prior year.

(e) *Compliance Certificate*. At the time of the delivery of the financial statements (or, with respect to financial statements for the fiscal quarter ended March 28, 2025 and the fiscal year ended June 27, 2025, 30 days after the delivery of such financial statements), provided for in Sections 6.1(a) and (b), a certificate of the chief financial officer or other financial or accounting officer of the Lead Borrower substantially in the form of Exhibit F, (w) stating no Default or Event of Default has occurred and is then continuing or, if a Default or Event of Default exists, a detailed description of the Default or Event of Default and all actions the Lead Borrower is taking with respect to such Default or Event of Default, (x) designating any applicable Domestic Subsidiary as a Material Subsidiary, (y) showing the Lead Borrower's compliance with the covenants set forth in Section 6.24 and (z) solely in connection with the delivery of financial statements pursuant to Section 6.1(b) for any fiscal year beginning with the first full fiscal year ended after the Closing Date, if the First Lien Leverage Ratio calculated on a Pro Forma Basis as of the last day of such fiscal year is greater than 1.25:1.00, calculating Excess Cash Flow for such fiscal year and the First Lien Leverage Ratio as of the last day of such fiscal year.

(f) *Notice of Default or Litigation*. Promptly after any senior executive officer of the Lead Borrower obtains knowledge thereof, notice of (i) the occurrence of any event which constitutes a Default or an Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Lead Borrower proposes to take with respect thereto and (ii) the commencement of, or threat in writing of, or any significant development in, any litigation, labor controversy, arbitration or governmental proceeding pending against the Lead Borrower or any of its Restricted Subsidiaries which would reasonably be expected to result in a Material Adverse Effect.

(g) *Other Reports and Filings*. To the extent not required by any other clause in this Section 6.1, promptly, copies of all financial information, proxy materials and other material information which the Lead Borrower or any of its Restricted Subsidiaries has delivered to holders of, or to any agent or trustee with respect to, Indebtedness of the Lead Borrower or any of its Subsidiaries in their capacity as such a holder, agent or trustee to the extent that the aggregate principal amount of such Indebtedness exceeds (or upon the utilization of any unused commitments may exceed) $350.0 million.

(h) *[Reserved]*.

(i) *Environmental Matters*. Promptly after the Lead Borrower obtains knowledge thereof, notice of one (1) or more of the following environmental matters which individually, or in the aggregate, may reasonably be expected to have a Material Adverse Effect: (i) any notice of an Environmental Claim against the Lead Borrower or any of its Subsidiaries or any real property owned or operated by the Lead Borrower or any of its Subsidiaries; (ii) any condition or occurrence on or arising from any real property owned or operated by the Lead Borrower or any of its Subsidiaries that (a) results in noncompliance by the Lead Borrower or any of its Subsidiaries with any Environmental Law or (b) could reasonably be expected to form the basis of an Environmental Claim against the Lead Borrower or any of its Subsidiaries or any such real property; (iii) any condition or occurrence on any real property owned or operated by the Lead Borrower or any of its Subsidiaries that could reasonably be expected to cause such real property to be subject to any restrictions on the use or transferability by the Lead Borrower or any of its Subsidiaries of such real property under any Environmental Law; and (iv) any removal or remedial actions to be taken in response to the actual or alleged presence of any Hazardous Material on any real property owned or operated by the Lead Borrower or any of its Subsidiaries as required by any Environmental Law or any Governmental Authority. All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and the Lead Borrower's or such Subsidiary's response thereto. In addition, the Lead Borrower agrees to provide the Lenders with copies of all material non-privileged written communications by the Lead Borrower or any of its Subsidiaries with any Person or Governmental Authority relating to any of the matters set forth in clauses (i) through (iv) above, and such detailed reports relating to any of the matters set forth in clauses (i) through (iv) above as may reasonably be requested by, and at the expense of, the Administrative Agent or the Required Lenders.

(j) *Other Information*. From time to time, such other information or documents (financial or otherwise) as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request; *provided* that the Administrative Agent and any Lender (through the Administrative Agent) may request such information in their respective capacities as Administrative Agent and Lender only and may not use such information for any purpose other than a purpose reasonably related to its capacity as Administrative Agent or Lender, as applicable.

Information and documents required to be delivered pursuant to this Section 6.1 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Lead Borrower posts such documents, or provides a link thereto on the Lead Borrower's website on the Internet at the website address provided to the Administrative Agent or on an Intralinks or similar site to which the Lenders have been granted access; or (ii) on which such documents are transmitted by electronic mail to the Administrative Agent.

Notwithstanding the foregoing, the obligations in clauses (a), (b) and (d) of this Section 6.1 may be satisfied by furnishing the Lead Borrower's Form 10-K or 10-Q, as applicable, filed with the Securities and Exchange Commission. The Lead Borrower acknowledges and agrees that all financial statements furnished pursuant to clauses (a) and (b) above are hereby deemed to be Borrower Materials suitable for distribution, and to be made available, to Public Lenders as contemplated by Section 10.25 and may be treated by the Administrative Agent and the Lenders as if the same had been marked "PUBLIC" in accordance with such paragraph (unless the Lead Borrower otherwise notifies the Administrative Agent in writing on or prior to delivery thereof).

Section 6.2 *Inspections*. The Lead Borrower will, and will cause each Restricted Subsidiary to, permit officers, designated representatives and agents of the Administrative Agent (or any Lender solely if accompanying the Administrative Agent), to visit and inspect any tangible Property of the Lead Borrower or such Restricted Subsidiary, and to examine the books of account of the Lead Borrower or such Restricted Subsidiary and discuss the affairs, finances and accounts of the Lead Borrower or such Restricted Subsidiary with its and their officers and independent accountants, all at such reasonable times during normal business hours as the Administrative Agent may request, in each case, subject to Section 10.23; *provided* that (i) reasonable prior written notice of any such visit, inspection or examination shall be provided to the Lead Borrower and such visit, inspection or examination shall be performed at reasonable times to be agreed to by the Lead Borrower, which agreement will not be unreasonably withheld, (ii) excluding any such visits and inspections during the continuation of an Event of Default, the Administrative Agent shall not exercise its rights under this Section 6.2 more often than one (1) time during any such fiscal year, the Lead Borrower is not obligated to compensate the Administrative Agent for more than one (1) inspection and examination by the Administrative Agent during any calendar year and any such compensation shall be subject to the limitations of Section 10.13, and (iii) the Administrative Agent may conduct inspections pursuant to this Section 6.2 in its respective capacity as Administrative Agent only and may not conduct inspections or utilize information from such inspections for any purpose other than a purpose reasonably related to its capacity as Administrative Agent. The Administrative Agent shall give the Lead Borrower a reasonable opportunity to participate in any discussions with the Lead Borrower's independent public accountants.

Section 6.3 *Maintenance of Property, Insurance, Environmental Matters, etc.* (a) The Lead Borrower will, and will cause each of its Subsidiaries to, (i) keep its tangible property, plant and equipment in good repair, working order and condition, (ii) prosecute, maintain and renew its intellectual property, except to the extent permitted herein, except (A) in the case of clause (i) with respect to normal wear and tear and casualty and condemnation and (B) in the case of clauses (i) and (ii) to the extent that failure to do so would not reasonably be expected to result in a Material Adverse Effect and (iii) maintain in full force and effect with insurance companies that the Lead Borrower believes are financially sound and reputable insurance against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business of the Lead Borrower of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Lead Borrower and the Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons and shall furnish to the Administrative Agent upon its reasonable request (but not more than once per fiscal year in the absence of an Event of Default) reasonably detailed information as to the insurance so carried. All such insurances shall name the Collateral Agent as additional insured or loss payee, as applicable, subject to the time periods provided for in Schedule 6.25.

(b) Without limiting the generality of Section 6.3(a), the Lead Borrower and its Subsidiaries: (i) shall comply with, and maintain all real property in compliance with, any Environmental Laws; (ii) shall obtain and maintain in full force and effect all permits required under Environmental Law for its operations at or on its facilities; (iii) shall cure as soon as reasonably practicable any material violation of applicable Environmental Laws with respect to any of its real properties; (iv) shall not, and shall not permit any other Person to, own or operate on any of its real properties any landfill or dump or hazardous waste treatment, storage or disposal facility as defined pursuant to the RCRA, or any comparable state law; and (v) shall not use, generate, treat, store, release or dispose of Hazardous Materials at, under, from or on any of the real property except in the ordinary course of its business and in compliance with all Environmental Laws; except, with respect to clauses (i), (ii), (iv) and (v), to the extent, either individually or in the aggregate, all of the same would not be reasonably expected to have a Material Adverse Effect. With respect to any Release of Hazardous Materials, the Lead Borrower and its Restricted Subsidiaries shall conduct any necessary or required investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other response action necessary to remove, cleanup or abate any material quantity of Hazardous Materials released as required by any applicable Environmental Law.

Section 6.4 *Books and Records*. The Lead Borrower will, and will cause each Restricted Subsidiary to, maintain proper books of record and account in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Lead Borrower or its Restricted Subsidiary, as the case may be.

Section 6.5 *Preservation of Existence*. The Lead Borrower will, and will cause each of its Restricted Subsidiaries to, do or cause to be done, all things necessary to preserve and keep in full force and effect (a) its existence under the laws of its jurisdiction of organization and (b) its franchises, authority to do business and governmental licenses, except, (i) in the case of clause (a) with respect to each Restricted Subsidiary and (ii) in the case of clause (b), in each case, where the failure to do so would not reasonably be expected to have a Material Adverse Effect; *provided*, *however*, that nothing in this Section 6.5 shall prevent the Lead Borrower or any Restricted Subsidiary from consummating any transaction permitted by Section 6.17.

Section 6.6 *Compliance with Laws*. The Lead Borrower shall, and shall cause each Restricted Subsidiary to, comply in all respects with the requirements of all laws, rules, regulations, ordinances and orders applicable to its property or business operations of any Governmental Authority, where any such non-compliance, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or result in a Lien upon any of its Property (other than a Permitted Lien). The Lead Borrower will maintain in effect and enforce policies and procedures designed to promote compliance by the Lead Borrower, its Subsidiaries and their respective directors, officers and employees in connection with the Lead Borrower or its Subsidiaries with Anti-Corruption Laws, applicable Sanctions and the Patriot Act and other applicable anti-money laundering laws.

Section 6.7 *ERISA*. The Lead Borrower shall, and shall cause each Subsidiary to, promptly pay and discharge all obligations and liabilities arising under ERISA of a character which if unpaid or unperformed would reasonably be expected to have a Material Adverse Effect. The Lead Borrower shall, and shall cause each Subsidiary to, promptly notify the Administrative Agent of: (a) the occurrence of any Reportable Event with respect to a Plan, (b) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor and (c) its intention to terminate or withdraw from any Plan, in each case, except as could not reasonably be expected to have a Material Adverse Effect.

Section 6.8 *Payment of Taxes*. The Lead Borrower will, and will cause each of its Restricted Subsidiaries to, pay and discharge all material Taxes (whether or not shown on any Tax return, and including in its capacity as withholding agent) imposed upon it or any of its Property, before becoming delinquent and before any material penalties accrue thereon, unless and to the extent that (a) such Taxes are being contested in good faith and by proper proceedings and as to which appropriate reserves are provided in accordance with GAAP or (b) the failure to pay such Taxes could not be reasonably expected, either individually or in the aggregate, to have a Material Adverse Effect.

Section 6.9 *Designation of Subsidiaries*. The Lead Borrower may at any time after the Closing Date designate (or re-designate) any existing or subsequently acquired or organized Restricted Subsidiary of the Lead Borrower as an Unrestricted Subsidiary and designate (or re-designate) any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that immediately before and after such designation or re-designation on a Pro Forma Basis, no Event of Default shall have occurred and be continuing (including after the reclassification of investments in, Indebtedness of, and Liens on, the applicable Subsidiary or its assets). The designation (or re-designation) of any Subsidiary as an Unrestricted Subsidiary after the Closing Date shall constitute an investment by the Lead Borrower therein at the date of designation (or re-designation) in an amount equal to the fair market value of the Lead Borrower's or its Restricted Subsidiary's (as applicable) investment therein. Such designation (or re-designation) will be permitted only if an investment in such amount would be permitted at such time pursuant to Section 6.19. Unrestricted Subsidiaries will not be subject to any of the mandatory prepayments, representations and warranties, covenants or Events of Default set forth in the Loan Documents. No Material Intellectual Property may be sold or otherwise transferred to any Unrestricted Subsidiary and no Restricted Subsidiary that owns Material Intellectual Property may be designated as an Unrestricted Subsidiary; *provided* that the foregoing shall not apply to any Material Intellectual Property that is held by an Unrestricted Subsidiary via an intercompany license granted for a bona fide business purpose in the ordinary course of business. No Material Intellectual Property may be sold or the ownership thereof otherwise transferred to Flash Ventures; *provided* that the foregoing shall not apply to any Material Intellectual Property that is transferred by license for a bona fide business purpose.

Section 6.10 *Use of Proceeds*. The Borrowers shall use the proceeds of the Revolving Loans on or after the Closing Date for working capital needs and for other general corporate purposes (including for capital expenditures, acquisitions, working capital and/or purchase price adjustments, the payment of transaction fees and expenses, other investments, restricted payments and any other purpose not prohibited by the Loan Documents) of the Borrowers and their respective Subsidiaries. The Lead Borrower and its Subsidiaries shall use the proceeds of the Incremental Facilities for working capital and other general corporate purposes, including the financing of Permitted Acquisitions and other investments and any other use not prohibited by the Loan Documents. The Lead Borrower shall use the proceeds of the Term B Loans on the Closing Date to finance the Closing Date Dividend, to fund cash to the balance sheet of the Lead Borrower and its Restricted Subsidiaries, to pay fees and expenses related to the Transactions and for general corporate purposes. The proceeds of any Loans or Letter of Credit will not (x) be made available to any Person, directly or indirectly, (I) for the purpose of financing or facilitating any activity in any Sanctioned Country, or any activity with any Sanctioned Person or (II) in any other manner which, in each case, would result in a violation of Sanctions by any Person party to this Agreement or (y) be used for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the U.S. Foreign Corrupt Practices Act, as amended, or any other Anti-Corruption Laws.

Section 6.11 *Transactions with Affiliates*. The Lead Borrower shall not, nor shall it permit any Restricted Subsidiary to, enter into any contract, agreement or business arrangement with any of its Affiliates (other than between or among the Lead Borrower and/or its Restricted Subsidiaries including any entity that becomes a Restricted Subsidiary as a result of such transaction), except on terms that are not materially less favorable to the Lead Borrower or such Restricted Subsidiary as would have been obtained in a comparable arm's-length transaction with a Person that is not an Affiliate; *provided* that the foregoing restrictions shall not apply to:

(a) individual transactions with an aggregate value of less than $30 million;

(b) transactions permitted by Sections 6.19 and 6.20;

(c) the issuance of capital stock or other Equity Interests of the Lead Borrower or other payment to the management of the Lead Borrower or any of its Restricted Subsidiaries, pursuant to arrangements described in the following clause (e), or otherwise to the extent permitted under this Article 6;

(d) employment and severance arrangements and health, disability and similar insurance or benefit plans between the Lead Borrower and the Restricted Subsidiaries and their respective directors, officers, employees (including management and employee benefit plans or agreements, subscription agreements or similar agreements pertaining to the repurchase of capital stock pursuant to put/call rights or similar rights with current or former employees, officers or directors and stock option or incentive plans and other compensation arrangements) in the ordinary course of business or as otherwise approved by the board of directors (or similar governing body) of the Lead Borrower;

(e) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers and employees of the Lead Borrower and the Restricted Subsidiaries in the ordinary course of business;

(f) transactions with joint ventures for the purchase and sale of goods, equipment or services or use of equipment or services entered into in the ordinary course of business;

(g) transactions pursuant to any binding agreement or commitment or executed agreement in existence on the Closing Date as set forth on Schedule 6.11 and any amendment thereto to the extent such an amendment is not adverse, taken as a whole, to the Lenders in any material respect as compared to the applicable agreement as in effect on the Closing Date;

(h) [reserved];

(i) loans and other transactions among the Borrowers and their Subsidiaries to the extent permitted under this Article 6; *provided* that any Indebtedness of any Loan Party owed to a Subsidiary that is not a Loan Party shall be subordinated in right of payment to the Obligations (it being understood that payments shall be permitted thereon unless an Event of Default has occurred and is continuing);

(j) payments or loans (or cancellation of loans) to directors, officers, employees, members of management or consultants of the Borrowers or any of their Restricted Subsidiaries which are approved by a majority of the board of directors of the Lead Borrower in good faith;

(k) the Transactions and any transactions between the Company and its Subsidiaries, on the one hand, and the Lead Borrower and any Restricted Subsidiary, on the other, that are described in (or pursuant to agreements described in) the Form 10;

(l) payments to or from, and any transactions (including without limitation, any cash management activities related thereto) with, (x) Flash Partners Ltd., Flash Alliance Ltd., Flash Forward Ltd. or any other joint venture with Kioxia Corporation or any of its Affiliates (or any of their respective successors) or (y) other joint ventures or similar entities which would be subject to this Section 6.11 solely because a Borrower or a Restricted Subsidiary owns an equity interest in or otherwise controls such Person;

(m) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement, which are fair to the Borrowers and the Restricted Subsidiaries in the reasonable determination of the senior management of Lead Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party; and

(n) any other transaction with an Affiliate, which is approved by a majority of disinterested members of the board of directors (or equivalent governing body) of the Lead Borrower in good faith.

Section 6.12 *[Reserved]*.

Section 6.13 *Change in the Nature of Business*. The Lead Borrower and its Restricted Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Lead Borrower on the Closing Date and other business activities which are extensions thereof or otherwise incidental or related or ancillary to any of the foregoing.

Section 6.14 *No Changes in Fiscal Year*. The Lead Borrower shall not change its fiscal year for financial reporting purposes from its present basis; *provided* that the Lead Borrower may, upon written notice to the Administrative Agent, change its fiscal year to any other fiscal year, subject to any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting (and the parties hereto hereby authorize the Lead Borrower and the Administrative Agent to make any such amendments to this Agreement as they jointly deem necessary to give effect to the foregoing).

Section 6.15 *Indebtedness*.

The Lead Borrower will not, and will not permit any of its Restricted Subsidiaries to, contract, create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness created under this Agreement (including pursuant to Section 2.14, Section 2.15 and Section 2.16) and under the other Loan Documents (and any Refinancing Notes incurred to refinance such Indebtedness), Hedging Liability (other than for speculative purposes) and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations of the Lead Borrower and its Restricted Subsidiaries;

(b) Indebtedness (including any guarantees) owed pursuant to Hedge Agreements and Swap Obligations entered into (i) in the ordinary course of business and not for speculative purposes with Persons other than Lenders (or their Affiliates) or (ii) in connection with any Permitted Bond Hedge Transaction and Permitted Warrant Transaction;

(c) intercompany Indebtedness owing from the Lead Borrower or a Restricted Subsidiary to the Lead Borrower or another Restricted Subsidiaries, to the extent permitted by Section 6.19;

(d) (i) Indebtedness (including Capitalized Lease Obligations, other Indebtedness arising under Capital Leases, purchase money indebtedness, mortgage financing, industrial revenue bonds, industrial development bonds or similar financings) the proceeds of which are used to finance the acquisition, lease, construction, repair, replacement, expansion or improvement of fixed or capital assets or otherwise incurred in respect of capital expenditures, whether through the direct purchase of assets or the purchase of capital stock of any Person owning such assets and (ii) Indebtedness incurred in connection with the leases of precious metals and/or commodities; *provided* that, the aggregate principal amount of Indebtedness outstanding under this clause (d), together with any Refinancing Indebtedness incurred under clause (r) below in respect thereof, shall not exceed the greater of $350.0 million and 20% of Consolidated Adjusted EBITDA (measured as of the date such Indebtedness is issued or incurred and based upon the financial statements most recently delivered on or prior to such date pursuant to Section 6.1(a) or (b), but giving effect to any Specified Transaction occurring thereafter and on or prior to the date of determination);

(e) Indebtedness of the Lead Borrower and its Restricted Subsidiaries not otherwise permitted by this Section 6.15; *provided* that the aggregate amount of Indebtedness outstanding under this clause (e) shall not exceed the greater of $350.0 million and 20% of Consolidated Adjusted EBITDA (measured as of the date such Indebtedness is issued or incurred and based upon the financial statements most recently delivered on or prior to such date pursuant to Section 6.1(a) or (b), but giving effect to any Specified Transaction occurring thereafter and on or prior to the date of determination); *provided* that the maximum aggregate principal amount of such Indebtedness incurred by non-Loan Parties, together with any Indebtedness incurred under clause (ii) in the first proviso in Section 6.16(x) and clause (iv) in the first proviso in Section 6.15(w) above, does not exceed the greater of $170.0 million and 10% of Consolidated Adjusted EBITDA;

(f) Contingent Obligations incurred by (i) any Restricted Subsidiary in respect of Indebtedness of a Borrower or any other Restricted Subsidiary that is permitted to be incurred under this Agreement and (ii) the Lead Borrower in respect of Indebtedness of any Restricted Subsidiary that is permitted to be incurred under this Agreement; *provided* that any such Contingent Obligations incurred by a Borrower or any Loan Party with respect to Indebtedness incurred by any Restricted Subsidiary that is not a Loan Party, must be permitted by Section 6.19;

(g) Contingent Obligations incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees or distribution partners;

(h) (i) unsecured (other than vendor's liens arising by operation of law) Indebtedness in respect of obligations of the Lead Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedge Agreements and (ii) unsecured Indebtedness in respect of intercompany obligations of the Lead Borrower or any Restricted Subsidiary in respect of accounts payable incurred in connection with goods sold or services rendered in the ordinary course of business and not in connection with the borrowing of money;

(i) Indebtedness arising from agreements of the Lead Borrower or any Restricted Subsidiary providing for earn outs, indemnification, adjustment of purchase price or similar obligations, in each case, entered into in connection with the disposition of any business, assets or capital stock permitted hereunder, other than Contingent Obligations incurred by any Person acquiring all or any portion of such business, assets or capital stock for the purpose of financing such acquisition;

(j) Indebtedness arising from agreements of the Lead Borrower or any Restricted Subsidiary providing for earn outs, indemnification, adjustment of purchase price or similar obligations, in each case, entered into in connection with any Permitted Acquisitions or other investments permitted under Section 6.19;

(k) Indebtedness in respect of performance, bid, appeal, indemnity, stay, customs, judgment, completion, return-of-money and/or surety bonds, bankers' acceptance facilities, performance and completion guarantees and other obligations of a like nature, leases, tenders, statutory obligations (including health, safety and environmental obligations), warranties, bids, government or trade contracts (including customer contracts), indemnities and similar obligations incurred in the ordinary course of business and not in connection with the borrowing of money or Hedge Agreements;

(l) Indebtedness of the Lead Borrower or any Restricted Subsidiary consisting of (i) obligations to pay insurance premiums or (ii) take-or-pay obligations contained in supply agreements, in each case arising in the ordinary course of business and not in connection with the borrowing of money or Hedge Agreements;

(m) Indebtedness representing deferred compensation or similar arrangements to employees, consultants or independent contractors of the Lead Borrower and its Restricted Subsidiaries incurred in the ordinary course of business or otherwise incurred in connection with any Permitted Acquisition or other investment permitted under Section 6.19;

(n) Indebtedness consisting of promissory notes or similar Indebtedness issued to current or former officers, managers, consultants, directors and employees (or their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) to finance the purchase or redemption of capital stock of the Lead Borrower permitted by Section 6.20;

(o) Indebtedness in respect of Cash Management Services, netting services, automatic clearing house arrangements, employees' credit or purchase cards, overdraft protections and similar arrangements in each case incurred in the ordinary course of business;

(p) Indebtedness in existence on the Closing Date and if such Indebtedness is in excess of $50 million as set forth in all material respects on Schedule 6.15 and intercompany Indebtedness in existence on the Closing Date;

(q) Indebtedness incurred by the Lead Borrower or any Restricted Subsidiary constituting reimbursement obligations with respect to bankers' acceptances and letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation laws, unemployment insurance laws or similar legislation, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation laws, unemployment insurance laws or similar legislation; *provided*, *however*, that upon the drawing of such bankers' acceptances and letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(r) the incurrence by the Lead Borrower or any Restricted Subsidiary of Refinancing Indebtedness which serves to refund or refinance any Indebtedness permitted under clauses (d), (p), (s), (u), (v), (w), (x), (y), (z), (aa), (hh) and (ii) of this Section 6.15;

(s) Indebtedness of (x) the Lead Borrower or any Subsidiary incurred to finance a permitted Acquisition or (y) Persons that are acquired by the Lead Borrower or any Restricted Subsidiary or merged into the Lead Borrower or a Restricted Subsidiary in a permitted Acquisition in accordance with the terms of this Agreement or that is assumed by the Lead Borrower or any Restricted Subsidiary in connection with such permitted Acquisition; *provided* that such Indebtedness under this clause (y) is not incurred in contemplation of such permitted Acquisition; *provided further* that:

(A) no Default exists or shall result therefrom;

(B) any Indebtedness incurred in reliance on clause (x) of this Section 6.15(s) shall not (i) have a final scheduled maturity date earlier than the Term B Termination Date then in effect and (ii) if in the form of a term loan, have a Weighted Average Life to Maturity shorter than that of any Term B Facility; *provided* that any Indebtedness incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirements in clauses (i) and (ii);

(C) in the case of any Indebtedness incurred in reliance on clause (x) of this Section 6.15(s) the aggregate principal amount of such Indebtedness that is secured by any Lien, together with all Refinancing Indebtedness in respect thereof, shall not exceed the greater of $200.0 million and 12% of Consolidated Adjusted EBITDA; and

(D) subject to subclause (C) above, immediately prior to, and after giving effect to such permitted Acquisition, at the Lead Borrower's option either on the date of execution of the related acquisition agreement or on the date such Acquisition is consummated, the Leverage Ratio does not exceed either (i) Leverage Ratio required under Section 6.24 hereof or (ii) the Leverage Ratio immediately prior to consummation of such Acquisition (calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b));

(t) Indebtedness of the Lead Borrower or any of its Restricted Subsidiaries supported by a letter of credit in a principal amount not to exceed the face amount of such letter of credit;

(u) secured or unsecured loans or notes issued in lieu of Incremental Facilities (such loans or notes, "*Incremental Equivalent Debt*"); *provided* that if secured (i) is secured only by the Collateral and on a *pari passu* or junior basis with the Obligations and (ii) is subject to customary intercreditor arrangements reasonably satisfactory to the Administrative Agent and *provided further* that any such Incremental Equivalent Debt (x) otherwise satisfies clauses (A), (D), (F), (G), (H) (in the case of clause (ii) to the proviso there of, solely with respect to such additional secured Indebtedness in the form of Dollar denominated term loans that are secured on a *pari passu* basis with the Obligations), (I), (J), (K) and (N) of Section 2.14(a) as if such Incremental Equivalent Debt were an Incremental Facility and (y) together with any Incremental Facility, does not exceed the Incremental Cap;

(v) senior subordinated or subordinated unsecured Indebtedness of the Lead Borrower or any of the Loan Parties; *provided* that (i) the terms of such Indebtedness (excluding pricing, fees, rate floors, optional prepayment or redemption terms and subordination terms (such subordination terms to be on current market terms)) are not, when taken as a whole, materially more favorable (as reasonably determined by the Lead Borrower in good faith) to the lenders providing such Indebtedness than those applicable to the Facilities (other than any covenants or any other provisions applicable only to periods after the Final Maturity Date (in each case, as of the incurrence of such Indebtedness)) or is otherwise on current market terms for such type of Indebtedness (as reasonably determined by the Lead Borrower in good faith), (ii) such Indebtedness has a final scheduled maturity date no earlier than the Term B Termination Date then in effect; *provided* that any Indebtedness incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement, (iii) such Indebtedness, if in the form of a term loan, has a Weighted Average Life to Maturity no shorter than that of any Term B Facility; *provided* that any Indebtedness incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement and (iv) such Indebtedness is guaranteed only by the Loan Parties; *provided further* that, after giving effect thereto, (A) (x) the Fixed Charge Coverage Ratio is no less than 2.00 to 1.00 or (y) the Lead Borrower and its Restricted Subsidiaries are in compliance with the financial covenant set forth in Section 6.24, in each case, calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b) and (B) no Default or Event of Default under Section 7.1(a), 7.1(j) or 7.1(k) hereof shall have occurred and be continuing or would result therefrom;

(w) senior unsecured Indebtedness of the Lead Borrower or any of its Restricted Subsidiaries; *provided* that (i) the terms of such Indebtedness (excluding pricing, fees, rate floors, optional prepayment or redemption terms and subordination terms (such subordination terms to be on current market terms)) are not, when taken as a whole, materially more favorable (as reasonably determined by the Lead Borrower in good faith) to the lenders providing such Indebtedness than those applicable to the Facilities (other than any covenants or any other provisions applicable only to periods after the Final Maturity Date (in each case, as of the incurrence of such Indebtedness)) or is otherwise on current market terms for such type of Indebtedness (as reasonably determined by the Lead Borrower in good faith), (ii) such Indebtedness has a final scheduled maturity date no earlier than the later of the Term B Termination Date and Final Revolving Termination Date then in effect; *provided* that any Indebtedness incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement, (iii) such Indebtedness, if in the form of a term loan, has a Weighted Average Life to Maturity no shorter than that of any Term B Facility; *provided* that any Indebtedness incurred in reliance on the Inside Maturity Exceptions shall not be required to satisfy the foregoing requirement, (iv) the maximum aggregate principal amount of such Indebtedness incurred by non-Loan Parties, together with any Indebtedness incurred under Section 6.16(e) by non-Loan Parties and clause (ii) in the first proviso in Section 6.16(x) below, does not exceed the greater of $170.0 million and 10% of Consolidated Adjusted EBITDA and (v) subject to the preceding clause (iv), such Indebtedness is guaranteed only by the Loan Parties; *provided further* that, after giving effect thereto, (i) (x) the Fixed Charge Coverage Ratio is no less than 2.00 to 1.00 or (y) the Lead Borrower and its Restricted Subsidiaries are in compliance with the financial covenant set forth in Section 6.24, in each case, calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b) and (ii) no Default or Event of Default under Section 7.1(a), 7.1 (j) or 7.1(k) hereof shall have occurred and be continuing or would result therefrom;

(x) additional secured Indebtedness of the Lead Borrower or any of its Restricted Subsidiaries; *provided* that (i) in the case of such additional secured Indebtedness that is secured on a *pari passu* lien basis with the Obligations, the First Lien Leverage Ratio does not exceed 1.75 to 1.00, and in the case of additional secured Indebtedness that is secured on a junior lien basis with the Obligations, the Senior Secured Leverage Ratio does not exceed 2.50 to 1.00, in each case calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b), (ii) the maximum aggregate principal amount of such Indebtedness incurred by

non-Loan Parties, together with any Indebtedness incurred under Section 6.16(e) by non-Loan Parties and clause (iv) in the first proviso in Section 6.15(w) above, does not exceed the greater of $170.0 million and 10% of Consolidated Adjusted EBITDA and (iii) subject to the preceding clause (ii), such Indebtedness is guaranteed only by the Loan Parties; *provided further* that (A) no Default or Event of Default under Section 7.1(a), 7.1 (j) or 7.1(k) hereof shall have occurred and be continuing or would result therefrom and (B) such Indebtedness (x) is secured by the Collateral only on a *pari passu* or junior basis in right of payment and security in respect of the Collateral, (y) otherwise satisfies clauses (A), (D), (F), (G), (H) (solely with respect to such additional secured Indebtedness in the form of term loans denominated in Dollars that are secured on a *pari passu* basis with the Obligations), (I), (J), (K) and (N) of Section 2.14(a) as if such Indebtedness were an Incremental Facility and (z) is subject to an intercreditor agreement reasonably satisfactory to the Administrative Agent;

(y) [reserved];

(z) [reserved];

(aa) [reserved];

(bb) [reserved];

(cc) endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;

(dd) obligations of the Lead Borrower or any of its Restricted Subsidiaries incurred in connection with rebate programs;

(ee) Permitted Receivables Financing shall not to exceed the greater of $765.0 million and 45% of Consolidated Adjusted EBITDA at any time outstanding;

(ff) [reserved];

(gg) Indebtedness of the Lead Borrower or any Restricted Subsidiary undertaken in connection with cash management and related activities with respect to any Subsidiary in the ordinary course of business;

(hh) Indebtedness including working capital facilities, asset-level financings, Capitalized Lease Obligations and purchase money indebtedness incurred by any Foreign Subsidiary of the Lead Borrower; *provided* that the amount of Indebtedness outstanding under this clause (hh), together with any Refinancing Indebtedness in respect thereof incurred pursuant to clause (r) above shall not exceed $415.0 million and 25% of Consolidated Adjusted EBITDA;

(ii) Indebtedness incurred in connection with any sale-leaseback transaction, together with any Refinancing Indebtedness in respect thereof incurred pursuant to clause (r) above shall not exceed the greater of $510.0 million and 30% of Consolidated Adjusted EBITDA;

(jj) any guarantee by the Lead Borrower or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary, or any guarantee of any obligation of Flash Ventures incurred in the ordinary course of business so long as the incurrence of such Indebtedness incurred by such Restricted Subsidiary is not prohibited under the terms of this Agreement;

(kk) customer deposits and advance payments received in the ordinary course of business or consistent with past practice from customers for the purchase of goods or services;

(ll) to the extent constituting Indebtedness, any contingent liabilities arising in connection with any stock options; and

(mm) all customary premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in each of Section 6.15 (a) through 6.15 (mm) above.

For purposes of determining compliance with this Section 6.15 or Section 6.16, the amount of any Indebtedness denominated in any currency other than Dollars shall be calculated based on customary currency exchange rates in effect on the date on which such Indebtedness was incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness); *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a currency other than Dollars (or in a different currency from the Indebtedness being refinanced), and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall not be deemed to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount, as applicable, of such Indebtedness being refinanced *plus* (ii) the aggregate amount of fees, underwriting discounts, premiums (including tender premiums), defeasance costs and other costs and expenses incurred in connection with such refinancing.

Section 6.16 *Liens*. The Lead Borrower will not, and will not permit any of its Restricted Subsidiaries to, create, incur or suffer to exist any Lien on any of its Property; *provided* that the foregoing shall not prevent the following (the Liens described below in this Section 6.16, the "*Permitted Liens*"):

(a) Liens for the payment of taxes which are not yet due and payable and Liens (or deposits as security) for taxes which are being contested in good faith by appropriate proceedings and as to which appropriate reserves have been provided for in accordance with GAAP;

(b) Liens (i) arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, statutory obligations or other similar charges, (ii) in connection with bids, tenders, contracts or leases to which the Lead Borrower or any Restricted Subsidiary is a party or (iii) to secure public or statutory obligations of such Person or deposits of cash or Cash Equivalents to secure surety or appeal bonds to which such Person is a party, or deposits as security or for the payment of rent, in each case, incurred in the ordinary course of business;

(c) mechanics', workmen's, materialmen's, landlords', carriers' or other similar Liens arising in the ordinary course of business with respect to obligations which are not overdue by a period of more than 60 days or if more than 60 days overdue (i) which would not reasonably be expected to have a Material Adverse Effect or (ii) which are being contested in good faith by appropriate proceedings;

(d) Liens created by or pursuant to this Agreement and the Collateral Documents;

(e) Liens on property of the Lead Borrower or any Restricted Subsidiary created solely for the purpose of securing indebtedness permitted by Section 6.15 (d) hereof; *provided* that no such Lien shall extend to or cover other Property of the Lead Borrower or such Restricted Subsidiary other than the respective Property so acquired or similar Property acquired from the same lender or its Affiliates, and the principal amount of indebtedness secured by any such Lien shall at no time exceed the purchase price of all such Property;

(f) Liens assumed in connection with Permitted Acquisitions;

(g) easements, rights-of-way, restrictions, and other similar encumbrances as to the use of real property of the Lead Borrower or any Restricted Subsidiary incurred in the ordinary course of business which do not impair their use in the operation of the business of such Person;

(h) Liens in connection with sale-leaseback transactions securing Indebtedness permitted by Section 6.15 (ii);

(i) ground leases or subleases, licenses or sublicenses in respect of real property on which facilities owned or leased by the Lead Borrower or any of its Restricted Subsidiaries are located and any zoning, building or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property or any structure thereon (including Liens in connection with any condemnation or eminent domain proceeding or compulsory purchase order) that does not materially interfere with the business of the Lead Borrower or the Restricted Subsidiaries, taken as a whole;

(j) Liens arising from judgments or decrees for the payment of money in circumstances not constituting an Event of Default under Section 7.1;

(k) any interest or title of a lessor, sublessor, licensor or sublicensor or Lien securing a lessor's, sublessor's, licensor's or sublicensor's interest under any lease not prohibited by this Agreement and leases, licenses, subleases or sublicenses granted to others that do not (x) interfere in any material respect with the business of the Lead Borrower and its Restricted Subsidiaries, taken as a whole, or (y) secure any Indebtedness;

(l) licenses, sublicenses, covenants not to sue or other grants of rights to intellectual property rights granted (i) in the ordinary course of business or (ii) in the reasonable business judgment of the Lead Borrower or the Restricted Subsidiaries in the conduct of its business (including in the settlement of litigation or entering into cross-licenses);

(m) any zoning, building or similar law or right reserved to, or vested in, any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary course of conduct of the business of the Lead Borrower and its Restricted Subsidiaries, taken as a whole;

(n) Liens (i) of a collection bank arising under Section 4-210 of the UCC on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right to set off), which are within the general parameters customary in the banking industry;

(o) Liens (i) on cash advances in favor of the seller of any property to be acquired in an investment permitted pursuant to Section 6.19 to be applied against the purchase price for such investment or (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 6.17;

(p) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents;

(q) Liens that are contractual rights of setoff (i) relating to the establishment of depository relations with banks not given in connection with the issuance of indebtedness, (ii) relating to pooled deposit, automatic clearing house or sweep accounts of the Lead Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Lead Borrower and its Restricted Subsidiaries, (iii) relating to purchase orders and other agreements entered into with customers of the Lead Borrower or any Restricted Subsidiary in the ordinary course of business or (iv) relating to the credit cards and credit accounts of the Lead Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(r) Liens solely on any cash earnest money deposits or escrow arrangements made by the Lead Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(s) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(t) Liens incurred to secure any obligations; *provided* that the aggregate principal amount of all such obligations secured by such Liens, together with all Refinancing Indebtedness in respect thereof, shall not exceed the greater of $350.0 million and 20% of Consolidated Adjusted EBITDA (measured as of the date such Liens are incurred and based upon the financial statements most recently delivered on or prior to such date pursuant to Section 6.1, but giving effect to any Specified Transaction occurring thereafter and on or prior to the date of determination);

(u) Liens in favor of the issuer of customs, stay, performance, bid, appeal or surety bonds or completion guarantees and other obligations of a like nature or letters of credit issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(v) Liens existing on the Closing Date or pursuant to agreements in existence on the Closing Date and to the extent securing Indebtedness in excess of $50 million, as described on Schedule 6.16 and any modifications, replacements, renewals or extensions thereof; *provided* that such Liens shall secure only those obligations that they secure on the Closing Date (and any Refinancing Indebtedness in respect of such obligations permitted by Section 6.15) and shall not subsequently apply to any other property or assets of the Lead Borrower or any Restricted Subsidiary other than (x) after-acquired property that is affixed or incorporated into the property covered by such Lien and (y) proceeds and products thereof;

(w) Liens on property or shares of stock of a Person at the time such Person becomes a Restricted Subsidiary; *provided*, *however*, that such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Restricted Subsidiary or concurrently therewith; *provided further* that such Liens may not extend to any other property owned by the Lead Borrower or any of its Restricted Subsidiaries; *provided further* that such Liens secure Indebtedness permitted to be incurred under clause (y) of Section 6.15 (s);

(x) Liens on property at the time the Lead Borrower or a Subsidiary acquired the property or concurrently therewith, including any acquisition by means of a merger or consolidation with or into the Lead Borrower or any of its Restricted Subsidiaries; *provided*, *however*, that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition; *provided further* that the Liens may not extend to any other property owned by the Lead Borrower or any of its Restricted Subsidiaries; *provided further* that such Liens secure Indebtedness permitted to be incurred under clause (y) of Section 6.15 (s);

(y) Liens on specific items of inventory or other goods and the proceeds thereof of any Person securing such Person's obligations under any agreement to facilitate the purchase, shipment or storage of such inventory or other goods, and pledges or deposits in the ordinary course of business securing inventory purchases from vendors;

(z) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness permitted by Section 6.15 and secured by any Lien referred to in Section 6.16 (e), (v), (w) and (x); *provided*, *however*, that (i) such new Lien shall be limited to all or part of the same property that secured the original Lien (*plus* improvements on such property), and (ii) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under Section 6.15 (e), (v), (w) and (x) at the time the original Lien became a Permitted Lien hereunder, and (B) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(aa) Liens to secure any Indebtedness permitted by Section 6.15 (b) to the extent that the Lead Borrower or any other Loan Party is required to post segregated collateral to any clearing agency in respect of any such Indebtedness as required, or as may be required, by the Commodity Exchange Act, any regulations thereto, or any other applicable legislation or regulations in connection therewith;

(bb) Liens to secure (x) Refinancing Indebtedness and/or Refinancing Notes, (y) Incremental Equivalent Debt and (z) Indebtedness allowed under Section 6.15 (x);

(cc) [reserved];

(dd) assignments of the right to receive income effected as a part of the sale of a business unit or for collection purposes;

(ee) Liens arising under any Permitted Receivables Financing permitted under Section 6.15 (ee);

(ff) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(gg) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;

(hh) Liens arising from precautionary UCC financing statements or consignments entered into in connection with any transaction otherwise permitted under this Agreement;

(ii) Liens on assets of a Subsidiary that is not a Loan Party securing Indebtedness of such Subsidiaries permitted by Section 6.15;

(jj) Liens arising solely in connection with rights of dissenting equity holders pursuant to any Applicable Law in respect of the Transactions, any Permitted Acquisition or any other Investment;

(kk) [reserved];

(ll) Liens arising (i) out of conditional sale, title retention (including extended retention of title), consignment or similar arrangements for sale or purchase of goods and bailee arrangements, in each case in the ordinary course of business or consistent with past or industry practice or (ii) by operation of law under Article 2 of the UCC (or any similar law of any jurisdiction);

(mm) Liens on cash and Cash Equivalents in connection with the defeasance, redemption, satisfaction and/or discharge of Indebtedness;

(nn) receipt of progress payments and advances from customers in the ordinary course of business or consistent with past or industry practice to the extent such receipt or advance, as applicable, creates a Lien on the related inventory and proceeds thereof;

(oo) Liens not securing Indebtedness for borrowed money that are customary in the operation of the business of the Lead Borrower and/or any Restricted Subsidiary (as determined by the Lead Borrower in good faith);

(pp) [reserved];

(qq) Liens on goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Lead Borrower or any of its Subsidiaries or Liens on bills of lading, drafts or other documents of title arising by operation of law or pursuant to the standard terms of agreements relating to letters of credit, bank guarantees and other similar instruments; provided that such Lien secures only the obligations of the Lead Borrower or such Subsidiaries in respect of such letter of credit to the extent such obligations are permitted under Section 6.15; and

(rr) Liens on Equity Interests of any joint venture (a) securing obligations of such joint venture or (b) pursuant to the relevant joint venture agreement or arrangement.

Section 6.17 *Fundamental Changes; Sales of Assets.*

The Lead Borrower will not, and will not permit any of its Restricted Subsidiaries to, wind up, liquidate or dissolve its affairs or merge or consolidate, or convey, sell, lease or otherwise dispose of all or any part of its Property, including any disposition as part of any sale-leaseback transactions except that this Section 6.17 shall not prevent:

(a) the sale and lease of inventory in the ordinary course of business;

(b) the sale, transfer or other disposition of any Property (including, but not limited to, the abandonment or allowing to lapse of intellectual property) that, in the reasonable judgment of the Lead Borrower or its Restricted Subsidiaries, has become uneconomic, obsolete or worn out or is no longer useful in its business;

(c) the sale, transfer, lease, or other disposition of Property of the Lead Borrower and its Restricted Subsidiaries to one another; *provided* that, no Loan Party may make any such sale, transfer, lease or other disposition pursuant to this clause (c) to a non-Loan Party in the form of Material Intellectual Property other than any intercompany license granted for a bona fide business purpose;

(d) the merger, consolidation or amalgamation of any Restricted Subsidiary with and into the Lead Borrower or any other Restricted Subsidiary; *provided* that, in the case of any merger or consolidation involving a Borrower, (i) such Borrower is the legal entity surviving the merger or consolidation and (ii) such surviving entity is organized under the Applicable Laws of the United States, any state thereof, or the District of Columbia; and *provided further* that no Loan Party that owns Material Intellectual Property may be merged, consolidated or amalgamated with and into a non-Loan Party;

(e) the disposition or sale of Cash Equivalents;

(f) any Restricted Subsidiary may dissolve if the Lead Borrower determines in good faith that such dissolution is in the best interests of the Lead Borrower, such dissolution is not disadvantageous to the Lenders and the Lead Borrower or any Restricted Subsidiary receives any assets of such dissolved Subsidiary, subject in the case of a dissolution of a Loan Party that results in a distribution of assets to a non-Loan Party to the limitations set forth in the provisos in each of clauses (c) and (d) above;

(g) the sale, transfer, lease, or other disposition of Property of the Lead Borrower or any Restricted Subsidiary (including any disposition of Property as part of a sale and leaseback transaction) aggregating for the Lead Borrower and its Restricted Subsidiaries not more than the greater of $100.0 million and 6% of Consolidated Adjusted EBITDA during any fiscal year of the Lead Borrower;

(h) the lease, sublease, license (or cross-license) or sublicense (or cross-sublicense) of real or personal property in the ordinary course of business;

(i) the disposition of intellectual property rights (to the extent constituting discontinuing the use or maintenance of, failing to pursue, or otherwise abandon, allowing to lapse, terminating or putting into the public domain, any intellectual property), in each case, in the ordinary course of business or if the Lead Borrower or any Restricted Subsidiary determines in its reasonable business judgment that such disposed of intellectual property is no longer economical or of strategic benefit;

(j) the sale, transfer or other disposal of property (including like-kind exchanges) to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement property;

(k) the sale, transfer or other disposal of investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements or similar binding arrangements;

(l) any transaction permitted by Section 6.19;

(m) the settlement or early termination of any Permitted Bond Hedge Transaction or any related Permitted Warrant Transaction;

(n) the unwinding of any Hedge Agreement;

(o) the disposition of any asset between or among the Lead Borrower and/or its Restricted Subsidiaries as a substantially concurrent interim disposition in connection with a disposition otherwise permitted pursuant to clauses (a) through (t) (other than this clause (o)) of this Section 6.17;

(p) the sale, transfer or other disposition of Property of the Lead Borrower or any Restricted Subsidiary for fair market value so long as (i) with respect to dispositions in an aggregate amount in excess of the greater of $75.0 million and 4.5% of Consolidated Adjusted EBITDA (measured as of the date of such sale, transfer or other disposition and based upon the financial statements most recently delivered on or prior to such date pursuant to Section 6.1, but giving effect to any Specified Transaction occurring thereafter and on or prior to the date of determination), at least 75.00% of the consideration for such disposition shall consist of cash or Cash Equivalents (*provided* that, for purposes of the 75.00% cash consideration requirement, (v) the amount of any Indebtedness or other liabilities of the Lead Borrower or any Restricted Subsidiary (as shown on such person's most recent balance sheet or in the notes thereto) that are assumed by the transferee of any such assets, (w) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such disposition, (x) any securities received by the Lead Borrower or such Restricted Subsidiary from such transferee that are converted by the Lead Borrower or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) following the closing of the applicable disposition (y) the right to receive cash (including, without limitation, pursuant to seller notes and other similar instruments or agreements representing deferred purchase price amounts or purchase price installments) and (z) any Designated Non-Cash Consideration received in respect of such disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (z) that is at that time outstanding, not in excess of the greater of $400.0 million and 24% of Consolidated Adjusted EBITDA, in each case, shall be deemed to be cash), (ii) the Net Cash Proceeds of such disposition are applied in accordance with Section 2.8(c)(ii) and (iii) no Event of Default has occurred and is continuing or would result therefrom (determined at the time of the agreement);

(q) the sale, transfer or other disposition of any assets acquired in connection with any acquisition permitted under this Agreement (including any Permitted Acquisition) so long as (i) such disposition is made or contractually committed to be made within three hundred and sixty-five (365) days of the date such assets were acquired by the Lead Borrower or such Subsidiary or such later date as the Lead Borrower and the Administrative Agent may agree, (ii) the Leverage Ratio does not exceed the then-applicable Leverage Ratio required under Section 6.24 hereof, in each case calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b); and (iii) with respect to dispositions in an aggregate amount in excess of the greater of $75.0 million and 4.5% of Consolidated Adjusted EBITDA (measured as of the date of such sale, transfer or other disposition and based upon the financial statements most recently delivered on or prior to such date pursuant to Section 6.1, but giving effect to any Specified Transaction occurring thereafter and on or prior to the date of determination), at least 75.00% of the consideration for such disposition shall consist of cash or Cash Equivalents (subject to the exceptions listed clauses (w) through (z) of Section 6.17(p) above);

(r) [reserved];

(s) dispositions of property pursuant to one or more sale-leaseback transactions in an amount not to exceed the greater of $510.0 million and 30% of Consolidated Adjusted EBITDA and dispositions of precious metals and/or commodities in connection with Indebtedness permitted under Section 6.15(d)(ii); and

(t) transfers of condemned property as a result of the exercise of "eminent domain" or other similar powers to the respective Governmental Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of property that have been subject to a casualty to the respective insurer of such real property as part of an insurance settlement.

To the extent any Collateral is disposed of as expressly permitted by this Section 6.17 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

Section 6.18 *[Reserved]*.

Section 6.19 *Advances, Investments and Loans*. The Lead Borrower will not, and will not permit any of its Restricted Subsidiaries to make loans or advances to (other than advances to customers in the ordinary course of business that are recorded as accounts receivable on the balance sheet of the lender or advances for the purpose of prepaying depreciation costs of joint ventures), guarantee any obligations of, or make, retain or have outstanding any investments (whether through purchase of Equity Interests or debt obligations) in, any Person or enter into any partnerships or joint ventures, or purchase or own a futures contract or otherwise become liable for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract (all of the foregoing, collectively, "*investments*"), except that this Section 6.19 shall not prevent:

(a) investments constituting receivables created in the ordinary course of business;

(b) investments in Cash Equivalents;

(c) investments (including debt obligations) received in connection with the bankruptcy or reorganization of a Person and in settlement of delinquent obligations of, and other disputes with, a Person arising in the ordinary course of business;

(d) (i) the Lead Borrower's equity investments from time to time in its Restricted Subsidiaries and (ii) investments made from time to time by a Restricted Subsidiary in the Lead Borrower or one (1) or more Restricted Subsidiaries; *provided* that, no Loan Party may make an investment pursuant to this clause (d) in a non-Loan Party in the form of Material Intellectual Property other than any intercompany license granted for a bona fide business purpose;

(e) intercompany advances (including in the form of a guarantee for the benefit of such Person) made from time to time from (i) the Lead Borrower to any one (1) or more Restricted Subsidiaries, (ii) from one (1) or more Restricted Subsidiaries to the Lead Borrower and (iii) from one (1) or more Restricted Subsidiaries to one (1) or more Restricted Subsidiaries; *provided* that, no Loan Party may make an advance to a non-Loan Party pursuant to this clause (e) in the form of Material Intellectual Property other than any intercompany license granted for a bona fide business purpose;

(f) other investments (including investments in joint ventures or similar entities that do not constitute Restricted Subsidiaries), in each case, as valued at the fair market value of such investment at the time each such investment is made, in an aggregate amount for all such investments under this clause (f) that, at the time such investment is made, would not exceed the sum of (i) the greater of $510.0 million and 30% of Consolidated Adjusted EBITDA (measured as of the date of such investment and based upon the financial statements most recently delivered on or prior to such date pursuant to Section 6.1, but giving effect to any Specified Transaction occurring thereafter and on or prior to the date of determination) *plus* (ii) the amount of any returns of capital, dividends or other distributions received in connection with such investment (not to exceed the original amount of the investment);

(g) loans and advances to officers, directors, employees and consultants of the Lead Borrower or any of its Restricted Subsidiaries for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the ordinary course of business and advances of payroll payments to employees, consultants or independent contractors or other advances of salaries or compensation to employees, consultants or independent contractors, in each case in the ordinary course of business; *provided* that the aggregate amount of such loan in advance outstanding at any time shall not exceed the greater of $10 million and 0.6% of Consolidated Adjusted EBITDA;

(h) to the extent constituting an investment, Hedge Agreements, Swap Obligations, Permitted Bond Hedge Transactions and Permitted Warrant Transactions permitted by Sections 6.15(a) and (b), as applicable;

(i) investments received upon the foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;

(j) investments in the ordinary course of business consisting of Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(k) guarantees by the Lead Borrower or any Restricted Subsidiary of leases (other than Capital Leases) or of other obligations that do not constitute indebtedness for borrowed money, in each case entered into in the ordinary course of business;

(l) (i) Permitted Acquisitions and (ii) investments by Restricted Subsidiaries that are not Loan Parties in Persons that become Restricted Subsidiaries as a result of such investment;

(m) investments in Restricted Subsidiaries for the purpose of consummating transactions permitted under Section 6.17(o) or any Permitted Acquisition;

(n) investments permitted under Sections 6.15 (excluding clause (c)), 6.16 (excluding clause (o)(ii)) and 6.20;

(o) other investments, loans and advances in addition to those otherwise permitted by this Section in an amount not to exceed the Available Amount in the aggregate at any one time outstanding (so long as (i) no Default or Event of Default under Section 7.1(a), 7.1 (j) or 7.1(k) hereof shall have occurred and be continuing or would result therefrom and (ii) the Lead Borrower and its Restricted Subsidiaries are in compliance with Section 6.24 on a Pro Forma Basis, recomputed as of the last day of the most recently ended period for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b));

(p) investments consisting of consideration received in connection with any disposition or other transfer made in compliance with Section 6.17;

(q) other investments, loans and advances existing on, or contractually committed as of, or pursuant to an agreement executed on or before Closing Date as set forth on Schedule 6.19 (as the same may be renewed, reinvested, refinanced or extended from time to time); *provided* that the amount of any such investment or binding commitment may be increased (x) as required by the terms of such investment or binding commitment as in existence on the Closing Date (including as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities) or (y) as otherwise permitted under this Agreement;

(r) investments made by any Restricted Subsidiary that is not a Loan Party to the extent such investments are made with the proceeds received by such Restricted Subsidiary from an investment made by a Loan Party in such Restricted Subsidiary pursuant to this Section 6.19;

(s) investments the sole consideration for which is Equity Interests (other than Disqualified Equity Interests) of the Lead Borrower;

(t) guarantees of Indebtedness permitted under Section 6.15 and performance guarantees and Contingent Obligations incurred or of other obligations that do not constitute indebtedness for borrowed money, in each case entered into in the ordinary course of business, any guarantees by the Lead Borrower or any Restricted Subsidiary of operating leases of joint ventures and any guarantees by the Lead Borrower or any Restricted Subsidiary of other obligations of joint ventures (including the Flash Ventures) entered into in the ordinary course of business;

(u) additional investments by the Lead Borrower or any of its Restricted Subsidiaries; *provided* that on the date of consummation of such investment or, at the Lead Borrower's election to the extent such investment is made in connection with an Acquisition, on the date of the signing of any acquisition agreement with respect thereto, (i) no Default or Event of Default under Section 7.1(a), 7.1 (j) or 7.1(k) hereof shall have occurred and be continuing or would result therefrom and (ii) after giving effect thereto the Leverage Ratio does not exceed 2.25 to 1.00 (calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b));

(v) investments in any Subsidiary in connection with intercompany cash management or cash pooling arrangements or related activities arising in the ordinary course of business;

(w) investments in (i) a Restricted Subsidiary that is not a Loan Party or (ii) a joint venture, in each case, to the extent such investment is substantially contemporaneously repaid with a dividend or other distribution from such Restricted Subsidiary or joint venture;

(x) non-cash contributions to joint ventures (including, without limitation, contributions of employees, intellectual property and/or services) in the ordinary course of business;

(y) investments in Flash Partners Ltd., Flash Alliance Ltd. or Flash Forward Ltd. and other joint ventures with Kioxia Corporation or any of its Affiliates (or any of their respective successors); *provided* that, the use of such investments by such joint venture would have been classified, in accordance with GAAP, as a capital expenditure if such joint venture had been a Subsidiary of the Lead Borrower; and

(z) any investment by any Captive Insurance Subsidiary in connection with its provision of insurance to the Lead Borrower or any of its Subsidiaries, which investment is made in the ordinary course of business of such Captive Insurance Subsidiary, or by reason of applicable law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable and any investment in fixed income or other assets by any Captive Insurance Subsidiary consistent with customary practices of portfolio management;

(aa) any investment not otherwise permitted by this Section 6.19; *provided* that the fair market value of such investment at the time each such investment is made, in an aggregate amount for all such investments outstanding under this clause (aa), together with the amount of any Distributions permitted under Section 6.20(l) below, does not exceed the greater of $850.0 million and 50% of Consolidated Adjusted EBITDA;

(bb) contributions in connection with compensation arrangements or to a "rabbi" trust for the benefit of any future, current or former officer, director, manager, member, member of management, employee, consultant or independent contractor of the Lead Borrower or any Subsidiary, or other service providers of the Lead Borrower or any Restricted Subsidiary or to any other grantor trust subject to claims of creditors in the case of a bankruptcy of the Lead Borrower or any Restricted Subsidiary;

(cc) Investments in connection with any Permitted Receivables Financing permitted under Section 6.15, the contribution, sale or other transfer of assets in connection with a Permitted Receivables Financing permitted under Section 6.15 or repurchases in connection with the foregoing (including the contribution or lending of cash and Cash Equivalents to Subsidiaries to finance the purchase of receivables or related assets from the Lead Borrower or any Restricted Subsidiary or to otherwise fund required reserves, the contribution of replacement or substitute assets to a Receivables Financing Subsidiary and Investments of funds held in accounts permitted or required by the arrangements governing such Permitted Receivables Financing or any related Indebtedness);

(dd) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent that such obligations and/or liabilities, as applicable, are permitted to remain unfunded under Applicable Laws;

(ee) Investments consisting of earnest money deposits required in connection with purchase agreements or other acquisitions or Investments otherwise permitted under this Section 6.19 and any other pledges or deposits permitted by Section 6.16.; and

(ff) Investments arising as a result of sale-leaseback transactions that are otherwise permitted under this Agreement.

Any investment in any person other than a Loan Party that is otherwise permitted by this Section 6.19 may be made through intermediate investments in Subsidiaries that are not Loan Parties and such intermediate investments shall be disregarded for purposes of determining the outstanding amount of investments pursuant to any clause set forth above. The amount of any investment made other than in the form of cash or cash equivalents shall be the fair market value thereof valued at the time of the making thereof, and without giving effect to any subsequent write-downs or write-offs thereof.

Section 6.20 *Restricted Payments*. The Lead Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to directly or indirectly, (i) declare or pay any dividends on or make any other distributions in respect of any class or series of its Equity Interests or (ii) purchase, redeem, or otherwise acquire or retire any of its Equity Interests or any warrants, options, or similar instruments to acquire the same (all the foregoing, "*Distributions*"); *provided* that the following shall be permitted:

(a) any Subsidiary of the Lead Borrower may make Distributions to its parent company (and, in the case of any non-Wholly-owned Subsidiary, *pro rata* to its parent companies based on their relative ownership interests in the class of equity receiving such Distribution);

(b) so long as no Event of Default has occurred, is continuing or would result therefrom, the Lead Borrower may redeem, acquire, retire or repurchase (and the Lead Borrower may declare and pay Distributions, the proceeds of which are used to so redeem, acquire, retire or repurchase and to pay withholding or similar tax payments that are expected to be payable in connection therewith) its Equity Interests (or any options or warrants or stock appreciation rights issued with respect to any of such Equity Interests) held by current or former officers, managers, consultants, directors and employees (or their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) of the Lead Borrower and its Restricted Subsidiaries, with the proceeds of Distributions from, seriatim, the Lead Borrower, upon the death, disability, retirement or termination of employment of any such Person or otherwise in accordance with any stock option or stock appreciation rights plan, any management, director and/or employee stock ownership or incentive plan, stock subscription plan, employment termination agreement or any other employment agreements or equity holders' agreement; *provided* that the aggregate amount of Distributions made pursuant to this Section 6.20(b) shall not exceed the greater of $40.0 million and 2.5% of Consolidated Adjusted EBITDA in any fiscal year; *provided further* that (x) such amount, if not so expended in the fiscal year for which it is permitted, may be carried forward for Distributions in the next two (2) fiscal years and (y) Distributions made pursuant to this clause (b) during any fiscal year shall be deemed made first in respect of amounts permitted for such fiscal year as provided above, second in respect of amounts carried over from the fiscal year two (2) years prior to such date pursuant to clause (x) above and third in respect of amounts carried over from the immediately preceding fiscal year prior to such date pursuant to clause (x) above;

(c) the Lead Borrower may repurchase Equity Interests upon exercise of options or warrants if such Equity Interest represents all or a portion of the exercise price of such options or warrants;

(d) repurchases of the Lead Borrower's common Equity Interests in an aggregate amount not to exceed the greater of $50 million and 3% of Consolidated Adjusted EBITDA;

(e) the Lead Borrower may make Distributions in an aggregate amount not to exceed the greater of $250.0 million and 15% of Consolidated Adjusted EBITDA per fiscal year so long as (i) no Event of Default has occurred, is continuing or would result therefrom and (ii) the Leverage Ratio, calculated on a Pro Forma Basis after giving effect to such Distribution, does not exceed the then-applicable Leverage Ratio required under Section 6.24(a) hereof (*provided* that clauses (i) and (ii) shall not prohibit Distributions within 60 days after the date of declaration thereof, if on the date of declaration the Distribution would have complied with clauses (i) and (ii));

(f) the Lead Borrower may make Distributions in an aggregate amount not to exceed the Available Amount at the time such Distribution is made (so long as (i) no Event of Default has occurred, is continuing or would result therefrom and (ii) the Lead Borrower and its Restricted Subsidiaries are in compliance with Section 6.24 on a Pro Forma Basis, recomputed as of the last day of the most recently ended period for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b); *provided* that clauses (i), (ii) and (iii) shall not prohibit Distributions within 60 days after the date of declaration thereof, if on the date of declaration the Distribution would have complied with clauses (i) and (ii));

(g) the Lead Borrower may make Distributions to (i) redeem, repurchase, retire or otherwise acquire any Equity Interests ("*Treasury Capital Stock*") of the Lead Borrower or any Subsidiary, in exchange for, or out of the proceeds of the substantially concurrent sale (other than to the Lead Borrower or a Subsidiary) of, Equity Interests of the Lead Borrower ("*Refunding Capital Stock*") and (ii) declare and pay dividends on the Treasury Capital Stock out of the proceeds of the substantially concurrent sale (other than to the Lead Borrower or a Subsidiary) of the Refunding Capital Stock;

(h) Distributions the proceeds of which will be used to make cash payments in lieu of issuing fractional Equity Interests in connection with the exercise of warrants, options or other securities convertible or exchangeable for Equity Interests of the Lead Borrower;

(i) to the extent constituting a Distribution, transactions permitted by Sections 6.11 (other than 6.11(b)) and 6.17 (other than 6.17(k));

(j) Distributions by the Lead Borrower of up to 6.0% of the net cash proceeds received by the Lead Borrower from any Qualified Public Offering or any other equity investment (other than Disqualified Equity Interests) in the Lead Borrower; *provided* that, for the avoidance of doubt, the Spin-Off shall not constitute a Qualified Public Offering;

(k) so long as (i) no Event of Default has occurred and is continuing or would result therefrom and (ii) the Leverage Ratio does not exceed 2.00 to 1.00 (calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b)) after giving effect thereto, the Lead Borrower may make additional Distributions; *provided* that clauses (i) and (ii) shall not prohibit Distributions within 60 days after the date of declaration thereof, if on the date of declaration the Distribution would have complied with clauses (i) and (ii);

(l) the Lead Borrower may make Distributions not otherwise permitted by this Section 6.20; *provided* that the maximum aggregate principal amount of such Distributions made pursuant to this clause (l), together with the outstanding amount of any investments permitted under Section 6.19(aa) above, does not exceed the greater of $850.0 million and 50% of Consolidated Adjusted EBITDA;

(m) any required payment with respect to, or required early unwind or settlement of, any Permitted Bond Hedge Transaction or Permitted Warrant Transaction, in each case, in accordance with the terms of the agreement governing such Permitted Bond Hedge Transaction or Permitted Warrant Transaction; *provided* that, in the case of this Section 6.20(m), to the extent any consideration other than the Lead Borrower's common stock is required to be paid under a Permitted Bond Hedge Transaction (other than, for the avoidance of doubt, the required payment of premium thereunder) or a Permitted Warrant Transaction as a result of the election of "cash settlement" (or substantially equivalent term) as the "settlement method" (or substantially equivalent term) thereunder by the Lead Borrower (or its Affiliates) (including in connection with the exercise and/or early unwind or settlement thereof), the payment of such cash shall constitute a Distribution notwithstanding this clause (m) (and such Distribution must be permitted pursuant to a clause of this Section 6.20 other than Section 6.20(m)); and

(n) the Closing Date Dividend.

Section 6.21 *Limitation on Restrictions*. The Lead Borrower will not, and it will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction on the ability of any such Restricted Subsidiary to (A) pay dividends or make any other distributions on its capital stock or other Equity Interests owned by the Lead Borrower or any other Restricted Subsidiary, (B) pay or repay any Indebtedness owed to the Lead Borrower or any other Restricted Subsidiary, (C) make loans or advances to the Lead Borrower or any other Restricted Subsidiary, (D) encumber or pledge any of its assets to or for the benefit of the Administrative Agent or (E) guaranty the Obligations, Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, except for, in each case:

(a) restrictions and conditions imposed by any Loan Document or which (x) exist on the Closing Date and (y) to the extent contractual obligations permitted by subclause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted renewal, extension or refinancing of such Indebtedness so long as such renewal, extension or refinancing does not materially expand the scope of such contractual obligation;

(b) customary restrictions and conditions contained in agreements relating to any sale of assets pending such sale; *provided* that such restrictions and conditions apply only to the Person or property that is to be sold;

(c) restrictions or conditions imposed by any agreement relating to Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the Person obligated under such Indebtedness and its Subsidiaries or, in the case of secured Indebtedness, the property or assets intended to secure such Indebtedness;

(d) contractual obligations binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such contractual obligations were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary;

(e) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 6.19 and applicable solely to such joint venture entered into in the ordinary course of business and any provisions in joint venture agreements in effect at or entered into on the Closing Date;

(f) restrictions on cash, other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business and customary provisions in leases, subleases, licenses, sublicenses, service agreements, product sales, asset sale agreements and other contracts restricting the assignment thereof, in each case entered into in the ordinary course of business;

(g) secured Indebtedness otherwise permitted to be incurred under Sections 6.15 and 6.16 that limit the right of the obligor to dispose of the assets securing such Indebtedness;

(h) restrictions that arise in connection with (including Indebtedness and other agreements entered into in connection therewith) (x) any Lien permitted by Section 6.16 and that relate to the property subject to such Lien or (y) any disposition permitted by Section 6.17 applicable pending such disposition solely to the assets subject to such disposition;

(i) customary provisions restricting assignment of, or the creation of any Lien over, any agreement entered into in the ordinary course of business;

(j) any restrictions imposed by any agreement relating to Indebtedness incurred pursuant to Section 6.15 or Refinancing Indebtedness in respect thereof, to the extent such restrictions are not materially more restrictive, taken as a whole, than the restrictions contained in this Agreement (in each case, as determined in good faith by the Lead Borrower);

(k) any encumbrances or restrictions of the type referred to in clauses (a), (b) or (c) above and solely with respect to any Foreign Subsidiary, any encumbrances or restrictions of the type referred to in clauses (d) or (e) above, in each case, imposed by any other instrument or agreement entered into after the Closing Date that contains encumbrances and restrictions that, as determined by the Lead Borrower in good faith, will not materially adversely affect the Lead Borrower's ability to make payments on the Loans;

(l) any encumbrance or restriction of a Receivables Financing Subsidiary effected in connection with a Permitted Receivables Financing; *provided*, *however*, that such restrictions apply only to such Receivables Financing Subsidiary; and

(m) any encumbrances or restrictions of the types referred to in clauses (a) through (l) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Lead Borrower, no more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.22 *Optional Payments of Certain Indebtedness; Modifications of Certain Indebtedness and Organizational Documents*. The Lead Borrower will not, and it will not permit any of its Restricted Subsidiaries to:

(a) directly or indirectly make any optional or voluntary payment, prepayment, repurchase or redemption of or otherwise optionally or voluntarily defease, earlier than one year prior to any scheduled final maturity (such actions, a "*Restricted Debt Payment*") the principal amount of any Indebtedness that is expressly subordinated to the Loans, secured on a junior lien basis to the Loans or that is unsecured, in an aggregate principal amount in excess of the greater of $100.0 million and 6% of Consolidated Adjusted EBITDA (other than intercompany Indebtedness), except (i) in connection with the incurrence of Refinancing Indebtedness, (ii) in connection with a conversion or exchange of such Indebtedness to, or for, as applicable, Equity Interests of the Lead Borrower (other than Disqualified Equity Interests), (iii) payments as part of an "applicable high yield discount obligation" catch-up payment, (iv) Restricted Debt Payments in an aggregate amount up to (x) so long as (A) no Event of Default has occurred, is continuing or would result therefrom and (B) the Leverage Ratio, calculated on a Pro Forma Basis after giving effect to such Restricted Debt Payment, does not exceed the then-applicable Leverage Ratio required under Section 6.24 hereof, the greater of $100.0 million and 6% of Consolidated Adjusted EBITDA *plus* (y) the Available Amount (so long as (1) no Default or Event of Default has occurred, is continuing or would result therefrom and (2) the Lead Borrower and its Restricted Subsidiaries are in compliance, on a Pro

Forma Basis, with the financial covenant set forth in Section 6.24 recomputed as of the last day of the most recently ended period for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b)) and (v) Restricted Debt Payments so long as (A) no Event of Default has occurred, is continuing or would result therefrom and (B) the Leverage Ratio does not exceed 2.50 to 1.00 (in each case, calculated on a Pro Forma Basis as of the last day of the most recently ended period of four consecutive fiscal quarters for which financial statements have been or were required to be delivered pursuant to Section 6.1(a) or (b)); or

(b) amend, modify, or otherwise change in any manner any of the terms of (i) the documentation governing any Indebtedness that is expressly subordinated to the Loans, secured on a junior lien basis to the Loans or that is unsecured, in an aggregate principal amount in excess of the greater of $100 million and 6% of Consolidated Adjusted EBITDA or (ii) the charter documents of the Lead Borrower or such Restricted Subsidiary, except, in the case of each of clauses (i) and (ii), if the effect of any such amendment, modification or change is not materially adverse to the interests of the Lenders.

Section 6.23 *OFAC*. The Lead Borrower will not, and will not permit any of its Subsidiaries to, (i) become a Person whose property or interests in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Party and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079(2001)), (ii) engage in any dealings or transactions prohibited by Section 2 of such executive order, or be otherwise associated with any such Person in any manner violative of Section 2, and (iii) become a Person on the list of Specially Designated Nationals and Blocked Persons List or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

Section 6.24 *Financial Covenant*. Solely with respect to the Revolving Facility:

(a) *Leverage Ratio*.

Except as otherwise provided in this Section 6.24, the Lead Borrower shall not, as of the last day of each fiscal quarter of the Lead Borrower, permit the Leverage Ratio to be greater than 3.50 to 1.00; *provided* that following the consummation of a Qualified Acquisition, the Leverage Ratio set forth above shall increase by 0.50 to 1.00 for each of the four (4) fiscal quarters of the Lead Borrower ending following the consummation of such Qualified Acquisition (such increase, a "*Covenant Increase*"); *provided further* that there must be at least two (2) consecutive fiscal quarters without a Covenant Increase following the period in which there was a Covenant Increase before another Covenant Increase may be exercised.

(b) *Pro Forma Compliance*. Compliance with the financial covenant set forth in clause (a) above shall always be calculated on a Pro Forma Basis.

Section 6.25 *Certain Post-Closing Obligations*. As promptly as practicable, and in any event within the time periods after the Closing Date specified in Schedule 6.25 (or such later date as the Administrative Agent may agree to in its sole discretion), the Lead Borrower and each other Loan Party, as applicable, shall deliver the documents or take the actions specified on Schedule 6.25.

Section 6.26 *Maintenance of Ratings*. The Lead Borrower shall use its commercially reasonable efforts to maintain a (i) long-term public credit rating of the Lead Borrower and (ii) a public credit rating for the Facilities, in each case, from both S&P and Moody's; *provided* that in no event shall the Lead Borrower be required to maintain any specific rating with any such rating agency.

Section 7.1 *Events of Default*. Any one or more of the following shall constitute an "*Event of Default*" hereunder:

(a) default (i) in the payment when due (whether at the stated maturity thereof or at any other time provided for in this Agreement) of all or any part of the principal of any Loan or Reimbursement Obligation or (ii) in the payment when due of interest on any Loan or any other Obligation payable hereunder or under any other Loan Document and such default shall continue unremedied for a period of five (5) Business Days;

(b) default in the observance or performance of any covenant set forth in Sections 6.1(f)(i), 6.5 (with respect to the Lead Borrower), 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 6.19, 6.20, 6.21, 6.22, 6.23 or 6.24 hereof; *provided* that no breach or default by the Lead Borrower under Section 6.24 shall constitute an Event of Default with respect to the Term B Facility, unless and until the Required RC Lenders have accelerated the Revolving Loans and such acceleration has not been rescinded;

(c) default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within 30 days after written notice of such default is given to the Lead Borrower by the Administrative Agent;

(d) any representation or warranty made or deemed made herein or in any other Loan Document or in any certificate delivered to the Administrative Agent or the Lenders pursuant hereto or thereto proves untrue in any material respect (or in all respects, if qualified by a materiality threshold) as of the date of the issuance or making thereof and, solely to the extent such representation or warranty is capable of being corrected or cured, shall remain incorrect for 30 days after the earlier of (x) the Lead Borrower's knowledge of such default and (y) receipt by the Lead Borrower of written notice thereof from the Administrative Agent;

(e) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void (other than pursuant to the terms thereof or as a result of the gross negligence, bad faith or willful misconduct of the Administrative Agent as determined by the final, non-appealable judgment of a court of competent jurisdiction), any Lien in favor of the Administrative Agent or the Collateral Agent in any Collateral purported to be covered by any of the Collateral Documents shall be invalid except as expressly permitted by the terms hereof or thereof (other than (A) the Collateral Agent no longer having possession of any stock certificates, promissory notes or other instruments delivered to it under the Security Documents or (B) Uniform Commercial Code continuation statements not being filed in a timely manner), any lien subordination provision in respect of a material portion of the Collateral shall be determined to be invalid or any Loan Party terminates, repudiates in writing or rescinds any Loan Document executed by it or any of its obligations thereunder (other than pursuant to the terms hereof);

(f) default shall occur under (i) any Material Indebtedness or under any indenture, agreement or other instrument under which the same may be issued or (ii) any Hedge Agreement, the obligations under which exceed $350.0 million (such obligations, "Hedging Obligations"), the effect of which default is to cause, or to permit the holder or holders of such Material Indebtedness (or a trustee or agent on behalf of such holder or holders) or Hedging Obligations to cause any such Indebtedness or obligations in respect of a Hedge Agreement to become due or required to be prepaid, repurchased, defeased or redeemed prior to its stated maturity, or the principal or interest under any such Material Indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) after giving effect to applicable grace or cure periods, if any; *provided* that this clause (f) shall not apply to termination events or any other similar event under the documents governing such Hedging Obligations unless and until such termination event or other similar event results in (x) the occurrence of an early termination date that results in a failure to pay amounts owed in excess of $350.0 million or (y) a failure to pay amounts owed in excess of $350.0 million resulting from any acceleration or other prepayment of any amounts or other Indebtedness payable thereunder;

(g) any final judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, shall be entered or filed against a Borrower or any of its Subsidiaries that are Significant Subsidiaries, or against any of its Property, in an aggregate amount in excess of the greater of $400.0 million and 25% of Consolidated Adjusted EBITDA(except to the extent paid or covered by insurance (other than the applicable deductible) and the insurer has not denied coverage therefor in writing), and which remains undischarged, unvacated, unbonded or unstayed for a period of 60 days from the entry thereof;

(h) an ERISA Event shall have occurred which could reasonably be expected to result in a Material Adverse Effect;

(i) any Change of Control shall occur;

(j) a Borrower or any of its Restricted Subsidiaries that are Significant Subsidiaries shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, and such period shall continue for a period of sixty (60) days, (ii) admit in writing its inability to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, provisional liquidator, liquidator or similar official for it or any substantial part of its Property (other than for a solvent liquidation of any Foreign Subsidiary permitted by Section 6.17(f)), or (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors; or

(k) a custodian, receiver, trustee, examiner, provisional liquidator, liquidator or similar official shall be appointed for a Borrower or any of its Restricted Subsidiaries that are Significant Subsidiaries, or any substantial part of any of its Property (other than for a solvent liquidation of any Foreign Subsidiary permitted by Section 6.17(f)), or a proceeding described in Section 7.1(j)(v) shall be instituted against a Borrower or any Restricted Subsidiary that is a Significant Subsidiary, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 60 days.

Section 7.2 *Non-Bankruptcy Defaults*. When any Event of Default other than those described in subsection (j) or (k) of Section 7.1 hereof has occurred and is continuing, the Administrative Agent shall, by written notice to the Lead Borrower: (a) if so directed by the Required RC Lenders, terminate the remaining Revolving Credit Commitments, and if so directed by the Required Lenders, terminate all other obligations of the Lenders hereunder on the date stated in such notice (which may be the date thereof); (b) if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind; (c) after a breach or default by the Lead Borrower under Section 6.24, if so directed by the Required RC Lenders, terminate the remaining Revolving Credit Commitments and declare the principal of and the accrued interest on all outstanding Revolving Loans to be forthwith due and payable, and thereafter, if so directed by the Required RC Lenders, terminate all other obligations of the Revolving Lenders hereunder on the date stated in such notice (which may be the date thereof) and (d) if so directed by the Required RC Lenders, demand that the Lead Borrower immediately pay to the Administrative Agent, as cash collateral, the full amount then available for drawing under each or any Letter of Credit, whether or not any drawings or other demands for payment have been made under any Letter of Credit. The Administrative Agent, after giving notice to the Lead Borrower pursuant to Section 7.1(c) or this Section 7.2, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.

Section 7.3 *Bankruptcy Defaults*. When any Event of Default described in subsection (j) or (k) of Section 7.1 hereof has occurred and is continuing, then all outstanding Loans shall immediately become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind, the Revolving Credit Commitments and any and all other obligations of the Lenders to extend further credit pursuant to any of the terms hereof shall immediately terminate and the Lead Borrower shall immediately pay to the Administrative Agent, as cash collateral, the full amount then available for drawing under all outstanding Letters of Credit, whether or not any draws or other demands for payment have been made under any of the Letters of Credit.

Section 7.4 *Collateral for Undrawn Letters of Credit*.

(a) If the prepayment of the amount available for drawing under any or all outstanding Letters of Credit is required under Section 2.8(c)(v) or under Section 7.2 or 7.3 above, the Lead Borrower shall forthwith pay the amount required to be so prepaid, to be held by the Administrative Agent as provided in subsection (b) below.

(b) All amounts prepaid pursuant to clause (a) above shall be held by the Administrative Agent in one (1) or more separate collateral accounts (each such account, and the credit balances, properties, and any investments from time to time held therein, and any substitutions for such account, any certificate of deposit or other instrument evidencing any of the foregoing and all proceeds of and earnings on any of the foregoing being collectively called the "*Collateral Account*") as security for, and for application by the Administrative Agent (to the extent available) to, the reimbursement of any payment under any Letter of Credit then or thereafter made by the L/C Issuers, and to the payment of the unpaid balance of any other Obligations in respect of any Letter of Credit. The Collateral Account shall be held in the name of and subject to the exclusive dominion and control of the Administrative Agent for the benefit of the Administrative Agent, the Lenders and the L/C Issuers. If and when requested by the Lead Borrower, the Administrative Agent shall invest funds held in the Collateral Account from time to time in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America with a remaining maturity of one (1) year or less; *provided* that the Administrative Agent is irrevocably authorized to sell investments held in the Collateral Account when and as required to make payments out of the Collateral Account for application to amounts due and owing from the Borrowers to the L/C Issuers, the Administrative Agent or the Lenders in respect of any Letter of Credit; *provided*, *however*, that if (i) the Lead Borrower shall have made payment of all such obligations referred to in clause (a) above and (ii) no Letters of Credit remain outstanding hereunder, then the Administrative Agent shall release to the Lead Borrower any remaining amounts held in the Collateral Account.

Section 7.5 *Notice of Default*. The Administrative Agent shall give notice to the Lead Borrower under Section 7.1(c) hereof promptly upon being requested to do so by the Required Lenders and shall at such time also notify all the Lenders thereof.

ARTICLE 8. CHANGE IN CIRCUMSTANCES AND CONTINGENCIES.

Section 8.1 *Funding Indemnity*.

(a) With respect to Loans that are not RFR Loans, in the event of (i) the payment of any principal of any Term Benchmark Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or an optional or mandatory prepayment of Loans), (ii) the conversion of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto, (iii) the failure to borrow, convert, continue or prepay any Term Benchmark Loan on the date specified in any notice delivered pursuant hereto or (iv) the assignment of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Lead Borrower pursuant to Section 8.5 or (v) the failure by the Borrowers to make any payment of any Loan or drawing under any Letter of Credit (or interest due thereof) denominated in an Alternative Currency on its scheduled due date or any payment thereof in a different currency, then, in any such event, the Lead Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section and the basis for requesting such amounts shall be delivered to the Lead Borrower and shall be conclusive absent manifest error. The Lead Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(b) With respect to RFR Loans, in the event of (i) the payment of any principal of any RFR Loan other than on the interest payment date applicable thereto (including as a result of an Event of Default or an optional or mandatory prepayment of Loans), (ii) the failure to borrow or prepay any RFR Loan on the date specified in any notice delivered pursuant hereto or (iii) the assignment of any RFR Loan other than on the interest payment date applicable thereto as a result of a request by the Lead Borrower pursuant to Section 8.5, then, in any such event, the Lead Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section and the basis for requesting such amounts shall be delivered to the Lead Borrower and shall be conclusive absent manifest error. The Lead Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 8.2 *Illegality*. Notwithstanding any other provisions of this Agreement or any other Loan Document, if at any time any change in applicable law, rule or regulation or in the interpretation thereof makes it unlawful for any Lender to make or continue to maintain any Term Benchmark Loans or RFR Loans, or to perform its obligations as contemplated hereby with respect to such Term Benchmark Loans or such RFR Loans, such Lender shall promptly give notice thereof to the Lead Borrower and the Administrative Agent and such Lender's obligations to make or maintain Term Benchmark Loans in the affected currency or currencies or RFR Loans under this Agreement shall be suspended until it is no longer unlawful for such Lender to make or maintain Term Benchmark Loans in such affected currency or currencies or RFR Loans. In the case of Term Benchmark Loans denominated in Dollars or RFR Loans, such Lender may require that such affected Term Benchmark Loans or RFR Loans be converted to Base Rate Loans from such Lender automatically on the effective date of the notice provided above, and such Base Rate Loans shall not be made ratably by the Lenders but only from such affected Lender. Each Lender agrees to notify the Administrative Agent and the Lead Borrower in writing promptly following any date on which it becomes lawful for such Lender to make and maintain Term Benchmark Loans or RFR Loans or give effect to its obligations as contemplated hereby with respect to any Term Benchmark Loan or RFR Loans.

Section 8.3 *Alternate Rate of Interest*.

(a) Subject to clauses (b), (c), (d), (e) and (f) of this Section 8.3, if:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) (A) prior to the commencement of any Interest Period for a Term Benchmark Borrowing, that adequate and reasonable means do not exist for ascertaining the Adjusted Term SOFR Rate, the Term SOFR Rate, the Adjusted EURIBOR Rate, the EURIBOR Rate, the Adjusted TIBOR Rate or the TIBOR Rate (including because the Relevant Screen Rate is not available or published on a current basis), for the applicable Agreed Currency and such Interest Period or (B) at any time, that adequate and reasonable means do not exist for ascertaining the applicable Adjusted Daily Simple SOFR or Daily Simple SOFR for the applicable Agreed Currency; or

(ii) the Administrative Agent is advised by the Required Lenders that (A) prior to the commencement of any Interest Period for a Term Benchmark Borrowing, the Adjusted Term SOFR Rate the Adjusted EURIBOR Rate or the Adjusted TIBOR Rate for the applicable Agreed Currency and such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for the applicable Agreed Currency and such Interest Period or (B) at any time, the applicable Adjusted Daily Simple SOFR for the applicable Agreed Currency will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for the applicable Agreed Currency;

then the Administrative Agent shall give notice thereof to the Lead Borrower and the Lenders by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until (x) the Administrative Agent notifies the Lead Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) a Borrower delivers a new interest election request in accordance with the terms of Section 2.5 or a new Notice of Borrowing in accordance with the terms of Section 2.5, (A) for Loans denominated in Dollars, (1) any interest election request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Term Benchmark Borrowing and any Notice of Borrowing that requests a Term Benchmark Borrowing shall instead be deemed to be an interest election request or a Notice of Borrowing, as applicable, for (x) an RFR Borrowing so long as the Adjusted Daily Simple SOFR is not also the subject of Section 8.3(a)(i) or (ii) above or (y) a Base Rate Loan if the Adjusted Daily Simple SOFR also is the subject of Section 8.3(a)(i) or (ii)

above and (2) any Notice of Borrowing that requests an RFR Borrowing shall instead be deemed to be a Notice of Borrowing for a Base Rate Loan and (B) for Loans denominated in an Alternative Currency, any interest election request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Term Benchmark Borrowing and any Notice of Borrowing that requests a Term Benchmark Borrowing, in each case, for the relevant Benchmark, shall be ineffective; *provided* that if the circumstances giving rise to such notice affect only one type of Borrowings, then all other types of Borrowings shall be permitted. Furthermore, if any Term Benchmark Loan or RFR Loan in any Agreed Currency is outstanding on the date of the Lead Borrower's receipt of the notice from the Administrative Agent referred to in this Section 8.3(a) with respect to a Relevant Rate applicable to such Term Benchmark Loan or RFR Loan, then until (x) the Administrative Agent notifies the Lead Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) a Borrower delivers a new interest election request in accordance with the terms of Section 2.5 or a new Notice of Borrowing in accordance with the terms of Section 2.5, (A) for Loans denominated in Dollars, (1) any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, (x) an RFR Borrowing so long as the Adjusted Daily Simple SOFR is not also the subject of Section 8.3(a)(i) or (ii) above or (y) an Base Rate Loan if the Adjusted Daily Simple SOFR also is the subject of Section 8.3(a)(i) or (ii) above, on such day, and (2) any RFR Loan shall on and from such day be converted by the Administrative Agent to, and shall constitute a Base Rate Loan and (B) for Loans denominated in an Alternative Currency, any Term Benchmark Loan shall, on the last day of the Interest Period applicable to such Loan bear interest at the Central Bank Rate (or in the case of the Yen, the Japanese Prime Rate) for the applicable Alternative Currency *plus* the CBR Spread; *provided* that, if the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that the Central Bank Rate (or in the case of the Yen, the Japanese Prime Rate) for the applicable Alternative Currency cannot be determined, any outstanding affected Term Benchmark Loans denominated in any Alternative Currency shall, at a Borrower's election prior to such day: (A) be prepaid by such Borrower on such day or (B) solely for the purpose of calculating the interest rate applicable to such Term Benchmark Loan, such Term Benchmark Loan denominated in any Alternative Currency shall be deemed to be a Term Benchmark Loan denominated in Dollars and shall accrue interest at the same interest rate applicable to Term Benchmark Loans denominated in Dollars at such time or (B) be prepaid in full immediately.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document (and any Hedge Agreement shall be deemed not to be a "Loan Document" for purposes of this Section 8.3), if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of "Benchmark Replacement" with respect to Dollars for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark (including any related adjustments) for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of "Benchmark Replacement" with respect to any Agreed Currency for such Benchmark Replacement Date such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(d) The Administrative Agent will promptly notify the Lead Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (e) below and (v) the commencement or conclusion of any Benchmark

Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 8.3, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 8.3.

(e) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Rate, EURIBOR Rate or TIBOR Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Upon the Lead Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrowers may revoke any request for a Term Benchmark Borrowing or RFR Borrowing of, conversion to or continuation of Term Benchmark Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, either (x) the Borrowers will be deemed to have converted any request for a Term Benchmark Borrowing or RFR Borrowing, as applicable, denominated in Dollars into a request for a Borrowing of or conversion to (A) solely with respect to any such request for a Term Benchmark Borrowing, an RFR Borrowing so long as the Adjusted Daily Simple SOFR is not the subject of a Benchmark Transition Event or (B) a Base Rate Loan if the Adjusted Daily Simple SOFR is the subject of a Benchmark Transition Event or (y) any request relating to a Term Benchmark Borrowing denominated in an Alternative Currency shall be ineffective. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate. Furthermore, if any Term Benchmark Loan or RFR Loan in any Agreed Currency is outstanding on the date of the Lead Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a Relevant Rate applicable to such Term Benchmark Loan or RFR Loan, then until such time as a Benchmark Replacement for such Agreed Currency is implemented pursuant to this Section 8.3, (A) for Loans denominated in Dollars (1) any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, (x) an RFR Borrowing so long as the Adjusted Daily Simple SOFR is not the subject of a Benchmark Transition Event or (y) a Base Rate Loan if the Adjusted Daily Simple SOFR is the subject of a Benchmark Transition Event, on such day and (2) any RFR Loan shall on and from such day be converted by the Administrative Agent to, and shall constitute a Base Rate Loan and (B) for Loans denominated in an Alternative Currency, any Term Benchmark Loan shall, on the last day of the Interest Period applicable to such Loan bear interest at the Central Bank Rate (or in the case of the Yen, the Japanese Prime Rate) for the applicable Alternative Currency *plus* the CBR Spread; *provided* that, if the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that the Central Bank Rate (or in the case of the Yen, the Japanese Prime Rate) for the applicable Alternative Currency cannot be determined, any outstanding affected Term Benchmark Loans denominated in any Alternative Currency shall, at a Borrower's election prior to such day: (A) be prepaid by such Borrower on such day or (B) solely for the purpose of calculating the interest rate applicable to such Term Benchmark Loan, such Term Benchmark Loan denominated in any Alternative Currency shall be deemed to be a Term Benchmark Loan denominated in Dollars and shall accrue interest at the same interest rate applicable to Term Benchmark Loans denominated in Dollars at such time.

Section 8.4 *Yield Protection*.

(a) If, on or after the Closing Date, the adoption of any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its Lending Office) or L/C Issuer with any request or directive (whether or not having the force of law) of any such Governmental Authority:

(i) shall subject any Lender (or its Lending Office) or L/C Issuer to any Taxes (other than (A) Indemnified Taxes and Other Taxes indemnifiable under Section 10.1 and (B) Excluded Taxes), with respect to its loans, letters of credit, commitments, or other obligations hereunder, or its deposits, reserves, other liabilities or capital attributable thereto; or

(ii) shall impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (or its Lending Office) or L/C Issuer (except any such reserve requirement reflected in the Adjusted EURIBOR Rate or Adjusted TIBOR Rate, as applicable) or shall impose on any Lender (or its Lending Office) or L/C Issuer or on the interbank market for the applicable Agreed Currency any other condition affecting its Term Benchmark Loans, its Revolving Notes, its Letter(s) of Credit, or its participation in any thereof, any Reimbursement Obligation owed to it, or its obligation to make Term Benchmark Loans, or to issue a Letter of Credit, or to participate therein;

and the result of any of the foregoing is to increase the cost to such Lender (or its Lending Office) or L/C Issuer of making or maintaining any Term Benchmark Loan, issuing or maintaining a Letter of Credit, or participating therein, or to reduce the amount of any sum received or receivable by such Lender (or its Lending Office) or L/C Issuer under this Agreement or under any other Loan Document with respect thereto, by an amount deemed by such Lender or L/C Issuer to be material, then, within 30 days after written demand by such Lender or L/C Issuer (with a copy to the Administrative Agent), the Borrowers shall be obligated to pay to such Lender or L/C Issuer such additional amount or amounts as will compensate such Lender or L/C Issuer for such increased cost or reduction; *provided* that the Borrowers shall not be required to compensate a Lender or L/C Issuer pursuant to this Section 8.4(a) for any increased costs or reductions suffered more than one hundred and eighty (180) days prior to the date that Lender or L/C Issuer notifies the Lead Borrower of the change in law giving rise to such increased costs or reductions and of such Lender's or L/C Issuer's intention to claim compensation therefor (except that, if the change in law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include such period of retroactive effect).

(b) If, after the Closing Date, any Lender, L/C Issuer or the Administrative Agent shall have determined that the adoption of any applicable law, rule or regulation regarding capital adequacy or liquidity requirements, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its Lending Office) or L/C Issuer or any corporation controlling such Lender or L/C Issuer with any request or directive regarding capital adequacy or liquidity (whether or not having the force of law) of any such Governmental Authority has had the effect of reducing the rate of return on such Lender's, L/C Issuer's or corporation's capital as a consequence of its obligations hereunder to a level below that which such Lender, L/C Issuer or corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's, L/C Issuer's or corporation's policies with respect to capital adequacy or liquidity) by an amount deemed by such Lender or L/C Issuer to be material, then from time to time, within 30 days after demand by such Lender or L/C Issuer (with a copy to the Administrative Agent), the Borrowers shall pay to such Lender or L/C Issuer such additional amount or amounts as will compensate such Lender or L/C Issuer for such reduction; *provided* that the Borrowers shall not be required to compensate a Lender or L/C Issuer pursuant to this Section 8.4(b) for any reductions suffered more than one hundred and eighty (180) days prior to the date that Lender or L/C Issuer notifies the Lead Borrower of the change in law giving rise to such increased costs or reductions and of such Lender's or L/C Issuer's intention to claim compensation therefor (except that, if the change in law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include such period of retroactive effect).

(c) Notwithstanding anything herein to the contrary, (i) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or by United States or foreign regulatory authorities, in each case pursuant to Basel III, and (ii) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof, shall, in each case, be deemed to be a change in law, regardless of the date enacted, adopted, issued or implemented (but solely to the extent the relevant increased costs or loss of yield would otherwise have been subject to compensation by the Borrowers under the applicable increased cost provisions).

(d) A Lender or L/C Issuer claiming compensation under this Section 8.4 shall only be entitled to reimbursement by the Borrowers (i) if such Lender or L/C Issuer has delivered to Lead Borrower a certificate claiming compensation under this Section 8.4 and setting forth the additional amount or amounts to be paid to it hereunder at the time of such demand, which shall be conclusive absent manifest error (it being understood that in determining such amount, such Lender may use any reasonable averaging and attribution methods) and (ii) to the extent the applicable Lender is generally requiring reimbursement therefor from similarly situated United States borrowers under comparable syndicated credit facilities; *provided* that, in connection with asserting any such claim, no confidential information need be disclosed. No failure or delay by a Lender or L/C Issuer in exercising any right or power pursuant to this Section 8.4 shall operate as a waiver thereof.

Section 8.5 *Substitution of Lenders*. In the event that (a) the Lead Borrower receives a claim from any Lender for compensation under Section 8.4, Section 10.1 or Section 10.4 hereof, (b) the Lead Borrower receives a notice from any Lender of any illegality pursuant to Section 8.2 hereof, (c) any Lender is a Defaulting Lender or (d) any Lender fails to consent to any amendment, waiver, supplement or other modification pursuant to Section 10.11 requiring the consent of all Lenders or each Lender directly affected thereby (and such Lender is so affected), and as to which the Required Lenders or a majority of all Lenders directly affected thereby have otherwise consented (any such Lender referred to in clause (d) above being hereinafter referred to as a "*Non-Consenting Lender*" and any Non-Consenting Lender and any such Lender referred to in clause (a), (b) or (c) above being hereinafter referred to as an "*Affected Lender*"), the Lead Borrower may, in addition to any other rights the Lead Borrower may have hereunder or under applicable law, (i) require, at its expense, any such Affected Lender to assign, at par *plus* accrued interest and fees, without recourse, all of its interest, rights, and obligations hereunder (including all of its Revolving Credit Commitments and the Revolving Loans and participation interests in Letters of Credit and other amounts at any time owing to it hereunder and the other Loan Documents) to an Eligible Assignee specified by the Lead Borrower; *provided* that (A) such assignment shall not conflict with or violate any law, rule or regulation or order of any Governmental Authority, (B) if the assignment is to a Person other than a Lender, the Lead Borrower shall have received the written consent of the Administrative Agent and, in the case of any Revolving Credit Commitment, the L/C Issuers, which consents shall not be unreasonably withheld or delayed, to such assignment, (C) the Lead Borrower shall have paid to the Affected Lender all monies (together with amounts due such Affected Lender under Section 8.1 hereof as if the Loans owing to it were prepaid rather than assigned and any premium owing to such Affected Lender under Section 2.8(a)(iii)) other than principal, interest and fees owing to it hereunder, (D) the Lead Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts (other than any disputed amounts), pursuant to Section 10.10 owing to such replaced Lender prior to the date of replacement, (E) the assignment is entered into in accordance with the other requirements of Section 10.10 hereof and (F) any such assignment shall not be deemed to be a waiver of any rights that the Lead Borrower, the Administrative Agent or any other Lender shall have against the Affected Lender, or (ii) terminate the Revolving Credit Commitment of such Affected Lender and repay all Obligations of the Lead Borrower owing to such Lender as of such termination date. Each party hereto agrees that an assignment required pursuant to this Section 8.5 may be effected pursuant to an Assignment and Assumption executed by the Lead Borrower, the Administrative Agent and the assignee and that the Affected Lender required to make such assignment need not be a party thereto.

Section 8.6 *Lending Offices*. Each Lender may, at its option, elect to make its Loans hereunder at the branch, office or affiliate specified on the appropriate signature page hereof (each a "*Lending Office*") for each type of Loan available hereunder or at such other of its branches, offices or affiliates as it may from time to time elect and designate in a written notice to the Lead Borrower and the Administrative Agent. To the extent reasonably possible, a Lender shall designate an alternative branch or funding office to reduce any liability of the Borrowers to such Lender under Section 8.4 hereof (or with respect to any payment by or on behalf of any Loan Party under this Agreement or any other Loan Document, to reduce any liability of the Borrowers to such Lender under section 10.1 hereof), or to avoid the unavailability of Term Benchmark Loans under Section 8.2 hereof, so long as such designation is not disadvantageous to the Lender.

ARTICLE 9. THE ADMINISTRATIVE AGENT.

Section 9.1 *Appointment and Authorization of Administrative Agent*. Each Lender hereby appoints JPMorgan Chase Bank, N.A., as the Administrative Agent and Collateral Agent under the Loan Documents and hereby authorizes the Administrative Agent to take such action as Administrative Agent on its behalf and to exercise such powers, rights and remedies under the Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall have only those duties and responsibilities that are expressly specified in the Loan Documents. Each Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. Notwithstanding the use of "Administrative Agent" as a defined term, the Lenders expressly agree that the Administrative Agent is not acting as a fiduciary of any Lender in respect of the Loan Documents, the Borrowers or otherwise, and nothing herein or in any of the other Loan Documents shall result in any duties or obligations on the Administrative Agent or any of the Lenders except as expressly set forth herein and therein. The provisions of this Article 9 are solely for the benefit of the Administrative Agent and the Lenders and no Loan Party shall have any rights as a third party beneficiary of any of the provisions thereof (other than to the extent provided in Sections 9.1, 9.3, 9.7, 9.11 and 9.12). In performing its functions and duties hereunder, the Administrative Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for the Lead Borrower or any of its Subsidiaries, other than as provided in Section 10.10(c) with respect to the maintenance of the Register.

Section 9.2 *Administrative Agent and its Affiliates*. The Administrative Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any other Lender and may exercise or refrain from exercising such rights and power as though it were not the Administrative Agent, and the Administrative Agent and its affiliates may accept deposits from, lend money to, own securities of and generally engage in any kind of banking, trust, financial advisory or other business with the Borrowers or any Affiliate of the Borrowers as if it were not the Administrative Agent under the Loan Documents, and may accept fees and other consideration from the Borrowers for services in connection herewith and otherwise without having to account for the same to the Lenders. The term "Lender" as used herein and in all other Loan Documents, unless the context otherwise clearly requires, includes the Administrative Agent in its individual capacity as a Lender. References in Article 2 hereof to the amount owing to the Administrative Agent for which an interest rate is being determined, refer to the Administrative Agent in its individual capacity as a Lender.

Section 9.3 *Action by Administrative Agent*. If the Administrative Agent receives from a Borrower a written notice of an Event of Default pursuant to Section 6.1(f) hereof, the Administrative Agent shall promptly give each of the Lenders written notice thereof. Without limiting the generality of the foregoing, the Administrative Agent shall not be required to take any action hereunder with respect to any Default or Event of Default, except as expressly provided in the Loan Documents. Upon the occurrence of an Event of Default, the Administrative Agent shall take such action to enforce its Lien on the Collateral and to preserve and protect the Collateral as may be directed by the Required Lenders. Unless and until the Required Lenders give such direction, the Administrative Agent may (but shall not be obligated to) take or refrain from taking such actions as it deems appropriate and in the best interest of all the Lenders. In no event, however, shall the Administrative Agent be required to take any action in violation of Applicable Law or of any provision of any Loan Document, and the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder or under any other Loan Document unless it first receives any further assurances of its indemnification from the Lenders that it may require, including prepayment of any related expenses and any other protection it requires against any and all costs, expense, and liability which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall be entitled to assume that no Default or Event of Default exists unless notified in writing to the contrary by a Lender or the Lead Borrower. In all cases in which the Loan Documents do not require the Administrative Agent to take specific action, the Administrative Agent shall be fully justified in using its discretion in failing to take or in taking any action thereunder. Any instructions of the Required Lenders, or of any other group of Lenders called for under the specific provisions of the Loan Documents, shall be binding upon all the Lenders and the holders of the Obligations.

Section 9.4 *Consultation with Experts*. The Administrative Agent may consult with legal counsel, independent public accountants, and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Section 9.5 *Liability of Administrative Agent; Credit Decision; Delegation of Duties*.

(a) Neither the Administrative Agent nor any of its officers, partners, directors, employees or agents shall be liable to the Lenders for any action taken or omitted by the Administrative Agent under or in connection with any of the Loan Documents except to the extent caused by the gross negligence or willful misconduct of the Administrative Agent or any of its officers, partners, directors, employees or agents, as determined by a final, non-appealable judgment of a court of competent jurisdiction. The Administrative Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until the Administrative Agent shall have received instructions in respect thereof from the Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.11) and, upon receipt of such instructions from Required Lenders (or such other Lenders, as the case may be), the Administrative Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) the Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper party or parties, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for the Lead Borrower and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against the Administrative Agent as a result of it acting or (where so instructed) refraining from acting hereunder or any of the other Loan Documents in accordance with the instructions of Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.11). In particular and without limiting any of the foregoing, the Administrative Agent shall have no responsibility for confirming the accuracy of any Compliance Certificate or other document or instrument received by it under the Loan Documents. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into or verify: (i) any statement, warranty, representation or recital made in connection with this Agreement, any other Loan Document or any Credit Extension, or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by the Administrative Agent to the Lenders or by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations; (ii) the performance or observance of any of the terms, conditions, provisions, covenants or agreements of the Borrowers or any Subsidiary contained herein or in any other Loan Document or any Credit Extension or the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing; (iii) the satisfaction of any condition specified in Article 3 hereof, except receipt of items required to be delivered to the Administrative Agent; or (iv) the execution, validity, effectiveness, genuineness, enforceability, perfection, value, worth or collectability hereof or of any other Loan Document or of any other documents or writing furnished in connection with any Loan Document or of any Collateral; and the Administrative Agent makes no representation of any kind or character with respect to any such matter mentioned in this sentence. The Administrative Agent may execute any of its duties under any of the Loan Documents by or through employees, agents, and attorneys-in-fact and shall not be answerable to the Lenders, the Borrowers, or any other Person for the default or misconduct of any such agents or attorneys-in-fact selected with reasonable care. The Administrative Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with the Administrative Agent signed by such payee in form satisfactory to the Administrative Agent. Each Lender acknowledges, represents and warrants that it has independently and without reliance on the Administrative Agent or any other Lender, and based upon such information, investigations and inquiries as it deems appropriate, made its own credit analysis and decision to extend credit to the Borrowers in the manner set forth in the Loan Documents. It shall be the responsibility of each Lender to keep itself informed as to the creditworthiness of the Lead Borrower and its Subsidiaries, and the Administrative Agent shall have no liability to any Lender with respect thereto. The Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) *Delegation of Duties*. The Administrative Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one (1) or more sub-agents appointed by the Administrative Agent (and not otherwise reasonably objected to by the Lead Borrower within ten (10) days after notice of such appointment). The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory, indemnification and other provisions of this Section 9.5 and of Section 9.6 shall apply to any Affiliates of the Administrative Agent and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent. All of the rights, benefits, and privileges (including the exculpatory and indemnification provisions) of this Section 9.5 and of Section 9.6 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Affiliates were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by the Administrative Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent, and (iii) such sub-agent shall only have obligations to the Administrative Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent.

Section 9.6 *Indemnity*. The Lenders shall ratably, in accordance with their respective Percentages, indemnify the Administrative Agent, to the extent that the Administrative Agent has not been reimbursed by any Loan Party and without relieving any such Loan Party from its obligation to do so, for and against any and all liabilities, obligations, losses, damages, taxes, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as Administrative Agent in any way relating to or arising out of this Agreement or the other Loan Documents within ten (10) days after the date the Administrative Agent makes written demand therefor; *provided* that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, taxes, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or willful misconduct or bad faith of, or material breach of the Loan Documents as determined by a final, non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to the Administrative Agent for any purpose shall, in the opinion of the Administrative Agent, be insufficient or become impaired, the Administrative Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided* that in no event shall this sentence require any Lender to indemnify the Administrative Agent against any liability, obligation, loss, damage, tax, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's ratable share thereof, in accordance with such Lender's respective Percentage; and *provided further* that this sentence shall not be deemed to require any Lender to indemnify the Administrative Agent against any liability, obligation, loss, damage, tax, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence. The obligations of the Lenders under this Section 9.6 shall survive termination of this Agreement. The Administrative Agent shall be entitled to offset amounts received for the account of a Lender under this Agreement against unpaid amounts due from such Lender to the Administrative Agent hereunder (whether as fundings of participations, indemnities or otherwise), but shall not be entitled to offset against amounts owed to the Administrative Agent by any Lender arising outside of this Agreement and the other Loan Documents.

Section 9.7 *Resignation of Administrative Agent and Successor Administrative Agent*. The Administrative Agent may resign at any time by giving ten (10) days written notice thereof to the Lenders and the Lead Borrower (such retiring Administrative Agent, the "*Departing Administrative Agent*"). The Administrative Agent shall have the right to appoint a financial institution (which shall be a commercial bank with an office in the U.S. having combined capital and surplus in excess of $1 billion) to act as Administrative Agent and/or Collateral Agent hereunder, with the written consent of the Lead Borrower and the Required Lenders (not to be unreasonably withheld, and *provided* that the consent of the Lead Borrower shall not be required during the continuance of an Event of Default), and the Administrative Agent's resignation shall become effective on the earliest of (i) 30 days

after delivery of the notice of resignation, (ii) the acceptance of such successor Administrative Agent by the Lead Borrower and the Required Lenders or (iii) such other date, if any, agreed to by the Lead Borrower and the Required Lenders. Upon any such notice of resignation, if a successor Administrative Agent has not already been appointed by the retiring Administrative Agent, the Required Lenders shall have the right, upon the written consent of the Lead Borrower (not to be unreasonably withheld, and provided that the consent of the Lead Borrower shall not be required during the continuance of an Event of Default), to appoint a successor Administrative Agent. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; *provided* that until a successor Administrative Agent is so appointed by the Required Lenders or the Administrative Agent, any collateral security held by the Administrative Agent in its role as Collateral Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents shall continue to be held by the retiring Collateral Agent as nominee until such time as a successor Collateral Agent is appointed. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the Departing Administrative Agent and the Departing Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums, securities and other items of Collateral held under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Loan Documents and (ii) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such Departing Administrative Agent shall be discharged from its duties and obligations hereunder. Except as provided above, any resignation or removal of JPMorgan Chase Bank, N.A. or its successor as Administrative Agent pursuant to this Section 9.7 shall also constitute the resignation of JPMorgan Chase Bank, N.A. or its successor as Collateral Agent. After any Departing Administrative Agent's resignation or replacement hereunder as Administrative Agent, the provisions of this Article 9 and all protective provisions of the other Loan Documents shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent, but no successor Administrative Agent shall in any event be liable or responsible for any actions of its predecessor. Any successor Administrative Agent appointed pursuant to this Section 9.7 shall, upon its acceptance of such appointment, become the successor Collateral Agent for all purposes hereunder.

Section 9.8 *L/C Issuer*. The L/C Issuers shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by them and the documents associated therewith. The L/C Issuers shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Article 9 with respect to any acts taken or omissions suffered by the L/C Issuers in connection with Letters of Credit issued by them or proposed to be issued by them and the Applications pertaining to such Letters of Credit as fully as if the term "Administrative Agent," as used in this Article 9, included the L/C Issuers with respect to such acts or omissions (it being understood and agreed that for purposes of this Section 9.8, all references to "Lenders" in this Article 9 shall be deemed to be references to "Revolving Lenders") and (ii) as additionally provided in this Agreement with respect to such L/C Issuer.

Section 9.9 *Hedging Liability and Funds Transfer Liability and Deposit Account Liability Obligation Arrangements*. By virtue of a Lender's execution of this Agreement or an assignment agreement pursuant to Section 10.10 hereof, as the case may be, any Affiliate of such Lender with whom the Lead Borrower or any Subsidiary has entered into an agreement creating Hedging Liability or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall be deemed a Lender party hereto for purposes of any reference in a Loan Document to the parties for whom the Administrative Agent is acting, it being understood and agreed that the rights and benefits of such Affiliate under the Loan Documents consist exclusively of such Affiliate's right to share in payments and collections out of the Collateral as more fully set forth in Section 2.9 and Article 4 hereof. In connection with any such distribution of payments and collections, the Administrative Agent shall be entitled to assume no amounts are due to any Lender or its Affiliate with respect to Hedging Liability or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations unless such Lender has notified the Administrative Agent in writing of the amount of any such liability owed to it or its Affiliate prior to such distribution.

Section 9.10 *No Other Duties*. Anything herein to the contrary notwithstanding, none of the Joint Lead Arrangers, Co-Syndication Agents or other agents or arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

Section 9.11 *Authorization to Enter into, and Enforcement of, the Collateral Documents*. The Administrative Agent or Collateral Agent, as applicable, is hereby irrevocably authorized by each Secured Party to be the agent for and representative of the Secured Parties and to execute and deliver the Collateral Documents and Guaranty on behalf of and for the benefit of the Secured Parties and to take such action and exercise such powers under the Collateral Documents as the Administrative Agent or Collateral Agent, as applicable, considers appropriate; *provided* that neither the Administrative Agent nor the Collateral Agent shall owe any fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any other holder of Obligations with respect to any Hedge Agreement or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations. Neither the Administrative Agent nor the Collateral Agent shall (except as expressly provided in Section 10.11) amend the Collateral Documents unless such amendment is agreed to in writing by the Required Lenders. Each Lender acknowledges and agrees that it will be bound by the terms and conditions of the Collateral Documents upon the execution and delivery thereof by the Administrative Agent or the Collateral Agent, as applicable. Except as otherwise specifically provided for herein, no Lender (or its Affiliates) other than the Administrative Agent or the Collateral Agent, as applicable, shall have the right to institute any suit, action or proceeding in equity or at law for the foreclosure or other realization upon any Collateral or for the execution of any trust or power in respect of the Collateral or for the appointment of a receiver or for the enforcement of any other remedy under the Collateral Documents; it being understood and intended that no one or more of the Lenders (or their Affiliates) shall have any right in any manner whatsoever to affect, disturb or prejudice the Lien of the Administrative Agent or the Collateral Agent (or any security trustee therefor), as applicable, under the Collateral Documents by its or their action or to enforce any right thereunder, and that all proceedings at law or in equity shall be instituted, had, and maintained by the Administrative Agent or Collateral Agent (or its security trustee), as applicable, in the manner provided for in the relevant Collateral Documents for the benefit of the Lenders and their Affiliates.

Section 9.12 *Authorization to Release Liens, Etc.* The Administrative Agent or Collateral Agent, as applicable, is hereby irrevocably authorized by each of the Lenders, without the further consent of any Lender (and shall, upon the written request of the Lead Borrower) to (and to execute any agreements, documents or instruments necessary to):

(i) release any Lien covering any Property of the Borrowers or their Subsidiaries that is the subject of a disposition to a Person that is not a Loan Party that is permitted by this Agreement or that has been consented to in accordance with Section 10.11;

(ii) upon the Termination Date, release the Borrowers and each of the Subsidiary Guarantors from its Obligations under the Loan Documents (other than those that specifically survive termination of this Agreement) and any Liens covering any of their Property with respect thereto;

(iii) release any Subsidiary Guarantor from its obligations under any Loan Document to which it is a party if such Person ceases to be a Restricted Subsidiary or becomes an Excluded Subsidiary as a result of a transaction or designation permitted by this Agreement and the Liens on such Obligations shall be automatically released; *provided* that the Guaranty of a Subsidiary Guarantor shall not be released if such Subsidiary Guarantor becomes an Excluded Subsidiary pursuant to clause (h) of the definition thereof unless it is as a result of a bona fide business transaction with an unaffiliated third party where the purpose of such transaction was not solely to cause the release of such Guaranty;

(iv) at the request of the Lead Borrower, subordinate any Lien on any Property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such Property that is permitted by Sections 6.16(e), (w) or (x) or, with respect to the replacement of Liens, permitted by Sections 6.16(e), (w) or (x); and

(v) enter into any intercreditor arrangements contemplated by Sections 2.16, 6.14, and/or 6.16 that will allow additional secured debt that is permitted under the Loan Documents to be secured by a lien on the Collateral on a *pari passu* or junior basis with the Obligations. The terms of such intercreditor arrangements shall be customary and reasonably acceptable to the Administrative Agent and the Lead Borrower.

The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Grantors on any Collateral shall be automatically released (i) in full, upon the Termination Date, (ii) upon the sale or other transfer (other than a transfer pursuant to Section 6.17(h)) of such Collateral (including as part of or in connection with any other sale or other transfer permitted hereunder) to any Person other than another Grantor, to the extent such sale, transfer or other disposition is made in compliance with the terms of this Agreement, (iii) to the extent such Collateral is comprised of property leased to a Grantor by a Person that is not a Grantor, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 10.11), (v) as required by the Collateral Agent to effect any sale, transfer or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Collateral Documents and (vi) to the extent such Collateral otherwise becomes Excluded Property.

The Lenders hereby irrevocably agree that if (a) all of the Equity Interests of any Subsidiary Guarantor or any of its successors in interest hereunder shall be transferred, sold or otherwise disposed of (including by merger or consolidation) in accordance with the terms and conditions hereof to a Person that is not a Loan Party or (b) a Subsidiary Guarantor or any of its successors in interest hereunder becomes an Excluded Subsidiary after the Closing Date, then, in each case, the Guaranty of such Subsidiary Guarantor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released without any further action by any Person effective as of (or if a Subsidiary Guarantor becomes an Excluded Subsidiary, immediately prior to) the time of such transfer, sale, disposal or occurrence; *provided* that the Guaranty of a Subsidiary Guarantor shall not be automatically released if such Subsidiary Guarantor becomes an Excluded Subsidiary pursuant to clause (h) of the definition thereof unless it is as a result of a bona fide business transaction with an unaffiliated third party where the purpose of such transaction was not solely to cause the release of such Guaranty.

Any representation, warranty or covenant contained in any Loan Document relating to any Collateral or Guarantor released pursuant to this Section 9.12 shall no longer be deemed to be repeated with respect to such released Collateral or released Guarantor.

Section 9.13 *Withholding Taxes*. To the extent required by any applicable laws, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 10.1, each Lender shall indemnify and hold harmless the Administrative Agent against, within ten (10) days after written demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement, any other Loan Document or otherwise against any amount due the Administrative Agent under this Section 9.13. For the avoidance of doubt, a "Lender" shall, for purposes of this Section 9.13, include any L/C Issuer. The agreements in this Section 9.13 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

Section 9.14 Erroneous Payment.

(a) Each Lender and L/C Issuer hereby agrees that (x) if the Administrative Agent notifies such Lender or L/C Issuer that the Administrative Agent has determined in its sole discretion that any funds received by such Lender or L/C Issuer from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "*Payment*") were erroneously transmitted to such Lender or L/C Issuer (whether or not known to such Lender or L/C Issuer), and demands the return of such Payment (or a portion thereof), such Lender or L/C Issuer shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or L/C Issuer to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (y) to the extent permitted by applicable law, such Lender or L/C Issuer shall not assert, and hereby waives, as to the Administrative Agent, any claim, counterclaim, defense or right of setoff or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender or L/C Issuer under this Section 9.14 shall be conclusive, absent manifest error.

(b) Each Lender and L/C Issuer hereby further agrees that if it receives a Payment from the Administrative Agent or any of its Affiliates (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "*Payment Notice*") or (y) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender and L/C Issuer agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender or L/C Issuer shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or L/C Issuer to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) The Borrowers hereby agree that (x) in the event an erroneous Payment (or portion thereof) are not recovered from any Lender or L/C Issuer that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender or L/C Issuer with respect to such amount and (y) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrowers.

(d) Each party's obligations under this Section 9.14 shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations under any Loan Document.

Section 9.15 *Certain ERISA Matters*.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrowers, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrowers, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

Section 9.16 *Credit Bidding*. The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral (if any) in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (if any) (a) at any sale thereof conducted under the provisions of the United States Bankruptcy Code, as amended, including under Sections 363, 1123 or 1129 thereof, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (*provided* that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 10.11), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account

of the relevant Obligations which were credit bid, interests, whether as equity, partnership, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties pro rata and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

ARTICLE 10. MISCELLANEOUS.

Section 10.1 *Taxes*.

(a) *Payments Free of Withholding*. Except as otherwise required by law, each payment by or on behalf of any Loan Party under this Agreement or any other Loan Document shall be made without withholding or deduction for or on account of any Taxes. If any such withholding or deduction is so required, such withholding or deduction shall be made by the applicable withholding agent, the amount withheld shall be paid to the appropriate Governmental Authority before penalties attach thereto or interest accrues thereon, and if such Tax is an Indemnified Tax, the relevant Loan Party shall pay such additional amount as may be necessary to ensure that the net amount actually received by each Lender (or, in the case of any amount received by the Administrative Agent for its own account, the Administrative Agent) after withholding or deduction for Taxes has been made (including such withholding or deduction of Taxes on such additional amount payable under this Section 10.1) is equal to the amount that such Lender (or, in the case of any amount received by the Administrative Agent for its own account, the Administrative Agent) would have received had such withholding or deduction not been made.

(b) *Indemnification by the Borrowers.* The Borrowers shall indemnify the Administrative Agent and each Lender for the full amount of any Indemnified Taxes (including any Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 10.1) paid or payable by Administrative Agent or such Lender, as applicable, and any reasonable expenses arising therefrom or with respect thereto, in the currency in which such payment was made, whether or not such amounts were correctly or legally imposed or asserted by the relevant Governmental Authority, within ten (10) days after the date the Lender or the Administrative Agent makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof.

(c) *Status of Lenders*.

(i) Each Lender shall, at such times as are reasonably requested by any Borrower or the Administrative Agent, provide the Lead Borrower and the Administrative Agent with any documentation reasonably requested by such Borrower or the Administrative Agent certifying as to any entitlement of such Lender to an exemption from, or reduction in, withholding Tax with respect to any payments to be made to such Lender under any Loan Document. Each such Lender shall, whenever a lapse in time or change in circumstances renders such documentation (including any specific documentation required below in this Section 10.1(c)) obsolete, expired or inaccurate in any respect, deliver promptly to the Lead Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by any Borrower or the Administrative Agent) or promptly notify the Borrowers and the Administrative Agent in writing of its legal ineligibility to do so.

(ii) Without limiting the generality of the foregoing:

(A) Each Lender that is a U.S. Person shall deliver to the Lead Borrower and the Administrative Agent on or prior to the date such Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request of the Lead Borrower or the Administrative Agent), two (2) duly completed and signed copies of IRS Form W-9 certifying that such Lender is entitled to an exemption from U.S. backup withholding.

(B) Each Lender that is not a U.S. Person shall deliver to the Lead Borrower and the Administrative Agent on or prior to the date such Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request of any Borrower or the Administrative Agent), whichever of the following is applicable:

(i) two (2) duly completed and signed IRS Forms W-8BEN or IRS Forms W-8BEN-E, as applicable, claiming eligibility for the benefits of an income tax treaty to which the United States is a party, and such other documentation as required under the Code;

(ii) two (2) duly completed and signed IRS Forms W-8ECI;

(iii) in the case of a Lender claiming the benefits of the exemption for portfolio interest under Section 871(h) or Section 881(c) of the Code, (x) two (2) duly completed and signed certificates substantially in the form of Exhibit H-1 (any such certificate, a "*U.S. Tax Compliance Certificate*") and (y) two (2) duly completed and signed IRS Forms W-8BEN or IRS Forms W-8BEN-E, as applicable;

(iv) to the extent a Lender is not the beneficial owner (for example, where the Lender is a partnership or a participating Lender), two (2) duly completed and signed IRS Forms W-8IMY of the Lender, together with an IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, and/or other certifications documents from each beneficial owner, as applicable, *provided* that if the Lender is a partnership and one or more direct or indirect partners of such Lender are claiming the portfolio interest exemption, such Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner; or

(v) two (2) duly completed and signed copies of any other form prescribed by applicable U.S. federal income tax laws as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, together with such supplementary documentation as may be prescribed by Applicable Laws to permit any Borrower or the Administrative Agent to determine any withholding or deduction required to be made.

(C) If a payment made to the Administrative Agent or a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if the Administrative Agent or such Lender were to fail to comply with the requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), the Administrative Agent or such Lender, as applicable, shall deliver to the Lead Borrower and (other than in the case of a payment to the Administrative Agent) the Administrative Agent at the time or times prescribed by Applicable Laws and at such time or times reasonably requested by any Borrower or the Administrative Agent such documentation prescribed by Applicable Laws (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by such Borrower or the Administrative Agent as may be necessary for the Lead Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether the Administrative Agent or such Lender has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (C), "FATCA" shall include any amendments made to FATCA after the Closing Date.

(iii) Notwithstanding any other provision of this Section 10.1(c), a Lender shall not be required to deliver any form that such Lender is not legally eligible to deliver.

(iv) Each Lender hereby authorizes the Administrative Agent to deliver to the Loan Parties and to any successor Administrative Agent any documentation provided by such Lender to the Administrative Agent pursuant to this Section 10.1(c).

(d) *Evidence of Payments.* After any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 10.1 or Section 10.4, such Loan Party shall deliver official tax receipts evidencing that payment or certified copies thereof (or, if such receipts are not available, other evidence of payment reasonably acceptable to the relevant Lender or Administrative Agent) to the Lender or Administrative Agent on whose account such withholding was made (with a copy to the Administrative Agent if not the recipient of the original) on or before the thirtieth day after payment.

(e) *Tax Refunds*. If the Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of Taxes as to which it has been indemnified (including by the payment of additional amounts) pursuant to this Section 10.1 or Section 10.4, it shall pay over an amount equal to such refund to the applicable Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section 10.1 or Section 10.4 giving rise to such refund), net of all reasonable out-of-pocket expenses (including Taxes) of the Administrative Agent or such Lender, as applicable and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided* that each Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay to such indemnified party the amount paid over to such Borrower *plus* any penalties, interest or other charges imposed by the relevant Governmental Authority in the event such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 10.1(e), in no event will the indemnified party be required to pay any amount to a Borrower pursuant to this Section 10.1(e) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted and the indemnification payments or additional amounts with respect to such Tax had not been paid. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to the Borrowers or any other Person.

(f) *[Reserved]*.

(g) *Survival*. Each party's obligations under this Section 10.1 and Section 10.4 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, and the Termination Date.

(h) *Lenders*. For the avoidance of doubt, a "Lender" shall, for purposes of this Section 10.1, include any L/C Issuer.

Section 10.2 *No Waiver; Cumulative Remedies; Collective Action*. No delay or failure on the part of the Administrative Agent or any Lender or on the part of the holder or holders of any of the Obligations in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Administrative Agent, the Lenders and of the holder or holders of any of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 7.2, Section 7.3 and Section 7.4 for the benefit of all the Lenders and the L/C Issuers, and each Lender and each L/C Issuer hereby agree with each other Lender and each other L/C Issuer, as applicable, that no Lender or L/C Issuer shall take any action to protect or enforce its rights under this Agreement or any other Loan Document (including exercising any rights of setoff) without first obtaining the prior written consent of the Administrative Agent or the Required Lenders (such consent not to be unreasonably withheld or delayed); *provided*, *however*, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its

capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer) hereunder and under the other Loan Documents, or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any debtor relief law.

Section 10.3 *Non-Business Days*. Except as otherwise provided herein, if any payment hereunder or date for performance becomes due and payable or performable (in each case, including as a result of the expiration of any relevant notice period) on a day which is not a Business Day, the due date of such payment or the date for such performance shall be extended to the next succeeding Business Day on which date such payment shall be due and payable or such other requirement shall be performed. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

Section 10.4 *Documentary Taxes*. The Borrowers shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent shall timely reimburse the Administrative Agent for the payment of, any and all present or future documentary, court, stamp, excise, property, intangible, recording, filing or similar Taxes (except any Taxes that would be Excluded Taxes) that arise from any payment made under, from the execution, delivery, performance, enforcement, or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document ("*Other Taxes*").

Section 10.5 *Survival of Representations*. All representations and warranties made herein or in any other Loan Document or in certificates given pursuant hereto or thereto shall survive the execution and delivery of this Agreement and the other Loan Documents, and shall continue in full force and effect with respect to the date as of which they were made until the Termination Date.

Section 10.6 *Survival of Indemnities*. All indemnities and other provisions relative to reimbursement to the Lenders of amounts sufficient to protect the yield of the Lenders with respect to the Loans and Letters of Credit, including, but not limited to, Sections 8.1, 8.4, 10.4 and 10.13 hereof, shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations.

Section 10.7 *Sharing of Setoff*. Each Lender agrees with each other Lender a party hereto that if such Lender shall receive and retain any payment, whether by setoff or application of deposit balances or otherwise (except pursuant to a valid assignment or participation pursuant to Section 10.10 or as provided in or contemplated by Sections 2.14, 2.15 or 2.16), on any of the Loans or Reimbursement Obligations in excess of its ratable share of payments on all such Obligations then outstanding to the Lenders, then such Lender shall purchase for cash at face value, but without recourse, ratably from each of the other Lenders such amount of the Loans or Reimbursement Obligations, or participations therein, held by each such other Lenders (or interest therein) as shall be necessary to cause such Lender to share such excess payment ratably with all the other Lenders; *provided*, *however*, that if any such purchase is made by any Lender, and if such excess payment or part thereof is thereafter recovered from such purchasing Lender, the related purchases from the other Lenders shall be rescinded ratably and the purchase price restored as to the portion of such excess payment so recovered, but without interest. For purposes of this Section 10.7, amounts owed to or recovered by an L/C Issuer in connection with Reimbursement Obligations in which Lenders have been required to fund their participation shall be treated as amounts owed to or recovered by such L/C Issuer as a Lender hereunder.

Section 10.8 *Notices*. Except as otherwise specified herein, all notices hereunder and under the other Loan Documents shall be in writing (including, without limitation, notice by facsimile or email transmission) and shall be given to the relevant party at its physical address, facsimile number or email address set forth below, or such other physical address, facsimile number or email address as such party may hereafter specify by notice to the Administrative Agent and the Lead Borrower given by courier, by United States certified or registered mail, by facsimile, email transmission or by other telecommunication device capable of creating a written record of such notice and its receipt. Notices under the Loan Documents to any Lender shall be addressed to its physical address or facsimile number or email address set forth on its Administrative Questionnaire; and notices under the Loan Documents to the Lead Borrower or the Administrative Agent shall be addressed to their respective physical addresses, facsimile numbers or email addresses set forth below:

to the Lead Borrower:

Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attention: VP, Treasury
Telephone: (408) 801-1000
Facsimile: N/A

to the Administrative Agent:

JPMorgan Chase Bank, N.A.
131 S Dearborn St, Floor 04
Chicago, IL, 60603-5506
Attention: Loan and Agency Servicing
Email: jpm.agency.cri@jpmorgan.com

Agency Withholding Tax Inquiries:
Email: agency.tax.reporting@jpmorgan.com

Agency Compliance/Financials/Virtual Data rooms::
Email: covenant.compliance@jpmchase.com

With a copy of any notice of any Default or Event of Default (which shall not constitute notice to the Lead Borrower) to:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
Attention: Duane McLaughlin
Telephone: 212-225-2000
Facsimile: 212-225-3999
Email: dmclaughlin@cgsh.com

Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section 10.8 or in the relevant Administrative Questionnaire and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, five (5) days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid, (iii) if by email, when delivered (all such notices and communications sent by email shall be deemed delivered upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement)), or (iv) if given by any other means, when delivered at the addresses specified in this Section 10.8 or in the relevant Administrative Questionnaire; *provided* that any notice given pursuant to Article 2 hereof shall be effective only upon receipt.

Section 10.9 *Counterparts*.

(a) This Agreement may be executed in any number of counterparts, and by the different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

(b) Delivery of an executed counterpart of a signature page of (x) this Agreement, (y) any other Loan Document and/or (z) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 10.8), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby (each, an "*Ancillary Document*") that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement, any other Loan Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of

which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be; *provided* that nothing herein shall require the Administrative Agent to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it; provided, further, without limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept any Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of the Lead Borrower or any other Loan Party without further verification thereof and without any obligation to review the appearance or form of any such Electronic signature and (ii) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, the Lead Borrower and each Loan Party hereby (A) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Lenders, the Lead Borrower and the Loan Parties, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original, (B) the Administrative Agent and each of the Lenders may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (C) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (D) waives any claim against any Lender or any of its Affiliates and controlling Persons and the respective directors, officers, employees, partners, advisors, agents and other representatives of the foregoing for any liabilities arising solely from the Administrative Agent's and/or any Lender's reliance on or use of Electronic Signatures and/or transmissions by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page, including any liabilities arising as a result of the failure of the Lead Borrower and/or any Loan Party to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

Section 10.10 *Successors and Assigns; Assignments and Participations*.

(a) *Successors and Assigns Generally*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Borrower may assign or otherwise transfer any of its rights or obligations under any Loan Document without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of clause (b) of this Section 10.10, (ii) by way of participation in accordance with the provisions of clause (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of clause (f) of this Section 10.10. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in clause (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Lenders*.

(i) Any Lender may at any time assign to one (1) or more Eligible Assignees all or a portion of its rights and obligations under this Agreement with respect to all or a portion of its Revolving Credit Commitment(s) and the Loans at the time owing to it.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Credit Commitment(s) and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Revolving Credit Commitment(s) (which for this purpose includes Loans outstanding thereunder) or, if the applicable Revolving Credit Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "*Trade Date*" is specified in the Assignment and Assumption, as of such Trade Date) shall not be less than $5.0 million, in the case of any assignment in respect of the Revolving Facility, or less than $1.0 million, in the case of any assignment in respect of the Term Facility (calculated, in each case, in the aggregate with respect to multiple, simultaneous assignments by two (2) or more Approved Funds which are Affiliates or share the same (or affiliated) manager or advisor and/or two (2) or more lenders that are Affiliates) unless each of the Administrative Agent and the Lead Borrower otherwise consent (each such consent not to be unreasonably withheld or delayed);

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Facility or the Revolving Credit Commitment assigned, except that this clause (B) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-*pro rata* basis;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 (unless otherwise waived or reduced by the Administrative Agent in its sole discretion), and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(D) the Eligible Assignee provides the Lead Borrower and the Administrative Agent the documentation required by Section 10.1(c) prior to the assignment.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section 10.10, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 8.4, 10.1, 10.4 and 10.13 and subject to any obligations hereunder with respect to facts and circumstances occurring prior to the effective date of such assignment. All parties hereto consent that assignments to the Borrowers permitted by the terms hereof shall not be construed as violating *pro rata*, optional redemption or any other provisions hereof, it being understood that, notwithstanding anything to the contrary elsewhere in this Agreement, immediately upon receipt by a Borrower of any Loans and/or Revolving Credit Commitments the same shall be deemed cancelled and no longer outstanding for any purpose under this Agreement, including without limitation, Section 10.11, and in no event shall the Borrowers have any rights of a Lender under this Agreement or any other Loan Document.

(c) *Register*.

(i) The Administrative Agent, acting solely for this purpose as an agent of the Borrowers, shall maintain a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, the Revolving Credit Commitment(s) of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time, and each repayment in respect of the principal amount (and any interest thereon) (the "*Register*"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers and any Lender (as to its own interest, but not the interest of any other Lender), at any reasonable time and from time to time upon reasonable prior notice.

(ii) The Administrative Agent shall (A) accept the Assignment and Assumption and (B) promptly record the information contained therein in the Register once all the requirements of clause (a) above have been met. No assignment shall be effective unless it has been recorded in the Register.

(d) *Participations*. Any Lender may at any time, without the consent of, or notice to, the Borrowers, the Administrative Agent or any L/C Issuer, sell participations to any Person (other than a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person) or a Prohibited Lender) (each, a "*Participant*") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolving Credit Commitment(s) and/or the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification, supplement or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification, supplement or waiver described in subclause (A) (to the extent that such Participant is directly affected) or (B) of Section 10.11. Subject to clause (e) of this Section 10.10, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 8.1, 8.4, 10.1, and 10.4 (subject to the requirements and limitations therein (including the requirements under Section 10.1(c), it being understood that the documentation required to be provided under Section 10.1(c) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 10.10. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.14 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 10.7 as though it were a Lender.

Each Lender that sells a participation pursuant to this Section 10.10(d), acting solely for this purpose as a non-fiduciary agent of the Borrowers, shall maintain a register for the recordation of the names and addresses of the Participants, the commitments of, and principal amounts (and stated interest) of the Loans owing to, each Participant pursuant to the terms hereof from time to time, and each repayment in respect of the principal amount (and any interest thereon) (each, a "*Participant Register*"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender and such Participants shall treat each Person whose name is recorded in the Participant Register pursuant to the terms hereof as the owner of a participation for all purposes of this Agreement, notwithstanding notice to the contrary; *provided* that no Lender shall have the obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Loan or other Obligations under any Loan Document) to any Person except to the extent such disclosure is necessary to establish that any such Obligations are in registered form for U.S. federal income tax purposes under Section 5f.103-1(c) of the United States Treasury Regulations.

(e) *Limitations upon Participant Rights*. A Participant shall not be entitled to receive any greater payment under Section 8.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant. A Participant shall not be entitled to receive any greater payment under Section 10.1 or Section 10.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to a greater payment results from a change in law after the Participant acquired the applicable participation and each Participant shall be subject to the provisions of Sections 8.5 and 8.6 as if it were an assignee under paragraph (b) of this Section 10.10.

(f) *Certain Pledges*. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to any Prohibited Lender) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank having jurisdiction over such lender, and this Section 10.10 shall not apply to any pledge or assignment of a security interest; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) *[Reserved]*.

(h) *Assignments to the Lead Borrower and its Subsidiaries*. Subject to the terms and conditions set forth or referred to below, the Lead Borrower or any of its Restricted Subsidiaries (a "*Purchaser*") may from time to time, at its discretion, (x) make open market purchases of Term B Loans for consideration agreed between the Purchaser and such Lender, which may be in kind or in a form other than cash or (y) conduct Dutch Auctions in order to purchase the Term B Loans which shall be open to all Lenders on a *pro rata* basis, so long as, each of the following conditions are satisfied:

(i) (A) the Revolving Facility shall not be utilized to fund the purchase or assignment and (B) no Default or Event of Default shall have occurred and be continuing at the time of acceptance of any bids in any Dutch Auction or the date of such open market purchase, as applicable; and

(ii) the aggregate principal amount (calculated on the face amount thereof) of all Term B Loans so purchased by the Lead Borrower or any of its Restricted Subsidiaries shall automatically be cancelled and retired by the Lead Borrower on the settlement date of the relevant purchase (and may not be resold) (it being understood and agreed that any gains or losses upon purchase or acquisition and cancellation of such Term B Loans shall not be taken into account in the calculation of Consolidated Net Income and Consolidated Adjusted EBITDA);

(iii) the Lead Borrower shall (A) represent and warrant that no Loan Party or Restricted Subsidiary shall have any material non-public information with respect to the Lead Borrower or its Subsidiaries, or with respect to the Loans or the securities of any such person, that has not been previously disclosed in writing to the Administrative Agent and the Lenders (other than because such Lender does not wish to receive such material non-public information) prior to such time or (B) advise the assigning Lender that it cannot make the statement in the foregoing clause (A), except to the extent that such Lender has entered into a customary "big boy" letter with the Lead Borrower

(iv) with respect to all purchases of Term B Loans made by the Lead Borrower pursuant to this Section 10.10(h), (x) the Lead Borrower or any Restricted Subsidiary shall pay on the settlement date of each such purchase all accrued and unpaid interest, if any, on the purchased Term B Loans up to the settlement date of such purchase (except to the extent otherwise set forth in the relevant purchase documents as agreed by the respective selling Lender) and (y) such purchases (and the payments made therefor and the cancellation of the purchased Term B Loans, in each case in connection therewith) shall not constitute mandatory prepayments for purposes of Section 2.8.

(i) *Prohibited Lenders*. If any assignment or participation under this Section 10.10 is made (or attempted to be made) (i) to a Prohibited Lender without the Lead Borrower's prior written consent or (ii) to the extent the Lead Borrower's consent is required under the terms of this Section 10.10 and such consent shall have not been obtained or deemed to have been obtained, to any other Person without the Lead Borrower's consent, then the Lead Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, (A) in the case of any outstanding Term Loans, purchase such Loans by paying the lesser of par or the same amount that such Lender paid to acquire such Loans, or (B) require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in this Section 10.10), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (i) such Lender shall have received payment of an amount equal to the lesser of par or the amount such Lender paid for such Loans and participations in L/C Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Lead Borrower (in the case of all other amounts), (ii) the Borrowers shall be liable to such Lender under Section 8.1 if any Term Benchmark Loan owing to such Lender is repaid or purchased other than on the last day of the Interest Period relating thereto, and (iii) such assignment shall otherwise comply with this Section 10.10 (*provided* that no registration and processing fee referred to in this Section 10.10 shall be owing in connection with any assignment pursuant to this clause). Each Lender hereby grants to the Administrative Agent an irrevocable power of attorney (which power is coupled with an interest) to execute and deliver, on behalf of such Lender, as assignor, any Assignment and Assumption necessary to effectuate any assignment of such Lender's interests hereunder to an assignee as contemplated hereby in the circumstances contemplated by this Section 10.10(i). Nothing in this Section 10.10(i) shall be deemed to prejudice any rights or remedies the Borrowers may otherwise have at law or equity. Each

Lender acknowledges and agrees that the Borrowers may suffer irreparable harm if such Lender breaches any of its obligations under Section 10.10(a), 10.10(d) or 10.10(f) insofar as such Sections relate to any assignment, participation or pledge to a Prohibited Lender without the Lead Borrower's prior written consent. Additionally, each Lender agrees that the Lead Borrower may seek to obtain specific performance or other equitable or injunctive relief to enforce this Section 10.10(i) against such Lender with respect to such breach without posting a bond or presenting evidence of irreparable harm. The Administrative Agent shall not be responsible or have liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Prohibited Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender is a Prohibited Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Prohibited Lender.

(j) If the Lead Borrower wishes to replace the Loans or Commitments under any Facility with ones having different terms, it shall have the option, with the consent of the Administrative Agent and subject to at least three (3) Business Days' advance notice to the Lenders under such Facility, instead of prepaying the Loans or reducing or terminating the Commitments to be replaced, to (i) require the Lenders under such Facility to assign such Loans or Commitments to the Administrative Agent or its designees and (ii) amend the terms thereof in accordance with Section 10.11 (with such replacement, if applicable, deemed to have been made pursuant to Section 2.16). Pursuant to any such assignment, all Loans and Commitments to be replaced shall be purchased at par (allocated among the Lenders under such Facility in the same manner as would be required if such Loans were being optionally prepaid or such Commitments were being optionally reduced or terminated by the Lead Borrower), accompanied by payment by the Borrowers of any accrued interest and fees thereon and any amounts owing pursuant to Section 10.13(c) to the extent demanded in writing prior to the date of such assignment. By receiving such purchase price, the Lenders under such Facility shall automatically be deemed to have assigned the Loans or Commitments under such Facility pursuant to the terms of the form of Assignment and Assumption attached hereto as Exhibit G and accordingly no other action by such Lenders shall be required in connection therewith. The provisions of this clause (j) are intended to facilitate the maintenance of the perfection and priority of existing security interests in the Collateral during any such replacement.

Section 10.11 *Amendments*.

(a) Except as provided in Section 2.14 with respect to any Incremental Facility, Section 2.15 with respect to any Extension and Section 2.16 with respect to any Refinancing Term Loans or Replacement Revolving Facility, (a) no provision of this Agreement or the other Loan Documents may be amended, modified, supplemented or waived unless such amendment, modification, supplement or waiver is in writing and is signed by (i) the Borrowers, (ii) the Required Lenders, (iii) if the rights or duties of the Administrative Agent are adversely affected thereby, the Administrative Agent, and (iv) if the rights or duties of the L/C Issuers are affected thereby, the L/C Issuers; *provided* that:

(A) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall (i) increase any Commitment or extend the expiry date of any such Commitment of any Lender without the consent of such Lender (it being understood that any such amendment, modification, supplement or waiver that provides for the payment of interest in kind in addition to, and not as substitution for or as conversion of, the interest otherwise payable hereunder shall only require the consent of the Required Lenders and that a waiver of any condition precedent or the waiver of any Default or Event of Default or mandatory prepayment shall not constitute an extension or increase of any Commitment), (ii) reduce the amount of, postpone the date for any scheduled payment of any principal of or interest or fee on, or extend the final maturity of, or reduce the rate of interest on, any Loan or of any Reimbursement Obligation or of any fee payable hereunder (other than with respect to a waiver of default interest and it being understood that any change in the definitions of any ratio used in the calculation of such rate of interest or fees (or the component definitions) shall not constitute a reduction in any rate of interest or fees) without the consent of each Lender (but not the Required Lenders) to which such payment is owing or which has committed to make such Loan or Letter of Credit (or participate therein) hereunder, (iii) change the application of payments set forth in Section 2.9 hereof without the consent of any Lender adversely affected thereby or (iv) subject to Section 1.8 hereof, amend this Agreement in a manner that could cause any Revolving Lender to be required to lend Loans in any currency other than Dollars without the written consent of such Revolving Lender;

(B) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall, unless signed by each Lender, change the definition of Required Lenders in a manner that reduces the voting percentages set forth therein, change the provisions of this Section 10.11, release all or substantially all of the Collateral (except as expressly provided in the Loan Documents) or all or substantially all of the value of the guarantees provided by the Guarantors (except as expressly provided in the Loan Documents), affect the number of Lenders required to take any action hereunder or under any other Loan Document, or change or waive any provision of any Loan Document that provides for the *pro rata* nature of disbursements or payments to Lenders or sharing of Collateral among the Lenders (except in connection with any transaction permitted by the last paragraph of this Section 10.11(a) or Section 10.10(h));

(C) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall amend or otherwise modify Section 2.8 or any other provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the consent of Lenders representing a majority in interest of each affected Class (it being understood that the Required Lenders may waive, in whole or in part, any prepayment of Loans hereunder so long as the application, as between Classes, of any portion of such prepayment that is still required to be made is not altered)

(D) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall amend or modify the provisions of Section 2.3 or any letter of credit application and any bilateral agreement between the applicable Borrower and an L/C Issuer regarding such L/C Issuer's Letter of Credit Commitment or the respective rights and obligations between such Borrower and such L/C Issuer in connection with the issuance of Letters of Credit without the prior written consent of the Administrative Agent and such L/C Issuer, respectively; and

(E) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall (i) subordinate, or have the effect of subordinating, the Obligations under the Facilities to the obligations under any other Indebtedness or (ii) subordinate, or have the effect of subordinating, the Liens securing the Obligations under the Facilities to Liens securing any other obligations in respect of other Indebtedness, in each case, without the written consent of each Lender directly and adversely affected thereby.

Notwithstanding anything to the contrary herein, (a) except as set forth in clause (A) above, no Defaulting Lender shall have any right to approve or disapprove any amendment, modification, supplement, waiver or consent hereunder or otherwise give any direction to the Administrative Agent; (b) the Lead Borrower and the Administrative Agent may, without the input or consent of any other Lender, effect amendments to this Agreement and the other Loan Documents as may be necessary in the reasonable opinion of the Lead Borrower and the Administrative Agent to effect the provisions of Sections 2.8(d), 2.14, 2.15, 2.16, or 10.10(i); (c) guarantees, collateral security documents and related documents and related documents executed by the Lead Borrower or any of its Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be amended, supplemented or waived without the consent of any Lender if such amendment, supplement or waiver is delivered in order to (i) comply with local law or advice of local counsel, (ii) cure ambiguities, omissions, mistakes or defects or (iii) cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents and (d) the Administrative Agent may, with the consent of Lead Borrower only, amend, modify or supplement this Agreement or any other Loan Document to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of any Lender and the Lenders shall have received, at least five (5) Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five (5) Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment.

Notwithstanding the foregoing, only the consent of the Required RC Lenders shall be required with respect to (i) amendments, modifications or waivers of the financial covenant set forth in Section 6.24 (or any component definition thereof to the extent applicable thereto) and (ii) waivers of any conditions to the Borrowing of any Revolving Loans, and any such amendment, modification or waiver may be made without the consent of any other Lender (including, for the avoidance of doubt, the Required Lenders).

In addition, notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders (as determined hereunder prior to any such amendment or amendment and restatement), the Administrative Agent and the Lead Borrower (i) to add one (1) or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders, the Required RC Lenders and other definitions related to such new credit facilities; *provided* that no Lender shall be obligated to commit to or hold any part of such credit facilities.

(b) [*Reserved*].

(c) Each waiver, amendment, modification, supplement or consent made or given pursuant to this Section 10.11 shall be effective only in the specific instance and for the specific purpose for which given, and such waiver, amendment, modification or supplement shall apply equally to each of the Lenders and shall be binding on the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans and Revolving Credit Commitments.

Section 10.12 *Heading*. Section headings and the Table of Contents used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Section 10.13 *Costs and Expenses; Indemnification*.

(a) The Borrowers agree to pay all reasonable and documented out-of-pocket costs and expenses (on the Closing Date or within thirty (30) days of a written demand therefor, together with reasonable backup documentation supporting such reimbursement request) of (i) the Administrative Agent, L/C Issuers and Joint Lead Arrangers in connection with the syndication of the Facilities and the preparation, execution, delivery and administration of the Loan Documents, (ii) the Administrative Agent and the L/C Issuers in connection with any amendment, modification, supplement, waiver or consent related to the Loan Documents, together with any fees and charges suffered or incurred by the Administrative Agent in connection with collateral filing fees and lien searches and (iii) the Administrative Agent, L/C Issuers and the Lenders (within thirty (30) days of a written demand therefor together with reasonable backup documentation supporting such reimbursement request) in connection with the enforcement of the Loan Documents.

(b) No Joint Lead Arranger, L/C Issuer or Lender or their respective Affiliates and controlling Persons and the respective directors, officers, employees, partners, advisors, agents and other representatives of the foregoing (each, a "*Lender-Related Person*") and no Loan Party shall have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); *provided* that nothing in this sentence shall limit any Loan Party's indemnity and reimbursement obligations to the extent that such special, punitive, indirect or consequential damages are included in any claim by a third party unaffiliated with any of the indemnified persons with respect to which the applicable indemnified person is entitled to indemnification as set forth in clause (c) below. No Lender-Related Person nor any other party hereto shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent any such damages arise from the gross negligence, bad faith or willful misconduct of, or material breach of the Loan Documents by, such Lender-Related Person or such other party hereto, as applicable, in each case to the extent determined by a court of competent jurisdiction in a final and non-appealable judgment.

(c) The Borrowers further agree to indemnify the Administrative Agent in its capacity as such, each Joint Lead Arranger, each L/C Issuer and each Lender, their respective Affiliates and controlling Persons and the respective directors, officers, employees, partners, advisors, agents and other representatives of the foregoing against all Damages (including, without limitation, reasonable attorney's fees and other expenses of litigation or preparation therefor, whether or not the indemnified person is a party thereto, or any settlement arrangement arising from or relating to any such litigation) which any of them may pay or incur arising out of or relating to (x) any Loan Document, any of the transactions contemplated thereby, the Facilities, the syndication of the Facilities, the direct or indirect application or proposed application of the proceeds of any Loan or Letter of Credit or the Transactions or (y) any Environmental Liability relating to the Lead Borrower or any Restricted Subsidiary, including without limitation, with respect to the actual or alleged presence, Release or threat of Release of any Hazardous Materials at, on, under or from any property currently or formerly owned or operated by the Lead Borrower or any Restricted Subsidiary, other than those in each of the cases of clauses (x) and (y) above which (i) arise from the gross negligence, willful misconduct or bad faith of, or material breach of the Loan Documents by, the party claiming indemnification (or any of its respective directors, officers, employees, advisors, agents and Affiliates), in each case, to the extent determined by a court of competent jurisdiction in a final and non-appealable judgment or (ii) arise out of any dispute solely among indemnified persons (other than in connection with any agent or arranger acting in its capacity as the Administrative Agent, an L/C Issuer, a Joint Lead Arranger or any other agent, co-agent, arranger or similar role, in each case in their respective capacities as such, or in connection with any syndication activities) that did not arise out of any act or omission of a Borrower or any of its Affiliates. Notwithstanding the foregoing, each indemnified person shall be obligated to refund and return any and all amounts paid by the Borrowers to such indemnified person for fees, expenses or damages to the extent such indemnified person is not entitled to payment of such amounts in accordance with the terms hereof.

(d) Notwithstanding any of the foregoing clauses (a) or (c) to the contrary, in no event shall the Borrowers be obligated to pay for the legal expenses or fees of more than one (1) firm of outside counsel and, if reasonably necessary, one (1) local counsel in any relevant jurisdiction or otherwise retained with the Lead Borrower's consent (not to be unreasonably withheld or delayed), to the Administrative Agent, or the Administrative Agent, the L/C Issuers, the Joint Lead Arrangers and the Lenders, taken as a whole, as the case may be, except, solely in the case of a conflict of interest under clauses (a)(iii) or (c) above, one (1) additional counsel to all affected persons similarly situated, taken as a whole, and if reasonably necessary, one (1) additional local counsel in each relevant jurisdiction or otherwise retained with Lead Borrower's consent (not to be unreasonably withheld or delayed) to all affected persons similarly situated, taken as a whole. The obligations of the Borrowers under this Section 10.13 shall survive the termination of this Agreement.

Section 10.14 *Setoff*. In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, but subject to Section 10.2, upon the occurrence and during the continuation of any Event of Default, each Lender and each subsequent holder of any Obligation is hereby authorized by the Borrowers at any time or from time to time, without prior notice to the Borrowers or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts, and in whatever currency denominated) and any other indebtedness at any time held or owing by that Lender or that subsequent holder to or for the credit or the account of a Borrower, whether or not matured, against and on account of any amount due and payable by such Borrower hereunder. Each Lender or any such subsequent holder of any Obligations agrees to promptly notify the applicable Borrower and the Administrative Agent after any such setoff and application made by such Lender; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

Section 10.15 *Entire Agreement*. The Loan Documents constitute the entire understanding of the parties thereto with respect to the subject matter thereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby.

Section 10.16 *Governing Law*. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed by and interpreted in accordance with, the law of the State of New York.

Section 10.17 *Severability of Provisions*. Any provision of any Loan Document which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement and other Loan Documents are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement or the other Loan Documents invalid or unenforceable.

Section 10.18 *Excess Interest*. Notwithstanding any provision to the contrary contained herein or in any other Loan Document, no such provision shall require the payment or permit the collection of any amount of interest in excess of the maximum amount of interest permitted by Applicable Law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the Loans or other obligations outstanding under this Agreement or any other Loan Document ("*Excess Interest*"). If any Excess Interest is provided for, or is adjudicated to be provided for, herein or in any other Loan Document, then in such event (a) the provisions of this Section 10.18 shall govern and control, (b) neither any Borrower nor any guarantor or endorser shall be obligated to pay any Excess Interest, (c) any Excess Interest that the Administrative Agent or any Lender may have received hereunder shall, at the option of the Administrative Agent, be (i) applied as a credit against the then outstanding principal amount of Obligations hereunder and accrued and unpaid interest thereon (not to exceed the maximum amount permitted by Applicable Law), (ii) refunded to the applicable Borrower, or (iii) any combination of the foregoing, (d) the interest rate payable hereunder or under any other Loan Document shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws (the "*Maximum Rate*"), and this Agreement and the other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the relevant interest rate, and (e) neither any Borrower nor any guarantor or endorser shall have any action against the Administrative Agent or any Lender for any Damages whatsoever arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any period of time interest on any of a Borrower's Obligations is calculated at the Maximum Rate rather than the applicable rate under this Agreement, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on such Borrower's Obligations shall remain at the Maximum Rate until the Lenders have received the amount of interest which such Lenders would have received during such period on such Borrower's Obligations had the rate of interest not been limited to the Maximum Rate during such period.

Section 10.19 *Construction*. The parties acknowledge and agree that the Loan Documents shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents. The provisions of this Agreement relating to Subsidiaries shall apply only during such times as the Lead Borrower has one (1) or more Subsidiaries. In the event of any conflict or inconsistency between or among this Agreement and the other Loan Documents, the terms and conditions of this Agreement shall govern and control.

Section 10.20 *Lender's Obligations Several*. The obligations of the Lenders hereunder are several and not joint and no Lender shall be responsible for the failure of any other Lender to satisfy its obligations hereunder except as otherwise set forth in this Agreement. Nothing contained in this Agreement and no action taken by the Lenders pursuant hereto shall be deemed to constitute the Lenders a partnership, association, joint venture or other entity.

Section 10.21 *USA Patriot Act*. Each Lender and each Agent hereby notifies each Loan Party that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender and/or Agent to identify each Loan Party in accordance with the Patriot Act.

Section 10.22 *Submission to Jurisdiction; Waiver of Jury Trial*. Each of the parties hereto hereby submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City in the borough of Manhattan for purposes of all legal proceedings arising out of or relating to this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby. Each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. Each of the parties hereto agrees that a final judgment in any such proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in any Loan Document shall affect any right that (a) any party hereto may otherwise have to bring any proceeding relating to any Loan Document against any other party hereto or their respective properties in the courts of any jurisdiction

(i) for purposes of enforcing a judgment or (ii) in connection with any pending bankruptcy, insolvency or similar proceeding in such jurisdiction or (b) the Administrative Agent, the Collateral Agent, any L/C Issuer or any Lender may otherwise have to bring any proceeding relating to any Loan Document against any Loan Party or their respective properties in the courts of any jurisdiction in connection with exercising remedies against any Collateral in a jurisdiction in which such Collateral is located. THE BORROWERS, THE ADMINISTRATIVE AGENT, THE L/C ISSUERS AND THE LENDERS HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY.

Section 10.23 *Treatment of Certain Information; Confidentiality*. Each of the Administrative Agent, the Lenders and the L/C Issuers agrees to maintain the confidentiality of the Information (as defined below), except that the Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective directors, officers, employees, agents, advisors, insurers, insurance brokers, settlement service providers and other representatives on a "need to know basis" (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential) solely in connection with the transactions contemplated or permitted hereby; *provided* that the Administrative Agent, the Lenders or the L/C Issuers, as the case may be, shall be responsible for their respective Affiliates' compliance with this clause, (b) to the extent requested by any regulatory authority having jurisdiction over such Person (including any self-regulatory authority, such as the National Association of Insurance Commissioners or any similar organization) or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender (*provided* that, prior to any such disclosure, such rating agency shall undertake in writing to preserve the confidentiality of any confidential Information relating to the Loan Parties), (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process; *provided* that, unless specifically prohibited by Applicable Law or court order, each Lender and the Administrative Agent shall promptly notify the Lead Borrower in advance of any such disclosure, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions not less restrictive than those of this Section 10.23, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (provided that, for the avoidance of doubt, to the extent that the list of Prohibited Lenders is made available to all Lenders, the "*Information*" for purposes of this clause (f)(i) shall include the list of Prohibited Lenders), (ii) any actual or prospective counterparty (or its advisors) to any Hedge Agreement relating to the Lead Borrower and its obligations, (iii) to any direct, indirect, actual or prospective counterparty (and its advisor) to any swap, derivative or securitization transaction related to the obligations under this Agreement or (iv) to any credit insurance provider relating to the Lead Borrower and its obligations, (g) with the consent of the Lead Borrower, (h) (x) to any rating agency in connection with rating the Lead Borrower or its Subsidiaries or the facilities evidenced by this Agreement or (y) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the facilities evidenced by this Agreement, (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section 10.23 or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Lead Borrower, (j) for purposes of establishing a "due diligence" defense and (k) to the extent that such information is independently developed, so long as not based on information obtained in a manner that would otherwise violate this Section 10.23. In addition, the Agents and the Lenders may (i) disclose the existence of this Agreement and customary information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement, the other Loan Documents, the Commitments, and the Credit Extensions; *provided* that such Person is advised of and agrees to be bound by the provisions of this Section 10.23 and (ii) with the prior written consent of the Lead Borrower, place customary advertisements in financial and other newspapers and periodicals or on a home page or similar place for dissemination of customary information on the Internet or worldwide web as such Person may choose, and circulate similar promotional materials, in the form of a "tombstone" or otherwise describing the names of the Lead Borrower and its Affiliates (or any of them), and the type, size and Closing Date of the credit facilities, all at the expense of such Person. For purposes of this Section 10.23, "*Information*" means all information received by the Administrative Agent, any Lender or any L/C Issuer, as the case may be, from the Lead Borrower or any of its Subsidiaries relating to the Lead Borrower or any of its Subsidiaries or any of their respective businesses (including any target company and its Subsidiaries in connection with contemplated or consummated Acquisition or other investment), other than any such information

that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Lead Borrower or any of its Subsidiaries. Any Person required to maintain the confidentiality of Information as provided in this Section 10.23 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. Notwithstanding the foregoing, the Administrative Agent and the Lenders agree not to disclose any Information to a Prohibited Lender.

For the avoidance of doubt, nothing in this Section 10.23 shall prohibit any Person from voluntarily disclosing or providing any Information within the scope of this confidentiality provision to any governmental, regulatory or self-regulatory organization (any such entity, a "*Regulatory Authority*") to the extent that any such prohibition on disclosure set forth in this Section 10.23 shall be prohibited by the laws or regulations applicable to such Regulatory Authority.

Section 10.24 *No Fiduciary Relationship*. Each Borrower acknowledges and agrees that the transactions contemplated by this Agreement and the other Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Agents and the Lenders, on the one hand, and the Loan Parties, on the other, and in connection therewith and with the process leading thereto, (i) the Agents and the Lenders have not assumed an advisory or fiduciary responsibility in favor of the Loan Parties, the Loan Parties' equity holders or the Loan Parties' Affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether such Agent and/or Lender has advised, is currently advising or will advise the Loan Parties, the Loan Parties' equity holders or the Loan Parties' Affiliates on other matters) or any other obligation to the Loan Parties except the obligations expressly set forth in this Agreement and the other Loan Documents and (ii) such Agent and/or Lender is acting solely as a principal and not as a fiduciary of the Loan Parties, the Loan Parties' management, equity holders, Affiliates, creditors or any other Person or their respective Affiliates. Each Agent, each Lender and their Affiliates may have economic interests that conflict with the economic interests of the Lead Borrower or any of its Subsidiaries, their stockholders and/or their Affiliates.

Section 10.25 *Platform; Borrower Materials*.

(a) Each Borrower hereby acknowledges that (a) the Administrative Agent and/or the Joint Lead Arrangers will make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, "*Borrower Materials*") by posting the Borrower Materials on Intralinks or another similar electronic system (the "*Platform*"), and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information (within the meaning of the United States federal and state securities laws) with respect to the Borrowers or their respective Subsidiaries or any of their respective securities) (each, a "*Public Lender*"). The Lead Borrower hereby agrees that it will identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (i) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof, (ii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor" and (iii) the Administrative Agent and the Joint Lead Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor." THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE ADMINISTRATIVE AGENT, ITS RELATED PARTIES AND THE JOINT LEAD ARRANGERS DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT, ANY OR ITS RELATED PARTIES OR ANY JOINT LEAD ARRANGER IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM.

(b) Each Lender acknowledges that all information, including requests for waivers and amendments, furnished by the Borrowers or the Administrative Agent pursuant to or in connection with, or in the course of administering, this Agreement will be syndicate-level information, which may contain material non-public information. Each Lender represents to the Borrowers and the Administrative Agent that (i) it has developed compliance procedures regarding the use of material non-public information and that it will handle material non-public information in accordance with such procedures and applicable law, including Federal, state and foreign securities laws, and (ii) it has identified in its Administrative Questionnaire a credit contact who may receive information that may contain material non-public information in accordance with its compliance procedures and applicable law, including Federal, state and foreign securities laws.

Section 10.26 *Acknowledgement and Consent to Bail-In of Affected Financial Institutions*. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(A) a reduction in full or in part or cancellation of any such liability;

(B) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(C) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

Section 10.27 *Additional Borrowers*.

(a) The Lead Borrower may cause any Subsidiary to become a Borrower under the Revolving Facility by (i) executing a joinder agreement to this Agreement, in form and substance satisfactory to the Administrative Agent, (ii) delivering an opinion of counsel to such Subsidiary addressed to the Administrative Agent and each Lender in form and substance reasonably satisfactory to the Administrative Agent, (iii) delivering a customary secretary's (or equivalent) certificate in form and substance reasonably satisfactory to the Administrative Agent, (iv) delivering good standing certificates (or equivalent evidence) for such Subsidiary which the Administrative Agent reasonably may have requested, (v) furnishing to the Administrative Agent and the Lenders all documentation and other information that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the Patriot Act and (vi) delivering Collateral Documents (or supplements, assumptions or amendments to existing guaranty and Collateral Documents) as the Administrative Agent may then require and deliver to the Administrative Agent, at the Lead Borrower's cost and expense, such other instruments, documents, certificates, and opinions reasonably required by the Administrative Agent in connection therewith; *provided* that (x) the jurisdiction of organization of such Additional Borrower shall be reasonably acceptable to the Administrative Agent and each Revolving Lender and (y) this Agreement and any other applicable Loan Document may be amended as mutually agreed by the Administrative Agent, the Lead Borrower, such Additional Borrower and each Revolving Lender to incorporate such Additional Borrower, if necessary, including, without limitation, if such Additional Borrower is organized or incorporated in or under the laws of, or for applicable Tax purposes is resident of or treated as engaged in a trade or business in, any jurisdiction other than the United States, any state thereof, or the District of Columbia, any amendment to Section 10.1 and the definition of "Excluded Taxes" (provided that no such amendment shall materially adversely affect the rights of any Lender that has not consented to such amendment).

(b) If at any time an Additional Borrower ceases to be a Subsidiary of the Lead Borrower, the Lead Borrower shall deliver a written notice to the Administrative Agent notifying it that such Additional Borrower is no longer a Subsidiary and terminating its status as an Additional Borrower. The delivery of such notice shall not affect any obligation of an Additional Borrower theretofore incurred or the Lead Borrower's guaranty thereof and the Lead Borrower shall confirm its continuing obligation in respect thereof in such notice.

(c) If at any time, an Additional Borrower has no outstanding Credit Extensions made to it, the Lead Borrower may elect to deliver a written notice to the Administrative Agent stating that it has elected to terminate the status of such Additional Borrower as a Borrower hereunder and such Additional Borrower shall no longer have any obligations hereunder.

Section 10.28 *[Reserved]*.

Section 10.29 *Acknowledgement Regarding Any Supported QFCs*. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for swap agreements or any other agreement or instrument that is a QFC (such support "*QFC Credit Support*" and each such QFC a "*Supported QFC*"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "*U.S. Special Resolution Regimes*") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a "*Covered Party*") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers as of the day and year first above written.

SANDISK CORPORATION

By: /s/ Luis F. Visoso
Name: Luis F. Visoso
Title: Chief Financial Officer

[Signature Page to Flash Loan Agreement]

JPMORGAN CHASE BANK, N.A., as Administrative Agent, Collateral Agent, a Lender and an L/C Issuer

By: /s/ Timothy Lee
Name: Timothy Lee
Title: Executive Director

[Signature Page to Flash Loan Agreement]

CITIBANK, N.A., as a Lender and an L/C Issuer

By: /s/ Albert Sutton
Name: Albert Sutton
Title: Vice President

[Signature Page to Flash Loan Agreement]

DBS BANK LTD., as a Lender

By: /s/ Kate Khoo
Name: Kate Khoo
Title: Vice President

[Signature Page to Flash Loan Agreement]

MIZUHO BANK, LTD., as a Lender and an L/C Issuer

By: /s/ Tracy Rahn
Name: Tracy Rahn
Title: Managing Director

[Signature Page to Flash Loan Agreement]

MUFG BANK, Ltd. as a Lender and an L/C Issuer

By: /s/ Eric Enberg
Name: Eric Enberg
Title: Director

[Signature Page to Flash Loan Agreement]

ROYAL BANK OF CANADA, as a Lender and an L/C Issuer

By: /s/ Harsh Grewal
Name: Harsh Grewal
Title: Authorized Signatory

[Signature Page to Flash Loan Agreement]

Sumitomo Mitsui Banking Corporation, as a Lender and an L/C Issuer

By: /s/ Jacob C. Streit
Name: Jacob C. Streit
Title: Managing Director, Technology Banking

[Signature Page to Flash Loan Agreement]

The Toronto-Dominion Bank, New York Branch, as a Lender and an L/C Issuer

By: /s/ David Perlman
Name: David Perlman
Title: Authorized Signatory

[Signature Page to Flash Loan Agreement]

BNP PARIBAS, as a Lender

By: /s/ Theodore Olson
Name: Theodore Olson
Title: Managing Director

By: /s/ My-Linh Yoshiike
Name: My-Linh Yoshiike
Title: Vice President

[Signature Page to Flash Loan Agreement]

HSBC Bank USA, National Association, as a Lender

By: /s/ Aleem Shamji
Name: Aleem Shamji
Title: Managing Director

[Signature Page to Flash Loan Agreement]

Key Bank National Association, as a Lender

By: /s/ Amra Rausche
Name: Amra Rausche
Title: Senior Vice President

[Signature Page to Flash Loan Agreement]

PNC Bank, National Association, as a Lender

By: /s/ Kentaro Umezono
Name: Kentaro Umezono
Title: Assistant Vice President

[Signature Page to Flash Loan Agreement]

Truist Bank, as a Lender

By: /s/ Alfonso Brigham
Name: Alfonso Brigham
Title: Director

[Signature Page to Flash Loan Agreement]

U.S. BANK NATIONAL ASSOCIATION, as a Lender

By: /s/ Christian Sumulong
Name: Christian Sumulong
Title: Vice President

[Signature Page to Flash Loan Agreement]

Exhibit 10.8

SECURITY AGREEMENT

This Security Agreement (this "*Agreement*") is dated as of February 21, 2025, by and among Sandisk Corporation, a Delaware corporation (the "*Lead Borrower*"), and the other parties who have executed this Security Agreement (the Lead Borrower, such other parties and any other parties who execute and deliver to the Collateral Agent an agreement substantially in the form attached hereto as Schedule A, being hereinafter referred to collectively as the "*Debtors*" and individually as a "*Debtor*"), each with its mailing address as set forth in Section 14(b) below, and JPMorgan Chase Bank, N.A. ("*JPMorgan Chase Bank*"), with its mailing address as set forth in Section 14(b) below, acting as collateral agent hereunder for the Secured Parties hereinafter identified and defined (JPMorgan Chase Bank acting as such collateral agent and any successor or successors to JPMorgan Chase Bank acting in such capacity being hereinafter referred to as the "*Collateral Agent*").

PRELIMINARY STATEMENTS

A. Reference is made to the Loan Agreement, dated as of February 21, 2025 (as extended, renewed, amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "*Loan Agreement*"), among the Lead Borrower, the Additional Borrowers party thereto from time to time (together with the Lead Borrower, the "*Borrowers*"), the Collateral Agent, JPMorgan Chase Bank, as Administrative Agent (the "*Administrative Agent*"), JPMorgan Chase Bank as an L/C Issuer (together with the other L/C Issuers identified therein, the "*L/C Issuers*"), the other banks and financial institutions from time to time party thereto and the other agents party thereto, pursuant to which the Administrative Agent, the L/C Issuers and the other banks and financial institutions from time to time party thereto have agreed to provide financial accommodations to the Borrowers (JPMorgan Chase Bank, in its individual capacity as a Lender (as defined in the Loan Agreement) and the other Lenders (as defined in the Loan Agreement) being hereinafter referred to collectively as the "*Lenders*" and individually as a "*Lender*").

B. In addition, one or more of the Debtors may from time to time be liable to the Lenders, the Agents, the Joint Lead Arrangers and/or their Affiliates with respect to Hedging Liability and/or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations ((i) the Agents, the Joint Lead Arrangers, the L/C Issuers, the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and the Lenders and (ii) with respect to the Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, (x) any Affiliates of the Lenders, Agents and Joint Lead Arrangers and (y) any entity that was a Lender, an Agent or a Joint Lead Arranger or an Affiliate of a Lender, an Agent or a Joint Lead Arranger at the time the relevant transaction was entered into, in each case of clauses (x) and (y) to which such Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations are owed, are referred to collectively as the "*Secured Parties*" and individually as a "*Secured Party*").

C. As a condition to the closing of the transactions contemplated by the Loan Agreement, the Secured Parties have required, among other things, that each Debtor enter into this Agreement and grant to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in the personal property and fixtures of such Debtor described herein subject to the terms and conditions hereof.

NOW, THEREFORE, for good and valuable consideration, receipt whereof is hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. Terms defined in Loan Agreement. Except as otherwise provided in Section 2 below, all capitalized terms used herein without definition shall have the same meanings herein as such terms have in the Loan Agreement. The term "Debtor" and "Debtors" as used herein shall mean and include the Debtors collectively and also each individually, with all representations, warranties, and covenants of and by the Debtors, or any of them, herein contained to constitute joint and several representations, warranties, and covenants of and by the Debtors; provided, however, that unless the context in which the same is used shall otherwise require, any grant, representation, warranty or covenant contained herein related to the Collateral shall be made by each Debtor only with respect to the Collateral owned by it or represented by such Debtor as owned by it.

As used herein:

"Copyrights" shall mean, collectively, all copyrights (whether statutory or common law, whether established or registered in the United States or any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished) and all copyright registrations and applications, together with any and all (i) rights and privileges arising under applicable law with respect to the foregoing, (ii) renewals, supplements and extensions thereof and amendments thereto, (iii) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect thereto, including damages and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof.

"Intellectual Property" shall mean, collectively, the intellectual or intangible property rights in the Patents, Trademarks, Copyrights, and Technology.

"Intellectual Property Collateral" shall mean, collectively, the intellectual or intangible property rights in the Patents, Trademarks, Copyrights, Technology and Licenses, in each case, now or hereafter, owned, filed, acquired, or assigned to each Debtor, or to which a Debtor is made party to.

"Intercompany Notes" shall mean, without duplication, with respect to each Debtor, all intercompany notes described in Schedule 5(b) to the Perfection Certificate, the Global Intercompany Note and intercompany notes hereafter acquired by such Debtor and all certificates, instruments or agreements evidencing such intercompany notes, and all assignments, amendments, restatements, supplements, extensions, renewals, replacements or modifications thereof to the extent permitted pursuant to the terms hereof.

"Licenses" shall mean, collectively, with respect to each Debtor, all license, sublicense and distribution agreements with, and covenants not to sue, any other party with respect to any Intellectual Property, whether such Debtor is a licensor or licensee, sublicensor or sublicensee, distributor or distributee under any such agreement, together with any and all (i) renewals, extensions, supplements, amendments and continuations thereof, (ii) income, fees, royalties, damages, claims and payments now and hereafter due and/or payable thereunder and with respect thereto including damages and payments for past, present or future infringements, breaches or violations thereof and (iii) rights to sue for past, present and future infringements, breaches or violations thereof.

"Patents" shall mean, collectively, all patents and all patent applications (whether issued, allowed or filed in the United States or any other country or any trans-national patent registry), together with any and all (i) rights and privileges arising under applicable law with respect to the foregoing, (ii) inventions, discoveries, designs and improvements described or claimed therein, (iii) reissues, divisions, continuations, reexaminations, extensions and continuations-in-part thereof and amendments thereto, (iv) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable thereunder and with respect thereto including damages and payments for past, present or future infringements thereof, (v) rights corresponding thereto throughout the world and (vi) rights to sue for past, present or future infringements thereof.

"Technology" shall mean, collectively, all trade secrets, know how, technology (whether patented or not), rights in software (including source code and object code), rights in data and databases, rights in Internet web sites, customer and supplier lists, proprietary information, methods, procedures, formulae, descriptions, compositions, technical data, drawings, specifications, name plates, catalogs, confidential information and the right to limit the use or disclosure thereof by any person, pricing and cost information, business and marketing plans and proposals, together with any and all (i) rights and privileges arising under applicable law with respect to the foregoing, (ii) income, fees, royalties, damages and payments now and hereafter due and/or payable thereunder and with respect thereto, including damages, claims and payments for past, present or future misappropriations or violations thereof, (iii) rights corresponding thereto throughout the world and (iv) rights to sue for past, present and future misappropriations or violations thereof.

"Trademarks" shall mean, collectively, all trademarks (including service marks), slogans, logos, certification marks, trade dress, uniform resource locators (URLs), domain names, corporate names, brand names, trade names and other identifiers of source or goodwill, whether registered or unregistered, and all registrations and applications for the foregoing (whether statutory or common law and whether applied for or registered in the United States or any other country or any political subdivision thereof), together with any and all (i) rights and privileges arising under applicable law with respect to the foregoing, (ii) extensions and renewals thereof and amendments thereto, (iii) income, fees, royalties, damages and payments now and hereafter due and/or payable thereunder and with respect thereto, including damages, claims and payments for past, present or future infringements, dilutions or violations thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present and future infringements, dilutions or violations thereof.

Section 2. Grant of Security Interest in the Collateral. As collateral security for the Secured Obligations defined below, each Debtor hereby grants to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in, and acknowledges and agrees that the Collateral Agent has and shall continue to have until the Termination Date for the benefit of the Secured Parties a continuing lien on and security interest in, and right of set-off against, all right, title, and interest of such Debtor, whether now owned or existing or hereafter created, acquired or arising, in and to all of the following:

(a) Accounts;

(b) Chattel Paper;

(c) Instruments (including Promissory Notes and Intercompany Notes);

(d) Documents;

(e) General Intangibles (including Payment Intangibles and Intellectual Property Collateral);

(f) Letter-of-Credit Rights;

(g) Supporting Obligations;

(h) Deposit Accounts;

(i) Investment Property (including certificated and uncertificated Securities, Securities Accounts, Security Entitlements, Commodity Accounts, and Commodity Contracts);

(j) Inventory;

(k) Equipment (including all software, whether or not the same constitutes embedded software, used in the operation thereof);

(l) Fixtures;

(m) Commercial Tort Claims (as described on Schedule 7 to the Perfection Certificate or on one or more supplements to the Perfection Certificate);

(n) Goods;

(o) Personal property, and interests in personal property of such Debtor of any kind or description now held by any Secured Party or at any time hereafter transferred or delivered to, or coming into the possession, custody or control of, any Secured Party or any agent or affiliate of any Secured Party whether expressly as collateral security or for any other purpose (whether for safekeeping, custody, collection or otherwise), and all dividends and distributions on or other rights in connection with any such property;

(p) Supporting evidence and documents relating to any of the above-described property, including, without limitation, computer programs, disks, tapes and related electronic data processing media, written applications, credit information, account cards, payment records, correspondence, delivery and installation certificates, invoice copies, delivery receipts, notes and other evidences of indebtedness, insurance certificates and the like, together with all books of account, ledgers, and cabinets in which the same are reflected or maintained;

(q) Accessions and additions to, and substitutions and replacements of, any and all of the foregoing; and

(r) Proceeds and products of the foregoing, and all insurance of the foregoing and proceeds thereof;

all of the foregoing being herein sometimes referred to as the "*Collateral*". Notwithstanding the foregoing, the security interest shall not extend to, and the term "Collateral" (and any component definition thereof) shall not include, any Excluded Property. All terms which are used in this Agreement which are defined in the Uniform Commercial Code of the State of New York as in effect from time to time shall have the same meanings herein as such terms are defined in the UCC, unless this Agreement shall otherwise specifically provide. For purposes of this Agreement, the term "*Receivables*" means all rights to the payment of a monetary obligation, whether or not earned by performance, and whether evidenced by an Account, Chattel Paper, Instrument, General Intangible, or otherwise.

Section 3. Secured Obligations. This Agreement is made and given to secure, and shall secure, the prompt payment and performance of (a) the Obligations, (b) all obligations of the Debtors and their Restricted Subsidiaries, and of any of them individually, with respect to any Hedging Liability, (c) all obligations of the Debtors and their Restricted Subsidiaries, and of any of them individually, with respect to any Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, (d)

all obligations of the Debtors, and of any of them individually, arising under any guaranty issued by it relating to the foregoing or any part thereof, in each case of clauses (a) through (d) above, whether now existing or hereafter arising (and whether arising before or after the filing of a petition in bankruptcy and including all interest, fees and other amounts which, but for the filing of any insolvency or bankruptcy proceeding with respect to any Debtor or its Restricted Subsidiary, would have accrued on any of the Secured Obligations (as defined below)), due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired and (e) any and all reasonable and documented out-of-pocket expenses and charges in accordance with the terms of Section 10.13 of the Loan Agreement (all of the indebtedness, obligations, liabilities, expenses, and charges described above in clauses (a)through (e) being hereinafter referred to as the "*Secured Obligations*").

Section 4. Covenants, Agreements, Representations and Warranties. (a) Each Debtor hereby represents and warrants to the Secured Parties that:

(i) Each Debtor is duly organized and validly existing in good standing under the laws of the jurisdiction of its organization. Each Debtor is the sole and lawful owner of its Collateral, and has full right, power, and authority to enter into this Agreement and to perform each and all of the matters and things herein provided for.

(ii) As of the Closing Date, each Debtor's respective sole place of business or chief executive office, as applicable, is at the address listed on Schedule 1(a) to the Perfection Certificate opposite such Debtor's name.

(iii) As of the Closing Date, each Debtor's legal name and jurisdiction of organization are correctly set forth on Schedule 1(a) to the Perfection Certificate. As of the Closing Date, no Debtor has transacted business at any time since February 21, 2020, and does not currently transact business, under any other legal names other than the prior legal names set forth on Schedule 1(b) to the Perfection Certificate or the other names set forth on Schedule 1(c) to the Perfection Certificate.

(iv) As of the date sixty (60) days after the Closing Date (or such longer period as the Administrative Agent may agree to), Schedule 6 to the Perfection Certificate will set forth a true, complete and current listing of all patents, trademarks and copyrights owned by each of the Debtors as of the Closing Date that are registered or the subject of a pending application with any United States federal governmental authority, and exclusive licenses of copyrights to which a Debtor is a party, other than to the extent the same constitutes Excluded Property, and other than any patent, trademark or copyright or exclusive copyright license where the Borrowers have filed or caused to be filed an applicable Intellectual Property Security Agreement with the United States Patent and Trademark Office or the United States Copyright Office promptly after the Collateral Agent provides the Borrowers with written notice identifying such patent, trademark or copyright or exclusive copyright license with respect to the corresponding requirement under this Agreement or the Loan Agreement or the Borrowers provide the Collateral Agent with written notice identifying such patent, trademark or copyright or exclusive copyright license, to the extent such Intellectual Property Security Agreement filing preserves, confirms and perfects the security interest granted herein.

(v) As of the Closing Date, Schedule 7 to the Perfection Certificate contains a true and correct list of all Commercial Tort Claims (i) with a projected value (as reasonably estimated by the Lead Borrower) in excess of $30.0 million individually held by the Debtors as of the date hereof and (ii) for which a complaint has been filed in a court of competent jurisdiction.

(b) Each Debtor hereby covenants and agrees with the Secured Parties that:

(i) Each Debtor shall provide the Collateral Agent written notice of a change of the location of such Debtor's chief executive office within sixty (60) days of such change or such longer period as the Collateral Agent may agree.

(ii) Upon any change to the legal name or jurisdiction of organization of any Debtor, the applicable Debtor shall provide written notice thereof to the Collateral Agent within sixty (60) days after the occurrence thereof or such longer period as the Collateral Agent may agree. Each Debtor agrees promptly (and, in any event, within sixty (60) days) following any change referred to in clause (i) or (ii) above, to take all action reasonably satisfactory to the Collateral Agent to maintain the perfection and priority of the security interest of the Collateral Agent for the benefit of the Secured Parties in the Collateral, if applicable, and to provide the Collateral Agent with certified organizational documents reflecting any such changes, if applicable.

(iii) Each Debtor shall take all commercially reasonable actions necessary to defend the Collateral against any claims and demands of all persons at any time claiming the same or any interest in the Collateral other than a Permitted Lien adverse to any of the Secured Parties.

(iv) [Reserved].

(v) Subject to Schedule 6.25 to the Loan Agreement, all insurance disclosed on Schedule 8 to the Perfection Certificate, to the extent available on commercially reasonable terms, shall be endorsed or otherwise amended to include a loss payable endorsement to the Collateral Agent and shall name the Collateral Agent, on behalf of the Secured Parties, as additional insured or loss payee, in form and substance satisfactory to the Collateral Agent. Each Debtor hereby authorizes the Collateral Agent, at the Collateral Agent's option, to adjust, compromise, and settle any losses in respect of any Collateral under any insurance afforded at any time after the occurrence and during the continuation of any Event of Default, and such Debtor does hereby irrevocably (until the Termination Date) constitute the Collateral Agent, its officers, agents, and attorneys, as such Debtor's attorneys-in-fact, with full power and authority after the occurrence and during the continuation of any Event of Default to effect such adjustment, compromise, and/or settlement and to endorse any drafts drawn by an insurer of the Collateral or any part thereof and to do everything necessary to carry out such purposes and to receive and receipt for any unearned premiums due under policies of such insurance.

(vi) At any time after and during the continuance of any Event of Default, if any Collateral with a value in excess of $1,000,000 is in the possession or control of any agents or processors of a Debtor and the Collateral Agent so requests, such Debtor agrees to notify such agents or processors in writing of the Collateral Agent's lien and security interest therein and instruct them to hold all such Collateral for the Collateral Agent's account and subject to the Collateral Agent's instructions.

(vii) At any time after and during the continuation of any Event of Default, each Debtor agrees from time to time to deliver to the Collateral Agent such evidence of the existence, identity, and location of its Collateral and of its availability as collateral security pursuant hereto (including, without limitation, schedules describing all Receivables created or acquired by such Debtor, copies of customer invoices or the equivalent and original receipts for all services rendered by it), in each case as the Collateral Agent may reasonably request. At any time after and during the continuation of any Event of Default, the Collateral Agent shall have the right to verify all or any part of the Collateral in any manner, and through any medium, which the Collateral Agent considers appropriate and reasonable, and each Debtor agrees to furnish all reasonable assistance and information, and perform any reasonable acts, which the Collateral Agent may reasonably require in connection herewith.

(viii) Upon any new registration, or application for registration, for any Intellectual Property rights, and exclusive licenses of copyrights, in each case, constituting Collateral, granted to or filed or acquired by any Debtor after the Closing Date (including any Intellectual Property that is no longer included as Excluded Property), the Debtor shall, on or prior to the later to occur of (i) thirty (30) days for copyrights and sixty (60) days for all other Intellectual Property following such grant, filing or acquisition and (ii) the date of the next required delivery of the Compliance Certificate that is delivered in connection with the Lead Borrower's annual financial statements submitted pursuant to Section 6.1(b) of the Loan Agreement following the date of such grant, filing or acquisition (or such longer period as to which the Collateral Agent may consent), submit to the Collateral Agent a supplement to Schedule 6 to the Perfection Certificate to reflect such additional rights, and execute the applicable Intellectual Property Security Agreement and deliver such Intellectual Property Security Agreement to the Collateral Agent, and shall promptly file such Intellectual Property Security Agreements with the United States Patent and Trademark Office and the United States Copyright Office, as applicable.

(ix) If any Debtor shall at any time hold or acquire a Commercial Tort Claim with a projected value (as reasonably estimated by the Lead Borrower) equal to or in excess of $30.0 million individually for which a complaint has been filed in a court of competent jurisdiction and that is required to be pledged hereunder, the Debtor shall, on or prior to the later to occur of (i) sixty (60) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate that is delivered in connection with the Lead Borrower's annual financial statements submitted pursuant to Section 6.1(b) of the Loan Agreement following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), execute and deliver to the Collateral Agent a supplement to Schedule 7 to the Perfection Certificate in such form reasonably acceptable to the Collateral Agent and the provisions of Section 2 of this Agreement shall apply to such Commercial Tort Claim (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein).

(x) Each Debtor agrees to execute and deliver to the Collateral Agent such further agreements, assignments, instruments, and documents, and to do all such other things, as the Collateral Agent may reasonably deem necessary to assure the Collateral Agent of its lien and security interest hereunder, including, without limitation, such agreements with respect to patents, trademarks, copyrights, and similar intellectual property rights as the Collateral Agent may from time to time reasonably require to comply with the filing requirements of the United States Patent and Trademark Office and the United States Copyright Office; *provided* that (a) no action outside of the United States shall be required in order to create or perfect any security interest in any assets

located outside of the United States and no foreign law security or pledge agreement or foreign intellectual property filing or search shall be required, (b) no Debtor shall be required to seek any landlord lien waiver, estoppel, warehouseman waiver or other collateral access or similar letter or agreement and (c) to the extent constituting Collateral, (1) the security interests in assets requiring perfection through control agreements or other control arrangements (other than control of pledged certificated Securities and material Instruments to the extent otherwise required under this Agreement and the filing of financing statements), (2) assets subject to certificates of title (other than the filing of financing statements) and (3) Letter-of-Credit Rights (other than the filing of financing statements) shall not be required to be perfected. In the event for any reason the law of any jurisdiction other than New York becomes or is applicable to the Collateral or any part thereof, or to any of the Secured Obligations, each Debtor agrees to execute and deliver all such agreements, assignments, instruments, and documents and to do all such other things as the Collateral Agent reasonably deems necessary or appropriate to preserve, protect, and enforce the security interest of the Collateral Agent under the law of such other jurisdiction, subject to the limitations set forth in the proviso to the first sentence of this clause (x). Without limiting the foregoing, the Collateral Agent is hereby authorized at any time and from time to time to file in any relevant jurisdiction any financing statement that describes the Collateral as "all assets" or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC. Each Debtor hereby further authorizes the Collateral Agent to file the Intellectual Property Security Agreements, or other instruments to perfect, confirm, continue, protect or enforce the security interest granted hereunder, with the United States Patent and Trademark Office or United States Copyright Office (or any successor office), as applicable, without the signature of such Debtor, and naming such Debtor as a debtor and naming the Collateral Agent as secured party.

(xi) If an Event of Default has occurred and is continuing, the Collateral Agent may, at its option, but only following ten (10) Business Days' written notice to each Debtor of its intent to do so, expend such sums as the Collateral Agent reasonably deems advisable to perform the obligations of the Debtors with respect to the Collateral under this Agreement and the other Loan Documents to the extent that any Debtor fails to do so, including, without limitation, the payment of any insurance premiums, the payment of any taxes, Liens and encumbrances that do not constitute Permitted Liens, expenditures made in defending against any adverse claims that do not constitute Permitted Liens, and all other expenditures which the Collateral Agent may be compelled to make by operation of law or which the Collateral Agent may make by agreement or otherwise for the protection of the security hereof that do not constitute Permitted Liens. All such sums and amounts so expended shall be repayable by the Debtors within thirty (30) days after demand, shall constitute additional Secured Obligations secured hereunder, and shall bear interest from the date said amounts are expended at a rate per annum (computed on the basis of a year of 360 days for the actual number of days elapsed) equal to 2% plus the Base Rate from time to time in effect plus the Applicable Margin for Base Rate Loans. No such performance of any obligation by the Collateral Agent on behalf of a Debtor, and no such advancement or expenditure therefor, shall relieve any Debtor of any default under the terms of this Agreement or in any way obligate any Secured Party to take any further or future action with respect thereto. The Collateral Agent, in making any payment hereby authorized, may do so according to any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim. The Collateral Agent, in performing any act hereunder, shall be the sole judge of whether the relevant Debtor is required to perform the same under the terms of this Agreement.

Section 5. Special Provisions Re: Receivables. (a) Upon the occurrence and during the continuance of an Event of Default, if any Receivable arises out of a contract with the United States of America, or any state or political subdivision thereof, or any department, agency or instrumentality of any of the foregoing, each Debtor agrees to provide information promptly upon the request of the Collateral Agent and, at the request of the Collateral Agent, execute whatever instruments and documents are reasonably required by the Collateral Agent in order that such Receivable shall be assigned to the Collateral Agent and that proper notice of such assignment shall be given under the federal Assignment of Claims Act (or any successor statute) or any similar state or local statute, as the case may be.

(b) If any Debtor shall at any time after the Closing Date hold or acquire any Instrument or Chattel Paper evidencing any Receivable or any other item of Collateral (including Intercompany Notes but other than any checks received and deposited in the ordinary course of business), the Debtor shall, on or prior to the later to occur of (i) sixty (60) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate in connection with the Lead Borrower's annual financial statements submitted pursuant to Section 6.1(b) of the Loan Agreement following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), cause such Instrument or tangible Chattel Paper to be delivered to the Collateral Agent; *provided, however,* that, unless an Event of Default has occurred and is continuing, a Debtor shall not be required to deliver any such Instrument or tangible Chattel Paper if and only so long as the aggregate unpaid principal balance of all such Instruments and tangible Chattel Paper held by the Debtors and not delivered to the Collateral Agent hereunder is less than $30.0 million at any one time outstanding.

Section 6. Collection of Receivables. (a) Except as otherwise provided in this Agreement, each Debtor shall make collection of its Receivables and may use the same to carry on its business in accordance with its ordinary business practices and otherwise subject to the terms hereof.

(b) Upon the occurrence and during the continuance of any Event of Default, whether or not the Collateral Agent has exercised any of its other rights under other provisions of this Section 6, in the event the Collateral Agent makes a written request for any Debtor to do so:

(i) all Instruments and tangible Chattel Paper at any time constituting part of the Receivables (including any postdated checks but other than any checks received and deposited in the ordinary course of business) shall, upon receipt by such Debtor, be promptly endorsed to and deposited with Collateral Agent; and/or

(ii) such Debtor shall instruct all customers and account debtors to remit all payments in respect of Receivables or any other Collateral to a lockbox or lockboxes under the sole custody and control of the Collateral Agent and which are maintained at one or more post offices selected by the Collateral Agent.

(c) Upon the occurrence and during the continuation of any Event of Default, whether or not the Collateral Agent has exercised any of its other rights under the other provisions of this Section 6, the Collateral Agent or its designee may notify the relevant Debtor's customers and account debtors at any time that Receivables have been assigned to the Collateral Agent or of the Collateral Agent's security interest therein, and either in its own name, or such

Debtor's name, or both, demand, collect (including, without limitation, through a lockbox analogous to that described in Section 6(b)(ii) hereof), receive, receipt for, sue for, compound and give acquittance for any or all amounts due or to become due on Receivables, and in the Collateral Agent's reasonable discretion file any claim or take any other action or proceeding which the Collateral Agent may reasonably deem necessary to protect and realize upon the security interest of the Collateral Agent in the Receivables or any other Collateral.

(d) Any proceeds of Receivables or other Collateral transmitted to or otherwise received by the Collateral Agent pursuant to any of the provisions of Section 6(b) or 6(c) hereof may be handled and administered by the Collateral Agent in and through a remittance account or accounts maintained at the Collateral Agent or by the Collateral Agent at a commercial bank or banks selected by the Collateral Agent with reasonable care (collectively the "*Depositary Banks*" and individually a "*Depositary Bank*"), and each Debtor acknowledges that the maintenance of such remittance accounts by the Collateral Agent is solely for the Collateral Agent's convenience. The Collateral Agent may, after the occurrence and during the continuation of any Event of Default, apply all or any part of any proceeds of Receivables or other Collateral received by it from any source to the payment of the Secured Obligations (whether or not then due and payable), such applications to be made pursuant to the terms of the Loan Agreement, and at such intervals as the Collateral Agent may from time to time in its discretion determine. The Collateral Agent need not apply or give credit for any item included in proceeds of Receivables or other Collateral until the Depositary Bank has received final payment therefor at its office in cash or final solvent credits current at the site of deposit reasonably acceptable to the Collateral Agent and the Depositary Bank as such. However, if the Collateral Agent does permit credit to be given for any item prior to a Depositary Bank receiving final payment therefor and such Depositary Bank fails to receive such final payment or an item is charged back to the Collateral Agent or any Depositary Bank for any reason, the Collateral Agent may at its election in either instance charge the amount of such item back against any such remittance accounts. After all Events of Default have been cured or waived, the Collateral Agent shall promptly return to the applicable Debtor all proceeds of Collateral which the Collateral Agent has not applied to the Secured Obligations as provided above from the remittance account, as well as all Instruments and tangible Chattel Paper delivered to the Collateral Agent pursuant to Section 6(b)(i) hereof. Notwithstanding the foregoing, each Secured Party shall be obligated to refund and return any and all amounts paid by any Debtor to such Secured Party for fees, expenses or damages to the extent such Secured Party is not entitled to payment of such amounts in accordance with the terms hereof. The Secured Parties shall have no liability or responsibility to any Debtor for the Collateral Agent or any Depositary Bank accepting any check, draft or other order for payment of money bearing the legend "payment in full" or words of similar import or any other restrictive legend or endorsement whatsoever or be responsible for determining the correctness of any remittance.

Section 7. Special Provisions Re: Investment Property and Deposits. (a) Unless and until an Event of Default has occurred and is continuing and the Collateral Agent shall have given the Debtors at least three (3) Business Days' notice of its intent to exercise its rights under this Agreement:

(i) each Debtor shall be entitled to exercise all voting and/or consensual powers pertaining to its Investment Property, or any part thereof, for all purposes not inconsistent with the terms of this Agreement, the Loan Agreement or any other document evidencing or otherwise relating to any Secured Obligations; and

(ii) each Debtor shall be entitled to receive and retain all cash dividends paid upon or in respect of its Investment Property subject to the lien and security interest of this Agreement.

(b) As of the Closing Date, all (i) Equity Interests in a Subsidiary held directly by each Debtor, (ii) Equity Interests in an Affiliate held directly by each Debtor that represent 50% or less of Equity Interests of such Affiliate, (iii) securities accounts in the name of a Debtor and (iv) commodity accounts in the name of a Debtor, in each case, that constitute Collateral are listed and identified on Schedule 4 to the Perfection Certificate and made a part hereof; *provided*, that no Debtor shall be required to list on Schedule 4 any Equity Interests that constitute Excluded Property or that represent Equity Interests in an Immaterial Subsidiary held by such Debtor. If any Debtor shall at any time after the Closing Date hold or acquire any other Investment Property constituting Collateral, the Debtor shall, on or prior to the later to occur of (i) sixty (60) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate that is delivered in connection with the Lead Borrower's annual financial statements submitted pursuant to Section 6.1(b) of the Loan Agreement following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), deliver to the Collateral Agent certificates for all certificated securities constituting Investment Property and part of the Collateral hereunder (other than any certificated securities issued by a Person that is not an Affiliate), all duly endorsed in blank for transfer or accompanied by an appropriate assignment or assignments or an appropriate undated stock power or powers, in every case sufficient to transfer title thereto, including, without limitation, all stock received in respect of a stock dividend or resulting from a split-up, revision or reclassification of the Investment Property or any part thereof or received in addition to, in substitution of or in exchange for the Investment Property or any part thereof as a result of a merger, consolidation or otherwise. With respect to any uncertificated securities or any Investment Property held by a securities intermediary, commodity intermediary, or other financial intermediary of any kind, at the Collateral Agent's request after the occurrence and during the continuance of an Event of Default (or at any time with respect to uncertificated securities or Investment Property issued by any Guarantor to a Borrower or another Guarantor), the relevant Debtor shall execute and deliver, and shall cause any such issuer or intermediary to execute and deliver, an agreement among such Debtor, the Collateral Agent, and such issuer or intermediary in form and substance reasonably satisfactory to the Collateral Agent which provides, among other things, for the issuer's or intermediary's agreement that it will comply with such entitlement orders, and apply any value distributed on account of any Investment Property, as directed by the Collateral Agent without further consent by such Debtor. The Collateral Agent may, upon three (3) Business Days' written notice to the Debtors at any time after the occurrence and during the continuation of any Event of Default, cause to be transferred into its name or the name of its nominee or nominees any and all of the Investment Property hereunder.

(c) [Reserved].

Section 8. Power of Attorney. In addition to any other powers of attorney contained herein, each Debtor hereby appoints the Collateral Agent, its nominee, or any other person whom the Collateral Agent may reasonably designate as such Debtor's attorney-in-fact, with full power and authority upon the occurrence and during the continuation of any Event of Default to sign such Debtor's name on verifications of Receivables and other Collateral; to send requests for verification of Collateral to such Debtor's customers, account debtors, and other obligors; to endorse such Debtor's name on any checks, notes, acceptances, money orders, drafts, and any other forms of payment or security that may come into the Collateral Agent's possession; to endorse the Collateral in blank or to the order of the Collateral Agent or its nominee; and to sign such Debtor's name on any invoice or bill of lading relating to any Collateral, on claims to enforce collection of any Collateral, on notices to and drafts against customers and account debtors and other obligors, on schedules and assignments of Collateral, on notices of assignment and on public records; to notify the post office authorities to change the address for delivery of such Debtor's mail to an address designated by the Collateral Agent; to receive, open and dispose of all

mail addressed to such Debtor; and to do all things reasonably necessary to carry out this Agreement. Each Debtor hereby ratifies and approves all acts of any such attorney and agrees that neither the Collateral Agent nor any such attorney will be liable for any acts or omissions or for any error of judgment or mistake of fact or law other than such person's gross negligence or willful misconduct or breach of this Agreement. The foregoing powers of attorney, being coupled with an interest, are irrevocable until the Termination Date.

Section 9. Defaults and Remedies. (a) The occurrence of any event or the existence of any condition, after giving effect to any applicable notice, grace or cure provision pursuant to the Loan Agreement, specified as an "Event of Default" under the Loan Agreement shall constitute an "*Event of Default*" hereunder.

(b) Upon the occurrence and during the continuation of any Event of Default, the Collateral Agent shall have, in addition to all other rights provided herein or by law, the rights and remedies of a secured party under the UCC (regardless of whether the UCC is the law of the jurisdiction where the rights or remedies are asserted and regardless of whether the UCC applies to the affected Collateral), and further the Collateral Agent may, without demand and, to the extent permitted by applicable law, without advertisement, notice, hearing or process of law, all of which each Debtor hereby waives to the extent permitted by applicable law, at any time or times, sell, lease, assign, give an option or options to purchase or otherwise dispose of and deliver, or acquire by credit bid on behalf of the Lenders any or all Collateral held by or for it at public or private sale, at any securities exchange or broker's board or at the Collateral Agent's office or elsewhere, for cash, upon credit or otherwise, at such prices and upon such terms as the Collateral Agent deems advisable, in its reasonable discretion. In the exercise of any such remedies, the Collateral Agent may sell the Collateral as a unit even though the sales price thereof may be in excess of the amount remaining unpaid on the Secured Obligations. Also, if less than all the Collateral is sold, the Collateral Agent shall have no duty to marshal or apportion the part of the Collateral so sold as between the Debtors, or any of them, but may sell and deliver any or all of the Collateral without regard to which of the Debtors are the owners thereof. In addition to all other sums due any Secured Party hereunder, each Debtor shall pay the Secured Parties all costs and expenses incurred by the Secured Parties, including reasonable attorneys' fees and court costs (but under no circumstances shall the Debtors be obligated to pay for more than one firm of outside counsel, and no Debtor shall be obligated to pay for any in-house counsel), in obtaining, liquidating or enforcing payment of Collateral or the Secured Obligations or in the prosecution or defense of any action or proceeding by or against any Secured Party or any Debtor concerning any matter arising out of or connected with this Agreement or the Collateral or the Secured Obligations, including, without limitation, any of the foregoing arising in, arising under or related to a case under the United States Bankruptcy Code (or any successor statute). Any requirement of reasonable notice shall be met if such notice is personally served on or mailed, postage prepaid, to the Debtors in accordance with Section 14(b) hereof at least ten (10) Business Days before the time of sale or other event giving rise to the requirement of such notice; *provided, however,* no notification need be given to a Debtor if such Debtor has signed, after the Event of Default hereunder that is then continuing has occurred, a statement renouncing any right to notification of sale or other intended disposition. The Collateral Agent shall not be obligated to make any sale or other disposition of the Collateral regardless of notice having been given. Any Secured Party may be the purchaser at any public sale. Each Debtor hereby waives all of its rights of redemption from any such sale. The Collateral Agent may postpone or cause the postponement of the sale of all or any portion of the Collateral by announcement at the time and place of such sale, and such sale may, without further notice, be made at the time and place to which the sale was postponed or the Collateral Agent may further postpone such sale by announcement made at such time and place. The Collateral Agent has no obligation to prepare the Collateral for sale. The Collateral Agent may sell or otherwise dispose of the Collateral without giving any warranties as to the Collateral or any part thereof, including disclaimers of any warranties of title or the like, and each Debtor acknowledges and agrees that the absence of such warranties shall not render the disposition commercially unreasonable.

(c) Without in any way limiting the foregoing, upon the occurrence and during the continuation of any Event of Default hereunder, in addition to all other rights provided herein or by law, (i) the Collateral Agent shall have the right to take physical possession of any and all of the Collateral, the right for that purpose to enter without legal process any premises where the Collateral may be found (provided such entry be done lawfully), and the right to maintain such possession on the relevant Debtor's premises or to remove the Collateral or any part thereof to such other places as the Collateral Agent may desire, in each case, subject to the terms of any lease covering the relevant premises, (ii) the Collateral Agent shall have the right to direct any intermediary at any time holding any Investment Property or other Collateral, or any issuer thereof, to deliver such Collateral or any part thereof to the Collateral Agent and/or to liquidate such Collateral or any part thereof and deliver the proceeds thereof to the Collateral Agent, and (iii) each Debtor shall, upon the Collateral Agent's demand, promptly assemble the Collateral and make it available to the Collateral Agent at a place reasonably designated by the Collateral Agent. If the Collateral Agent exercises its right to take possession of the Collateral, each Debtor shall also at its expense perform any and all other steps requested by the Collateral Agent to preserve and protect the security interest hereby granted in the Collateral, such as placing and maintaining signs indicating the security interest of the Collateral Agent, appointing overseers for the Collateral and maintaining Collateral records.

(d) Without in any way limiting the foregoing, upon the occurrence and during the continuation of any Event of Default, all rights of the Debtors to exercise the voting and/or consensual powers which they are entitled to exercise pursuant to Section 7(a)(i) hereof and/or to receive and retain the distributions which they are entitled to receive and retain pursuant to Section 7(a)(ii) hereof, shall, at the option of the Collateral Agent upon ten (10) Business Days prior written notice to the Debtors, cease and thereupon become vested in the Collateral Agent, which, in addition to all other rights provided herein or by law, shall then be entitled solely and exclusively to exercise all voting and other consensual powers pertaining to the Investment Property and/or to receive and retain the distributions which such Debtor would otherwise have been authorized to retain pursuant to Section 7(a)(ii) hereof and shall then be entitled solely and exclusively to exercise any and all rights of conversion, exchange or subscription or any other rights, privileges or options pertaining to any Investment Property as if the Collateral Agent were the absolute owner thereof including, without limitation, the rights to exchange, at its discretion, all Investment Property or any part thereof upon the merger, consolidation, reorganization, recapitalization or other readjustment of the respective issuer thereof or upon the exercise by or on behalf of any such issuer or the Collateral Agent of any right, privilege or option pertaining to any Investment Property and, in connection therewith, to deposit and deliver the Investment Property or any part thereof with any committee, depositary, transfer agent, registrar or other designated agency upon such terms and conditions as the Collateral Agent may determine. In the event the Collateral Agent in good faith believes any of the Collateral constitutes restricted securities within the meaning of any applicable securities laws, any disposition thereof in compliance with such laws shall not render the disposition commercially unreasonable. To the extent that the notice referred to in the first sentence of this paragraph (d) has been given, after all Events of Default have been cured or waived, (i) each Debtor shall have the exclusive right to exercise the voting and consensual rights and powers that such Debtor would have otherwise been entitled to exercise pursuant to the terms of Section 7(a)(i) hereof and (ii) the Collateral Agent shall promptly repay to each applicable Debtor (without interest) all dividends, interest, principal or other distributions that such Debtor would otherwise be permitted to retain pursuant to Section 7(a)(ii) hereof and that have not been applied to the repayment of the Secured Obligations.

(e) Without in any way limiting the foregoing, each Debtor hereby grants to the Secured Parties, effective and exercisable solely upon the occurrence and during the continuation of an Event of Default, a royalty-free (and free of any other obligation of payment or compensation), irrevocable (solely during the continuation of an Event of Default), non-exclusive license and right to use and sublicense (in the ordinary course of business), in connection with any foreclosure or other realization by the Collateral Agent or the Secured Parties on all or any part of the Collateral to the extent permitted by law and this Agreement, all Intellectual Property Collateral (excluding any rights under a License that by its terms is prohibited from being sublicensed by Debtor to the Collateral Agent) now owned or hereafter acquired by such Debtor, and wherever the same may be located and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof, the right to prosecute and maintain all such Intellectual Property Collateral and the right to sue for past infringement of such Intellectual Property Collateral. The license and right granted to the Secured Parties hereby shall be without any royalty or fee or charge whatsoever with respect to fees payable by the Secured Parties to Debtors.

(f) The powers conferred upon the Secured Parties hereunder are solely to protect their interest in the Collateral and shall not impose on them any duty to exercise such powers. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession or control if such Collateral is accorded treatment substantially equivalent to that which the Collateral Agent accords its own property, consisting of similar type assets, it being understood, however, that the Collateral Agent shall have no responsibility for (i) ascertaining or taking any action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Collateral Agent has or is deemed to have knowledge of such matters, (ii) taking any necessary steps to preserve rights against any parties with respect to any Collateral, or (iii) initiating any action to protect the Collateral or any part thereof against the possibility of a decline in market value. This Agreement constitutes an assignment of rights only and not an assignment of any duties or obligations of the Debtors in any way related to the Collateral, and the Collateral Agent shall have no duty or obligation to discharge any such duty or obligation. Neither any Secured Party nor any party acting as attorney for any Secured Party shall be liable for any acts or omissions or for any error of judgment or mistake of fact or law other than such person’s gross negligence or willful misconduct or breach of this Agreement.

(g) Failure by the Collateral Agent to exercise any right, remedy or option under this Agreement or any other agreement between any Debtor and the Collateral Agent or provided by law, or delay by the Collateral Agent in exercising the same, shall not operate as a waiver; and no waiver shall be effective unless it is in writing, signed by the party against whom such waiver is sought to be enforced and otherwise complies with the requirements set forth in Section 10.11 of the Loan Agreement and then only to the extent specifically stated. The rights and remedies of the Secured Parties under this Agreement shall be cumulative and not exclusive of any other right or remedy which any Secured Party may have.

Section 10. Application of Proceeds. The proceeds and avails of the Collateral at any time received by the Collateral Agent upon the occurrence and during the continuation of any Event of Default pursuant to any exercise of remedies shall, when received by the Collateral Agent in cash or its equivalent, be applied by the Collateral Agent in reduction of, or held as collateral security for, the Secured Obligations in accordance with the terms of the Loan Agreement. The Debtors shall remain liable to the Secured Parties for any deficiency. Any surplus remaining after the Termination Date has occurred shall be returned to the Lead Borrower, as agent for the Debtors, or to whomsoever the Collateral Agent reasonably determines is lawfully entitled thereto.

If, despite the provisions of this Agreement or the Loan Agreement, any Secured Party shall receive any payment or other recovery in excess of its portion of payments on account of the Secured Obligations to which it is then entitled in accordance with this Agreement, such Secured Party shall hold such payment or other recovery in trust for the benefit of all Secured Parties hereunder for distribution in accordance with this Section 10.

Section 11. Continuing Agreement; Release. (a) Subject to Section 9.12 of the Loan Agreement, this Agreement shall be a continuing agreement in every respect and shall remain in full force and effect until the Termination Date. Upon the Termination Date, the pledge of all Collateral hereunder will terminate and all liens and security interests hereunder shall automatically be released, without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Debtors. In connection with any termination or release pursuant to this Section 11 or as required by any other provision of this Agreement or the Loan Agreement, the Administrative Agent or Collateral Agent shall promptly deliver to the applicable Debtor any Collateral of such Debtor held by the Administrative Agent or the Collateral Agent, as applicable, hereunder and execute and deliver to any Debtor, at such Debtor's expense, all UCC termination statements and similar documents that such Debtor shall reasonably request to evidence such termination or release.

(b) If the Administrative Agent or Collateral Agent shall be directed or permitted pursuant to Section 9.12 of the Loan Agreement to release any Lien created hereby upon any Collateral (including any Collateral sold or disposed of by any Debtor in a transaction permitted by the Loan Agreement (other than a transfer to another Debtor)), such Collateral shall be automatically released from the Lien created hereby to the extent provided under, and subject to the terms and conditions set forth in, Section 9.12 of the Loan Agreement, all without delivery of any instrument or performance of any act by any party, and all rights to such Collateral shall revert to the Debtors. In connection therewith, the Administrative Agent and/or Collateral Agent, as applicable, at the request and sole expense of the Borrowers, shall execute and deliver to the Borrowers all releases or other documents, including, without limitation, UCC termination statements, reasonably necessary or desirable for the release of the Lien created hereby on such Collateral. A Debtor shall be automatically released from its obligations hereunder in the event that all the capital stock of such Debtor shall be so sold or disposed (other than a transfer to another Debtor) or if such Debtor ceases to be a Restricted Subsidiary or, subject to Section 9.12(iii) of the Loan Agreement, otherwise becomes an Excluded Subsidiary as a result of a transaction or designation permitted under the Loan Agreement. Any execution and delivery of documents pursuant to this Section 11(b) shall be without recourse to or representation or warranty by the Collateral Agent.

Section 12. The Collateral Agent. (a) The Collateral Agent has been appointed as collateral agent pursuant to the Loan Agreement. In acting under or by virtue of this Agreement, the Collateral Agent shall be entitled to all the rights, authority, privileges, and immunities provided in the Loan Agreement, all of which provisions of said Loan Agreement (including, without limitation, Section 9 thereof) are incorporated by reference herein with the same force and effect as if set forth herein in their entirety. The Collateral Agent hereby disclaims any representation or warranty to the Secured Parties or any other holders of the Secured Obligations concerning the perfection of the liens and security interests granted hereunder or in the value of any of the Collateral.

(b) The parties hereto agree that the Collateral Agent shall be entitled to indemnification and reimbursement of its expenses incurred hereunder as provided in Sections 9.6 and 10.13 of the Loan Agreement as if such sections were set out in full herein and references to "the Administrative Agent" therein were references to "the Collateral Agent" and references to "the Borrowers" therein were references to "each Grantor." The obligations of the Grantors under this clause shall survive termination of this Agreement.

Section 13. [Reserved].

Section 14. Miscellaneous. (a) This Agreement may only be waived or modified in writing in accordance with the requirements of Section 10.11 of the Loan Agreement. This Agreement shall create a continuing lien on and security interest in the Collateral and shall be binding upon each Debtor, its successors and assigns and shall inure, together with the rights and remedies of the Secured Parties hereunder, to the benefit of the Secured Parties and their successors and permitted assigns; *provided, however*, that no Debtor may assign its rights or delegate its duties hereunder without the Collateral Agent's prior written consent. Without limiting the generality of the foregoing, and subject to the provisions of the Loan Agreement, any Lender may assign or otherwise transfer any indebtedness held by it secured by this Agreement to any other person subject to the requirements of Section 10.10 of the Loan Agreement, and such other person shall thereupon become vested with all the benefits in respect thereof granted to such Lender herein or otherwise.

(b) All notices and other communications hereunder shall comply with Section 10.8 of the Loan Agreement; *provided* that, the address information for each Debtor shall be that expressed for the Borrowers in such Section.

(c) Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable.

(d) The lien and security interest herein created and provided for stand as direct and primary security for the Secured Obligations of the Borrowers arising under or otherwise relating to the Loan Agreement as well as for the other Secured Obligations secured hereby. No application of any sums received by the Secured Parties in respect of the Collateral or any disposition thereof to the reduction of the Secured Obligations or any part thereof shall in any manner entitle any Debtor to any right, title or interest in or to the Secured Obligations or any collateral or security therefor, whether by subrogation or otherwise, unless and until all Secured Obligations have been fully paid and satisfied and the Termination Date has occurred. Each Debtor acknowledges and agrees that the lien and security interest hereby created and provided are absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of any Secured Party or any other holder of any Secured Obligations, and without limiting the generality of the foregoing, the lien and security interest hereof shall not be impaired by any acceptance by any Secured Party or any other holder of any Secured Obligations of any other security for or guarantors upon any of the Secured Obligations or by any failure,

neglect or omission on the part of any Secured Party or any other holder of any of the Secured Obligations to realize upon or protect any of the Secured Obligations or any collateral or security therefor. The lien and security interest hereof shall not in any manner be impaired or affected by (and the Secured Parties, without notice to anyone, are hereby authorized to make from time to time) any sale, pledge, surrender, compromise, settlement, release, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any of the Secured Obligations or of any collateral or security therefor, or of any guaranty thereof, or of any instrument or agreement setting forth the terms and conditions pertaining to any of the foregoing. The Secured Parties may at their discretion at any time grant credit to the Borrowers without notice to the other Debtors in such amounts and on such terms as the Secured Parties may elect without in any manner impairing the lien and security interest created and provided for. In order to realize hereon and to exercise the rights granted the Secured Parties hereunder and under applicable law, there shall be no obligation on the part of any Secured Party or any other holder of any Secured Obligations at any time to first resort for payment to the Borrowers or any other Debtor or to any guaranty of the Secured Obligations or any portion thereof or to resort to any other collateral, security, property, liens or any other rights or remedies whatsoever, and the Secured Parties shall have the right to enforce this Agreement against any Debtor or its Collateral irrespective of whether or not other proceedings or steps seeking resort to or realization upon or from any of the foregoing are pending.

(e) In the event the Secured Parties shall at any time in their discretion permit a substitution of Debtors hereunder or a party shall wish to become a Debtor hereunder, such substituted or additional Debtor shall, upon executing an agreement in the form attached hereto as Schedule A, become a party hereto and be bound by all the terms and conditions hereof to the same extent as though such Debtor had originally executed this Agreement and, in the case of a substitution, in lieu of the Debtor being replaced. Any such agreement shall contain information as to such Debtor necessary to update Schedules 1, 3, 4, 5, 6 and 7 to the Perfection Certificate with respect to it. No such substitution shall be effective absent the written consent of the Collateral Agent nor shall it in any manner affect the obligations of the other Debtors hereunder.

(f) This Agreement may be executed in counterparts and by different parties hereto on separate counterparts, each of which shall be an original, but all together one and the same instrument. Delivery of executed counterparts of this Agreement by telecopy or by e-mail of an Adobe portable document format file (also known as a "PDF" file) shall be effective as originals. Each Debtor acknowledges that this Agreement is and shall be effective upon its execution and delivery by such Debtor to the Collateral Agent, and it shall not be necessary for the Collateral Agent to execute this Agreement or any other acceptance hereof or otherwise to signify or express its acceptance hereof.

(g) No Secured Party (other than the Collateral Agent) shall have the right to institute any suit, action or proceeding in equity or at law in connection with this Agreement for the enforcement of any remedy under or upon this Agreement; it being understood and intended that no one or more of the Secured Parties (other than the Collateral Agent) shall have any right in any manner whatsoever to enforce any right hereunder, and that all proceedings at law or in equity shall be instituted, had and maintained by the Collateral Agent in the manner herein provided and for the benefit of the Secured Parties.

(h) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

(i) Each Debtor hereby submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York state court sitting in New York City in the borough of Manhattan, for purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. Each Debtor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient form. Each of the parties hereto agrees that a final judgment in any such proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that (i) any party hereto may otherwise have to bring any proceeding relating to this Agreement against any other party hereto or their respective properties in the courts of any jurisdiction (A) for purposes of enforcing a judgment or (B) in connection with any pending bankruptcy, insolvency or similar proceeding in such jurisdiction or (ii) the Collateral Agent or any other Secured Party may otherwise have to bring any proceeding relating to this Agreement against any Debtor or its properties in the courts of any jurisdiction in connection with exercising remedies against any Collateral in a jurisdiction in which such Collateral is located. EACH DEBTOR AND, BY ACCEPTING THE BENEFITS OF THIS AGREEMENT, EACH SECURED PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, each Debtor has caused this Security Agreement to be duly executed and delivered as of the date first above written.

"*Debtors*"

SANDISK CORPORATION
SANDISK TECHNOLOGIES, INC.

By: /s/ Luis F. Visoso

Name: Luis F. Visoso
Title: Chief Financial Officer

[Signature Page to Security Agreement]

Accepted and agreed to as of the date first above written.

JPMORGAN CHASE BANK, N.A., as Collateral Agent

By: /s/ Timothy Lee
Name: Timothy Lee
Title: Executive Director

SCHEDULE A

[FORM OF] ASSUMPTION AND SUPPLEMENTAL SECURITY AGREEMENT

THIS AGREEMENT dated as of this [ ]th day of [ ], 20[ ] from the entities listed on the signature pages hereto (collectively, the "*New Debtors*"), to JPMorgan Chase Bank, N.A. ("*JPMorgan Chase Bank*"), as collateral agent for the Secured Parties (defined in the Security Agreement hereinafter identified and defined) (JPMorgan Chase Bank acting as such agent and any successor or successors to JPMorgan Chase Bank in such capacity being hereinafter referred to as the "*Collateral Agent*").

PRELIMINARY STATEMENTS

A. Sandisk Corporation, a Delaware corporation (the *"Lead Borrower"*), and certain other parties have executed and delivered to the Collateral Agent that certain Security Agreement dated as of February 21, 2025 (such Security Agreement, as the same may from time to time be amended, restated, amended and restated, modified or restated, including supplements thereto which add additional parties as Debtors thereunder, being hereinafter referred to as the "*Security Agreement*"), pursuant to which such parties (the "*Existing Debtors*") have granted to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in the Existing Debtors' Collateral to secure the Secured Obligations.

B. All capitalized terms used in this Agreement without definition shall have the same meaning herein as such terms have in the Security Agreement, except that any reference to the term "Debtor" or "Debtors" and any provision of the Security Agreement providing meaning to such term shall be deemed a reference to the Existing Debtors and the New Debtors.

C. The Borrowers provide each New Debtor with substantial financial, managerial, administrative, and/or technical support and each New Debtors will benefit, directly and indirectly, from the financial accommodations extended by the Secured Parties to the Borrowers.

NOW, THEREFORE, FOR VALUE RECEIVED, and in consideration of financial accommodations given or to be given to the Borrowers by the Secured Parties from time to time, each New Debtor hereby agrees as follows:

1. Each New Debtor acknowledges and agrees that it shall become a "Debtor" party to the Security Agreement effective upon the date of such New Debtor's execution of this Agreement and the delivery of this Agreement to the Collateral Agent, and that upon such execution and delivery, all references in the Security Agreement to the terms "Debtor" or "Debtors" shall be deemed to include such New Debtor. Without limiting the generality of the foregoing, each New Debtor hereby repeats and reaffirms all grants (including the grant of a lien and security interest), covenants, agreements, representations, and warranties contained in the Security Agreement as amended hereby, each and all of which are and shall remain applicable to the Collateral from time to time owned by such New Debtor or in which such New Debtor from time to time has any rights. Without limiting the foregoing, in order to secure payment of the Secured Obligations, whether now existing or hereafter arising, each New Debtor does hereby grant to the Collateral Agent for the benefit of the Secured Parties, and hereby agrees that the Collateral Agent has and shall continue to have until the Termination Date (as such term is defined in the Loan Agreement referred to in the Security Agreement) for the benefit of the Secured Parties a continuing lien on and security interest in all of such New Debtor's Collateral, including, without limitation, all of such New Debtor's Accounts, Chattel Paper, Instruments, Documents, General Intangibles, Letter-of-Credit Rights, Supporting Obligations, Deposit Accounts, Investment Property, Inventory, Equipment, Fixtures, Commercial Tort Claims, and all of the other Collateral other than the Excluded Property, each

and all of such granting clauses being incorporated herein by reference with the same force and effect as if set forth herein in their entirety, except that all references in such clauses to the Existing Debtors or any of them shall be deemed to include references to such New Debtor. Nothing contained herein shall in any manner impair the priority of the liens and security interests heretofore granted in favor of the Collateral Agent under the Security Agreement.

2. Schedules 1, 3, 4, 5, 6 and 7 to the Perfection Certificate shall be supplemented by the information set forth on the attached supplements to each of Schedules 1, 3, 4, 5, 6 and 7 to the Perfection Certificate with respect to each New Debtor.

3. Each New Debtor hereby acknowledges and agrees that the Secured Obligations are secured by all of the Collateral according to, and otherwise on and subject to, the terms and conditions of the Security Agreement to the same extent and with the same force and effect as if such New Debtor had originally been one of the Existing Debtors under the Security Agreement and had originally executed the same as such an Existing Debtor.

4. Except as specifically modified hereby, all of the terms and conditions of the Security Agreement shall stand and remain unchanged and in full force and effect.

5. Each New Debtor agrees to execute and deliver such further instruments and documents and do such further acts and things as the Collateral Agent may reasonably deem necessary or proper to carry out more effectively the purposes of this Agreement.

6. No reference to this Agreement need be made in the Security Agreement or in any other document or instrument making reference to the Security Agreement, any reference to the Security Agreement in any of such to be deemed a reference to the Security Agreement as modified hereby.

7. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[Remainder of page intentionally left blank]

SUPPLEMENTS

SUPPLEMENT TO SCHEDULE 1

LEGAL NAMES

SUPPLEMENT TO SCHEDULE 3

[RESERVED]

SUPPLEMENT TO SCHEDULE 4

EQUITY INTERESTS IN A SUBSIDIARY AND OTHER EQUITY INTERESTS

SUPPLEMENT TO SCHEDULE 5

INSTRUMENTS AND TANGIBLE CHATTEL PAPER

SUPPLEMENT TO SCHEDULE 6

INTELLECTUAL PROPERTY

SUPPLEMENT TO SCHEDULE 7

COMMERCIAL TORT CLAIMS

[New Debtor[s]]

By: _____
Name:
Title:

Accepted and agreed to as of the date first above written.

JPMORGAN CHASE BANK, N.A., as Collateral Agent

By: _____
Name: _____
Title:

GUARANTY AGREEMENT

Guaranty Agreement (this "*Guaranty*") is entered into as of February 21, 2025, by Sandisk Corporation, a Delaware corporation (the "*Lead Borrower*"), and the other parties who have executed this Guaranty (the "*Subsidiary Guarantors*"; and along with the Lead Borrower and any other parties who execute and deliver to the Administrative Agent (as hereinafter identified and defined) an agreement in the form attached hereto as *Exhibit A*, being herein referred to collectively as the "*Guarantors*" and individually as a "*Guarantor*").

PRELIMINARY STATEMENTS

A. The Lead Borrower, the Additional Borrowers party thereto from time to time (together with the Lead Borrower, the "*Borrowers*"), JPMorgan Chase Bank, N.A. ("*JPMorgan Chase Bank*"), as Administrative Agent (JPMorgan Chase Bank in such capacity being referred to herein as the "*Administrative Agent*"), and the other banks and financial institutions party thereto are parties to a Loan Agreement dated as of February 21, 2025 (as extended, renewed, amended, restated, refinanced, replaced, amended and restated, supplemented or otherwise modified from time to time, the "*Loan Agreement*") pursuant to which JPMorgan Chase Bank and other banks and financial institutions from time to time party to the Loan Agreement have provided financial accommodations to the Borrowers (JPMorgan Chase Bank, in its individual capacity and such other banks, financial institutions and lenders being hereinafter referred to collectively as the "*Lenders*" and individually as a "*Lender*").

B. The Borrowers and one or more of the Guarantors may from time to time be liable to the Lenders and/or their Affiliates with respect to Hedging Liability and/or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations as such terms are defined in the Loan Agreement (the Administrative Agent and the Lenders, together with any Affiliates of the Lenders with respect to the Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, as such terms are defined in the Loan Agreement, being hereinafter referred to collectively as the "*Guaranteed Creditors*" and individually as a "*Guaranteed Creditor*").

C. The obligations of the Lenders to extend such credit are conditioned upon, among other things, the execution and delivery of this Guaranty.

D. The Subsidiary Guarantors are direct or indirect Subsidiaries of the Borrowers; and the Borrowers provide each of the Guarantors with financial, management, administrative, and/or technical support which enables the Guarantors to conduct their businesses in an orderly and efficient manner in the ordinary course.

E. Each Guarantor will benefit, directly or indirectly, from credit and other financial accommodations extended by the Guaranteed Creditors to the Borrowers.

NOW, THEREFORE, for good and valuable consideration, receipt whereof is hereby acknowledged, the parties hereto hereby agree as follows:

1. All capitalized terms used herein without definition shall have the same meanings herein as such terms have in the Loan Agreement.

2. Each Guarantor hereby irrevocably and unconditionally guarantees jointly and severally to the Administrative Agent, for the ratable benefit of the Guaranteed Creditors, the due and punctual payment when due of the Obligations, Hedging Liability and/or Funds Transfer Liability, Deposit Account Liability

and Data Processing Obligations, in each case whether now existing or hereafter arising (whether or not any proceeding under any debtor relief law shall have stayed the accrual of collection of any of the Obligations or operated as a discharge thereof) (and whether arising before or after the filing of a petition in bankruptcy and including all interest accrued after the petition date), due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired (the "*Guaranteed Obligations*"; *provided* that (x) the Guaranteed Obligations shall exclude any Excluded Swap Obligations with respect to such Guarantor and (y) with respect to any Guarantor that is a Borrower, such Guarantor's Guaranteed Obligations shall exclude its own Obligations under the Loan Agreement). In case of failure by the Borrowers or the Guarantors punctually to pay any Guaranteed Obligations, each Guarantor hereby jointly and severally agrees to make such payment or to cause such payment to be made punctually as and when the same shall become due and payable, whether at stated maturity, by acceleration or otherwise, and as if such payment were made by the Borrowers or other Guarantors. All payments hereunder by any Guarantor shall be made in immediately available funds in Dollars without setoff, counterclaim or other defense or withholding or deduction of any nature. Notwithstanding anything in this Guaranty to the contrary, the obligations of each Guarantor under this Guaranty shall be limited to an aggregate amount equal to the largest amount that would not render its obligations under this Guaranty subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code of the United States or any comparable provisions of any other applicable law.

3. Each Guarantor agrees that, upon demand, such Guarantor will then pay to the Administrative Agent for the benefit of the Guaranteed Creditors the full amount of the Guaranteed Obligations that is then due (subject to the limitation on the right of recovery from such Guarantor pursuant to the last sentence of Section 2 above) whether or not any one or more of the other Guarantors shall then or thereafter pay any amount whatsoever in respect to their obligations hereunder.

4. (a) Until the Termination Date, the Guarantors (i) shall have no right of subrogation with respect to such Guaranteed Obligations and (ii) waive any right to enforce any remedy which any of the Guaranteed Creditors or the Administrative Agent now have or may hereafter have against the Borrowers, any endorser or any guarantor of all or any part of the Guaranteed Obligations or any other Person, and until such time the Guarantors waive any benefit of, and any right to participate in, any security or collateral given to the Guaranteed Creditors, the Collateral Agent and the Administrative Agent to secure the payment or performance of all or any part of the Guaranteed Obligations or any other liability of the Borrowers to the Guaranteed Creditors or the Administrative Agent. Should any Guarantor have the right, notwithstanding the foregoing, to exercise its subrogation rights, each Guarantor hereby expressly and irrevocably (A) subordinates any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification or set off that such Guarantor may have to the payment in full in cash of the Guaranteed Obligations until the Termination Date and (B) waives any and all defenses available to a surety, guarantor or accommodation co-obligor until the Termination Date. Each Guarantor acknowledges and agrees that this subordination is intended to benefit the Administrative Agent and the Guaranteed Creditors and shall not limit or otherwise affect such Guarantor's liability hereunder or the enforceability of this Guaranty, and that the Administrative Agent, the Guaranteed Creditors and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this Section 4(a).

(b) Each Guarantor agrees that any and all claims of such Guarantor against any Borrower or any other Guarantor hereunder (each, an "*Obligor*") with respect to any "Intercompany Indebtedness" (as hereinafter defined), any endorser, obligor or any other guarantor of all or any part of the Guaranteed Obligations, or against any of its properties shall be subordinate and subject in right of payment to the prior payment, in full and in cash, of all Guaranteed Obligations until the Termination Date; *provided* that, as long as no Event of Default has occurred and is continuing, such Guarantor may

receive payments of principal and interest from any Obligor with respect to Intercompany Indebtedness to the extent not prohibited by the other terms of the Loan Documents. Notwithstanding any right of any Guarantor to ask, demand, sue for, take or receive any payment from any Obligor, all rights, liens and security interests of such Guarantor, whether now or hereafter arising and howsoever existing, in any assets of any other Obligor shall be and are subordinated to the rights of the Guaranteed Creditors, the Administrative Agent and the Collateral Agent in those assets. No Guarantor shall have any right to possession of any such asset or to foreclose upon any such asset, whether by judicial action or otherwise, unless and until the Termination Date. If all or any part of the assets of any Obligor, or the proceeds thereof, are subject to any distribution, division or application to the creditors of such Obligor, whether partial or complete, voluntary or involuntary, and whether by reason of liquidation, bankruptcy, arrangement, receivership, assignment for the benefit of creditors or any other action or proceeding, or if the business of any such Obligor is dissolved or if substantially all of the assets of any such Obligor are sold, then, and in any such event (such events being herein referred to as an "*Insolvency Event*"), any payment or distribution of any kind or character, either in cash, securities or other property, which shall be payable or deliverable upon or with respect to any Indebtedness of any Obligor to any Guarantor ("*Intercompany Indebtedness*") shall be paid or delivered directly to the Administrative Agent for application on any of the Guaranteed Obligations, due or to become due, until the Termination Date. Should any payment, distribution, security, instrument or proceeds thereof be received by the applicable Guarantor upon or with respect to the Intercompany Indebtedness after any Insolvency Event and prior to the satisfaction of all of the Guaranteed Obligations and the termination of all financing arrangements pursuant to any Loan Document among the Borrowers and the Guaranteed Creditors, such Guarantor shall receive and hold the same in trust, as trustee, for the benefit of the Guaranteed Creditors and shall forthwith deliver the same to the Administrative Agent, for the benefit of the Guaranteed Creditors, in precisely the form received (except for the endorsement or assignment of the Guarantor where necessary), for application to any of the Guaranteed Obligations, due or not due, and, until so delivered, the same shall be held in trust by the Guarantor as the property of the Guaranteed Creditors. If any such Guarantor fails to make any such endorsement or assignment to the Administrative Agent or the Collateral Agent, the Administrative Agent or the Collateral Agent or any of their officers or employees is irrevocably authorized to make the same.

5. (a) To the extent that any Guarantor shall make a payment under this Guaranty (a "*Guarantor Payment*") which, taking into account all other Guarantor Payments then previously or concurrently made by any other Guarantor, exceeds the amount which otherwise would have been paid by or attributable to such Guarantor if each Guarantor had paid the aggregate Guaranteed Obligations satisfied by such Guarantor Payment in the same proportion as such Guarantor's "Allocable Amount" (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Guarantors as determined immediately prior to the making of such Guarantor Payment, *then*, following the Termination Date, such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Guarantor for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. Notwithstanding any other provision of this Guaranty, the amount guaranteed by each Guarantor hereunder shall be limited to the extent, if any, required so that its obligations hereunder shall not be subject to avoidance under Section 548 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law. In determining the limitations, if any, on the amount of any Guarantor's obligations hereunder pursuant to the preceding sentence, it is the intention of the parties hereto that any rights of subrogation or contribution which such Guarantor may have under this Guaranty, any other agreement or applicable law shall be taken into account.

(b) Unless the Guarantors have otherwise agreed on a different allocation, as of any date of determination, the "Allocable Amount" of any Guarantor shall be equal to the excess of the fair saleable value of the property of such Guarantor over the total liabilities of such Guarantor (including the maximum amount reasonably expected to become due in respect of contingent liabilities, calculated, without duplication, assuming each other Guarantor that is also liable for such contingent liability pays its ratable share thereof), giving effect to all payments made by such other Guarantors as of such date in a manner to maximize the amount of such contributions.

(c) This Section 5 is intended only to define the relative rights of the Guarantors, and nothing set forth in this Section 5 is intended to or shall impair the obligations of the Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Guaranty.

(d) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantor or Guarantors to which such contribution and indemnification is owing.

(e) The rights of the indemnifying Guarantors against other Guarantors under this Section 5 shall be exercisable upon the occurrence of the Termination Date.

6. Subject to the terms and conditions of the Loan Agreement, including, without limitation, Section 10.10 thereof, each Guaranteed Creditor may, without any notice whatsoever to any of the Guarantors, sell, assign, or transfer all of the Guaranteed Obligations, or any part thereof, or grant participations therein, and in that event each and every immediate and successive assignee, transferee, or holder of all or any part of the Guaranteed Obligations, shall have the right through the Administrative Agent pursuant to Section 18 hereof to enforce this Guaranty, by suit or otherwise, for the benefit of such assignee, transferee, holder or participant, as fully as if such assignee, transferee, or holder or participant were herein by name specifically given such rights, powers and benefits; but each Guaranteed Creditor through the Administrative Agent pursuant to Section 18 hereof shall have an unimpaired right to enforce this Guaranty for its own benefit or any such participant, as to so much of the Guaranteed Obligations that it has not sold, assigned or transferred.

7. Subject to Section 9.12 of the Loan Agreement, this Guaranty is a continuing, absolute and unconditional Guaranty, and shall remain in full force and effect until the Termination Date has occurred. The Guaranteed Creditors may at any time or from time to time release any Guarantor from its obligations hereunder or effect any compromise with any Guarantor and no such release or compromise shall in any manner impair or otherwise affect the obligations hereunder of the other Guarantors. No release, compromise, or discharge of any one or more of the Guarantors shall release, compromise or discharge the obligations of the other Guarantors hereunder.

8. In case of the dissolution, liquidation or insolvency (howsoever evidenced) of, or the institution of bankruptcy or receivership proceedings against any Borrower or any Guarantor, in each case, that would permit or cause the acceleration of the indebtedness under the Loan Agreement, all of the Guaranteed Obligations which are then existing may be declared by the Administrative Agent immediately due or accrued and payable from the Guarantors at such time as the obligations are accelerated.

9. Subject to Sections 9.12 of the Loan Agreement, to the fullest extent permitted by applicable law, the obligations of each of the Guarantors hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(a) any extension, renewal, settlement, indulgence, compromise, waiver or release of or with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations, whether (in any such case) by operation of law or otherwise, or any failure or omission to enforce any right, power or remedy with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations;

(b) any modification or amendment of or supplement to the Loan Agreement, any Hedging Liability, any Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations or any other Loan Document, including, without limitation, any such amendment which may increase the amount of, or the interest rates applicable to, any of the Guaranteed Obligations guaranteed hereby;

(c) any release, surrender, compromise, settlement, waiver, subordination or modification, with or without consideration, of any collateral securing the Guaranteed Obligations or any part thereof, any other guaranties with respect to the Guaranteed Obligations or any part thereof, or any other obligation of any person or entity with respect to the Guaranteed Obligations or any part thereof, or any nonperfection or invalidity of any direct or indirect security for the Guaranteed Obligations;

(d) any change in the corporate, partnership, limited liability company or other existence, structure or ownership of any Borrower or any other guarantor of any of the Guaranteed Obligations, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Borrower or any other guarantor of the Guaranteed Obligations, or any of their respective assets or any resulting release or discharge of any obligation of any Borrower or any other guarantor of any of the Guaranteed Obligations;

(e) the existence of any claim, setoff or other rights which the Guarantors may have at any time against any Borrower, any other guarantor of any of the Guaranteed Obligations, the Administrative Agent, any Guaranteed Creditor or any other Person, whether in connection herewith or in connection with any unrelated transactions, *provided* that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(f) the enforceability or validity of the Guaranteed Obligations or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Guaranteed Obligations or any part thereof, or any other invalidity or unenforceability relating to or against any Borrower or any other guarantor of any of the Guaranteed Obligations, for any reason related to the Loan Agreement, any Hedging Liability, any Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations or any provision of applicable law, decree, order or regulation purporting to prohibit the payment by any Borrower or any other guarantor of the Guaranteed Obligation or otherwise affecting any term any of the Guaranteed Obligations;

(g) the failure of the Administrative Agent or the Collateral Agent to take any steps to perfect and maintain any security interest in, or to preserve any rights to, any security or collateral for the Guaranteed Obligations, if any:

(h) the election by, or on behalf of, any one or more of the Guaranteed Creditors, in any proceeding instituted under Chapter 11 of Title 11 of the United States Code (11 U.S.C. 101 et seq.) (or any successor statute, the "*Bankruptcy Code*"), of the application of Section 1111(b)(2) of the Bankruptcy Code;

(i) any borrowing or grant of a security interest by any Borrower, as debtor-in-possession, under Section 364 of the Bankruptcy Code;

(j) the disallowance, under Section 502 of the Bankruptcy Code, of all or any portion of the claims of the Guaranteed Creditors or the Administrative Agent for repayment of all or any part of the Guaranteed Obligations;

(k) the failure of any other guarantor to sign or become party to this Guaranty or any amendment, change, or reaffirmation hereof; or

(l) any other act or omission to act or delay of any kind by any Borrower, any other guarantor of the Guaranteed Obligations, the Administrative Agent, any Guaranteed Creditor or any other Person or any other circumstance whatsoever (other than payment in full of the Obligations) which might, but for the provisions of this Section 9, constitute a legal or equitable discharge of any Guarantor's obligations hereunder or otherwise reduce, release, prejudice or extinguish its liability under this Guaranty.

10. In the event the Guaranteed Creditors shall at any time in their discretion permit a substitution of Guarantors hereunder, a party shall wish to become Guarantor hereunder or a party is required to become a Guarantor hereunder pursuant to Section 4.4 of the Loan Agreement, such substituted or additional Guarantor shall, upon executing an agreement in the form attached hereto as *Exhibit A,* become a party hereto and be bound by all the terms and conditions hereof to the same extent as though such Guarantor had originally executed this Guaranty and in the case of a substitution, in lieu of the Guarantor being replaced. No such substitution shall be effective absent the written consent delivered in accordance with the terms of the Loan Agreement, nor shall it in any manner affect the obligations of the other Guarantors hereunder.

11. (a) To the fullest extent permitted by applicable law, each of the Guarantors irrevocably waives acceptance hereof, presentment, demand or action on delinquency, protest and any notice not provided for herein or under the other Loan Documents, as well as any requirement that at any time any action be taken by any Person against any Borrower, any other guarantor of the Guaranteed Obligations, or any other Person.

(b) Notwithstanding anything herein to the contrary, each of the Guarantors hereby absolutely, unconditionally, knowingly, and expressly waives, to the fullest extent permitted by applicable law:

(i) any right it may have to revoke this Guaranty as to future Indebtedness or notice of acceptance hereof;

(ii) (1) notice of acceptance hereof; (2) notice of any Loans or other financial accommodations made or extended under the Loan Documents or the creation or existence of any Guaranteed Obligations; (3) notice of the amount of the Guaranteed Obligations, subject, however, to each Guarantor's right to make inquiry of the Administrative Agent and the Guaranteed Creditors to ascertain the amount of the Guaranteed Obligations at any reasonable time; (4) notice of any adverse change in the financial condition of the Borrowers or of any other fact that might increase such Guarantor's risk hereunder; (5) notice of presentment for payment, demand, protest, and notice thereof as to any instruments among the Loan Documents; (6) notice of any Default or Event of Default; and (7) all other notices (except if such notice is specifically required to be given to such Guarantor hereunder or under the Loan Documents) and demands to which each Guarantor might otherwise be entitled;

(iii) its right, if any, to require the Collateral Agent, the Administrative Agent and the other Guaranteed Creditors to institute suit against, or to exhaust any rights and remedies which the Collateral Agent, the Administrative Agent and the other Guaranteed Creditors has or may have against, the other Guarantors or any third party, or against any Collateral provided by the other Guarantors, or any third party; and each Guarantor further waives any defense arising by reason of any disability or other defense (other than a defense of payment or performance or the defense that the Termination Date has occurred) of the other Guarantors or by reason of the cessation from any cause whatsoever of the liability of the other Guarantors in respect thereof;

(iv) (a) any rights to assert against the Administrative Agent and the other Guaranteed Creditors any defense (legal or equitable), set-off, counterclaim, or claim which such Guarantor may now or at any time hereafter have against the other Guarantors or any other party liable to the Administrative Agent and the other Guaranteed Creditors (other than a defense of payment or performance or the defense that the Termination Date has occurred); (b) any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Guaranteed Obligations or any security therefor; (c) any defense (other than a defense of payment or performance or the defense that the Termination Date has occurred) such Guarantor has to performance hereunder, and any right such Guarantor has to be exonerated, arising by reason of: the impairment or suspension of the Administrative Agent's and the other Guaranteed Creditors' rights or remedies against the other Guarantors; the alteration by the Administrative Agent and the other Guaranteed Creditors of the Guaranteed Obligations; any discharge of the other Guarantor's obligations to the Administrative Agent and the other Guaranteed Creditors by operation of law as a result of the Administrative Agent's and the other Guaranteed Creditors' intervention or omission; or the acceptance by the Administrative Agent and the other Guaranteed Creditors of anything in partial satisfaction of the Guaranteed Obligations; (d) [reserved]; and (e) without limiting the generality of the foregoing, any other defense of waiver, release, discharge in bankruptcy, res judicata, statue of frauds, anti-deficiency statute, incapacity, minority, usury, illegality or unenforceability which may be available to the Borrowers or any other person liable in respect of any of the Guaranteed Obligations; and

(v) any defense arising by reason of or deriving from (a) any claim or defense based upon an election of remedies by the Administrative Agent and the other Guaranteed Creditors; or (b) any election by the Administrative Agent and the other Guaranteed Creditors under the Bankruptcy Code, to limit the amount of, or any collateral securing, its claim against the Guarantors.

(c) Subject to the last sentence of Section 2 above, the Guarantors agree that the Guarantors shall be and remain jointly and severally liable for any deficiency remaining after foreclosure or other realization on any lien or security interest securing the Guaranteed Obligations, whether or not the liability of any Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision.

12. No failure or delay by the Administrative Agent or any Guaranteed Creditor in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any other right, power or privilege. The rights and remedies provided in this Guaranty, the Loan Agreement, any Hedging Liability, any Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations and the other Loan Documents shall be cumulative and not exclusive of any rights or remedies provided by law.

13. If any payment applied by the Guaranteed Creditors to the Guaranteed Obligations is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of any Borrower or any other obligor), the Guaranteed Obligations to which such payment was applied shall for the purposes of this Guaranty be deemed to have continued in existence, notwithstanding such application, and this Guaranty shall be enforceable as to such of the Guaranteed Obligations as fully as if such application had never been made.

14. Each Guarantor represents and warrants to the Guaranteed Creditors that as of the date hereof:

(a) (i) Such Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, except to the extent the failure of any Guarantor to be in existence and good standing would not reasonably be expected to have a Material Adverse Effect, (ii) has the power and authority to own its property and to transact the business in which it is engaged and proposes to engage, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and (iii) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except, in each case, under this clause (iii) where the same could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(b) Such Guarantor has the power and authority to enter into this Guaranty, to guarantee the Guaranteed Obligations and to perform all of its obligations under this Guaranty.

(c) The Guaranty has been duly authorized, executed, and delivered by such Guarantor and constitutes a valid and binding obligation of such Guarantor enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law).

(d) This Guaranty does not, nor does the performance or observance by such Guarantor of any of the matters and things herein provided for, (i) violate any provision of law or any judgment, injunction, order or decree binding upon such Guarantor, (ii) contravene or constitute a default under any provision of the organizational documents (*e.g.*, charter, articles of incorporation or by-laws, articles of association or operating agreement, partnership agreement or other similar document) of such Guarantor, (iii) contravene or constitute a default under any covenant, indenture or agreement of or affecting such Guarantor or any of its Property or (iv) result in the creation or imposition of any Lien on any Property of such Guarantor other than the Liens granted to the Administrative Agent pursuant to any Loan Document and Permitted Liens, except with respect to clauses (i), (iii) and (iv), to the extent, individually or in the aggregate, that such violation, contravention, breach, conflict, default or creation or imposition of any Lien could not reasonably be expected to result in a Material Adverse Effect.

(e) From and after the date of execution of this Guaranty or any agreement in the form attached hereto as *Exhibit A* by any Guarantor and continuing until the Termination Date or until such Guarantor is earlier released from its obligations hereunder in accordance with Section 6 hereof, such Guarantor agrees to perform and observe, and cause each of its Subsidiaries to perform and observe, all of the terms, covenants and agreements set forth in Article 6 of the Loan Agreement on its or their part to be performed or observed or that the Lead Borrower has agreed to cause such Guarantor or such Subsidiaries to perform or observe.

15. The liability of the Guarantors under this Guaranty is in addition to and shall be cumulative with all other liabilities of the Guarantors after the date hereof to the Guaranteed Creditors as a Guarantor of the Guaranteed Obligations, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

16. Any provision of this Guaranty which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Guaranty may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Guaranty are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Guaranty invalid or unenforceable.

17. Any demand for payment on this Guaranty or any other notice required or desired to be given hereunder to any Guarantor shall comply with Section 10.8 of the Loan Agreement; *provided* that, the address information for each Guarantor shall be its address or facsimile number set forth below, or such other address or facsimile number as such party may hereafter specify by notice to the Administrative Agent given by courier, United States certified or registered mail, by facsimile, by email transmission or by other telecommunication device capable of creating written record of such notice and its receipt. Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section 17 and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, five days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid, (iii) if by email, when delivered (all such notices and communications sent by email shall be deemed delivered upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement)), or (iv) if given by any other means, when delivered at the addresses specified in this Section.

to the Guarantors:

Sandisk Corporation
951 Sandisk Drive
Milpitas, CA 95035
Attention: VP, Treasury
Telephone: (408) 801-1000

18. No Guaranteed Creditor (other than the Administrative Agent) shall have the right to institute any suit, action or proceeding in equity or at law in connection with this Guaranty for the enforcement of any remedy under or upon this Guaranty; it being understood and intended that no one or more of the Guaranteed Creditors (other than the Administrative Agent) shall have any right in any manner whatsoever to enforce any right hereunder, and that all proceedings at law or in equity shall be instituted, had and maintained by the Administrative Agent in the manner herein provided and for the benefit of the Guaranteed Creditors.

19. THIS GUARANTY AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. This Guaranty may only be waived or modified in writing in accordance with the requirements of Section 10.11 of the Loan Agreement. This Guaranty and every part thereof shall be effective as to each Guarantor upon its execution and delivery by such Guarantor to the Administrative Agent, without further act, condition or acceptance by the Guaranteed Creditors, shall be binding upon such Guarantors and upon the legal representatives, successors and assigns of the Guarantors, and shall inure to the benefit of the Guaranteed Creditors, their successors, legal representatives and assigns. The Guarantors waive notice of the Guaranteed Creditors' acceptance hereof. This Guaranty may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Guaranty by telecopy, emailed pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Guaranty. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Guaranty and the transactions contemplated hereby shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; *provided* that nothing herein shall require the Administrative Agent to accept electronic signatures in any form or format without its prior written consent.

20. Each Guarantor hereby submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City in the borough of Manhattan for purposes of all legal proceedings arising out of or relating to this Guaranty or the transactions contemplated hereby. Each Guarantor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such court has been brought in an inconvenient forum. EACH OF THE GUARANTORS, THE ADMINISTRATIVE AGENT AND THE GUARANTEED CREDITORS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY.

21. If an Event of Default shall have occurred and be continuing, each Guaranteed Creditor, the Administrative Agent and the Collateral Agent may, regardless of the acceptance of any security or collateral for the payment hereof, set off and apply toward the payment of all or any part of the Guaranteed Obligations any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated at any time held) and other obligations at any time owing by such Guaranteed Creditor or the Administrative Agent or any of their Affiliates to or for the credit or the account of any Guarantor against any of and all the Guaranteed Obligations, irrespective of whether or not such Guaranteed Creditor or the Administrative Agent shall have made any demand under this Guaranty and although such obligations may be unmatured; *provided* that such Guaranteed Creditor shall notify the applicable Guarantor and the Administrative Agent promptly after any such setoff and application; however, the failure to give such notice shall not affect the validity of such setoff and application. The rights of each Guaranteed Creditor or the Administrative Agent under this Section 21 are in addition to other rights and remedies (including other rights of setoff) which such Guaranteed Creditor or the Administrative Agent may have.

22. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Guarantor to honor all of its obligations under this Guaranty in respect of Swap Obligations (*provided*, *however*, that each Qualified ECP Guarantor shall only be liable under this Section 22 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 22 or otherwise under this Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 22 shall remain in full force and effect until a discharge of such Qualified ECP Guarantor's Guaranteed Obligations in accordance with the terms hereof and the other Loan Documents. Each Qualified ECP Guarantor intends that this Section 22 constitute, and this Section 22 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act. As used herein, "*Qualified ECP Guarantor*" means, in respect of any Swap Obligation, each Guarantor that has total assets exceeding $10,000,000 at the time the relevant Guarantee or grant of the relevant security interest becomes or would become effective with respect to such Swap Obligation or such other Guarantor as would otherwise constitute an "eligible contract participant" as defined in Section 1a(18) of the Commodity Exchange Act or any regulations promulgated thereunder (an "*ECP*") and can cause another Person to qualify as an ECP at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Guarantors have caused this Guaranty Agreement to be executed and delivered as of the date first above written.

"GUARANTORS"

SANDISK CORPORATION
SANDISK TECHNOLOGIES, INC.

By: /s/ Luis F. Visoso
Name: Luis F. Visoso
Title: Chief Financial Officer

[Signature Page to Guaranty Agreement]

Accepted and agreed as of the date first above written.

JPMORGAN CHASE BANK, N.A., as Administrative Agent for the Guaranteed Creditors

By: /s/ Timothy Lee
Name: Timothy Lee
Title: Executive Director

EXHIBIT A

TO

GUARANTY AGREEMENT

ASSUMPTION AND SUPPLEMENT TO GUARANTY AGREEMENT

This Assumption and Supplement to Guaranty Agreement (this "*Agreement*") is dated as of this _____ day of _____, _____, made by [**Insert name of new guarantor**], a _____ (the "*New Guarantor*");

WITNESSETH THAT:

WHEREAS, Sandisk Corporation, a Delaware corporation (the "*Lead Borrower*") and certain affiliates of the Lead Borrower from time to time party thereto, have executed and delivered to the Administrative Agent for the Guaranteed Creditors that certain Guaranty Agreement dated as of February 21, 2025 (such Guaranty Agreement, as the same may from time to time be extended, renewed, amended, restated, refinanced, replaced, amended and restated, supplemented or otherwise modified, including supplements thereto which add or substitute parties as Guarantors thereunder, being hereinafter referred to as the "*Guaranty*") pursuant to which such affiliates (the "*Existing Guarantors*") have guaranteed to the Guaranteed Creditors, the full and prompt payment of, among other things, any and all indebtedness, obligations and liabilities of the Borrowers arising under or relating to the Loan Agreement as defined therein; and

WHEREAS, the New Guarantor will directly and substantially benefit from credit and other financial accommodations extended and to be extended by the Guaranteed Creditors to the Borrowers;

NOW, THEREFORE, FOR VALUE RECEIVED, and in consideration of advances made or to be made, or credit accommodations given or to be given, to the Borrowers by the Guaranteed Creditors from time to time, the New Guarantor hereby agrees as follows:

1. The New Guarantor acknowledges and agrees that it shall become a "Guarantor" party to the Guaranty effective upon the date of the New Guarantor's execution of this Agreement and the delivery of this Agreement to the Administrative Agent on behalf of the Guaranteed Creditors, and that upon such execution and delivery, all references in the Guaranty to the terms "Guarantor" or "Guarantors" shall be deemed to include the New Guarantor.

2. The New Guarantor hereby assumes and becomes liable (jointly and severally with all the other Guarantors) for the Guaranteed Obligations (as defined in the Guaranty) and agrees to pay and otherwise perform all of the obligations of a Guarantor under the Guaranty according to, and otherwise on and subject to, the terms and conditions of the Guaranty to the same extent and with the same force and effect as if the New Guarantor had originally been one of the Existing Guarantors under the Guaranty and had originally executed the same as such an Existing Guarantor.

3. The New Guarantor acknowledges and agrees that, as of the date hereof, the New Guarantor makes each and every representation and warranty that is set forth in Section 14 of the Guaranty.

4. All capitalized terms used in this Agreement without definition shall have the same meaning herein as such terms have in the Guaranty, except that any reference to the term "Guarantor" or "Guarantors" and any provision of the Guaranty providing meaning to such term shall be deemed a reference to the Existing Guarantors and the New Guarantor. Except as specifically modified hereby, all of the terms and conditions of the Guaranty shall stand and remain unchanged and in full force and effect.

5. No reference to this Agreement need be made in the Guaranty or in any other document or instrument making reference to the Guaranty, any reference to the Guaranty in any of such to be deemed a reference to the Guaranty as modified hereby.

6. All communications and notices hereunder shall be in writing and given as provided in Section 17 of the Guaranty and to the following address for each New Guarantor.

Address:

_____
_____
Attention: _____
Facsimile:_(___)_____
Email:_____

7. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[NEW GUARANTOR]

By: _____
Name
Title

Acknowledged and agreed as of the date first above written.

JPMORGAN CHASE BANK, N.A., as Administrative Agent for the Guaranteed Creditors

By: _____
Name:
Title:

SANDISK™

FORM OF INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made as of _____ __, _____ by and between Sandisk Corporation, a Delaware corporation (the "Company"), and [NAME] ("Indemnitee"). This Agreement supersedes and replaces any and all previous agreements between the Company and Indemnitee covering the subject matter of this Agreement.

RECITALS

WHEREAS, the Board of Directors of the Company (the "Board") believes that highly competent persons have become more reluctant to serve publicly-held corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Bylaws of the Company (the "Bylaws") require indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware ("DGCL"). The Bylaws and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the board of directors, officers and other persons with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification may increase the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of the Bylaws and any resolutions adopted pursuant thereto, as well as any rights of Indemnitees under any directors' and officers' liability insurance policy, and this Agreement shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the Bylaws and insurance as adequate in the present circumstances, and may not be willing to serve or continue to serve as an officer or director without adequate protection, and the Company desires Indemnitee to serve or continue to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that Indemnitee be so indemnified.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Services to the Company. Indemnitee agrees to serve as a director or officer of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that Indemnitee's employment with the Company (or any of its subsidiaries or any Enterprise), if any, is at will, and the Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise (as defined below)), other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director or officer of the Company, by the Certificate of Incorporation of the Company ("Certificate of Incorporation"), the Bylaws, and the DGCL. The foregoing notwithstanding, this Agreement shall continue in force after Indemnitee has ceased to serve as a director or officer of the Company, as provided in Section 16 hereof.

Section 2. Definitions. As used in this Agreement:

(a) References to "agent" shall mean any person who is or was a director, officer, or employee of the Company or a subsidiary of the Company or other person authorized by the Company to act for the Company, to include such person serving in such capacity as a director, officer, employee, fiduciary or other official of another corporation, partnership, limited liability company, joint venture, trust or other enterprise at the request of, for the convenience of, or to represent the interests of the Company or a subsidiary of the Company.

(b) A "Change in Control" shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

i. Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities unless the change in relative Beneficial Ownership of the Company's securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors;

ii. Change in Board of Directors. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 2(b)(i), 2(b)(iii) or 2(b)(iv)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Board;

iii. Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the Surviving Entity) more than 50% of the combined voting power of the voting securities of the Surviving Entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such Surviving Entity;

iv. Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

v. Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 2(b), the following terms shall have the following meanings:

(A) "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended from time to time.

(B) "Person" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any entity owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(C) "Beneficial Owner" shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(D) "Surviving Entity" shall mean the surviving entity in a merger or consolidation or any entity that controls, directly or indirectly, such surviving entity.

(c) "Corporate Status" describes the status of a person who is or was a director, trustee, partner, managing member, officer, employee, agent or fiduciary of the Company or of any other corporation, limited liability company, partnership or joint venture, trust or other enterprise which such person is or was serving at the request of the Company.

(d) "Disinterested Director" shall mean a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) "Enterprise" shall mean the Company and any other corporation, limited liability company, partnership, joint venture, trust or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, employee, agent or fiduciary.

(f) "Expenses" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees and other costs of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, ERISA excise taxes and penalties, and all other disbursements, obligations or expenses of the types customarily incurred in connection with, or as a result of, prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a deponent or witness in, or otherwise participating in, a Proceeding. Expenses also shall include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, (ii) Expenses incurred in connection with recovery under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee is ultimately determined to be entitled to such indemnification, advancement or Expenses or insurance recovery, as the case may be, and (iii) for purposes of Section 14(d) only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement, the Certificate of Incorporation, the Bylaws or under any directors' and officers' liability insurance policies maintained by the Company, by litigation or otherwise. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee's counsel as being reasonable in the good faith judgment of such counsel shall be presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) "Independent Counsel" shall mean a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five (5) years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the

Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(h) The term "Proceeding" shall include any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative, legislative, regulatory or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is or will be involved as a party, potential party, non-party witness or otherwise by reason of Indemnitee's Corporate Status, by reason of any action taken by Indemnitee (or a failure to take action by Indemnitee) or of any action (or failure to act) on Indemnitee's part while acting pursuant to Indemnitee's Corporate Status, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification, reimbursement, or advancement of Expenses can be provided under this Agreement. If Indemnitee believes in good faith that a given situation may lead to or culminate in the institution of a Proceeding, this shall be considered a Proceeding under this paragraph.

(i) Reference to "other enterprise" shall include employee benefit plans; references to "fines" shall include any excise tax assessed with respect to any employee benefit plan; references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner Indemnitee reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Agreement.

Section 3. Indemnity in Third-Party Proceedings. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines and amounts paid in settlement) actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding, had no reasonable cause to believe that Indemnitee's conduct was unlawful. The parties hereto intend that this Agreement shall provide to the fullest extent permitted by law for indemnification in excess of that expressly permitted by statute, including, without limitation, any indemnification provided by the Certificate of Incorporation, the Bylaws, vote of the Company's stockholders or disinterested directors or applicable law.

Section 4. Indemnity in Proceedings by or in the Right of the Company. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that the Delaware Court (as hereinafter defined) or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

Section 5. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by or on behalf of Indemnitee in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest extent permitted by applicable law. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 6. Indemnification For Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a witness, is or was made (or asked) to respond to discovery requests in any Proceeding, or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith.

Section 7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8. Additional Indemnification.

(a) Notwithstanding any limitation in Sections 3, 4, or 5, the Company shall indemnify Indemnitee against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee in connection with the Proceeding to the fullest extent permitted by applicable law if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) by reason of Indemnitee's Corporate Status.

(b) For purposes of Section 8(a), the meaning of the phrase "to the fullest extent permitted by applicable law" shall include, but not be limited to:

i. to the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL, and

ii. to the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

Section 9. Exclusions. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnification payment in connection with any claim involving Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (as defined in Section 2(b) hereof) or similar provisions of state statutory law or common law, (ii) any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act) or (iii) any reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act; or

(c) except as provided in Section 14(d) of this Agreement, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation, (ii) such payment arises in connection with any mandatory counterclaim or cross claim brought or raised by Indemnitee in any Proceeding (or any part of any Proceeding), or (iii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

Section 10. Advances of Expenses. Notwithstanding any provision of this Agreement to the contrary (other than Section 14(d)), the Company shall advance, to the fullest extent not prohibited by applicable law, the Expenses incurred by or on behalf of Indemnitee in connection with any Proceeding (or any part of any Proceeding) not initiated by Indemnitee or any Proceeding initiated by Indemnitee with the prior approval of the Board as provided in Section 9(c), and such advancement shall be made within thirty (30) days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. In accordance with Section 14(d), advances shall include any and all reasonable Expenses incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. Indemnitee shall qualify for advances upon the execution and delivery to the Company of this Agreement, which shall constitute an undertaking providing that Indemnitee undertakes to repay the amounts advanced (without interest) by the Company pursuant to this Section 10, if and only to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company. No other form of undertaking shall be required other than the execution of this Agreement. This Section 10 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Section 9.

Section 11. Procedure for Notification and Defense of Claim.

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses hereunder as soon as reasonably practicable following the receipt by Indemnitee of written notice thereof. The written notification to the Company shall include a description of the nature of the Proceeding and the facts underlying the Proceeding. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding. The omission by Indemnitee to notify the Company hereunder will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights under this Agreement. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

(c) The Company shall not settle any Proceeding (in whole or in part) if such settlement would impose any Expense, judgment, liability, fine, penalty or limitation on Indemnitee in respect of which Indemnitee is not entitled to be indemnified hereunder without Indemnitee's prior written consent, which shall not be unreasonably withheld.

Section 12. Procedure Upon Application for Indemnification.

(a) Upon written request by Indemnitee for indemnification pursuant to Section 11(a), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee; or (ii) if a Change in Control shall not have occurred, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee or (D) if so directed by the Board, by the stockholders of the Company; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including attorneys' fees and disbursements) incurred by or on behalf of Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company promptly will advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) hereof, the Independent Counsel shall be selected as provided in this Section 12(b). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Board, and the Company shall give written notice to Indemnitee advising Indemnitee of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or the Delaware Court

has determined that such objection is without merit. If, within twenty (20) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) hereof and the final disposition of the Proceeding, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Delaware Court for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by such court or by such other person as such court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 12(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(c) If the Company disputes a portion of the amounts for which indemnification is requested, the undisputed portion shall be paid and only the disputed portion withheld pending resolution of any such dispute.

Section 13. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall, to the fullest extent not prohibited by applicable law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(a) of this Agreement, and the Company shall, to the fullest extent not prohibited by applicable law, have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) Subject to Section 14(e), if the person, persons or entity empowered or selected under Section 12 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by applicable law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 13(b) shall not apply (i) if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 12(a)

of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination the Board has resolved to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat, or (ii) if the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 12(a) of this Agreement.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the directors or officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser, financial advisor or other expert selected with reasonable care by or on behalf of the Enterprise. The provisions of this Section 13(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any director, officer, trustee, partner, managing member, fiduciary, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

Section 14. Remedies of Indemnitee.

(a) Subject to Section 14(e), in the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 10 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 12(a) of this Agreement within forty-five (45) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, 6 or 7 or the second to last sentence of Section 12(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) payment of indemnification pursuant to Section 3, 4 or 8 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder, Indemnitee shall be entitled to an

adjudication by a court of Indemnitee's entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at Indemnitee's option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 14(a); provided, however, that the foregoing clause shall not apply in respect of a proceeding brought by Indemnitee to enforce his rights under Section 5 of this Agreement. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 14 the Company shall have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 12(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company shall, to the fullest extent not prohibited by applicable law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. It is the intent of the Company that, to the fullest extent permitted by law, the Indemnitee not be required to incur legal fees or other Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. The Company shall, to the fullest extent permitted by law, indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefor) advance, to the extent not prohibited by applicable law, such Expenses to Indemnitee, which are incurred by or on behalf of Indemnitee in connection with any action brought by Indemnitee for indemnification or advancement of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

Section 15. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and to receive advancement of Expenses as provided by this Agreement (i) shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the Bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise and (ii) shall be interpreted independently of, and without reference to, any other such rights to which Indemnitee may at any time be entitled. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by Indemnitee in Indemnitee's Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents of the Enterprise, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such claim or of the commencement of a Proceeding, as the case may be, to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment made by the Company under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder (or for which advancement is provided hereunder) if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, fiduciary, employee or agent of any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of Expenses from such other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise.

Section 16. Duration of Agreement. This Agreement shall continue until and terminate upon the later of: (a) ten (10) years after the date that Indemnitee shall have ceased to serve as a director or officer of the Company or (b) one (1) year after the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding (including any appeal thereof) commenced by Indemnitee pursuant to Section 14 of this Agreement relating thereto. The indemnification and advancement of expenses rights provided by or granted pursuant to this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or of any other Enterprise, and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors and administrators and other legal representatives. The Company shall require and shall cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Company to, by written agreement, expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

Section 17. Severability. Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 18. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving or continuing to serve as a director or officer of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; provided, however, that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the Bylaws, any directors' and officers' insurance maintained by the Company and applicable law, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder.

Section 19. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

Section 20. Notice by Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise.

Section 21. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, or (c) mailed by reputable overnight courier and receipted for by the party to whom said notice or other communication shall have been directed:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide to the Company.

(b) If to the Company to

Sandisk Corporation
951 Sandisk Drive
Milpitas, California 95035

Attention: General Counsel

or to any other address as may have been furnished to Indemnitee by the Company.

Section 22. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

Section 23. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 14(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Court of Chancery of the State of Delaware (the "Delaware Court"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, irrevocably RL&F Service Corp., 920 North King Street, 2nd Floor, Wilmington, New Castle County, Delaware 19801 as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Section 24. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 25. Miscellaneous. The headings of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

SANDISK CORPORATION	INDEMNITEE
By: _____	_____
Name:	Name:
Title:	Address:

[SIGNATURE PAGE TO INDEMNIFICATION AGREEMENT]

Exhibit 99.1

Sandisk Celebrates Nasdaq Listing After Completing Separation from Western Digital

MILPITAS, Calif., February 24, 2025 – Sandisk Corporation, a global Flash and advanced memory technology innovator, today announced that the company has completed its separation from Western Digital and is now an independent public company set to begin trading today on the Nasdaq Stock Market under the ticker symbol "SNDK." The company's leadership team with long-time employees and Board members will ring the closing bell at Nasdaq to mark the milestone today.

"We are excited to embark on this new chapter for Sandisk," said David Goeckeler, Chief Executive Officer of Sandisk. "Everything starts with innovation and NAND is an incredible enabler. Because we operate in strong and growing markets, there is a tremendous opportunity to expand our role as a globally leading Flash memory innovator. The new Sandisk is poised to shape and transform the digital world we live in, and we remain focused on leveraging our strengths to drive long-term growth for our company and shareholders."

Sandisk understands how people and businesses consume data and relentlessly innovates to deliver solutions that enable the next big ideas. Building on a long heritage of memory and storage semiconductor expertise, the new Sandisk is well-positioned to serve the market, addressing the new opportunities that AI presents while unlocking the value of its consumer and enterprise portfolios.

About Sandisk

Sandisk (Nasdaq: SNDK) delivers innovative Flash solutions and advanced memory technologies that meet people and businesses at the intersection of their aspirations and the moment, enabling them to keep moving and pushing possibility forward. Follow Sandisk on Instagram, Facebook, X, LinkedIn, Youtube. Join TeamSandisk on Instagram.

Company Contacts:

Investors: investors@sandisk.com
Media: mediainquiries@sandisk.com

Forward-Looking Statements

This press release contains forward-looking statements within the meaning of federal securities laws, including statements regarding expectations for our markets and business; our ability to increase and drive value; and the future impact of our products, technology and innovation. These forward-looking statements are based on management's current expectations and are subject to risks and uncertainties that could cause actual results to differ materially from those expressed or implied.

Key risks and uncertainties include: the future operating results of our stand-alone flash business; the expected benefits and costs of our spin-off from Western Digital Corporation; potential adverse impacts on key commercial relationships as a result of the spin-off; competitive responses to the spin-off; unexpected costs or liabilities resulting from the spin-off; litigation relating to the spin-off; operational challenges resulting from the spin-off; changes in the general economic or geopolitical environment; and the other risks and uncertainties described in the final information statement attached as Exhibit 99.1 to our Current Report on Form 8-K filed with the SEC on February 3, 2025. You should not place undue reliance on these forward-looking statements, which speak only as of the date hereof, and we undertake no obligation to update or revise these forward-looking statements, except as required by law.