UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO

(RULE 14d-100)

TENDER OFFER STATEMENT UNDER SECTION 14(D)(1) OR 13(E)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934

Wind River Systems, Inc.

(Name of Subject Company (Issuer))

APC II Acquisition Corporation

(Offeror)

A Wholly Owned Subsidiary of

Intel Corporation

(Parent of Offeror)
(Names of Filing Persons (identifying status as offeror, issuer or other person))

COMMON STOCK, $0.001 PAR VALUE
(Title of Class of Securities)

973149107
(CUSIP Number of Class of Securities)

Marty M. Linné, Esq.
Intel Corporation
2200 Mission College Blvd.
Santa Clara, CA 95054-1549
(408) 765-8080

(Name, address, and telephone numbers of person authorized to receive notices and communications on behalf of filing persons)

Copies to:

Robert Townsend, Esq.
S. Dawn Smith, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
(415) 268-7000

CALCULATION OF FILING FEE

Transaction Valuation(1)	Amount of Filing Fee(2)
$1,069,696,661.50	$59,689.07

(1) Estimated for purposes of calculating the amount of the filing fee only. This calculation is based on the offer to purchase up to 93,017,101 shares of common stock, par value $0.001 per share of Wind River Systems, Inc. (the "Seller") including the associated rights to purchase shares of the Series A Junior Participating Preferred Stock, par value $0.001 per share, of the Seller, at a purchase price of $11.50 per share, net to the tendering stockholder in cash, without interest and subject to any required withholding of taxes. Such shares consist of (i) 76,892,405 shares of common stock of the Seller that were issued and outstanding as of May 31, 2009; (ii) 9,819,686 shares of common stock of the Seller potentially issuable upon conversion of outstanding in-the-money stock options as of May 31, 2009, (iii) 3,173,360 shares of common stock subject to outstanding restricted stock units as of May 31, 2009, (iv) 2,931,650 shares of common stock were reserved for issuance under the employee stock purchase plan of the Seller as of May 31, 2009, and (v) 200,000 shares of common stock subject to outstanding performance share awards as of May 31, 2009.

(2) The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory #5 for fiscal year 2009, issued by the Securities and Exchange Commission on March 11, 2009, by multiplying the transaction value by .00005580.

☐ Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: N/A	Filing Party: N/A
Form of Registration No.: N/A	Date Filed: N/A

☐ Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

☒ Third-party tender offer subject to Rule 14d-1.
☐ Issuer tender offer subject to Rule 13e-4.
☐ Going-private transaction subject to Rule 13e-3.
☐ Amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer. ☐

*If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

☐ Rule 13e-4(i) (cross-border issuer tender offer).
☐ Rule 14d-1(d) (cross-border third-party tender offer).

This Tender Offer Statement on Schedule TO (together with any amendments and supplements hereto, this "Schedule TO") is filed by (i) APC II Acquisition Corporation, a Delaware corporation (the "Purchaser") and wholly owned subsidiary of Intel Corporation, a Delaware corporation ("Parent"), and (ii) Parent. This Schedule TO relates to the offer (the "Offer") by the Purchaser to purchase all of the outstanding shares of common stock, par value $0.001 per share (the "Company Shares"), including the associated rights to purchase shares of Series A Junior Participating Preferred Stock, par value $0.001 per share (the "Rights," and collectively, with the Company Shares, the "Shares") of Wind River Systems, Inc., a Delaware corporation (the "Seller "), at a purchase price of $11.50 per Share, net to the tendering stockholder in cash, without interest and less any required withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase dated June 11, 2009 (together with any amendments and supplements thereto, the "Offer to Purchase") and in the related Letter of Transmittal, copies of which are attached hereto as Exhibits (a)(1)(A) and (a)(1)(B), respectively.

The information set forth in the Offer to Purchase, including Schedule I thereto, is hereby incorporated by reference in answer to Items 1 through 13 of this Schedule TO, and is supplemented by the information specifically provided herein.

Item 1. ***Summary Term Sheet.***

The information set forth in the section of the Offer to Purchase entitled "Summary Term Sheet" is incorporated herein by reference.

Item 2. ***Subject Company Information.***

(a) The name of the subject company and the issuer of the securities to which this Schedule TO relates is Wind River Systems, Inc., a Delaware corporation. The Seller's principal executive offices are located at 500 Wind River Way, Alameda, California 94501. The telephone number of the Seller is (510) 748-4100.

(b) This Schedule TO relates to the outstanding shares of common stock, par value $0.001 per share, of the Seller. The Seller has advised Parent that, as of May 31, 2009, 76,892,405 Company Shares were issued and outstanding; 16,218,657 Company Shares were held in the treasury of the Seller; 14,652,835 Company Shares were potentially issuable upon conversion of outstanding stock options; 3,173,360 Company Shares were subject to outstanding restricted stock units; 2,931,650 Company Shares were reserved for issuance under the employee stock purchase plan of the Seller and 200,000 Company Shares were subject to outstanding performance share awards.

(c) The information set forth in the sections in the Offer to Purchase entitled "Dividends and Distributions" and "Price Range of Company Shares; Dividends" is incorporated herein by reference.

Item 3. ***Identity and Background of Filing Person.***

(a) through (c). This Schedule TO is filed by Parent and the Purchaser. The information set forth in the section of the Offer to Purchase entitled "Certain Information Concerning Parent and the Purchaser" and in Schedule I to the Offer to Purchase is incorporated herein by reference.

Item 4. ***Terms of the Transaction.***

The information set forth in the Offer to Purchase is incorporated herein by reference.

Item 5. ***Past Contacts, Transactions, Negotiations and Agreements.***

The information set forth in the sections of the Offer to Purchase entitled "Summary Term Sheet," "Introduction," "Certain Information Concerning Parent and the Purchaser," "Background of the Offer; Past Contacts or Negotiations with Seller," "Purpose of the Offer; Plans for Seller" and "The Transaction Documents" is incorporated herein by reference.

Item 6. ***Purposes of the Transaction and Plans or Proposals.***

The information set forth in the sections of the Offer to Purchase entitled "Summary Term Sheet," "Introduction," "Dividends," "Certain Effects of the Offer," "Purpose of the Offer; Plans for Seller" and "The Transaction Documents" is incorporated herein by reference.

Item 7. ***Source and Amount of Funds or Other Consideration.***

(a) The information set forth in the section of the Offer to Purchase entitled "Source and Amount of Funds" is incorporated herein by reference.

(b) Not applicable.

(d) Not applicable.

Item 8. ***Interest in Securities of the Subject Company.***

The information set forth in the sections of the Offer to Purchase entitled "Certain Information Concerning Parent and the Purchaser," "Purpose of the Offer; Plans for Seller" and "The Transaction Documents" is incorporated herein by reference.

Item 9. ***Persons/Assets Retained, Employed, Compensated or Used.***

The information set forth in the section of the Offer to Purchase entitled "Fees and Expenses" is incorporated herein by reference.

Item 10. ***Financial Statements.***

Not applicable.

Item 11. ***Additional Information.***

(a)(1) The information set forth in the sections of the Offer to Purchase entitled "Certain Information Concerning Parent and the Purchaser," "Background of the Offer; Past Contacts or Negotiations with Seller," "Purpose of the Offer; Plans for Seller" and "The Transaction Documents" is incorporated herein by reference.

(a)(2) The information set forth in the sections of the Offer to Purchase entitled "Purpose of the Offer; Plans for Seller," "Conditions of the Offer" and "Certain Legal Matters; Regulatory Approvals" is incorporated herein by reference.

(a)(3) The information set forth in the sections of the Offer to Purchase entitled "Conditions of the Offer" and "Certain Legal Matters; Regulatory Approvals" is incorporated herein by reference.

(a)(4) The information set forth in the sections of the Offer to Purchase entitled "Certain Effects of the Offer," "Source and Amount of Funds" and "Certain Legal Matters; Regulatory Approvals" is incorporated herein by reference.

(a)(5) The information set forth in the section of the Offer to Purchase entitled "Certain Legal Matters; Regulatory Approvals" is incorporated herein by reference.

(b) The information set forth in the Offer to Purchase is incorporated herein by reference.

Item 12. ***Exhibits.***

Exhibit	Exhibit Name
(a)(1)(A)	Offer to Purchase dated June 11, 2009.
(a)(1)(B)	Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number (TIN) on Substitute Form W-9).
(a)(1)(C)	Notice of Guaranteed Delivery.
(a)(1)(D)	Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(E)	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(5)(A)	Joint Press Release issued by Intel Corporation and Wind River Systems, Inc. on June 4, 2009, incorporated herein by reference to the Schedule TO filed by Intel Corporation on June 4, 2009.
(a)(5)(B)	Summary Newspaper Advertisement as published in The Wall Street Journal on June 11, 2009.
(b)	Not applicable.
(d)(1)	Agreement and Plan of Merger, by and among Intel Corporation, APC II Acquisition Corporation and Wind River Systems, Inc., dated June 4, 2009.
(d)(2)	Tender and Support Agreement, by and among Intel Corporation, APC II Acquisition Corporation and certain stockholders of Wind River Systems, Inc. listed on Annex I thereto, dated June 4, 2009.
(d)(3)	Executive Employment Agreement, by and among Wind River Systems, Inc., Intel Corporation and Kenneth R. Klein, dated June 4, 2009.
(d)(4)	Non-Competition Agreement, by and among Intel Corporation, Wind River Systems, Inc. and Kenneth R. Klein, dated June 4, 2009.
(d)(5)	Executive Employment Agreement, by and among Wind River Systems, Inc., Intel Corporation and Ian Halifax, dated June 4, 2009.
(g)	Not applicable.
(h)	Not applicable.

Item 13. ***Information Required by Schedule 13E-3.***

Not applicable.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: June 11, 2009

APC II Acquisition Corporation

By: /s/ Trina Van Pelt

Name: **Trina Van Pelt**
Title: **Vice President**

Date: June 11, 2009

Intel Corporation

By: /s/ Cary Klafter

Name: **Cary Klafter**
Title: **President of Legal and Corporate Affairs, Director of Corporate Legal and Corporate Secretary**

EXHIBIT INDEX

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(g)	Not applicable.
(h)	Not applicable.

Table of Contents

Exhibit (a)(1)(A)

Offer To Purchase For Cash

All Outstanding Shares of Common Stock
And the Associated Rights to Purchase Shares of Series A Junior Participating Preferred Stock

of

Wind River Systems, Inc., a Delaware corporation

at

$11.50 NET PER SHARE

by

APC II Acquisition Corporation, a Delaware corporation

a wholly owned subsidiary of

Intel Corporation, a Delaware corporation

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT,

NEW YORK CITY TIME, ON JULY 9, 2009,
UNLESS THE OFFER IS EXTENDED.

The Offer is being made pursuant to an Agreement and Plan of Merger, dated June 4, 2009 (the "Merger Agreement"), by and among Intel Corporation ("Parent" or "Intel"), APC II Acquisition Corporation ("Purchaser") and Wind River Systems, Inc. ("Seller"). The Purchaser is offering to purchase in a cash tender offer (the "Offer") all outstanding shares of common stock, par value $0.001 per share, of Seller (the "Company Shares"), including the associated rights to purchase shares of Series A Junior Participating Preferred Stock, par value $0.001 per share of Seller (the "Rights," and collectively with the Company Shares, the "Shares"), at a price of $11.50 per Share, net to the selling stockholder in cash, without interest and less any required withholding taxes, upon the terms and subject to the conditions set forth in this Offer to Purchase and the related Letter of Transmittal (as defined below). The Offer is conditioned upon, among other things, (i) satisfaction of the Minimum Condition (as defined below), and (ii) any applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") shall not have expired or been terminated prior to the expiration of the Offer or the antitrust and similar regulatory waiting periods, clearances, consents or approvals under the German Act against Restraints of Competition, the Restrictive Trade Practices Laws 5748-1998 of Israel, or any other material consent or approvals of any governmental authority shall not have expired, been obtained or been terminated. The term "Minimum Condition" is defined in Section 15 — "Conditions of the Offer" and generally requires that there has been validly tendered and not validly withdrawn prior to the expiration date for the Offer (as it may have been extended or re-extended pursuant to the Merger Agreement, the "Expiration Date") at least that number of Company Shares equal to (i) fifty percent of the then outstanding Company Shares on a "fully diluted basis" (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights), including the Seller's outstanding restricted stock units and performance shares (each a "RSU" and collectively the "RSUs"), in each case, which are convertible or exercisable prior to the "Outside Date" (which is defined in the Merger Agreement as October 31, 2009; provided, however, that the "Outside Date" is subject to extension until January 29, 2010 under certain circumstances described in the Merger Agreement), but excluding the sum of all Company Shares that are subject to the Tender and Support Agreement (as defined below) (the "Subject Shares")) plus (ii) the Subject Shares. The Offer is also subject to other important conditions set forth in this Offer to Purchase. See Section 15 — "Conditions of the Offer."

The Board of Directors of Seller (the "Seller Board") has unanimously (i) determined that the Offer is fair to, and in the best interests of, the stockholders of Seller; (ii) approved and declared advisable the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Offer and the merger of Purchaser with and into Seller with the Seller surviving the merger as a wholly owned subsidiary of Intel (the "Merger"); and (iii) resolved and agreed to recommend that holders of Company Shares tender their Company Shares pursuant to the Offer and, if required by applicable law, approve and adopt the Merger Agreement and approve the Merger.

IMPORTANT

Any stockholder of Seller wishing to tender Company Shares in the Offer must (i) complete and sign the letter of transmittal (or a facsimile thereof) that accompanies this Offer to Purchase (the "Letter of Transmittal") in accordance with the instructions in the Letter of Transmittal and mail or deliver the Letter of Transmittal and all other required documents to the Depositary (as defined below) together with certificates representing the Company Shares tendered or follow the procedure for book-entry transfer set forth in Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares" or (ii) request such stockholder's broker, dealer, commercial bank, trust company or other nominee to effect the transaction for the stockholder. A stockholder whose Company Shares are registered in the name of a broker, dealer, commercial bank, trust company or other nominee must contact such person if such stockholder wishes to tender such Company Shares.

Any stockholder of Seller who wishes to tender Company Shares and cannot deliver certificates representing such Company Shares and all other required documents to the Depositary on or prior to the Expiration Date or who cannot comply with the procedures for book-entry transfer on a timely basis may tender such Company Shares pursuant to the guaranteed delivery procedure set forth in Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares."

Questions and requests for assistance may be directed to the Information Agent (as defined below) or the Dealer Manager (as defined below) at their addresses and telephone numbers set forth on the back cover of this Offer to Purchase. Additional copies of this Offer to Purchase, the Letter of Transmittal, the Notice of Guaranteed Delivery (as defined below) and other related materials may also be obtained from the Information Agent or the Dealer Manager. Stockholders may also contact their broker, dealer, commercial bank, trust company or other nominee for copies of these documents.

The Dealer Manager for the Offer is:

Georgeson Securities Corporation

June 11, 2009

SUMMARY TERM SHEET

APC II Acquisition Corporation, a wholly owned subsidiary of Intel, is offering to purchase in a cash tender offer (the "Offer") all outstanding shares of common stock, par value $0.001 per share, of Seller (the "Company Shares"), including the associated rights to purchase shares of Seller's Series A Junior Participating Preferred Stock, par value $0.001 per share (the "Rights," and collectively with the Company Shares, the "Shares"), for $11.50 per Share, net to the selling stockholder in cash, without interest and less any required withholding taxes, upon the terms and subject to the conditions set forth in this Offer to Purchase and the related Letter of Transmittal. The following are answers to some of the questions you, as a stockholder of Seller, may have about the Offer. We urge you to read carefully the remainder of this Offer to Purchase and the Letter of Transmittal and the other documents to which we have referred you because this summary may not contain all of the information that is important to you. Additional important information is contained in the remainder of this Offer to Purchase and the Letter of Transmittal.

Who is offering to buy my securities?

We are APC II Acquisition Corporation, a Delaware corporation formed for the purpose of making this Offer. We are a wholly owned subsidiary of Intel. See the "Introduction" to this Offer to Purchase and Section 8 — "Certain Information Concerning Parent and the Purchaser."

What are the classes and amounts of securities sought in the Offer?

We are seeking to purchase all of the outstanding shares of common stock, par value $0.001 per share, of Seller and the associated Rights. See the "Introduction" to this Offer to Purchase and Section 1 — "Terms of the Offer."

What are the Rights?

The Rights are rights to purchase Series A Junior Participating Preferred Stock of Seller, issued pursuant to that certain Amended and Restated Rights Agreement, dated as of September 29, 2006, as amended to date, by and between Seller and American Stock Transfer and Trust Company (the "Rights Agreement"). The Rights were issued to all Seller stockholders, but currently are not represented by separate certificates. Instead, the Rights are represented by and are transferable with your Company Shares. A tender of your Company Shares will automatically include a tender of the Rights. See Section 1 — "Terms of the Offer."

How much are you offering to pay? What is the form of payment? Will I have to pay any fees or commissions?

We are offering to pay $11.50 per Share, net to you in cash, without interest and less any required withholding taxes. If you are the record owner of your Company Shares and you directly tender your Company Shares to us in the Offer, you will not have to pay brokerage fees or similar expenses. If you own your Company Shares through a broker, banker or other nominee, and your broker tenders your Company Shares on your behalf, your broker, banker or other nominee may charge you a fee for doing so. You should consult your broker, banker or other nominee to determine whether any charges will apply. See the "Introduction" to this Offer to Purchase.

Do you have the financial resources to make payment?

Yes. Intel, our parent company, will provide us with sufficient funds to purchase all Company Shares validly tendered in the Offer and not validly withdrawn and to provide funding for our Merger with Seller, which is expected to follow the successful completion of the Offer in accordance with the terms and conditions of the Merger Agreement. The Offer is not subject to a financing condition. Intel intends to provide us with the necessary funds from cash on hand. See Section 9 — "Source and Amount of Funds."

Is your financial condition relevant to my decision to tender my Company Shares in the Offer?

No. We do not think our financial condition is relevant to your decision of whether to tender Company Shares and accept the Offer because:

- the Offer is being made for all outstanding Company Shares solely for cash;
- we, through our parent company, Intel, will have sufficient funds available to purchase all Company Shares validly tendered in the Offer and not validly withdrawn in light of Intel's financial capacity in relation to the amount of consideration payable;
- the Offer is not subject to any financing condition; and
- if we consummate the Offer, we expect to acquire any remaining Company Shares for the same cash price in the Merger.

See Section 9 — "Source and Amount of Funds."

How long do I have to decide whether to tender my Company Shares in the Offer?

Unless we extend the Offer, you will have until 12:00 midnight, New York City time, on July 9, 2009, to tender your Company Shares in the Offer. Furthermore, if you cannot deliver everything required to make a valid tender by that time, you may still participate in the Offer by using the guaranteed delivery procedure that is described later in this Offer to Purchase prior to that time. See Section 1 — "Terms of the Offer" and Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares."

Can the Offer be extended and under what circumstances?

Yes. We have agreed in the Merger Agreement that:

- We may (but are not required to) extend the Offer on one (1) or more occasions, if on any then-scheduled expiration date of the Offer any of the conditions to our obligation to accept for payment and pay for the Company Shares validly tendered in the Offer (the "Offer Conditions") are not satisfied or waived for such period of time as Purchaser reasonably determines to be necessary to permit such Offer Conditions to be satisfied or waived.
- We are required to extend the Offer:
  - for any period required by any rule, regulation, interpretation or position of the Securities and Exchange Commission (the "SEC") or the staff thereof applicable to the Offer;
  - for two (2) consecutive ten (10) business day periods beyond the original expiration date of the Offer if, at the time of such scheduled expiration, all of the Offer Conditions, other than the Minimum Condition (as defined below), are satisfied;
  - for such period of time up to ten (10) business days from the date of notice to Seller regarding inaccuracies in Seller's representations or breach of Seller's covenants in the Merger Agreement to the extent necessary to provide Seller a ten (10) business day period to attempt to cure such inaccuracies or breaches if they are reasonably curable; provided, that, we are only required to extend the Offer one (1) time for such a cure period; or
  - (A) for such period of time as is necessary to obtain required governmental approvals with respect to the Offer and the Merger, if all of the Offer Conditions, other than the Minimum Condition and the receipt of such governmental approvals, are satisfied and (B) for one ten (10) business day period after receipt of all required governmental approvals with respect to the Offer and the Merger, if all other Offer Conditions, other than the Minimum Condition, are satisfied.

In no event will these extension provisions extend the Offer beyond the "Outside Date" (which is defined in the Merger Agreement as October 31, 2009; provided, however, that the "Outside Date" is subject to extension until January 29, 2010 under certain circumstances as described in the Merger Agreement).

See Section 1 — "Terms of the Offer" for more details on our obligation and ability to extend the Offer and Section 11 — "Transaction Documents" for more details about the Outside Date.

Can the Offer be extended after Purchaser has accepted and paid for Company Shares?

Yes. At our option, we may (but are not required to) provide a subsequent offering period in accordance with Rule 14d-11 under the Securities Exchange Act of 1934, as amended (together with the rules and regulations promulgated thereunder, the "Exchange Act").

See Section 1 — "Terms of the Offer" for more details on our obligation and ability to extend the Offer.

How will I be notified if the Offer is extended?

Any extension of the Offer will be followed as promptly as practicable by public announcement if required. Such announcement will be made no later than 9:00 a.m., New York City time, on the next business day after the day on which the Offer was scheduled to expire, in accordance with the public announcement requirements of Rule 14e-1(d) under the Exchange Act. See Section 1 — "Terms of the Offer."

What are the most significant conditions to the Offer?

The Offer is subject to several Offer Conditions including, among others,

- satisfaction of the Minimum Condition, and
- any applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") shall not have expired or been terminated prior to the expiration of the Offer or the antitrust and similar regulatory waiting periods, clearances, consents or approvals under the German Act against Restraints of Competition, the Restrictive Trade Practices Laws 5748-1998 of Israel, or any other material consent or approvals of any governmental authority shall not have expired, been obtained or been terminated.

The term "Minimum Condition" is defined in Section 15 — "Conditions of the Offer" and generally requires that there has been validly tendered and not validly withdrawn prior to the Expiration Date at least that number of Company Shares equal to (i) fifty percent of the then outstanding Company Shares on a "fully diluted basis" (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights), including the Seller's outstanding restricted stock units and performance shares (each a "RSU" and collectively the "RSUs"), in each case, which are convertible or exercisable prior the Outside Date, but excluding the sum of all Company Shares that are subject to the Tender and Support Agreement (as defined below) (the "Subject Shares")) plus (ii) the Subject Shares.

The Offer is also subject to a number of other important conditions. A more detailed discussion of the conditions to consummation of the Offer is contained in Section 15 — "Conditions of the Offer."

How do I tender my Company Shares?

To tender your Company Shares, you must deliver the certificates representing your Company Shares or confirmation of a book-entry transfer of such Company Shares into the Depositary's account at Computershare Trust Company, N.A. (the "Depositary"), together with a completed Letter of Transmittal and any other

documents required by the Letter of Transmittal, to the Depositary, prior to the expiration of the Offer. If your Company Shares are held in street name (that is, through a broker, dealer or other nominee), they can be tendered by your nominee through Computershare Trust Company, N.A. If you are unable to deliver any required document or instrument to the Depositary by the expiration of the Offer, you may still participate in the Offer by having a broker, a bank or other fiduciary that is an eligible institution guarantee on or prior to the expiration of the Offer that the missing items will be received by the Depositary within three (3) Nasdaq Global Select Market ("NASDAQ") trading days after the expiration of the Offer. For the tender to be valid, however, the Depositary must receive the missing items within that three (3) day trading period. See Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares."

Until what time may I withdraw previously tendered Company Shares?

You may withdraw your previously tendered Company Shares at any time until the Offer has expired and, if we have not accepted your Company Shares for payment by August 10, 2009, you may withdraw them at any time after that date until we accept Company Shares for payment. This right to withdraw will not apply to Company Shares tendered in any subsequent offering period, if one is provided. Withdrawals of Company Shares may not be rescinded, although withdrawn Company Shares may be re-tendered again. See Section 4 — "Withdrawal Rights."

How do I withdraw previously tendered Company Shares?

To withdraw previously tendered Company Shares, you must deliver a written notice of withdrawal, or a facsimile of such notice, with the required information to the Depositary while you still have the right to withdraw Company Shares. If you tendered Company Shares by giving instructions to a broker, banker or other nominee, you must instruct the broker, banker or other nominee to arrange for the withdrawal of your Company Shares and such broker, banker or other nominee must effectively withdraw such Company Shares while you still have the right to withdraw Company Shares. See Section 4 — "Withdrawal Rights."

What does the Seller Board think of the Offer?

The Seller Board has unanimously (i) determined that the Offer is fair to, and in the best interests of, the stockholders of Seller; (ii) approved and declared advisable the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Offer and the Merger; and (iii) resolved and agreed to recommend that holders of Company Shares tender their Company Shares pursuant to the Offer and, if required by applicable law, approve and adopt the Merger Agreement and approve the Merger.

A description of the reasons for the Seller Board's approval of the Offer and the Merger is set forth in Seller's Solicitation/Recommendation Statement on Schedule 14D-9 that is being mailed to Seller's stockholders together with this Offer to Purchase (the "Schedule 14D-9"). See the "Introduction" to this Offer to Purchase.

Have any stockholders previously agreed to tender their Company Shares?

Yes. Seller's President and Chief Executive Officer Kenneth Klein and Seller's directors Jerry Fiddler and Narendra Gupta have agreed to tender their Company Shares into the Offer. Collectively, these stockholders own approximately 10.8% of the Company Shares outstanding on the date of the Merger Agreement. See Section 11 — "The Transaction Documents."

If the tender offer is completed, will Seller continue as a public company?

No. Following the purchase of Company Shares in the Offer, we expect to consummate the Merger. If the Merger takes place, Seller will no longer be publicly owned. Even if for some reason the Merger does not take

place, if we purchase all of the tendered Company Shares, there may be so few remaining stockholders and publicly held Company Shares that the Company Shares will no longer be eligible to be traded through NASDAQ or other securities exchanges, there may not be an active public trading market for the Company Shares, and Seller may no longer be required to make filings with the SEC or otherwise comply with the SEC rules relating to publicly held companies. See Section 13 — "Certain Effects of the Offer."

Will the tender offer be followed by a Merger if all of the Company Shares are not tendered in the Offer?

Yes. If we accept for payment and pay for Company Shares in connection with this Offer, we expect to be merged with and into Seller in accordance with the terms of the Merger Agreement. If that Merger takes place, all remaining stockholders of Seller (other than us, Intel, Seller, its subsidiaries, and any stockholders properly exercising their dissenters' rights) will receive $11.50 per Share (or any other price per Share that is paid in the Offer) net in cash, without interest and less any required withholding taxes, and Seller will become a wholly owned subsidiary of Intel. See the "Introduction" to this Offer to Purchase.

What is the Top-Up Option and when could it be exercised?

Seller has granted to Purchaser, subject to certain limitations set forth in the Merger Agreement, an irrevocable option to purchase (the "Top-Up Option"), at a price per Share equal to the Offer Price, up to that number of newly issued Company Shares (the "Top-Up Shares") equal to the lowest number of Company Shares that, when added to the number of Company Shares held of record by Intel and Purchaser at the time of exercise of the Top-Up Option, constitutes at least one (1) Company Share more than 90% of the fully diluted shares then outstanding; provided, however, the Top-Up Option will not be exercisable for Company Shares in excess of the number of Company Shares authorized and unissued or held in the treasury of Seller (giving effect to the Company Shares issuable pursuant to all then outstanding Seller stock options, RSU's and any other rights to acquire Company Shares as if such shares were outstanding). The Top-Up Option is intended to expedite the timing of the completion of the Merger by permitting Purchaser to effect a "short-form merger" pursuant to the Delaware General Corporations Law (the "DGCL"). We expect to exercise the Top-Up Option, subject to the limitations set forth in the Merger Agreement, if we acquire less than 90% of the issued and outstanding Shares in the Offer. See Section 11 — "The Transaction Documents;" Section 12 — "Purpose of the Offer; Plans for Seller;" and Section 16 — "Certain Legal Matters; Regulatory Approvals."

If I decide not to tender, how will the Offer affect my Company Shares?

If you decide not to tender your Company Shares in the Offer and the Merger occurs, you will subsequently receive the same amount of cash per Share that you would have received had you tendered your Company Shares in the Offer, without any interest being paid on such amount and with such amount being subject to any required withholding taxes. Therefore, if the Merger takes place, and you do not validly exercise your dissenter's rights under the DGCL, the only difference to you between tendering your Company Shares and not tendering your Company Shares is that you will be paid sooner if you tender your Company Shares. If you do validly exercise your dissenter's rights, then you may receive the judicially determined fair value of your Company Shares in cash. If you decide not to tender your Company Shares in the Offer, and we purchase the tendered Company Shares, but the Merger does not occur, you will remain a stockholder of Seller. However, there may be so few remaining stockholders and publicly traded Company Shares that the Company Shares will no longer be eligible to be traded through NASDAQ or other securities exchanges and there may not be an active public trading market for the Company Shares. Also, as described above, Seller may no longer be required to make filings with the SEC or otherwise comply with the SEC rules relating to publicly held companies. See the "Introduction" to this Offer to Purchase and Section 13 — "Certain Effects of the Offer."

What is the market value of my Company Shares as of a recent date?

On June 3, 2009, the last full day of trading before the public announcement of the Offer, the closing price of the Company Shares on NASDAQ was $8.00 per Share. On June 10, 2009, the last full day of trading before the commencement of the Offer, the closing price of the Company Shares on the NASDAQ was $11.50 per Company Share. We encourage you to obtain a recent quotation for the Company Shares in deciding whether to tender your Company Shares. See Section 6 — "Price Range of Company Shares; Dividends."

What are the United States federal income tax consequences of having my Company Shares accepted for payment in the Offer or receiving cash in the Merger?

The exchange of Company Shares for cash pursuant to the Offer or the Merger will be a taxable transaction for United States federal income tax purposes. In general, a stockholder who sells Company Shares pursuant to the Offer or receives cash in exchange for Company Shares pursuant to the Merger will recognize gain or loss for United States federal income tax purposes in an amount equal to the difference, if any, between the amount of cash received and the stockholder's adjusted tax basis in the Company Shares sold pursuant to the Offer or exchanged for cash pursuant to the Merger. Gain or loss will be determined separately for each block of Company Shares (that is, Company Shares acquired at the same cost in a single transaction) tendered pursuant to the Offer or exchanged for cash pursuant to the Merger. Such gain or loss will be long-term capital gain or loss; provided, that, a stockholder's holding period for such Company Shares is more than one (1) year at the time of consummation of the Offer or the Merger, as the case may be. See Section 5 — "Certain Material United States Federal Income Tax Consequences."

Stockholders are urged to consult their own tax advisors to determine the particular tax consequences to them (including the application and effect of any state, local or foreign income and other tax laws) of the Offer and the Merger.

Who should I call if I have questions about the Offer?

You may call Georgeson Inc. at (877) 278-4762 (toll-free) or Georgeson Securities Corporation at (800) 445-1790 (toll-free). Georgeson Inc. is acting as the information agent (the "Information Agent") and Georgeson Securities Corporation is acting as the dealer manager (the "Dealer Manager") for the Offer. See the back cover of this Offer to Purchase.

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To the Holders of Company Shares:

INTRODUCTION

APC II Acquisition Corporation, a Delaware corporation ("Purchaser") and a wholly owned subsidiary of Intel Corporation, a Delaware corporation ("Parent" or "Intel"), hereby offers to purchase (the "Offer") all outstanding shares of common stock, par value $0.001 per share (the "Company Shares") including the associated rights to purchase shares of Series A Junior Participating Preferred Stock, par value $0.001 per share (the "Rights," and collectively with the Company Shares, the "Shares"), of Wind River Systems, Inc., a Delaware corporation ("Seller"), at a price of $11.50 per Share, net to the selling stockholder in cash, without interest and less any required withholding taxes (the "Offer Price"), upon the terms and subject to the conditions set forth in this Offer to Purchase and in the related Letter of Transmittal.

The Offer is being made pursuant to the Agreement and Plan of Merger, dated June 4, 2009 (the "Merger Agreement"), by and among Parent, the Purchaser, and Seller. The Offer is conditioned upon, among other things, (i) satisfaction of the Minimum Condition (as defined below) and (ii) any applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") shall not have expired or been terminated prior to the expiration of the Offer or the antitrust and similar regulatory waiting periods, clearances, consents or approvals under the German Act against Restraints of Competition, the Restrictive Trade Practices Laws 5748-1998 of Israel, or any other material consent or approvals of any governmental authority shall not have expired, been obtained or been terminated.

The term "Minimum Condition" is defined in Section 15 — "Conditions of the Offer" and generally requires that there has been validly tendered and not validly withdrawn prior to the expiration date for the Offer (as it may have been extended or re-extended pursuant to the Merger Agreement, the "Expiration Date") that number of Company Shares equal to (i) at least fifty percent (50%) of the then outstanding Company Shares on a "fully diluted basis" (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights), including the Seller's outstanding restricted stock units and performance shares (each a "RSU" and collectively the "RSUs"), in each case, which are convertible or exercisable prior the Outside Date, but excluding the sum of all Company Shares that are subject to the Tender and Support Agreement (as defined below) (the "Subject Shares")), plus (ii) the Subject Shares. The Offer is also subject to other important conditions set forth in this Offer to Purchase. See Section 15 — "Conditions of the Offer."

Seller has represented in the Merger Agreement that as of May 31, 2009, there were issued and outstanding 76,892,405 Company Shares. None of Parent or the Purchaser currently beneficially owns any Company Shares except insofar as the Tender and Support Agreement, as described in the "Tender and Support Agreement" subsection of Section 13 – "Certain Effects of the Offer" of this Offer to Purchase, may be deemed to constitute beneficial ownership of the shares subject to that agreement. Each of Parent and the Purchaser disclaims such beneficial ownership. Based on the foregoing, and assuming that (i) no Company Shares were issued by Seller after May 31, 2009 (including pursuant to stock option exercises or the settlement of any RSUs), and (ii) no extension of the Expiration Date, the Minimum Condition will be satisfied if the Purchaser acquires at least 48,757,989 Company Shares in the Offer. Seller's President and Chief Executive Officer Kenneth Klein and Seller's directors Jerry Fiddler and Narendra Gupta have agreed to tender their Company Shares into the Offer. Collectively, these stockholders own approximately 10.8% of the Company Shares outstanding on the date of the Merger Agreement. See Section 11 — "The Transaction Documents."

Tendering stockholders who are record owners of their Company Shares and tender directly to the Depositary (as defined below) will not be obligated to pay brokerage fees or commissions or, except as otherwise provided in the Letter of Transmittal, stock transfer taxes with respect to the purchase of Company Shares by the Purchaser pursuant to the Offer. Stockholders who hold their Company Shares through a broker, banker or other nominee should consult such institution as to whether it charges any service fees or commissions.

The Board of Directors of Seller (the "Seller Board") has unanimously (i) determined that the Offer is fair to, and in the best interests of, the stockholders of Seller; (ii) approved and declared advisable the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Offer and the merger of Purchaser with and into Seller with the Seller surviving the Merger as a wholly owned subsidiary of Intel (the "Merger"); and (iii) resolved and agreed to recommend that holders of Company Shares tender their Company Shares pursuant to the Offer and, if required by applicable law, approve and adopt the Merger Agreement and approve the Merger.

The Merger Agreement provides that, subject to the conditions described in Section 11 — "The Transaction Documents" and Section 15 — "Conditions of the Offer" of this Offer to Purchase, the Purchaser will be merged with and into Seller with Seller continuing as the surviving corporation as a wholly owned subsidiary of Intel. Pursuant to the Merger Agreement, at the effective time of the Merger (the "Effective Time"), each Share outstanding immediately prior to the Effective Time (other than (i) Company Shares directly owned by Seller and its subsidiaries, Parent or the Purchaser, which will be canceled and shall cease to exist and (ii) Company Shares owned by Seller's stockholders who perfect their dissenter's rights under the Delaware General Corporation Law (the "DGCL"), will be converted into the right to receive $11.50 (or any other per Share price paid in the Offer) net to the selling stockholder in cash, without interest and less any required withholding taxes.

The Merger is subject to the satisfaction or waiver of certain conditions, including the purchase of Shares by the Purchaser pursuant to the Offer, adoption of the Merger Agreement by the affirmative vote of the holders of a majority of the outstanding Company Shares, if such adoption is required under applicable law, and there being no applicable law prohibiting the consummation of the Merger. Under the DGCL, if we acquire, pursuant to the Offer or otherwise, at least 90% of the Company Shares, we believe we would be able to effect the Merger without a vote of Seller's stockholders. If we do not acquire at least 90% of the Company Shares, we will seek approval of the Merger Agreement and the Merger by Seller's stockholders. Seller has agreed, if required by applicable law, to establish a record date for, duly call, give notice of, convene, and hold a meeting of its stockholders to be held as promptly as practicable following the Purchaser's acceptance for payment of Company Shares tendered pursuant to and subject to the conditions of the Offer solely for the purpose of considering and taking action upon the adoption of the Merger Agreement. Parent and Purchaser have agreed to vote their and any of their subsidiaries' Company Shares in favor of the adoption of the Merger Agreement. If the Minimum Condition and the other conditions of the Offer are satisfied and the Offer is completed, Intel and the Purchaser will own that number of Company Shares sufficient to cause the Merger Agreement to be approved and adopted without the affirmative vote of any other holder of Company Shares. See Section 11 — "The Transaction Documents."

Seller has irrevocably granted the Purchaser an option (the "Top-Up Option") to purchase that number of Company Shares (the "Top-Up Option Shares") equal to the lowest number of Company Shares, that when added to the number of Company Shares owned by Intel and Purchaser at the time of exercise, shall constitute one (1) Company Share more than 90% of the Company Shares on a fully diluted basis then outstanding, at a purchase price per Top-Up Option Share equal to the price per share payable pursuant to the Offer.

This Offer to Purchase and the related Letter of Transmittal contain important information that should be read carefully before any decision is made with respect to the Offer.

THE TENDER OFFER

1. **Terms of the Offer.**

Upon the terms and subject to the conditions of the Offer (including, if the Offer is extended or amended, the terms and conditions of any such extension or amendment), the Purchaser will accept for payment and pay for all Company Shares validly tendered prior to the Expiration Date and not validly withdrawn as permitted under Section 4 — "Withdrawal Rights." The term "Expiration Date" means 12:00 midnight, New York City time, on July 9, 2009, unless the Purchaser, in accordance with the Merger Agreement, extends the period during which the Offer is open (in which event the term "Expiration Date" means the latest time and date at which the Offer, as so extended, expires).

The Offer is conditioned upon, among other things, (i) satisfaction of the Minimum Condition (as defined below) and (ii) any applicable waiting period under the HSR Act shall not have expired or been terminated prior to the expiration of the Offer or the antitrust and similar regulatory waiting periods, clearances, consents or approvals under the German Act against Restraints of Competition, the Restrictive Trade Practices Laws 5748-1998 of Israel, or any other material consent or approvals of any governmental authority shall not have expired, been obtained or been terminated. The term "Minimum Condition" is defined in Section 15 — "Conditions of the Offer" and generally requires that there has been validly tendered and not validly withdrawn prior to the Expiration Date for the Offer at least that number of Company Shares equal to (i) fifty percent of the then outstanding Company Shares on a "fully diluted basis" (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights), including Seller's outstanding RSUs, in each case, which are convertible or exercisable prior the Outside Date, but excluding the Subject Shares plus (ii) the Subject Shares.

Seller has represented in the Merger Agreement that as of May 31, 2009, there were issued and outstanding 76,892,405 Company Shares. None of Parent or the Purchaser currently beneficially owns any Company Shares except insofar as the Tender and Support Agreement described in the "Tender and Support Agreement" subsection of Section 11 — "The Transaction Documents" of this Offer to Purchase, may be deemed to constitute beneficial ownership. Each of Parent and the Purchaser disclaims such beneficial ownership. Based on the foregoing, and assuming that (i) no Company Shares were issued by Seller after May 31, 2009 (including pursuant to stock option exercises or the settlement of any RSUs), and (ii) no extension of the Expiration Date, the Minimum Condition will be satisfied if the Purchaser acquires at least 48,757,989 Company Shares in the Offer. Seller's President and Chief Executive Officer Kenneth Klein and Seller's directors Jerry Fiddler and Narendra Gupta have agreed to tender their Company Shares into the Offer. Collectively, these stockholders own approximately 10.8% of the Company Shares outstanding on the date of the Merger Agreement.

The Offer is also subject to other important conditions set forth in this Offer to Purchase. See Section 15 — "Conditions of the Offer."

The Offer shall remain open until 12:00 midnight, New York City time, at the end of the twentieth (20th) business day beginning with (and including) the date that the Offer is commenced (the "Expiration Date"), unless the period of time for which the Offer is open shall have been extended pursuant to, and in accordance with, the provisions of the Merger Agreement (in which event the term "Expiration Date" shall mean the latest time and date as the Offer, as so extended, expires).

Purchaser may (but is not required to) extend the Offer on one or more occasions, if on any then scheduled expiration date of the Offer any of the conditions to Purchaser's obligation to accept for payment and pay for the Company Shares validly tendered in the Offer as set forth in Section 15 — "Conditions of the Offer" (the "Offer Conditions") are not satisfied or waived for such period of time as Purchaser reasonably determines to be necessary to permit such Offer Conditions to be satisfied or waived.

Purchaser is required to extend the Offer:

- for any period required by any rule, regulation, interpretation or position of the SEC or the staff thereof applicable to the Offer;
- for two (2) consecutive ten (10) business day periods beyond the original expiration date of the Offer if, at the time of such scheduled expiration, all of the Offer Conditions, other than the Minimum Condition, are satisfied;
- for up to ten (10) business days from the date of notice to Seller regarding inaccuracies in Seller's representations or breach of Seller's covenants in the Merger Agreement to the extent necessary to provide Seller a ten (10) business day period to attempt to cure such inaccuracies or breaches if they are reasonably curable; provided, that, we are only required to extend the Offer one (1) time for such a cure period; or
- (A) for such period of time as is necessary to obtain required governmental approvals with respect to the Offer and the Merger, if all of the Offer Conditions, other than the Minimum Condition and the receipt of such governmental approvals, are satisfied and (B) for one ten (10) business day period after receipt of all required governmental approvals with respect to the Offer and the Merger, if all other Offer Conditions, other than the Minimum Condition, are satisfied.

In no event will these extension provisions extend the Offer beyond the "Outside Date" (which is defined in the Merger Agreement as October 31, 2009; provided, however, that the "Outside Date" is subject to extension until January 29, 2010 under certain circumstances described in the Merger Agreement).

Any extension of the Offer will be followed as promptly as practicable by a public announcement, if required. Such announcement will be made no later than 9:00 a.m., New York City time, on the next business day after the previously scheduled Expiration Date, in accordance with the public announcement requirements of Rule 14e-1(d) under the Exchange Act. During any such extension, all Company Shares previously tendered and not validly withdrawn will remain subject to the Offer, subject to the rights of a tendering stockholder to withdraw such stockholder's Company Shares except during a "Subsequent Offering Period" (as provided in Rule 14d-11 under the Exchange Act). Company Shares tendered pursuant to the Offer may be withdrawn at any time prior to the Expiration Date, and, unless previously accepted for payment by the Purchaser pursuant to the Offer, may also be withdrawn at any time after August 10, 2009. If the initial offering period has expired and the Purchaser elects to provide for a Subsequent Offering Period, Company Shares tendered during a Subsequent Offering Period may not be withdrawn. For a withdrawal to be effective, a written, telegraphic or facsimile transmission notice of withdrawal must be timely received by the Depositary at one of its addresses set forth on the back cover of this Offer to Purchase. Any such notice of withdrawal must specify the name of the person who tendered the Company Shares to be withdrawn, the number of Company Shares to be withdrawn and the name of the registered holder of such Company Shares, if different from that of the person who tendered such Company Shares. If Share Certificates (as defined below) evidencing Company Shares to be withdrawn have been delivered or otherwise identified to the Depositary, then, prior to the physical release of such Share Certificates, the serial numbers shown on such Share Certificates must be submitted to the Depositary and the signature(s) on the notice of withdrawal must be guaranteed by an Eligible Institution (as defined in Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares" below), unless such Company Shares have been tendered for the account of an Eligible Institution. If Company Shares have been tendered pursuant to the procedure for book-entry transfer as set forth in Section 2 — "Acceptance for Payment and Payment for Company Shares" below, any notice of withdrawal must also specify the name and number of the account at the Book-Entry Transfer Facility (as defined below) to be credited with the withdrawn Company Shares. All questions as to validity, form, eligibility (including time of receipt), and acceptance for payment of any tendered Company Shares will be determined by the Purchaser, in its sole discretion, which determination shall be final and binding on all parties.

Purchaser expressly reserves the right (but shall not be obligated) at any time or from time to time, in its sole discretion, to amend or waive any condition applicable to the Offer (other than the Minimum Condition

which may not be amended or waived), to increase the price per Share payable in the Offer, and to make any other changes in the terms and conditions of the Offer; provided, that, without the prior written consent of Seller no change may be made that decreases the price per Share payable in the Offer, changes the form of consideration payable in the Offer, reduces the maximum number of Shares sought to be purchased in the Offer, adds to the conditions to the Offer set forth in Section 15 — "Conditions of the Offer," extends the Offer other than as described below, or modifies or amends any condition to the Offer in any manner adverse to the holders of Shares.

The rights reserved by the Purchaser by the preceding paragraph are in addition to the Purchaser's rights pursuant to Section 15 — "Conditions of the Offer." Any extension, delay, termination, waiver or amendment will be followed as promptly as practicable by public announcement if required. Such announcement, in the case of an extension, will be made no later than 9:00 a.m., New York City time, on the next business day after the previously scheduled Expiration Date, in accordance with the public announcement requirements of Rule 14e-1(d) under the Exchange Act. Subject to applicable law (including Rules 14d-4(d) and 14d-6(c) under the Exchange Act, which require that material changes be promptly disseminated to stockholders in a manner reasonably designed to inform them of such changes), and without limiting the manner in which the Purchaser may choose to make any public announcement, the Purchaser shall have no obligation to publish, advertise or otherwise communicate any such public announcement other than by issuing a press release to a national news service.

If the Purchaser extends the Offer, is delayed in its acceptance for payment of Company Shares or is unable to accept Company Shares for payment pursuant to the Offer for any reason, then, without prejudice to the Purchaser's rights under the Offer, the Depositary may, nevertheless, on behalf of the Purchaser, retain tendered Company Shares, and such Company Shares may not be withdrawn except to the extent that tendering stockholders are entitled to withdrawal rights as described herein under Section 4 — "Withdrawal Rights." However, the ability of the Purchaser to delay the payment for Company Shares that the Purchaser has accepted for payment is limited by Rule 14e-1(c) under the Exchange Act, which requires that a bidder pay the consideration offered or return the securities deposited by or on behalf of stockholders promptly after the termination or withdrawal of such bidder's offer.

If, subject to the terms of the Merger Agreement, the Purchaser makes a material change in the terms of the Offer or the information concerning the Offer, or if it waives a material condition of the Offer, the Purchaser will disseminate additional tender offer materials and extend the Offer if and to the extent required by Rules 14d-4(d), 14d-6(c) and 14e-1 under the Exchange Act. The minimum period during which an offer must remain open following material changes in the terms of such offer or the information concerning such offer, other than a change in the consideration offered, a change in the percentage of securities sought or inclusion of or changes to a dealer's soliciting fee, will depend upon the facts and circumstances, including the relative materiality of the changes to the terms or information. With respect to a change in the consideration offered, a change in the percentage of securities sought or inclusion of or changes to a dealer's soliciting fee, an offer generally must remain open for a minimum of ten business days following the dissemination of such information to stockholders.

Seller has provided the Purchaser with Seller's stockholder list and security position listings for the purpose of disseminating the Offer to holders of Company Shares. This Offer to Purchase and the related Letter of Transmittal, together with the Schedule 14D-9, will be mailed to record holders of Company Shares whose names appear on Seller's stockholder list and will be furnished, for subsequent transmittal to beneficial owners of Company Shares, to banks, brokers, dealers, and other nominees whose names, or the names of whose nominees, appear on the stockholder list or, if applicable, who are listed as participants in a clearing agency's security position listing.

2. Acceptance for Payment and Payment for Company Shares.

Upon the terms and subject to the conditions of the Offer (including, if the Offer is extended or amended, the terms and conditions of any such extension or amendment) and the satisfaction or waiver of all the conditions

to the Offer set forth in Section 15 — "Conditions of the Offer," the Purchaser will accept for payment, and pay for, all Company Shares validly tendered prior to the Expiration Date and not validly withdrawn prior to the Expiration Date. Subject to the terms of the Merger Agreement and compliance with Rule 14e-1(c) under the Exchange Act, the Purchaser expressly reserves the right to delay payment for Company Shares in order to comply in whole or in part with any applicable law, including, without limitation, the HSR Act and any applicable pre-merger notification laws or regulations of foreign jurisdictions. See Section 16 — "Certain Legal Matters; Regulatory Approvals." If the Purchaser decides to provide for a Subsequent Offering Period, the Purchaser will accept for payment, and pay for, all validly tendered Company Shares as they are received during a Subsequent Offering Period. See Section 1 — "Terms of the Offer."

In all cases (including during any Subsequent Offering Period), payment for Company Shares accepted for payment pursuant to the Offer will be made only after timely receipt by the Depositary of (i) the certificates evidencing such Company Shares (the "Share Certificates") or confirmation of a book-entry transfer of such Company Shares (a "Book-Entry Confirmation") into the Depositary's account at Computershare Trust Company, N.A. (the "Book-Entry Transfer Facility") pursuant to the procedures set forth in Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares," (ii) the Letter of Transmittal (or a manually signed facsimile thereof), properly completed and duly executed, with any required signature guarantees or, in the case of a book-entry transfer, an Agent's Message (as defined below) in lieu of the Letter of Transmittal and (iii) any other documents required by the Letter of Transmittal. Accordingly, tendering stockholders may be paid at different times depending upon when the foregoing documents with respect to Company Shares are actually received by the Depositary.

The term "Agent's Message" means a message, transmitted by the Book-Entry Transfer Facility to and received by the Depositary and forming a part of a Book-Entry Confirmation, that states that the Book-Entry Transfer Facility has received an express acknowledgment from the participant in the Book-Entry Transfer Facility tendering the Company Shares that are the subject of such Book-Entry Confirmation, that such participant has received and agrees to be bound by the terms of the Letter of Transmittal and that the Purchaser may enforce such agreement against such participant.

For purposes of the Offer (including during any Subsequent Offering Period), the Purchaser will be deemed to have accepted for payment, and thereby purchased, Company Shares validly tendered and not validly withdrawn as, if, and when the Purchaser gives oral or written notice to the Depositary of the Purchaser's acceptance for payment of such Company Shares pursuant to the Offer. Upon the terms and subject to the conditions of the Offer, payment for Company Shares accepted for payment pursuant to the Offer will be made by deposit of the Offer Price for such Company Shares with the Depositary, which will act as agent for tendering stockholders for the purpose of receiving payments from the Purchaser and transmitting such payments to tendering stockholders whose Company Shares have been accepted for payment. If the Purchaser extends the Offer, is delayed in its acceptance for payment of Company Shares or is unable to accept Company Shares for payment pursuant to the Offer for any reason, then, without prejudice to the Purchaser's rights under the Offer, the Depositary may, nevertheless, on behalf of the Purchaser, retain tendered Company Shares, and such Company Shares may not be withdrawn except to the extent that tendering stockholders are entitled to withdrawal rights as described in Section 4 — "Withdrawal Rights" and as otherwise required by Rule 14e-1(c) under the Exchange Act.

If any tendered Company Shares are not accepted for payment for any reason pursuant to the terms and conditions of the Offer, or if Share Certificates are submitted evidencing more Company Shares than are tendered, Share Certificates evidencing unpurchased Company Shares will be returned, without expense to the tendering stockholder (or, in the case of Company Shares tendered by book-entry transfer into the Depositary's account at the Book-Entry Transfer Facility pursuant to the procedure set forth in Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares," such Company Shares will be credited to an account maintained at the Book-Entry Transfer Facility), as promptly as practicable following the expiration or termination of the Offer.

3. **Procedures for Accepting the Offer and Tendering Company Shares.**

Valid Tenders. In order for a stockholder to validly tender Company Shares pursuant to the Offer, either (i) the Letter of Transmittal (or a manually signed facsimile thereof), properly completed and duly executed, together with any required signature guarantees (or, in the case of a book-entry transfer, an Agent's Message in lieu of the Letter of Transmittal) and any other documents required by the Letter of Transmittal must be received by the Depositary at one of its addresses set forth on the back cover of this Offer to Purchase and either (A) the Share Certificates evidencing tendered Company Shares must be received by the Depositary at such address or (B) such Company Shares must be tendered pursuant to the procedure for book-entry transfer described below and a Book-Entry Confirmation must be received by the Depositary, in each case prior to the Expiration Date (except with respect to any Subsequent Offering Period, if one is provided), or (ii) the tendering stockholder must comply with the guaranteed delivery procedures described below under "Guaranteed Delivery."

Book-Entry Transfer. The Depositary will establish an account with respect to the Company Shares at the Book-Entry Transfer Facility for purposes of the Offer within two (2) business days after the date of this Offer to Purchase. Any financial institution that is a participant in the system of the Book-Entry Transfer Facility may make a book-entry delivery of Company Shares by causing the Book-Entry Transfer Facility to transfer such Company Shares into the Depositary's account at the Book-Entry Transfer Facility in accordance with the Book-Entry Transfer Facility's procedures for such transfer. However, although delivery of Company Shares may be effected through book-entry transfer at the Book-Entry Transfer Facility, either the Letter of Transmittal (or a manually signed facsimile thereof), properly completed and duly executed, together with any required signature guarantees, or an Agent's Message in lieu of the Letter of Transmittal, and any other required documents, must, in any case, be received by the Depositary at one of its addresses set forth on the back cover of this Offer to Purchase prior to the Expiration Date (except with respect to any Subsequent Offering Period, if one is provided), or the tendering stockholder must comply with the guaranteed delivery procedure described below. Delivery of documents to the Book-Entry Transfer Facility does not constitute delivery to the Depositary.

By tendering Company Shares in accordance with these procedures, a tendering stockholder will also tender the Rights associated with the Company Shares without any further action on the part of the tendering stockholder. If the Rights were distributed to Seller's stockholders as a result of a triggering event, a tender of Company Shares would need to be accompanied by a simultaneous tender of the Rights. Seller had advised us that it has taken the action necessary to ensure that the Offer and the Merger do not constitute a triggering event.

For Company Shares to be validly tendered during any Subsequent Offering Period, the tendering stockholder must comply with the foregoing procedures, except that required documents and certificates must be received during such Subsequent Offering Period.

Signature Guarantees. No signature guarantee is required on the Letter of Transmittal (i) if the Letter of Transmittal is signed by the registered holder(s) (which term, for purposes of this Section 3 – "Procedures for Accepting the Offer and Tendering Company Shares," includes any participant in the Book-Entry Transfer Facility's systems whose name appears on a security position listing as the owner of the Company Shares) of the Company Shares tendered therewith, unless such holder has completed either the box entitled "Special Delivery Instructions" or the box entitled "Special Payment Instructions" on the Letter of Transmittal or (ii) if the Company Shares are tendered for the account of a financial institution (including most commercial banks, savings and loan associations, and brokerage houses) that is a participant in the Securities Transfer Agents Medallion Program, or any other "eligible guarantor institution," as such term is defined in Rule 17Ad-15 of the Exchange Act (each an "Eligible Institution" and collectively "Eligible Institutions"). In all other cases, all signatures on a Letter of Transmittal must be guaranteed by an Eligible Institution. See Instruction 1 of the Letter of Transmittal. If a Share Certificate is registered in the name of a person or persons other than the signer of the Letter of Transmittal, or if payment is to be made or delivered to, or a Share Certificate not accepted for payment or not tendered is to be issued in, the name(s) of a person other than the registered holder(s), then the Share Certificate must be endorsed or accompanied by appropriate duly executed stock powers, in either case signed

exactly as the name(s) of the registered holder(s) appear on the Share Certificate, with the signature(s) on such Share Certificate or stock powers guaranteed by an Eligible Institution as provided in the Letter of Transmittal. See Instructions 1 and 5 of the Letter of Transmittal.

Guaranteed Delivery. If a stockholder desires to tender Company Shares pursuant to the Offer and the Share Certificates evidencing such stockholder's Company Shares are not immediately available or such stockholder cannot deliver the Share Certificates and all other required documents to the Depositary prior to the Expiration Date, or such stockholder cannot complete the procedure for delivery by book-entry transfer on a timely basis, such Company Shares may nevertheless be tendered; provided, that, all of the following conditions are satisfied:

- such tender is made by or through an Eligible Institution;
- a properly completed and duly executed Notice of Guaranteed Delivery, substantially in the form made available by the Purchaser, is received prior to the Expiration Date by the Depositary as provided below; and
- the Share Certificates (or a Book-Entry Confirmation) evidencing all tendered Company Shares, in proper form for transfer, in each case together with the Letter of Transmittal (or a manually signed facsimile thereof), properly completed and duly executed, with any required signature guarantees (or, in the case of a book-entry transfer, an Agent's Message), and any other documents required by the Letter of Transmittal are received by the Depositary within three (3) NASDAQ trading days after the date of execution of such Notice of Guaranteed Delivery.

The Notice of Guaranteed Delivery may be transmitted by manually signed facsimile transmission or mailed to the Depositary and must include a guarantee by an Eligible Institution in the form set forth in the form of Notice of Guaranteed Delivery made available by the Purchaser.

Notwithstanding any other provision of this Offer, payment for Company Shares accepted pursuant to the Offer will in all cases only be made after timely receipt by the Depositary of (i) Share Certificates or a Book-Entry Confirmation of a book-entry transfer of such Company Shares into the Depositary's account at the Book-Entry Transfer Facility pursuant to the procedures set forth in this Section 3 – "Procedures for Accepting the Offer and Tendering Company Shares," (ii) the Letter of Transmittal (or a manually signed facsimile thereof), properly completed and duly executed, with any required signature guarantees or, in the case of a book-entry transfer, an Agent's Message in lieu of the Letter of Transmittal and (iii) any other documents required by the Letter of Transmittal. Accordingly, tendering stockholders may be paid at different times depending upon when the foregoing documents with respect to Company Shares are actually received by the Depositary.

The method of delivery of Share Certificates, the Letter of Transmittal and all other required documents, including delivery through the Book-Entry Transfer Facility, is at the option and risk of the tendering stockholder, and the delivery will be deemed made only when actually received by the Depositary (including, in the case of a book-entry transfer, receipt of a Book-Entry Confirmation). If delivery is by mail, registered mail with return receipt requested, properly insured, is recommended. In all cases, sufficient time should be allowed to ensure timely delivery.

The tender of Company Shares pursuant to any one of the procedures described above will constitute the tendering stockholder's acceptance of the Offer, as well as the tendering stockholder's representation and warranty that such stockholder has the full power and authority to tender and assign the Company Shares tendered, as specified in the Letter of Transmittal. The Purchaser's acceptance for payment of Company Shares tendered pursuant to the Offer will constitute a binding agreement between the tendering stockholder and the Purchaser upon the terms and subject to the conditions of the Offer.

Options and RSUs. The Offer is made only for Company Shares and is not made for any stock options (the "Options") or any RSUs issued pursuant to any of Seller's equity compensation plans, as amended, which includes a certain non-plan stock option dated March 21, 2007 granted to Ian Halifax (the "Company Stock

Option Plans"). Holders of vested but unexercised Options may participate in the Offer only if they first exercise their Options in accordance with the terms of the applicable option plan and tender Shares, if any, issued upon such exercise. Holders of RSUs may participate in the Offer only if they tender Company Shares received upon vesting and settlement of RSUs, if any, in accordance with the terms of the applicable equity compensation plan of Seller. Any such exercise or settlement should be completed sufficiently in advance of the Expiration Date to assure the holder of such Options or RSU that the holder will have sufficient time to comply with the procedures of the tendering Shares described in this Section.

Determination of Validity. All questions as to the validity, form, eligibility (including time of receipt), and acceptance for payment of any tender of Company Shares will be determined by the Purchaser, in its sole discretion, which determination shall be final and binding on all parties. The Purchaser reserves the absolute right to reject any and all tenders determined by it not to be in proper form or the acceptance for payment of which may, in the opinion of the Purchaser, be unlawful. The Purchaser also reserves the absolute right to waive any defect or irregularity in the tender of any Company Shares of any particular stockholder, whether or not similar defects or irregularities are waived in the case of other stockholders. No tender of Company Shares will be deemed to have been validly made until all defects and irregularities have been cured or waived to the satisfaction of the Purchaser. None of the Purchaser, the Depositary, the Dealer Manager, the Information Agent, or any other person will be under any duty to give notification of any defects or irregularities in tenders or incur any liability for failure to give any such notification. The Purchaser's interpretation of the terms and conditions of the Offer (including the Letter of Transmittal and the instructions thereto) will be final and binding.

Appointment. By executing the Letter of Transmittal, the tendering stockholder will irrevocably appoint designees of the Purchaser as such stockholder's proxies in the manner set forth in the Letter of Transmittal, each with full power of substitution, to the full extent of such stockholder's rights with respect to the Company Shares tendered by such stockholder and accepted for payment by the Purchaser and with respect to any and all other Company Shares or other securities or rights issued or issuable in respect of such Company Shares. All such powers of attorney and proxies will be considered irrevocable and coupled with an interest in the tendered Company Shares. Such appointment will be effective when, and only to the extent that, the Purchaser accepts for payment Company Shares tendered by such stockholder as provided herein. Upon such appointment, all prior powers of attorney, proxies and consents given by such stockholder with respect to such Company Shares or other securities or rights will, without further action, be revoked and no subsequent powers of attorney, proxies, consents or revocations may be given by such stockholder (and, if given, will not be deemed effective). The designees of the Purchaser will thereby be empowered to exercise all voting and other rights with respect to such Company Shares and other securities or rights, including, without limitation, in respect of any annual, special or adjourned meeting of Seller's stockholders, actions by written consent in lieu of any such meeting or otherwise, as they in their sole discretion deem proper. The Purchaser reserves the right to require that, in order for Company Shares to be deemed validly tendered, immediately upon the Purchaser's acceptance for payment of such Company Shares, the Purchaser must be able to exercise full voting, consent, and other rights with respect to such Company Shares and other related securities or rights, including voting at any meeting of stockholders.

4. **Withdrawal Rights.**

Except as otherwise described in this Section 4, tenders of Company Shares made pursuant to the Offer are irrevocable. Company Shares tendered pursuant to the Offer may be withdrawn at any time prior to the Expiration Date and, unless theretofore accepted for payment by the Purchaser pursuant to the Offer, may also be withdrawn at any time after August 10, 2009 in accordance with Section 14(d)(5) of the Exchange Act.

For a withdrawal to be effective, a written, telegraphic or facsimile transmission notice of withdrawal must be timely received by the Depositary at one of its addresses set forth on the back cover page of this Offer to Purchase. Any such notice of withdrawal must specify the name of the person who tendered the Company Shares to be withdrawn, the number of Company Shares to be withdrawn and the name of the registered holder of such Company Shares, if different from that of the person who tendered such Company Shares. If Share Certificates

evidencing Company Shares to be withdrawn have been delivered or otherwise identified to the Depositary, then, prior to the physical release of such Share Certificates, the serial numbers shown on such Share Certificates must be submitted to the Depositary and the signature(s) on the notice of withdrawal must be guaranteed by an Eligible Institution, unless such Company Shares have been tendered for the account of an Eligible Institution. If Company Shares have been tendered pursuant to the procedure for book-entry transfer as set forth in Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares," any notice of withdrawal must also specify the name and number of the account at the Book-Entry Transfer Facility to be credited with the withdrawn Company Shares.

If the Purchaser extends the Offer, is delayed in its acceptance for payment of Company Shares, or is unable to accept Company Shares for payment pursuant to the Offer for any reason, then, without prejudice to the Purchaser's rights under the Offer, the Depositary may, nevertheless, on behalf of the Purchaser, retain tendered Company Shares, and such Company Shares may not be withdrawn except to the extent that tendering stockholders are entitled to withdrawal rights as described herein.

Withdrawals of Company Shares may not be rescinded. Any Company Shares validly withdrawn will thereafter be deemed not to have been validly tendered for purposes of the Offer. However, withdrawn Company Shares may be re-tendered by again following one of the procedures described in Section 3 — "Procedures for Accepting the Offer and Tendering Company Shares" at any time prior to the Expiration Date or during a Subsequent Offering Period, if any.

No withdrawal rights will apply to Company Shares tendered into a Subsequent Offering Period and no withdrawal rights apply during a Subsequent Offering Period with respect to Company Shares tendered in the Offer and accepted for payment. See Section 1 — "Terms of the Offer."

All questions as to the form and validity (including time of receipt) of any notice of withdrawal will be determined by the Purchaser, in its sole discretion, whose determination will be final and binding. None of the Purchaser, the Depositary, the Dealer Manager, the Information Agent, or any other person will be under any duty to give notification of any defects or irregularities in any notice of withdrawal or incur any liability for failure to give any such notification.

5. Certain Material United States Federal Income Tax Consequences.

The following is a summary of certain material United States federal income tax consequences of the Offer and the Merger to stockholders of Seller whose Company Shares are tendered and accepted for payment pursuant to the Offer or whose Company Shares are converted into the right to receive cash in the Merger. This discussion is not a complete analysis of all potential United States federal income tax consequences, nor does it address any tax consequences arising under any state, local or foreign tax laws or United States federal estate or gift tax laws. The discussion is based on current provisions of the Internal Revenue Code of 1986, as amended (the "Code"), existing, proposed and temporary regulations thereunder and administrative and judicial interpretations thereof, all of which are subject to change, possibly with a retroactive effect. No ruling has been or will be sought from the Internal Revenue Service (the "IRS") with respect to the matters discussed below, and there can be no assurance that the IRS will not take a contrary position regarding the tax consequences of the Offer and the Merger or that any such contrary position would not be sustained by a court.

The discussion applies only to stockholders of Seller in whose hands Company Shares are capital assets within the meaning of Section 1221 of the Code. This discussion does not apply to Company Shares received pursuant to the exercise of employee stock options or otherwise as compensation, or to certain types of stockholders (such as insurance companies, tax-exempt organizations, tax-qualified retirement plans, financial institutions and broker-dealers) who may be subject to special rules. This discussion does not discuss the United States federal income tax consequences to stockholders that are nonresident alien individuals, expatriates and certain former citizens and long-term residents of the United States, foreign corporations, foreign partnerships or

foreign estates or trusts, nor does it consider the effect of any foreign, state or local tax laws. If a partnership holds the Company Shares, the tax treatment of a partner generally will depend on the status of the partner and on the activities of the partnership. Partners of partnerships holding Company Shares should consult their tax advisors regarding the tax consequences of the Offer and the Merger.

BECAUSE INDIVIDUAL CIRCUMSTANCES MAY DIFFER, EACH STOCKHOLDER SHOULD CONSULT ITS, HIS OR HER OWN TAX ADVISOR TO DETERMINE THE APPLICABILITY OF THE RULES DISCUSSED BELOW AND THE PARTICULAR TAX EFFECTS OF THE OFFER AND THE MERGER ON A BENEFICIAL HOLDER OF SHARES, INCLUDING THE APPLICATION AND EFFECT OF THE ALTERNATIVE MINIMUM TAX AND ANY STATE, LOCAL, AND FOREIGN TAX LAWS AND OF CHANGES IN SUCH LAWS.

Effect of the Offer and the Merger. The exchange of Company Shares for cash pursuant to the Offer or the Merger will be a taxable transaction for United States federal income tax purposes. In general, a stockholder who sells Company Shares pursuant to the Offer or receives cash in exchange for Company Shares pursuant to the Merger will recognize gain or loss for United States federal income tax purposes in an amount equal to the difference, if any, between the amount of cash received and the stockholder's adjusted tax basis in the Company Shares sold pursuant to the Offer or exchanged for cash pursuant to the Merger. Gain or loss will be determined separately for each block of Company Shares (that is, Company Shares acquired at the same cost in a single transaction) tendered pursuant to the Offer or exchanged for cash pursuant to the Merger. Such gain or loss will be long-term capital gain or loss; provided, that, a stockholder's holding period for such Company Shares is more than one (1) year at the time of consummation of the Offer or the Merger, as the case may be. Capital gains recognized by an individual upon a disposition of a Share that has been held for more than one (1) year generally will be subject to a maximum United States federal income tax rate of 15%. In the case of a Share that has been held for one (1) year or less, such capital gains generally will be subject to tax at ordinary income tax rates. Certain limitations apply to the use of a stockholder's capital losses.

Information Reporting and Backup Withholding. Under the "backup withholding" provisions of United States federal income tax law, the Depositary may be required to withhold and pay over to the IRS a portion of the amount of any payments pursuant to the Offer. In order to prevent backup federal income tax withholding with respect to payments to certain stockholders of the Offer Price for Company Shares purchased pursuant to the Offer, each such stockholder must provide the Depositary with such stockholder's correct taxpayer identification number ("TIN") and certify that such stockholder is not subject to backup withholding by completing the Substitute Form W-9 in the Letter of Transmittal. Certain stockholders (including, among others, all corporations and certain foreign individuals and entities) may not be subject to backup withholding. If a stockholder does not provide its correct TIN or fails to provide the certifications described above, the IRS may impose a penalty on the stockholder and payment to the stockholder pursuant to the Offer may be subject to backup withholding. All stockholders surrendering Company Shares pursuant to the Offer who are U.S. persons (as defined for U.S. federal income tax purposes) should complete and sign the Substitute Form W-9 included in the Letter of Transmittal to provide the information necessary to avoid backup withholding. Foreign stockholders should complete and sign the appropriate Form W-8 (a copy of which may be obtained from the Depositary) in order to avoid backup withholding. Such stockholders should consult a tax advisor to determine which Form W-8 is appropriate. See Instruction 8 of the Letter of Transmittal. Generally, these information reporting and backup withholding rules will also apply to exchanges of Company Shares for cash pursuant to the Merger.

6. **Price Range of Company Shares; Dividends.**

The Company Shares trade on the Nasdaq Global Select Market ("NASDAQ") under the symbol "WIND." The following table sets forth the high and low sale prices per Share for the periods indicated. Share prices are as reported on the NASDAQ based on published financial sources.

	High	Low
Fiscal Year Ended January 31, 2008		
First Quarter ended April 30, 2007	$11.28	$9.35
Second Quarter ended July 31, 2007	$11.40	$9.51
Third Quarter ended October 31, 2007	$12.65	$8.71
Fourth Quarter ended January 31, 2008	$13.42	$7.88
Fiscal Year Ending January 31, 2009		
First Quarter ended April 30, 2008	$ 8.92	$6.07
Second Quarter ended July 31, 2008	$12.16	$7.92
Third Quarter ended October 31, 2008	$12.99	$7.01
Fourth Quarter ended January 31, 2009	$ 9.41	$6.36
Fiscal Year Ending January 31, 2010		
First Quarter ended April 30, 2009	$ 8.39	$5.61

On June 3, 2009, the last full day of trading before the public announcement of the Offer, the closing price of the Company Shares on the NASDAQ was $8.00 per Share. On June 10, 2009, the last full day of trading before the commencement of the Offer, the closing price of the Company Shares on the NASDAQ was $11.50 per Share.

Seller has never paid a cash dividend on the Company Shares. If we acquire control of Seller, we currently intend that no dividends will be declared on the Company Shares.

Stockholders are urged to obtain a current market quotation for the Company Shares.

7. **Certain Information Concerning Seller.**

General. Seller is a Delaware corporation, incorporated in the state of California in February 1983 and reincorporated in the state of Delaware in April 1993, with its principal executive offices located at 500 Wind River Way, Alameda, California 94501. The telephone number of Seller is (510) 748-4100. The following description of Seller and its business is qualified in its entirety by reference to Seller's Annual Report on Form 10-K, as amended, for the fiscal year ended January 31, 2009. Seller develops, markets and sells operating systems, middleware and software development tools that allow its customers to develop, run, and manage their device products faster, better, at lower cost and more reliably. Seller offers its customers a choice of real-time, proprietary operating systems and open-source, commercial-grade Linux operating systems. Seller also offers Eclipse-based Workbench software development suites that allow its customers to manage the design, development, debugging and testing of their device software systems, as well as device test solutions that allow its customers to test, diagnose and resolve defects in device software. Seller's business is diversified by geography and vertical market segments. Seller has a global sales presence with operations in four (4) regional groups—North America, EMEA (comprising Europe, the Middle East and Africa), Japan and the Asia Pacific region. Seller categorizes its customer base by vertical market segments —Aerospace and Defense; Consumer including Mobile; Industrial and Automotive including Medical; and Networking Equipment.

Available Information. The Company Shares are registered under the Exchange Act. Accordingly, Seller is subject to the information reporting requirements of the Exchange Act and, in accordance therewith, is required to file periodic reports, proxy statements and other information with the SEC relating to its business, financial

condition and other matters. Such reports, proxy statements and other information can be inspected and copied at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549-0213. Information regarding the public reference facilities may be obtained from the SEC by telephoning 1-800-SEC-0330. Seller's filings are also available to the public on the SEC's internet site (http://www.sec.gov). Copies of such materials may also be obtained by mail from the Public Reference Section of the SEC at 100 F Street, N.E., Washington, D.C. 20549-0213 at prescribed rates.

Although the Purchaser has no knowledge that any such information is untrue, the Purchaser takes no responsibility for the accuracy or completeness of information contained in this Offer to Purchase with respect to Seller or any of its subsidiaries or affiliates or for any failure by Seller to disclose any events which may have occurred or may affect the significance or accuracy of any such information.

8. **Certain Information Concerning Parent and the Purchaser.**

General. Intel is a Delaware corporation, incorporated in the state of California in 1968 and reincorporated in Delaware in 1989, with its principal executive offices located at 2200 Mission College Boulevard, Santa Clara, California 95054-1549. The telephone number of Intel is (408) 765-8080. The following description of Intel and its business is qualified in its entirety by reference to Intel's Annual Report on Form 10-K for the fiscal year ended December 27, 2008. Intel is the world's largest semiconductor chip maker, based on revenue. Intel develops advanced integrated digital technology products, primarily integrated circuits, for industries such as computing and communications. Integrated circuits are semiconductor chips etched with interconnected electronic switches. Intel also develops platforms, which Intel defines as integrated suites of digital computing technologies that are designed and configured to work together to provide an optimized user computing solution compared to components that are used separately.

The Purchaser is a Delaware corporation with its principal offices located at 2200 Mission College Boulevard, Santa Clara, California 95054-1549. The telephone number of Purchaser is (408) 765-8080. The Purchaser is a wholly owned subsidiary of Intel. The Purchaser was formed solely for the purpose of engaging in the Offer, the Merger and the other transactions contemplated by the Merger Agreement and has not engaged, and does not expect to engage, in any other business activities.

The name, citizenship, business address, business phone number, present principal occupation or employment and past material occupation, positions, offices or employment for at least the last five (5) years for each director of Intel and the Purchaser and the name, citizenship, business address, business phone number, present principal occupation or employment and past material occupation, positions, offices or employment for at least the past five (5) years of each of the executive officers of Intel and the Purchaser and certain other information are set forth in Schedule I hereto.

Except as described in this Offer to Purchase and in Schedule I hereto, (i) none of Parent, the Purchaser or, to the best knowledge of Parent and the Purchaser, any of the persons listed in Schedule I to this Offer to Purchase or any associate or majority-owned subsidiary of Parent or the Purchaser or any of the persons so listed beneficially owns or has any right to acquire, directly or indirectly, any Company Shares and (ii) none of Parent, the Purchaser or, to the best knowledge of Parent and the Purchaser, any of the persons or entities referred to above nor any director, executive officer or subsidiary of any of the foregoing has effected any transaction in the Company Shares during the past sixty (60) days.

Except as provided in the Merger Agreement or as otherwise described in this Offer to Purchase, none of Parent, the Purchaser or, to the best knowledge of Parent and the Purchaser, any of the persons listed in Schedule I to this Offer to Purchase, has any contract, arrangement, understanding or relationship with any other person with respect to any securities of Seller, including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or voting of such securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss, guarantees of profits, division of profits or loss, or the giving or withholding of proxies.

Except as set forth in this Offer to Purchase, none of Parent, the Purchaser, or, to the best knowledge of Parent and the Purchaser, any of the persons listed on Schedule I hereto, has had any business relationship or transaction with Seller or any of its executive officers, directors or affiliates that is required to be reported under the rules and regulations of the SEC applicable to the Offer. Except as set forth in this Offer to Purchase, there have been no contacts, negotiations or transactions between Parent or any of its subsidiaries or, to the best knowledge of Parent, any of the persons listed in Schedule I to this Offer to Purchase, on the one hand, and Seller or its affiliates, on the other hand, concerning a merger, consolidation or acquisition, tender offer or other acquisition of securities, an election of directors or a sale or other transfer of a material amount of assets during the past two (2) years. None of the persons listed in Schedule I has, during the past five (5) years, been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors). None of the persons listed in Schedule I has, during the past five (5) years, been a party to any judicial or administrative proceeding (except for matters that were dismissed without sanction or settlement) that resulted in a judgment, decree or final order enjoining the person from future violations of, or prohibiting activities subject to, federal or state securities laws, or a finding of any violation of federal or state securities laws.

Available Information. Pursuant to Rule 14d-3 under the Exchange Act, Intel and the Purchaser filed with the SEC a Tender Offer Statement on Schedule TO (the "Schedule TO"), of which this Offer to Purchase forms a part, and exhibits to the Schedule TO. Additionally, Intel is subject to the information reporting requirements of the Exchange Act and, in accordance therewith, is required to file periodic reports, proxy statements and other information with the SEC relating to its business, financial condition and other matters. The Schedule TO and the exhibits thereto, and such reports, proxy statements and other information, can be inspected and copied at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549-0213. Information regarding the public reference facilities may be obtained from the SEC by telephoning 1-800-SEC-0330. Intel filings are also available to the public on the SEC's internet site (http://www.sec.gov). Copies of such materials may also be obtained by mail from the Public Reference Section of the SEC at 100 F Street, N.E., Washington, D.C. 20549-0213 at prescribed rates.

9. Source and Amount of Funds.

The Offer is not conditioned upon Intel's or the Purchaser's ability to finance the purchase of Company Shares pursuant to the Offer. Intel and the Purchaser estimate that the total amount of funds required to purchase all of the Company Shares pursuant to the Offer and consummate the Merger is approximately $892,250,000 including related transaction fees and expenses. Intel will have sufficient funds to consummate the purchase of Company Shares in the Offer and the Merger and the other transactions described above, and will cause the Purchaser to have sufficient funds available to consummate such transactions. Intel expects to obtain the necessary funds from existing cash balances.

The Purchaser does not think its financial condition is relevant to Seller's stockholders' decision whether to tender Company Shares and accept the Offer because:

- the Offer is being made for all outstanding Company Shares solely for cash;
- the Purchaser, through its parent company, Intel, will have sufficient funds available to purchase all Company Shares validly tendered in the Offer and not validly withdrawn in light of Intel's financial capacity in relation to the amount of consideration payable;
- the Offer is not subject to any financing condition; and
- if the Purchaser consummates the Offer, it expects to acquire any remaining Company Shares for the same cash price in the Merger.

10. Background of the Offer; Past Contacts or Negotiations with Seller.

As part of the continuous evaluation of its business and plans, Intel regularly evaluates different strategies to improve its business position and enhance value for its stockholders, including opportunities for acquisitions of other companies or their assets.

Intel and Seller have had a commercial relationship since the late 1980s. Intel's collaborative efforts with Seller began to increase during the summer of 2006. Intel and Seller worked together on several successful complementary projects from 2006 through 2008 centered around common customers in the automotive industry.

In April 2007, Intel, Seller and a shared customer in the automotive industry signed a complementary development agreement to create an architectural specification derived from Linux that fulfilled the customer's defined usage model for the "Connected Car."

Building off of the successful outcome from the first phase of the development agreement, Seller and Intel entered into a contract on July 26, 2007 to develop automotive-specific components that would come to market (1) via the integration of Seller's open source components on top of Intel's existing mobile Linux ("Moblin") solution and (2) as part of Seller's standard "info-tainment" offering. Pursuant to the agreement, Intel contributed $4.9 million in funding to enable "open sourcing" of these components inclusive of code and collateral.

In November 2007, members of Intel Capital and Intel's finance group met with Ian Halifax, Seller's Senior Vice President of Finance and Administration, Chief Financial Officer and Secretary, and members of senior management from Seller's Linux product division at the San Francisco International Airport conference facilities. The meeting focused on a possible equity investment in Seller by Intel in conjunction with a potential commercial agreement between Seller and Intel to develop and commercialize Moblin software-based operating systems for Intel® Atom™ processor technology. Among the topics discussed at the meeting were the size and timing of the potential equity investment. The possibility of an acquisition of Seller by Intel was not discussed at this meeting.

In January 2008, Mr. Halifax communicated several times by telephone with members of Intel Capital to discuss the structure of the potential equity investment. In early February 2008, Intel Capital's Management Review Committee convened to review the possibility of Intel acquiring a minority equity interest in Seller. After this internal meeting, a representative from Intel Capital contacted Mr. Halifax to inform him that Intel was proposing to reduce the size of the previously contemplated investment amount. The possibility of an acquisition of Seller by Intel was not discussed during these discussions.

In late January 2008, after several telephone conversations and face-to-face meetings between Kenneth Klein, Seller's President and Chairman of the Board, John Bruggeman, Seller's Chief Marketing Officer, and members of Intel's Channel Platforms Solutions Group and Ultra Mobile Platform Group, the parties reached a term sheet level understanding regarding the structure of a commercial business arrangement where Seller would develop Moblin software-based operating systems for Intel® Atom™ processor technology. Several months of contractual negotiations followed. The possibility of an acquisition of Seller by Intel was not discussed during these negotiations.

During April of 2008, a representative of Intel contacted Mr. Halifax to inform him that Intel had decided to put on hold its possible investment in Seller.

On May 20, 2008, Seller announced that it was collaborating with Intel to create an open source Linux platform for the automotive industry. In June 2008, Seller and Intel entered into an agreement for the development of a Moblin software-based Linux platform specifically optimized for the Intel® Atom™ processor technology based mobile internet devices. Pursuant to this agreement, Intel estimated that Seller would receive approximately $50,000,000 in revenue from 2009 through 2012. The possibility of an acquisition of Seller by Intel was not discussed during the course of the negotiation of this agreement.

During July of 2008, a member of Intel Capital called Mr. Halifax to inform him that Intel would be further reducing the size of its contemplated equity investment. In response to the proposed reduction in the amount of the equity investment, Mr. Halifax presented revised terms to Intel with respect to the investment. After considering Seller's revised terms, a member of Intel Capital informed Mr. Halifax that Intel was not interested in the investment under such revised terms. The parties agreed that if and when Seller was interested in a future

commercial deal with Intel's Software and Services Group and/or a potential investment opportunity, Mr. Klein would contact Renee James, Intel's Vice President, General Manager, Software and Services Group.

On November 12, 2008, Mr. Klein met with Ms. James regarding potential commercial opportunities between Seller and Intel. Ms. James and Mr. Klein met again on December 9, 2008 to discuss Intel's business relationship with Seller.

On January 28, 2009, Mr. Klein met in San Francisco with Ms. James and they were joined by Paul Otellini, Intel's President and Chief Executive Officer, at which time they discussed a potential acquisition of Seller by Intel.

On January 31, 2009, a representative of Intel and Mr. Halifax discussed the business and operations of Seller. On February 3, 2009, Ms. James and Arvind Sodhani, Executive Vice President of Intel and President of Intel Capital, had further discussions with Mr. Klein and Mr. Halifax of Seller regarding a potential acquisition of Seller by Intel.

On February 11, 2009, Seller and Intel executed a confidentiality agreement in connection with their ongoing discussions regarding a potential transaction.

On February 12, 2009, Mr. Klein met with Ms. James to discuss the potential acquisition of Seller by Intel. In parallel, representatives of Intel met with Mr. Halifax to discuss Seller's financial statements. On the same date, Seller retained Goldman Sachs to serve as its financial advisor.

Early the following week members of senior management of Seller and representatives of Intel held a telephonic meeting to coordinate with respect to Intel's due diligence investigation of Seller. Throughout the month of February 2009, Intel conducted a series of internal meetings to discuss the potential transaction and requested Seller to provide certain business and financial due diligence information.

On February 19, 2009, Mr. Halifax and other members of Seller's management met with representatives of Intel to discuss the general business of Seller and Intel's ongoing financial, legal and operational due diligence of Seller.

On February 24, 2009, Mr. Klein and Mr. Halifax of Seller participated in a meeting in Redwood City with Mr. Sodhani, Ms. James (via phone) and other members of Intel management. These discussions focused on Seller's high level strategic vision, along with opportunities regarding a potential acquisition of Seller by Intel. Subsequent to this meeting and through March 12, 2009, Mr. Klein and Mr. Sodhani and Ms. James engaged in weekly conversations regarding Intel's interest in a potential acquisition of Seller.

On March 12, 2009, Intel delivered a letter to Mr. Klein and to Harvey C. Jones, Seller's lead independent director, which contained an acquisition proposal for a cash-for-stock transaction at a price of $8.50 per share. The acquisition proposal was approved by the executive committee of Intel's Board of Directors and expired on March 19, 2009.

On March 14, 2009, representatives of Goldman Sachs and Intel spoke on the telephone to discuss the proposed transaction. During this conversation, the Goldman Sachs representative stated that Seller would not accept the price offered in Intel's letter dated March 12, 2009 and that Seller was not interested in continuing discussions with Intel based on such offer.

Intel continued to perform valuations of Seller which it had begun in February 2009. In April 2009, Intel hired Credit Suisse to develop an independent valuation analysis of Seller.

On April 14, 2009, representatives of Credit Suisse contacted Harvey C. Jones, the lead independent director on the Seller Board, to discuss restarting the conversations with Seller with respect to a potential acquisition of Seller by Intel.

On April 21, 2009, representatives of Goldman Sachs met with representatives of Credit Suisse to discuss the potential transaction, including valuation of Seller and the strategic rationale for a transaction between the parties.

On April 22, 2009, a representative of Goldman Sachs engaged in a telephonic conversation with Credit Suisse to follow up on certain points and issues raised during the prior day's meeting.

On April 29, 2009, Ms. James of Intel reengaged Mr. Klein of Seller to discuss a potential acquisition of Seller.

On May 7, 2009, Intel delivered a letter to Seller containing a revised acquisition proposal for a cash-for stock transaction at a purchase price of $11.00 per share. The acquisition proposal was approved by the executive committee of Intel's Board of Directors and expired on May 14, 2009. On May 8, 2009, Seller asked Intel to increase its offer price per share. Later that day, Intel sent Seller a letter reiterating its interest in the potential acquisition of Seller and informing Seller that Intel was unable to increase the purchase price but would be flexible on the form of consideration by offering all cash, all Intel stock or some combination of cash and Intel stock. On May 11, 2009, after repeated conversations between Seller and Intel, Seller and Intel agreed upon a purchase price of $11.50 per share in an all cash consideration transaction.

On May 13, 2009, representatives of Intel sent an initial due diligence request list to Seller.

On May 14, 2009, Intel and Seller entered into a letter agreement that included certain exclusivity commitments on the part of Seller through May 30, 2009 (subject to automatic extension for subsequent 24 hour periods unless otherwise terminated and subject to Seller's right to terminate the letter agreement prior to May 30, 2009 under certain circumstances). The letter agreement, among other things, prohibited Seller from soliciting inquiries or proposals relating to any possible acquisition of Seller or any of its subsidiaries or any material portion of Seller or its subsidiaries, capital stock or assets or any equity interest in Seller or its subsidiaries (a "Third Party Acquisition"), holding any discussions, or providing any information to any party related to Seller or its subsidiaries or the potential transaction with Intel, or entering into any agreement with any person or entity providing for a Third Party Acquisition.

On May 16, 2009, Intel had a meeting with Seller at the offices of Morrison & Foerster LLP ("Morrison"), counsel to Intel, in which Seller and Intel reviewed the due diligence request list. On May 17, 2009, representatives and advisors of Intel were given access to a virtual data room that contained information and documentation of Seller. From that time through the first week of June 2009, representatives and advisors of Intel continued to review information and documentation contained in the data room and conducted numerous in person and telephonic meetings with Seller's management in connection with the due diligence review of Seller.

On May 19, 2009, the Board of Directors of Intel convened a board meeting and unanimously approved the transaction and the maximum consideration payable pursuant to the Offer and the Merger.

During the weeks of May 18, 2009 and May 25, 2009, Intel convened daily internal meetings originating from the offices of Morrison to discuss the status of the ongoing due diligence process.

In the evening of May 20, 2009, representatives of Morrison delivered a draft of the Merger Agreement to representatives of Seller's outside legal counsel, Wilson Sonsini Goodrich & Rosati, P.C. ("Wilson"). On the evening of May 23, 2009, representatives of Wilson delivered comments on the draft Merger Agreement. On May 28, 2009 and May 29, 2009, representatives of Morrison and Wilson and in house attorneys from Intel and Seller discussed key issues relating to the draft Merger Agreement. On May 31, 2009, representatives of Morrison delivered an updated draft of the Merger Agreement to Wilson and from June 1, 2009 until the early morning of June 4, 2009, representatives of Morrison, Wilson, the parties and their respective financial advisors further discussed the outstanding issues with respect to the terms of the proposed transaction.

On June 3, 2009, the Board of Directors of Seller convened a board meeting and unanimously approved the Merger Agreement and the consummation of the Offer and the Merger and recommended that Seller's stockholders tender their Shares into the Offer.

On June 4, 2009, Seller, Intel and Purchaser executed and delivered the Merger Agreement and related documents. Additionally, Seller and Intel issued a joint press release announcing the execution of the Merger Agreement.

11. The Transaction Documents

The Merger Agreement. The following is a summary of the material provisions of the Merger Agreement. The following description of the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the Merger Agreement itself, which we have filed with the SEC as an exhibit to the Tender Offer Statement on Schedule TO, which you may examine and copy as set forth in Section 8 — "Certain Information Concerning Parent and the Purchaser" above. For a complete understanding of the Merger Agreement, you are encouraged to read the full text of the Merger Agreement. Capitalized terms used in the following summary and not otherwise defined in this Offer to Purchase have the meanings set forth in the Merger Agreement.

Explanatory Note Regarding Summary of Merger Agreement and Representations and Warranties in the Merger Agreement. The summary of the terms of the Merger Agreement is intended to provide information about the terms of the Merger. The terms and information in the Merger Agreement should not be relied on as disclosures about Parent or Seller without consideration of the entirety of public disclosure by Parent and Seller as set forth in all of their respective public reports with the SEC. The terms of the Merger Agreement (such as the representations and warranties) govern the contractual rights and relationships, and allocate risks, between the parties in relation to the Merger. In particular, the representations and warranties made by the parties to each other in the Merger Agreement have been negotiated between the parties with the principal purpose of setting forth their respective rights with respect to their obligation to close the Merger should events or circumstances change or be different from those stated in the representations and warranties. Matters may change from the state of affairs contemplated by the representations and warranties. Parent and Seller will provide additional disclosure in their public reports to the extent that they are aware of the existence of any material facts that are required to be disclosed under federal securities law and that might otherwise contradict the terms and information contained in the Merger Agreement and will update such disclosure as required by federal securities laws.

The Offer. The Merger Agreement provides for the commencement of the Offer as promptly as reasonably practicable after the date of the Merger Agreement; provided, that, nothing shall have occurred that gives rise to a right of Parent to terminate the Offer or the Merger Agreement; provided, further, that none of the events described in paragraphs (e), (f), and (g) of Section 15 — "Conditions of the Offer" shall have occurred and be continuing; and provided, further, that Seller shall have fulfilled its obligation to provide certain information to Parent and Purchaser related to Parent's and Purchaser's preparation of its offering documents for the Offer.

Conditions to the Offer. The obligation of Purchaser to accept for payment, purchase and pay for any Shares tendered pursuant to the Offer is subject to (x) the satisfaction of the Minimum Condition and (y) the other conditions set forth in Section 15 — "Conditions of the Offer." Purchaser expressly reserves the right (but shall not be obligated) at any time or from time to time, in its sole discretion, to amend or waive any such condition (other than the Minimum Condition, which may not be amended or waived), to increase the price per Share payable in the Offer, and to make any other changes in the terms and conditions of the Offer; provided, that, without the prior written consent of Seller no change may be made that decreases the price per Share payable in the Offer, changes the form of consideration payable in the Offer, reduces the maximum number of Shares sought to be purchased in the Offer, adds to the conditions to the Offer set forth in Section 15 — "Conditions of the Offer," extends the Offer other than as described below, or modifies or amends any condition to the Offer in any manner adverse to the holders of Shares.

The Offer shall remain open until 12:00 midnight, New York City time, at the end of the twentieth (20th) business day beginning with (and including) the date that the Offer is commenced (the "Expiration Date"), unless the period of time for which the Offer is open shall have been extended pursuant to, and in accordance with, the provisions of the Merger Agreement (in which event the term "Expiration Date" shall mean the latest time and date as the Offer, as so extended, may expire).

Purchaser may (but is not required to) extend the Offer on one (1) or more occasions, if on any then-scheduled expiration date of the Offer any of the conditions to Purchaser's obligation to accept for payment and pay for the Company Shares validly tendered in the Offer as set forth in Section 15 — "Conditions of the Offer" (the "Offer Conditions") are not satisfied or waived for such period of time as Purchaser reasonably determines to be necessary to permit such Offer Conditions to be satisfied or waived.

Purchaser is required to extend the Offer:

- for any period required by any rule, regulation, interpretation or position of the SEC or the staff thereof applicable to the Offer;
- for two (2) consecutive ten (10) business day periods beyond the original expiration date of the Offer if, at the time of such scheduled expiration, all of the Offer Conditions, other than the Minimum Condition, are satisfied;
- for up to ten (10) business days from the date of notice to Seller regarding inaccuracies in Seller's representations or breach of Seller's covenants in the Merger Agreement to the extent necessary to provide Seller a ten (10) business day period to attempt to cure such inaccuracies or breaches if they are reasonable curable; provided, that, we are only required to extend the Offer one (1) time for such a cure period; or
- (A) for such period of time as is necessary to obtain required governmental approvals with respect to the Offer and the Merger, if all of the Offer Conditions, other than the Minimum Condition and the receipt of such governmental approvals are satisfied and (B) for one ten (10) business day period after receipt of all required governmental approvals with respect to the Offer and the Merger, if all other Offer Conditions, other than the Minimum Condition, are satisfied.

In no event will these extension provisions extend the Offer beyond the Outside Date (which is defined in the Merger Agreement as October 31, 2009; provided, however, that the "Outside Date" is subject to extension until January 29, 2010 under certain circumstances described below).

Purchaser is permitted to continue the Offer in accordance with the terms of the Merger Agreement if the Merger Agreement is terminated by Seller in connection with a Superior Proposal (as described below). If Purchaser elects to continue the Offer notwithstanding the termination of the Merger Agreement by Seller in connection with a Superior Proposal, Parent, Purchaser and Seller acknowledge and agree that (i) Seller shall not amend the Rights Agreement in a manner inconsistent with Seller's representations concerning the Rights Agreement set forth in the Merger Agreement and (ii) the waiver by the Seller Board of the applicability of the provisions of Section 203 of the DGCL to the Transactions, including the Offer and the Merger (as may be amended by Parent and Purchaser following any such termination), shall continue in full force and effect until Purchaser shall withdraw the Offer or the Offer shall have expired or terminated in accordance with the terms thereof without Purchaser (or Parent on Purchaser's behalf) having accepted for payment any Company Shares pursuant to the Offer. If Purchaser elects to continue the Offer as described in this paragraph and such Offer is not consummated prior to the approval by the stockholders of Seller of an acquisition of Seller following termination of the Merger Agreement by Seller in connection with a Superior Proposal, Parent agrees that it shall terminate the Offer after such approval by the stockholders of Seller of such acquisition, but prior to the closing of such acquisition. In the event that Purchaser is not permitted, or does not elect, to continue the Offer in accordance with this paragraph, Purchaser shall terminate the Offer upon termination of the Merger Agreement.

Top-Up Option. Pursuant to the Merger Agreement, Seller has granted to Parent and Purchaser an irrevocable option to purchase up to that number of Company Shares equal to the lowest number of Company Shares that, when added to the number of Company Shares collectively owned by Parent or Purchaser at the time of exercise, shall constitute one (1) Company Share more than 90% of the then outstanding Company Shares on a fully diluted basis (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights) including Seller RSUs, in each case, which are convertible or exercisable prior to the Outside Date), at a purchase price per Top-Up Option Share equal to $11.50 per Company Share (or such other amount to be paid in the Offer). The Top-Up Option shall not be exercisable for Company Shares in excess of the number of Company Shares authorized and unissued or held in the treasury of Seller (giving effect to the Company Shares issuable pursuant to all then outstanding stock options, RSUs and any other rights to acquire Company Shares as if such shares were outstanding).

The Merger. The Merger Agreement provides that following the satisfaction or waiver of the Offer Conditions, at the Effective Time, the Purchaser will be merged with and into Seller with Seller being the surviving corporation in the Merger (the "Surviving Corporation"). Following the Effective Time, the separate corporate existence of the Purchaser will cease, and Seller will continue as the Surviving Corporation, wholly owned by Parent. Parent may also elect, at any time prior to the fifth (5th) business day immediately preceding the date on which the proxy statement is mailed to Seller's stockholders, to merge Seller into Purchaser or another direct or indirect wholly owned subsidiary of Parent. In such event, the parties agree to amend the Merger Agreement such that Purchaser or such other wholly owned subsidiary of Parent shall be the Surviving Corporation.

The directors of the Purchaser immediately prior to the Effective Time will be the directors of the Surviving Corporation, each to hold office in accordance with the Certificate of Incorporation and By-laws of the Surviving Corporation. The officers of Seller immediately prior to the Effective Time will be the officers of the Surviving Corporation, until their respective successors are duly elected or appointed and qualified or until their earlier death, resignation or removal.

Pursuant to the Merger Agreement, each Share outstanding immediately prior to the Effective Time (other than (i) Company Shares directly owned by Seller, Parent or the Purchaser, which will be canceled and will cease to exist, and (ii) Company Shares owned by Seller's stockholders who perfect their dissenters' rights under the DGCL) will be converted into the right to receive net in cash, without interest and less any required withholding taxes, an amount equal to the Offer Price paid in the Offer (the "Merger Consideration").

Treatment of Equity Awards in the Merger. The Merger Agreement provides that at the Effective Time of the Merger the Options and RSUs to purchase Company Shares as of the Effective Time will be treated as follows:

- each Option outstanding immediately prior to the Effective Time that is not a Terminating Option (as defined below) (a "Continuing Option") will be assumed by Parent and be subject to the same terms and conditions of such stock option immediately prior to the Effective Time (as such terms are amended in accordance with the Merger Agreement), including the vesting restrictions, except for administrative changes that are not adverse to a holder of a Continuing Option or to which the holder consents and except that (i) each Continuing Option will be exercisable for a number of shares of Parent common stock (the "Parent Common Stock") equal to the product of the number of Company Shares that would be issuable upon exercise of the Continuing Option outstanding immediately prior to the Effective Time multiplied by the quotient obtained by dividing (A) the Merger Consideration by (B) the average closing price of Parent Common Stock on NASDAQ for the five (5) trading days immediately preceding (but not including) the Effective Time (the "Exchange Ratio"), rounded down to the nearest whole number of shares of Parent Common Stock, and (ii) the per share exercise price for the Parent Common Stock issuable upon exercise of such assumed Continuing Option will be equal to the quotient determined by dividing the per share exercise price of the Continuing Option outstanding immediately prior to the Effective Time by the Exchange Ratio, rounded up to the nearest whole cent, and (iii) all references to the "Company" in the applicable Company Stock Option Plans and the stock

option agreements will be references to Parent. Each Option so assumed by Parent shall qualify following the Effective Time as an incentive stock option as defined in Section 422 of the Code to the extent permitted under Section 422 of the Code and to the extent such Option qualified as an incentive stock option prior to the Effective Time;

- each Terminating Option (as defined below) will be cancelled at the Effective Time and will be automatically converted into the right to receive after the Effective Time, an amount in cash determined by multiplying (i) the excess, if any, of the Merger Consideration over the applicable exercise price of such option by (ii) the number of Company Shares subject to the vested portion of such Terminating Option (after giving effect to any vesting acceleration), less applicable deductions and withholdings required by law to be withheld in respect of such payment;
- a "Terminating Option" is an Option that is held by a person who is not a Continuing Employee or is subject to the laws of a non-U.S. jurisdiction which Parent determines may not be converted into a Continuing Option (i) under the laws of the relevant non-U.S. jurisdiction (including by reason of a failure to obtain any required regulatory consents or approvals after reasonable commercial efforts by Parent), (ii) under the policies and practices of Parent with respect to the grant of equity awards in the relevant non-U.S. jurisdiction, or (iii) due to Parent's administrative practices with respect to equity awards;
- each outstanding RSU under the Company Stock Option Plans that is outstanding and unvested at the Effective Time and that is not a Terminating RSU (as defined below) (a "Continuing RSU") will be assumed by Parent and each Continuing RSU assumed by Parent will continue to have the same terms and conditions of such RSU in effect immediately prior to the Effective Time (as such terms are amended in accordance with the Merger Agreement), including the vesting restrictions, except for administrative changes that are not adverse to a holder of a Continuing RSU or to which the holder consents and except (i) that each RSU shall cover a number of shares of Parent Common Stock equal to the product of Company Shares that would be issuable under the RSU immediately prior to the Effective Time multiplied by the Exchange Ratio, rounded down to the nearest whole number of shares of Parent Common Stock and (ii) all references to the "Company" in the applicable Company Stock Option Plans and the restricted stock unit agreements will be references to Parent;
- each Terminating RSU (as defined below) shall be cancelled at the Effective Time. Each holder of a Terminating RSU (after giving effect to any vesting acceleration) shall be eligible to receive at the Effective Time an amount in cash (without interest) equal to (i) the Merger Consideration multiplied by (ii) the number of Company Shares subject to each Terminating RSU, less all applicable deductions and withholdings required by law to be withheld in respect of such payment;
- a "Terminating RSU" is a RSU that is held by a person who is not a Continuing Employee (as defined in the Merger Agreement) or is subject to the laws of a non-U.S. jurisdiction and Parent determines such RSU may not be converted into a Continuing RSU (i) under the laws of the relevant non-U.S. jurisdiction (including by reason of a failure to obtain any required regulatory consents or approvals after reasonable commercial efforts by Parent), (ii) under the policies and practices of Parent with respect to the grant of equity awards in the relevant non-U.S. jurisdiction, or (iii) due to Parent's administrative practices with respect to equity awards; and
- each RSU (or portion thereof) that vests and becomes settleable by its terms at the Effective Time will not be assumed but will be converted into the right to receive, in exchange for the cancellation of the RSU (or portion thereof), an amount in cash, without interest, equal to the Merger Consideration multiplied by the number of Company Shares subject to such RSU (or settlable portion thereof) immediately prior to the Effective Time and any such payment will be subject to all applicable tax withholding requirements.

Parent will notify the Company at least twenty (20) days prior to the Effective Time of Options and RSUs that will not be Continuing Options and Continuing RSUs, respectively.

The Merger Agreement provides that Seller will take all actions necessary with respect to Seller's employee stock purchase plan (the "Seller ESPP") so that (i) the Seller ESPP will be suspended immediately following the end of the offering period in effect as of June 4, 2009, after all outstanding purchase rights (if any) have been exercised (the "Final Purchase"), and no offering periods or purchase periods will be commenced thereafter and no payroll deductions or other contributions (other than payroll deductions pursuant to elections in effect as of June 4, 2009, as to the offering period in effect as of June 4, 2009) will be made or effected thereafter with respect to the Seller ESPP, (ii) notice will be given to participants of the Seller ESPP as soon as administratively practicable after June 4, 2009, describing the suspension of the Seller ESPP immediately following the Final Purchase and (iii) the Seller ESPP shall terminate effective upon the Effective Time.

Representations and Warranties. The Merger Agreement contains representations and warranties made by Seller to Parent and Purchaser and representations and warranties made by Parent and Purchaser to Seller. The assertions embodied in those representations and warranties were made solely for purposes of the Merger Agreement and may be subject to important qualifications and limitations agreed to by the parties in connection with negotiating the terms of the Merger Agreement.

In the Merger Agreement, Seller has made customary representations and warranties to Parent and the Purchaser, including representations relating to: organization and qualification; Seller subsidiaries; Certificate of Incorporation and By-laws; capitalization; authority relative to the Merger Agreement; no conflict; required filings and consents; permits; compliance; absence of certain changes or events; absence of litigation; employee benefit plans (including certain representations relating to Rule 14d-10 of the Exchange Act); labor and employment matters; offer documents; Schedule 14D-9; proxy statement; property and leases; intellectual property; taxes; environmental matters; material contracts; insurance; brokers and expenses; takeover laws; customers and suppliers; certain business practices; affiliate transactions; vote required; amendment to rights agreement; opinion of financial advisory; data protection; information technology; minute books; and export control laws.

In the Merger Agreement, Parent and the Purchaser have made customary representations and warranties to Seller, including representations relating to: corporate organization; authority relative to the Merger Agreement; no conflict; required filings and consents; financing; offer documents; proxy statement; Schedule 14D-9; absence of litigation; status of Purchaser; and vote required.

Certain representations and warranties of Seller are qualified by reference to a Material Adverse Effect. As used in the Merger Agreement, a "Material Adverse Effect" means any event, condition, circumstance, development, state of facts, change or effect, individually or in the aggregate, that is or would reasonably be expected to be materially adverse to, or has had or would reasonably be expected to have a material adverse effect on, (x) the business, condition (financial or otherwise), capitalization, assets, liabilities or results of operations of Seller and its subsidiaries, taken as a whole, or (y) Seller's ability to timely consummate the Offer and the Merger; provided, that, with respect to clause (x) above, Material Adverse Effect shall not include any events, conditions, circumstances, developments, state of facts, changes and effects to the extent arising or resulting from (i) changes in the industry in which Seller operates, (ii) changes in the general economic conditions within the U.S., (iii) the announcement or pendency of the transactions contemplated by the Merger Agreement, or the performance or compliance with the terms of the Merger Agreement, (iv) acts of God, natural disasters, calamities, including the engagement by any country in hostility (whether commenced before, on or after the date of this Offer to Purchase, and whether or not pursuant to the declaration of a national emergency or war), (v) the occurrence of a military or terrorist attack, or (vi) any changes in law or GAAP (or any interpretation thereof); provided, that, in the case of each of clauses (i), (ii), (iv) and (v), the Seller and its subsidiaries are not significantly disproportionately affected thereby relative to other companies of comparable size in the same industries and geographies in which Seller operates.

Company Board Representation; Section 14(f). The Merger Agreement provides that upon acceptance for payment of any Company Shares pursuant to the Offer, Purchaser will be entitled to designate that number of directors, rounded up to the next whole number, on Seller's Board that is equal to the product of (i) the total number of directors on Seller's Board (giving effect to the directors elected pursuant to this sentence) and (ii) the percentage

that the aggregate number of Company Shares beneficially owned by Parent and Purchaser (including Company Shares accepted for payment) bears to the total number of Shares outstanding, and Seller will, promptly take all actions reasonably necessary to cause Purchaser's designees to be elected as directors of Seller, including, at Parent's election, increasing the size of Seller's Board or securing the resignations of incumbent directors, or both.

At such time, Seller shall also take all necessary action to cause persons designated by Purchaser to constitute the same percentage (rounded up if necessary) as persons designated by Purchaser constitute to the Seller's Board of (i) each committee of the Seller Board, (ii) the board of directors of each of its subsidiaries, and (iii) each committee of each such board. Seller will promptly take all action required to effect any such election or appointment, including all actions required pursuant to Section 14(f) of the Exchange Act and Rule 14f-1 promulgated thereunder, and will include with the Schedule 14D-9 such information with respect to Seller and its officers and directors as is required under Section 14(f) and Rule 14f-1 to fulfill such obligations. Parent or Purchaser will supply to Seller any information with respect to either of them and their nominees, officers, directors and affiliates required by such Section 14(f) and Rule 14f-1.

The Merger Agreement also provides that, following the election or appointment of Purchaser's designees as directors pursuant to the Merger Agreement and prior to the Effective Time or termination of the Merger Agreement by Seller, the approval of a majority of the Independent Directors shall be required to authorize (i) any amendment or termination of the Merger Agreement on behalf of Seller, (ii) any extension by Seller of the time for the performance of any of the obligations of Parent or Purchaser under the Merger Agreement, or any waiver of compliance with any of the agreements or conditions contained in the Merger Agreement for the benefit of Seller and (iii) any amendment of the articles of incorporation or bylaws of Seller that would adversely affect the ability of Seller to consummate the Offer or the Merger. Such authorization shall constitute the authorization of the Seller Board and no other action on the part of the Seller, including any action by any other director of Seller, shall be required to authorize such action. For purposes of the Merger Agreement, an "Independent Director" shall mean a member of the Seller Board who is independent for purposes of the continued listing requirements of NASDAQ.

In the event that Purchaser's designees are elected or appointed to the Seller Board pursuant to the provisions of the Merger Agreement described in the immediately preceding paragraphs, then, until the Effective Time, Seller shall cause the Seller Board to maintain at least two (2) Independent Directors; provided, however, that, if any Independent Director is unable to serve due to death, disability or other reason, the remaining Independent Director(s) shall be entitled to elect or designate another individual to fill such vacancy who shall be deemed to be an Independent Director for purposes of the Merger Agreement or, if no Independent Directors then remain, the other directors shall designate two (2) persons to fill such vacancies who are not employees, officers, directors or affiliates of Seller, Parent or the Purchaser, and such persons shall be deemed to be Independent Directors for purposes of the Merger Agreement.

Conduct of Business Pending the Merger. The Merger Agreement provides that between the date of the Merger Agreement and the earlier of (1) the Effective Time and (2) the date upon which Purchaser's designees constitute a majority of the members of the Seller Board, Seller shall, and shall cause each of its subsidiaries to, (i) conduct its businesses in the ordinary course of business and in a manner consistent with past practice and in compliance in all material respects with all applicable laws; (ii) use reasonable best efforts to preserve substantially intact its business organization, to keep available the services of its current officers, employees, and consultants and to preserve its current relationships with its customers, suppliers, distributors, licensors, licensees and other persons with which its has business relations; (iii) maintain its owned and leased real property in substantially the same condition as such owned and leased real property exists on the date of the Merger Agreement, (iv) upon reasonable request by Purchaser, deliver any written notice necessary to exercise a renewal option with respect to its real property leases that require such notice of renewal be delivered prior to the Effective Time, and (v) not take any action that would adversely affect or delay in any material respect the ability of either Parent or Seller to obtain any necessary approvals of any regulatory agency or other governmental authority required for the Transactions. The Merger Agreement further provides that, except as (x) expressly

contemplated by the Merger Agreement, (y) set forth in the disclosure schedule or (z) as required in compliance with all applicable laws, neither Seller nor any of its subsidiaries shall, between the date of the Merger Agreement and the Effective Time, directly or indirectly, do, or propose to do, any of the following without the prior written consent of Parent (which shall not be unreasonably withheld or delayed):

- amend or otherwise change its certificate of incorporation or by-laws or equivalent organizational documents;
- issue, sell, pledge, dispose of, grant or encumber, or authorize the issuance, sale, pledge, disposition, grant or encumbrance of, any shares of any class of capital stock of Seller or any of its subsidiaries, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of such capital stock, or any other ownership interest (including any phantom interest and including any RSUs or voting securities), of Seller or any of its subsidiaries, except for (i) the issuance in the ordinary course of business of stock options for the purchase of up to 25,000 Company Shares and Company RSUs for the issuance of up to 10,000 Company Shares for employees hired after June 4, 2009, (ii) the issuance of Company Shares pursuant to exercises of stock options or vesting of RSUs outstanding on June 4, 2009, and (iii), issuance of Company Shares pursuant to Seller's employee stock purchase plan;
- transfer, lease, sell, pledge, license, dispose of or encumber any material assets or properties of Seller or any of its subsidiaries, except in the ordinary course of business and in a manner consistent with past practice;
- declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (other than dividends or distributions made by a Company subsidiary to Seller or another Company subsidiary);
- reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any of its capital stock;
- acquire, directly or indirectly (including by merger, consolidation, or acquisition of stock or assets or any other business combination), any corporation, partnership, other business organization or any division thereof or any other business, or any equity interest in any person or any material amount (individually or collectively) of assets; (ii) incur any indebtedness for borrowed money or issue any debt securities, or assume, guarantee or endorse, or otherwise become responsible for (contingently or otherwise), the obligations of any person, in the aggregate in excess of $500,000; (iii) make any loans, advances or capital contributions, except for employee loans or advances for travel expenses and extended payment terms for customers, in each case subject to applicable law and only in the ordinary course of business; (iv) make, authorize, or make any commitment with respect to (A) any single capital expenditure or other expenditure that is, individually, in excess of $500,000 or (B) collectively, in the aggregate for Seller and its subsidiaries taken as a whole in excess of $2,000,000; (v) make or direct to be made any capital investments or equity investments in any entity, other than investments in any wholly owned Company subsidiary; or (vi) enter into or amend any contract, commitment or arrangement with respect to the foregoing;
- increase the compensation payable or to become payable (including bonus grants) or increase or accelerate the vesting of any benefits provided, or pay or award any payment or benefit not required as of the date hereof by a Plan (as defined in the Merger Agreement) as existing as of June 4, 2009, to its directors, officers or employees, or other service providers, (ii) grant any severance or termination pay or benefits to, or enter into any employment, severance, retention, change in control, consulting, or termination contract with any director, officer or other employee or other service providers of Seller and of its subsidiaries, subject to certain exceptions, other than offer letters, employment agreements, or consulting agreements entered into in the ordinary course of business that are terminable at will and without liability to Seller or any of its subsidiary, (iii) establish, adopt, enter into or amend any collective bargaining, bonus, profit-sharing, thrift, compensation, stock option, restricted stock, pension, retirement, deferred compensation, employment, termination, severance or other plan, contract, trust, fund, policy or arrangement for the benefit of any director, officer or employee or other

service providers, (iv) pay or make, or agree to pay or make, any accrual or other arrangement for, or take, or agree to take, any action to fund or secure payment of, any severance pension, indemnification, retirement allowance, or other benefit, or (v) hire, elect or appoint any officer, director or employee holding a position of vice president or above;

- except as publicly announced prior to June 4, 2009, announce, implement or effect any reduction in labor force greater than five percent (5%) of the total Seller headcount, lay-off, early retirement program, severance program or other program or effort concerning the termination of employment of employees of Seller or any of its subsidiaries, other than routine employee terminations;
- enter into a new line of business that (A) is material to Seller and of its subsidiaries taken as a whole, or (B) represents a category of revenue that is not discussed in Item 1 of Seller's Annual Report on Form 10-K for the fiscal year ended January 31, 2009;
- take any action, other than reasonable actions in the ordinary course of business and consistent with past practice, with respect to accounting policies or procedures (including procedures with respect to the payment of accounts payable and collection of accounts receivable, and the revaluation of any assets);
- make or change any election, change an annual accounting period, adopt or change any accounting period, adopt or change any accounting method, file any amended tax return, enter into any closing agreement, settle any tax claim or assessment relating to Seller or any of its subsidiaries, surrender any right to claim a refund of taxes, consent to any extension or waiver of the limitation period applicable to any tax claim or assessment relating to Seller or any of its subsidiaries, destroy or dispose of any books and records with respect to tax matters relating to periods beginning before the Effective Time and for which the statute of limitations is still open or under which a record retention agreement is in place with a governmental authority if such election, adoption, change, amendment, agreement, settlement, surrender, consent, waiver, destruction or disposal would have the effect of materially increasing the tax liability of Seller or any of its subsidiaries for any period ending after the Effective Time or materially decreasing any tax attribute of Seller or any of its subsidiaries existing on the Effective Time;
- settle, pay, discharge or satisfy any claim, liability or obligation (absolute, accrued, asserted or unasserted, contingent or otherwise), including any litigation, arbitration or other action, other than (i) the payment, discharge or satisfaction, in the ordinary course of business and consistent with past practice, of liabilities reflected or reserved against in the 2009 Balance Sheet (as defined in the Merger Agreement) or subsequently incurred in the ordinary course of business and consistent with past practice, (ii) those that involve only the payment or receipt of money (and not the assumption of any liability or obligation, including, the grant to any third party of any license, covenant not to sue, immunity or other right with respect to or under any of the Seller's owned intellectual property) in an amount less than $500,000; provided, that, in connection with such payment Seller shall have received a complete and unconditional release against Seller and its subsidiaries, or (iii) settlements in connection with routine customer audits that involve (x) the receipt of $500,000 or less by Seller and (y) the granting of continued use rights with respect to company products or products or services of Seller or any of its subsidiaries;
- enter into any contract or amendment that would be a "Company Material Contract" (as defined in the Merger Agreement), amend or modify in any material respect or consent to the termination of any Company Material Contract, or amend or modify in any material respect, waive or consent to the termination of Seller's or any of its subsidiaries' rights thereunder or waive, release, or consent to the termination of any claims or rights of material value to Seller or any of its subsidiaries; provided, however, that for all purposes of this covenant, the definition of Company Material Contract:
    - shall not include the category of customer contracts referenced in Seller's contracts representation in the Merger Agreement;

  - shall not include contracts entered into with customers of Seller on terms consistent with Seller's past contracting practices with similarly situated customers; and
  - all references to $500,000 in certain sections of Seller's contracts representation in the Merger Agreement with respect to any customer contracts shall be deemed to refer to $2,000,000;
- enter into (i) any material contract with new or existing suppliers or customers with a term of greater than thirty-six (36) months, (ii) any contract with existing suppliers or customers other than on terms consistent with Seller's or any of its subsidiaries' existing contracts with such suppliers or customers, as applicable, or (iii) any contract with new suppliers or customers other than on terms that are consistent with Seller's past contracting practices with similarly situated suppliers or customers, as applicable;
- enter into any contracts (i) under which Seller or any of its subsidiaries grants or agrees to grant to any third party any assignment, license, covenant, release, immunity or other right with respect to any intellectual property or intellectual property rights (other than non-exclusive licenses of software granted to customers in the ordinary course of business consistent with Seller's past practice), (ii) under which Seller or any of its subsidiaries establishes with any third party a joint venture, strategic relationship, or partnership pursuant to which Seller agrees to develop or create any intellectual property, products or services; (iii) under which Seller or any of its subsidiaries agrees to create or develop any intellectual property, products, or services with any third party that designs, develops, or manufactures or has manufactured microprocessors, microprocessor cores, netbooks, or personal computers; (iv) that will cause or require (or purport to cause or require) the Surviving Corporation or Parent or any of its affiliates to (A) grant to any third party any license, covenant not to sue, immunity or other right with respect to or under any of the intellectual property or intellectual property rights of Parent or any of its affiliates; or (B) be obligated to pay any royalties or other amounts, or offer any discounts, to any third party (other than, with respect to the Surviving Corporation only, in connection with non-exclusive licenses of software entered into in the ordinary course of business consistent with past practice);
- enter into or amend any contract pursuant to which any other party is granted, or that otherwise constrains or subjects Seller or any of its subsidiaries or Parent or any of its Subsidiaries to, any non-competition, "most-favored nation," exclusive marketing or other exclusive rights of any type or scope or that otherwise restricts Seller or any of its subsidiaries or, upon completion of the Offer or the Merger, Parent or any of its subsidiaries, from engaging or competing in any line of business or in any location; or enter into or amend any contract with respect to joint ventures, partnerships or material strategic alliances; or, other than in the ordinary course of business consistent with past practices, enter into or amend any contract with respect to future services requirements;
- enter into any lease, sublease or license for real property or material operating lease other than the entry into leases with respect to real property spaces of less than 8,000 square feet and a term of less than two (2) years;
- terminate, cancel, amend or modify any insurance coverage policy maintained by Seller or any of its subsidiaries that is not promptly replaced by a comparable amount of insurance coverage;
- enter into or amend or otherwise modify any contract or arrangement with persons that are affiliates or are executive officers or directors of Seller;
- commence any material litigation, inquiry or investigation;
- enter into, participate in, establish or join any new standards-setting organization, university or industry bodies or consortia, or other multi-party special interest groups or activities;
- incur any non-employee expense (travel, facilities, other) that was not previously budgeted in the Seller's Fiscal Year 2010 Annual Operating Plan; or
- announce an intention, enter into any formal or informal contract or otherwise make a commitment to do any of the foregoing.

Stockholders Meeting. The Merger Agreement provides that Seller will, if the approval and adoption of the Merger Agreement by Seller's stockholders is required by applicable law in order to consummate the Merger, hold a meeting of its stockholders for the purpose of approving and adopting the Merger Agreement.

No Solicitation of Transactions. The Merger Agreement contains provisions prohibiting (subject to certain exceptions as described below and in the Merger Agreement) Seller and each of its subsidiaries, as well as prohibiting the Seller and each of its subsidiaries from knowingly permitting their respective directors, officers, employees or agents (including financial and legal advisors and other representatives (collectively, "Representatives"), from directly or indirectly:

- soliciting, initiating, knowingly encouraging or knowingly facilitating any Acquisition Proposal (as defined below) or the making of any Acquisition Proposal;
- entering into, continuing or otherwise participating in any discussions or negotiations regarding, or furnishing to any person any information with respect to, or otherwise cooperating in any way with, any Acquisition Proposal; or
- waiving, terminating, modifying or failing to enforce any provision of any contractual "standstill" or similar obligation of any person other than Parent or its affiliates.

The Merger Agreement also provides that Seller shall, and shall cause its subsidiaries and instruct its and its subsidiaries' Representatives to, (i) immediately cease and cause to be terminated all existing discussions or negotiations with any person conducted prior to the date of the Merger Agreement with respect to any Acquisition Proposal (as defined below), (ii) request the prompt return or destruction of all confidential information previously furnished to such person(s) prior to the date of the Merger Agreement for the purpose of evaluating a potential Acquisition Proposal and (iii) use its commercially reasonable efforts to ensure compliance with such request.

However, at any time prior to the acceptance of Company Shares pursuant to the Offer, in response to a bona fide written Acquisition Proposal that the Seller Board determines in good faith (after consultation with outside counsel and a financial advisor of nationally recognized reputation) is, or is reasonably likely to result in a Superior Proposal by such party, and which Acquisition Proposal was made after the date of the Merger Agreement and did not result from a breach of the no solicitation provisions of the Merger Agreement, Seller may, subject to compliance with the provisions of the Merger Agreement that require Seller to keep Parent informed as to any Acquisition Proposal, (i) furnish information with respect to Seller and its subsidiaries to the person making such Acquisition Proposal (and its Representatives) pursuant to a customary confidentiality agreement and in compliance with the provisions of the Merger Agreement containing confidentiality and standstill provisions not less restrictive of such person than the confidentiality agreement between Seller and Parent; provided, that, all such information has previously been provided to Parent or is provided to Parent prior to or concurrent with the time it is provided to such person, and (ii) participate in discussions or negotiations with the person making such Acquisition Proposal (and its Representatives) regarding such Acquisition Proposal. In addition, prior to the first date on which any particular Shares are accepted for payment and paid for pursuant to the Offer, Seller may, to the extent the Company Board determines in good faith (after consultation with outside legal counsel and a financial advisor of nationally recognized reputation) that such action is necessary to comply with its fiduciary duties under applicable law, not enforce any confidentiality, standstill or similar agreement to which Seller or any of its subsidiaries is a party for the sole purpose of allowing the other party to such agreement to submit an Acquisition Proposal, or with respect to another party that has submitted an Acquisition Proposal, solely with respect to such submission, that will constitute, or is reasonably likely to lead to, a Superior Proposal, that did not, in each case, result from a breach of the no solicitation provisions of the Merger Agreement.

The Merger Agreement also requires that Seller will promptly advise Parent (in any event within 24 hours of learning of all relevant information) orally and in writing of any Acquisition Proposal, the material terms and conditions of any such Acquisition Proposal or inquiry (including any financial terms and any other material term

thereof) and the identity of the person making any such Acquisition Proposal or inquiry and attaching a copy of any such written Acquisition Proposal or if such Acquisition Proposal is provided orally to the Seller, the Seller shall summarize in writing the terms of such Acquisition Proposal or inquiry. Seller shall (i) keep Parent fully informed in all material respects of the status and terms and conditions (including any change to the terms or proposed change to the terms thereof) of any such Acquisition Proposal or inquiry. Seller shall provide Parent with 48 hours prior notice of any meeting of the Seller Board (or such lesser prior notice as is provided to the members of the Seller Board) at which the Seller Board is expected to consider any Acquisition Proposal or any such inquiry or to consider providing information to any person or group in connection with an Acquisition Proposal to any such inquiry. Seller shall publicly reaffirm the Seller Board Recommendation (as defined below) within 10 business days of the commencement of any tender or exchange offer or public announcement or public notice to an Acquisition Proposal from a third party, after receipt of a written request from Parent to provide such reaffirmation, unless a Change in Recommendation (as defined below) is permitted pursuant to the provisions of the Merger Agreement.

The Merger Agreement also provides that neither the Seller Board nor any committee thereof will (i) (A) fail to make, withdraw, modify, amend or qualify or publicly propose to withdraw, modify, amend or qualify (in a manner adverse to Parent or the Purchaser), the approval or recommendation by the Seller Board or any such committee thereof of the Merger Agreement, the Offer, the Merger or the other transactions contemplated by the Merger Agreement (the "Seller Board Recommendation"), (B) make any public statement inconsistent with the Seller Board Recommendation (provided, however, that a public statement limited solely to a brief factual description of an Acquisition Proposal received after the date of the Merger Agreement that did not result from a breach of the no solicitation provisions of the Merger Agreement shall not be deemed to constitute a Change in Recommendation), (C) fail to recommend against acceptance of any tender offer or exchange other than the Offer for the Company Shares within ten (10) business days of the commencement of such offer, (D) approve or recommend, or publicly propose to approve or recommend, any Acquisition Proposal (any action described in (A)-(D) being referred to as a "Change in Recommendation") or (ii) adopt or recommend, or publicly propose to adopt or recommend, or allow Seller or any of its subsidiaries to execute or enter into, any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement, joint venture agreement, partnership agreement or other similar agreement constituting or related to, any Acquisition Proposal (other than a confidentiality or standstill agreement entered into in accordance with the no solicitation provisions of the Merger Agreement) (an "Acquisition Agreement"). Notwithstanding the foregoing, at any time prior to the acceptance of Company Shares pursuant to the Offer, the Seller Board may in response to an Acquisition Proposal that the Seller Board determines in good faith (after consultation with outside counsel and a financial advisor of nationally recognized reputation) constitutes a Superior Proposal and that was not solicited, made after the date of the Merger Agreement, and did not result from a breach of the no solicitation provisions of the Merger Agreement (A) make a Change in Recommendation if the Seller Board determines in good faith (after consultation with outside counsel) that such action is necessary to comply with its fiduciary duties to Seller's stockholders under applicable law, or (B) cause Seller to terminate the Merger Agreement pursuant to its terms and concurrently with such termination enter into an Acquisition Agreement if Seller Board has concluded in good faith, after consultation with its outside counsel, such termination is necessary to comply with its fiduciary duties to the stockholders of Seller under applicable law; provided, that, Seller shall not terminate the Merger Agreement pursuant to clause (B) and any purported termination pursuant to clause (B) shall be void and have no force and effect, unless prior to such termination Seller pays by wire of immediately available funds the Fee (as described below); provided, further, that (1) no Change in Recommendation may be made and (2) no termination of the Merger Agreement by Seller pursuant to clause (B) of this sentence may be made unless (i) Seller has provided Parent five (5) business days prior written notice advising Parent that the Seller Board intends to make a Change in Recommendation (a "Notice of Designated Superior Proposal") which shall describe the terms and conditions of the Superior Proposal that is the basis for the proposed action by the Seller Board (the "Designated Superior Proposal) and attach the most current form or draft of any written agreement providing for the transaction contemplated by such Designated Superior Proposal (it being understood and agreed that any amendment to the financial terms or any other material term of such Superior Proposal shall require a new Notice of Designated Superior Proposal and a

new five (5) business day period); (ii) during such five (5) business day period, if requested by Parent, the Seller Board shall engage in good faith negotiations with Parent to amend the Merger Agreement in such a manner that the Acquisition Proposal that was determined to constitute a Superior Proposal no longer is a Superior Proposal; and (iii) at the end of such five (5) business day period, if such Acquisition Proposal has not been withdrawn and the Seller Board determines in good faith that such Acquisition Proposal continues to constitute a Superior Proposal (taking into account any proposals for changes to the terms of the Merger Agreement proposed by Parent in response to a Notice of Designated Superior Proposal, as result of the negotiations required by clause (ii) or otherwise.

The Merger Agreement does not prohibit Seller from (i) taking and disclosing to its stockholders a position contemplated by Rule 14e-2(a) promulgated under the Exchange Act or making a statement required by Rule 14d-9 promulgated under the Exchange Act; provided, that, such disclosure, other than a "stop, look and listen" communication of this type contemplated by Section 14d-9(f) of the Exchange Act, shall be deemed to be a Change in Recommendation unless the Seller Board expressly publicly reaffirms the Seller Board Recommendation in such communication or (ii) disclosing information to the stockholders of Seller to the extent the Seller Board determines in good faith (after consultation with outside counsel) that such disclosure is necessary to comply with its fiduciary duties to its stockholders under applicable law.

As used in the Merger Agreement, an "Acquisition Proposal" is any proposal, offer or indication of interest (whether or not in writing) relating to, or that could reasonably be expected to lead to, in one transaction or a series of transactions, (i) any direct or indirect acquisition or purchase (including by any license or lease) of (A) assets (including equity securities of any subsidiary of Seller) or businesses that constitute fifteen percent (15%) or more of the revenues, net income or assets of Seller or of any of its subsidiaries or (B) beneficial ownership of fifteen percent (15%) or more of any class of equity securities of Seller or any of its subsidiaries; (ii) any purchase or sale of, or tender offer or exchange offer for, equity securities of Seller or any of its subsidiaries that, if consummated, would result in any person beneficially owning fifteen percent (15%) or more of any class of equity securities of Seller or any of its subsidiaries; or (iii) any merger, consolidation, business combination, recapitalization, liquidation, dissolution, joint venture (excluding certain arrangements with customers involving the optimization of Seller's products in the ordinary course of business subject to certain limitations), share exchange or similar transaction involving Seller or any of its significant subsidiaries, other than the Offer or the Merger. An Acquisition Proposal includes a Superior Proposal and an "Equity Consideration Acquisition Proposal" (as defined below).

As used in the Merger Agreement, a "Superior Proposal" means any bona fide written proposal, which did not result from or arise in connection with a breach of the non-solicitation provisions of the Merger Agreement, made by a third party that, if consummated, would result in such third party's (or its stockholders') owning, directly or indirectly, 100% of the equity securities of Seller (or of the shares of the surviving entity in a merger or the direct or indirect parent of the surviving entity in a merger) or all or substantially all of the assets of Seller and that (i) Seller Board determines in good faith (in accordance with written advice of a financial advisor of nationally recognized reputation and its outside legal counsel) to be (1) more favorable from a financial point of view to Seller's stockholders than the Offer and the Merger (taking into account all terms and conditions of such proposal and of the Merger Agreement (including any changes to the terms of the Merger Agreement proposed by Parent in response to such offer or otherwise)), (2) reasonably capable of being completed by such third party (taking into account, among other things, the expectation of obtaining required regulatory approvals without undue cost or delay), and (3) otherwise reasonably likely to be completed (taking into account all legal, financial, regulatory, and other aspects of the proposal and the person making the proposal), and (ii) is not subject to any due diligence or financing condition (and if financing is required, such financing is then fully committed to the third party).

Directors' and Officers' Indemnification and Insurance. The Merger Agreement provides that for six (6) years after the date upon which Purchaser first accepts and pays for Shares in the Offer, Parent shall cause the Surviving Corporation to indemnify and hold harmless each person who is as of the date of the Merger Agreement or was prior to the Effective Time an officer or director of Seller or any of its subsidiaries and each

person who is now or was prior to the Effective Time an officer or director of Seller or any of Seller's subsidiaries who served as a fiduciary under or with respect to any employee benefit plan of Seller or any of Seller's subsidiaries (within the meaning of Section 3(3) of ERISA) against any costs or expenses (including advancing attorneys' fees and expenses in advance of the final disposition of any claim, suit, proceeding or investigation to such person to the fullest extent permitted by applicable law; provided, that, such advance shall be conditioned upon the Surviving Corporation's receipt of an undertaking by or on behalf of such person to repay such amount if it shall be ultimately determined by final judgment of a court of competent jurisdiction that the such person is not entitled to be indemnified pursuant to the Merger Agreement), judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any actual or threatened claim, action, suit, arbitration, proceeding or investigation in respect of or arising out of acts or omissions occurring or alleged to have occurred at or prior to the Effective Time, based in whole or in part on or arising in whole or in part out of the fact that such person is or was an officer or director of Seller and any of its subsidiaries or a fiduciary under or with respect to any employee benefit plan of Seller or any of its subsidiaries. In the event of any such action, Parent and the Surviving Corporation shall cooperate with such indemnified person in the defense of any such action.

Parent agreed, pursuant to the Merger Agreement, that for six (6) years after date upon which Purchaser first accepts and pays for Shares in the Offer, to cause the Surviving Corporation to fulfill and honor in all respects the obligations of Seller pursuant to any indemnification agreements of Seller or any of its subsidiaries that were disclosed to Parent (and all other indemnification agreements of Seller that are on terms substantially similar to the Indemnification Agreements) and any indemnification, exculpation or advancement of expenses provisions under the certificates of incorporations or bylaws (or comparable organizational documents) as in effect immediately prior to the Effective Time; provided, that, such obligations shall be subject to any limitation imposed from time to time under applicable law.

For six (6) years after the Effective Time, Parent shall cause the Surviving Corporation to provide officers' and directors' liability, fiduciary liability and similar insurance in respect of acts or omissions occurring prior to the Effective Time covering each person who is as of the date of the Merger Agreement or was prior to the Effective Time an officer or director of Seller or any of its subsidiaries and each person who is now or was prior to the Effective Time an officer or director of Seller or any of its subsidiaries who served as a fiduciary under or with respect to any employee benefit plan of Seller or any of its Subsidiaries (within the meaning of Section 3(3) of ERISA) covered as of the date of the Merger Agreement by Seller's director and officer insurance policies on terms with respect to coverage and amount no less favorable than those of such policy in effect on the date of the Merger Agreement as well as covering claims brought against each Indemnified Person under ERISA; provided, that, in satisfying this obligation, the Surviving Corporation shall not be obligated to pay annual premiums in the aggregate in excess of 200% of the amount per annum Seller paid in its last full fiscal year, which amount Seller has disclosed to Parent prior to the date of the Merger Agreement. Notwithstanding the foregoing, at any time Parent or the Surviving Corporation may, and prior to the date upon which Purchaser first accepts and pays for Shares in the Offer, Seller may, with the prior written consent of Parent (which shall not be unreasonably withheld, delayed or conditioned), purchase a "tail" directors' and officers' liability insurance policy, covering the same persons and providing the same terms with respect to coverage and amount as aforesaid, and that by its terms shall provide coverage until the sixth (6th) annual anniversary of the Effective Time, and upon the purchase of such insurance Parent's and the Surviving Corporation's obligations pursuant to this paragraph shall be deemed satisfied for so long as such insurance is in full force and effect.

Parent agreed, pursuant to the Merger Agreement, that in the event that the Surviving Corporation or any of its successors or assigns (i) consolidates with or merges into any other person and is not the continuing or surviving corporation or entity of such consolidation or merger, or (ii) transfers or conveys all or substantially all of its properties and other assets to any person, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of Parent or the Surviving Corporation, shall assume the obligations set forth in the Merger Agreement.

HSR Act Filing and International Antitrust Notifications. The Merger Agreement provides that as promptly as possible after the execution of the Merger Agreement, if required by law, each of Parent and Seller shall comply with all domestic and foreign regulatory approvals necessary to consummate the Merger. See Section 16 — "Certain Legal Matters; Regulatory Approvals."

Conditions to the Merger. The Merger Agreement provides that the respective obligations of each party to effect the Merger shall be subject to the satisfaction, at or prior to the Effective Time, of the following conditions:

- if required by applicable law, the Merger Agreement shall have been approved and adopted by the affirmative vote of the holders of a majority of the Company Shares;
- no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal or regulatory restraint or prohibition preventing the consummation of the Merger shall be in effect; nor shall there be any statute, rule, regulation or order enacted, entered, enforced by any governmental authority that prevents or prohibits the consummation of the Merger; and
- Purchaser or its permitted assignee shall have purchased all Company Shares validly tendered and not withdrawn pursuant to the Offer.

Termination. The Merger Agreement may be terminated and the Offer and Merger may be abandoned at any time prior to the (1) Effective Time in certain circumstances as set forth in the Merger Agreement and discussed below or (2) date upon which Purchaser's designees constitute a majority of the members of the Seller's Board (the "Control Date") in certain other circumstances as set forth in the Merger Agreement and discussed below.

The Merger Agreement may be terminated and the Offer and the Merger abandoned at any time during the period commencing on the date of the Merger Agreement, extending through the Control Date, and ending at the Effective Time in the following manner:

- by mutual written consent of Parent and Seller; subject to the approval of the Independent Directors;
- by either Parent, Purchaser or Seller, if any governmental authority shall have enacted, issued, promulgated, enforced or entered any injunction, order, decree or ruling or other law that (i) makes acceptance for payment of, or payment for, the Company Shares or consummation of the Merger illegal or otherwise prohibited, or (ii) enjoins Purchaser from accepting for payment, or paying for, the Company Shares pursuant to the Offer or Parent and Seller from consummating the Merger and, in respect of an order, injunction, judgment, judicial decision, decree or ruling under clause (i) or (ii) above, that shall have become final and non-appealable.

The Merger Agreement may be terminated and the Offer and the Merger abandoned at any time during the period commencing on the date of the Merger Agreement and ending at the Control Date in the following manner:

by either Parent, Purchaser or Seller,

- if (i) the Offer shall have expired or been terminated without Parent or Purchaser having accepted for payment any Company Shares pursuant to the Offer or (ii) the acceptance of Company Shares pursuant to the Offer shall not have occurred on or before October 31, 2009 (the "Outside Date"); provided, however, that the Outside Date shall be automatically extended to November 30, 2009, if all of the Offer Conditions (other the Minimum Condition and the condition related to required regulatory approvals) are satisfied for such period of time necessary to permit the obtainment of such regulatory approvals; provided, further, that the Outside Date may be extended beyond November 30, 2009, at the option of Parent or Purchaser if all of the Offer Conditions (other the Minimum Condition and the condition related to required regulatory approvals) are satisfied as of November 30, 2009, for such period of time necessary to permit the obtainment of such regulatory approvals, provided that any

extension pursuant to this proviso shall not extend beyond January 29, 2010; provided, further, that the right to terminate the Merger Agreement pursuant to this paragraph shall not be available to any party whose failure to fulfill any obligation under the Merger Agreement has been the cause of, or resulted in, the failure of such acceptance to occur on or before such date; or

by either Parent or Purchaser,

- if there is an inaccuracy in Seller's representations in the Merger Agreement, or a breach by Seller of its covenants in the Merger Agreement, in either case such that Purchaser's related conditions to the Offer as set forth in Section 15 — "Conditions to the Offer" would fail to be satisfied, and such inaccuracy or breach is not cured within thirty (30) days after notice thereof;
- if following the execution and delivery of the Merger Agreement, there shall have occurred a Material Adverse Effect that is continuing (whether or not events or circumstances occurring prior to the execution and delivery of the Merger Agreement caused or contributed to the occurrence of such Material Adverse Effect);
- if any of the following shall have occurred: (i) the Seller Board or any committee thereof shall have made a Change in Recommendation; (ii) the Seller Board shall have failed to reconfirm the Seller Board Recommendation within ten (10) business days after the commencement of a tender or exchange offer or public notice of an Acquisition Proposal from a third party after written request from Parent to do so; (iii) Seller shall have failed to include the Seller Board Recommendation in the Schedule 14D-9 or to permit Parent to include the Seller Board Recommendation in the Offer to Purchase; or (iv) Seller shall have breached any of the covenants set forth in the Merger Agreement; or

by Seller

- in order to enter into an definitive agreement with respect to a Superior Proposal in accordance with the non-solicitation provisions of the Merger Agreement; provided, however, that with respect to a Superior Proposal that involves proposed consideration that includes (i) equity securities or other securities convertible into equity securities of a third party and (2) cash consideration (if any) that is less than $11.50 per Company Share (or any other price per Company Share that is paid in the Offer) (an "Equity Consideration Acquisition Proposal"), Seller may only terminate the Merger Agreement to enter into such definitive agreement beginning after the fifth (5th) business day following the occurrence of a "Termination Trigger Date" if, at the time of such Termination Trigger Date, Purchaser has not yet accepted and paid for any Shares in the Offer. The Merger Agreement defines a "Termination Trigger Date" as the first day after the fortieth (40th) business day following the commencement of the Offer on which, if the Seller Board or any committee thereof shall have determined, in accordance with the Merger Agreement, to enter into a definitive agreement with respect to an Equity Consideration Acquisition Proposal, there shall not be in effect any law or interpretation or position of the SEC which requires the Offer to remain open. In the event of any termination of the Merger Agreement by Seller pursuant to the termination right described in this paragraph (whether with respect to an Equity Consideration Acquisition Proposal or otherwise) Seller shall pay to Parent the Fee (as defined below) prior to such termination.

Fee and Expenses. The Merger Agreement contemplates that a termination fee of $30,000,000 (the "Fee") will be payable by Seller to Parent under any of the following circumstances:

- the Merger Agreement is terminated by Parent, Purchaser or Seller because (i) the Offer shall have expired or been terminated without Parent or Purchaser having accepted for payment any Company Shares pursuant to the Offer or (ii) the acceptance of Company Shares pursuant to the Offer shall not have occurred on or before Outside Date and (x) an Acquisition Proposal by a third party shall have been publicly announced after the date the Merger Agreement was entered into and prior to such termination and (y) within twelve (12) months after such termination the Seller enters into a definitive agreement with respect to an Acquisition Proposal, or an Acquisition Proposal is consummated;

- the Merger Agreement is terminated by Parent or Purchaser because there is an inaccuracy in Seller's representations in the Merger Agreement, or a breach by Seller of its covenants in the Merger Agreement, in either case such that Purchaser's related conditions to the Offer as set forth in Section 15 — "Conditions to the Offer" would fail to be satisfied, and such inaccuracy or breach is not cured within thirty (30) days after notice thereof and (x) an Acquisition Proposal by a third party shall have been received by the Seller after the date the Merger Agreement and prior to such termination and (y) within twelve (12) months after such termination Seller enters into a definitive agreement with respect to an Acquisition Proposal, or an Acquisition Proposal is consummated;
- the Merger Agreement is terminated by either Parent or Purchaser, because any of the following shall have occurred: (i) the Seller Board or any committee thereof shall have made a Change in Recommendation; (ii) the Seller Board shall have failed to reconfirm the Seller Board Recommendation within ten (10) business days after the commencement of a tender or exchange offer or public notice of an Acquisition Proposal from a third party after written request from Parent to do so; or (iii) Seller shall have failed to include the Seller Board Recommendation in the Schedule 14D-9 or to permit Parent to include the Seller Board Recommendation in the Offer to Purchase; or
- the Merger Agreement is terminated by Seller in order to enter into a definitive agreement with respect to a Superior Proposal.

Subject to the following paragraph, all costs and expenses incurred in connection with the Merger Agreement, the Offer and the Merger shall be paid by the party incurring such expenses, whether or not the Offer and the Merger are consummated.

If the Merger Agreement is terminated by Parent pursuant to Parent's termination rights relating to an inaccuracy in Seller's representations in the Merger Agreement, or a breach by Seller of its covenants in the Merger Agreement, as discussed above under the caption "Termination," and neither Parent nor Purchaser is in material breach of their respective agreements contained in Merger Agreement or their respective representations contained in the Merger Agreement, Seller shall, reimburse each of Parent and Purchaser and their affiliates for all out-of-pocket expenses and fees (including fees and expenses payable to all banks, investment banking firms, other financial institutions and other persons and their respective agents and counsel, for arranging, committing to provide or providing any financing for the Offer and the Merger or structuring the Offer and the Merger and all fees and expenses of counsel, accountants, experts and consultants to Parent and Purchaser, and all printing and advertising expenses) actually incurred or accrued by either of them or on their behalf in connection with the Offer and the Merger, including the financing thereof, and actually incurred or accrued by banks, investment banking firms, other financial institutions and other persons and assumed by Parent or Purchaser in connection with the negotiation, preparation, execution and performance of the Merger Agreement, the structuring and financing of the Offer and the Merger and any financing commitments or agreements relating thereto in an amount not to exceed $4,000,000.

Amendment. The Merger Agreement may be amended by the parties to the Merger Agreement at any time prior to the Effective Date. However, after approval and adoption of the Merger Agreement and the Offer and the Merger by the stockholders of Seller, no amendment may be made that would reduce the amount or change the type of consideration into which each Company Share shall be converted upon consummation of the Merger.

Tender and Support Agreement. The following is a summary of the Tender and Support Agreement, a form of which is filed as an Exhibit to the Schedule TO, and is incorporated herein by reference. The summary is qualified in its entirety by reference to the Tender and Support Agreement.

Concurrently with entering into the Merger Agreement, Parent and Purchaser entered into a Tender and Support Agreement dated June 4, 2009 (this "Tender and Support Agreement") with Jerry Fiddler, Narendra Gupta and Kenneth Klein, and various other entities affiliated with Messrs. Fiddler and Gupta (each a "Stockholder"). Collectively, the Stockholders directly own 8,331,236 Company Shares, representing approximately 10.8% of the Company Shares outstanding on the date of the Merger Agreement.

Pursuant to the Tender and Support Agreement, each of the Stockholders has agreed to tender all of the Shares owned by the Stockholder (the "Subject Shares") in accordance with the Offer. Pursuant to the Tender and Support Agreement, as promptly as practicable after such Stockholder has received all documents or instruments required to be delivered pursuant to the terms of the Offer, each Stockholder will (i) deliver to the Depositary (A) a letter of transmittal with respect to his, her or its Subject Shares complying with the terms of the Offer, (B) a certificate or certificates representing such Subject Shares or an "agent's message" (or such other evidence, if any, of transfer as the Depositary may reasonably request) in the case of a book-entry transfer of any uncertificated Subject Shares and (C) all other documents or instruments required to be delivered pursuant to the terms of the Offer, and/or (ii) instruct his, her or its broker or such other person that is the holder of record of any Subject Shares beneficially owned by such Stockholder to tender such Subject Shares pursuant to and in accordance with the terms of the Offer.

Each Stockholder has agreed that once its Subject Shares are tendered such Stockholder will not withdraw any of such Subject Shares from the Offer, unless and until the Tender and Support Agreement shall have been terminated in accordance with its terms.

The Tender and Support Agreement also provides that if any Subject Shares have not been previously accepted for payment and paid for by the Purchaser pursuant to the Offer, then each Stockholder agrees to vote, or cause his, her or its Subject Shares to be voted, (i) in favor of the Merger, (ii) against (A) any agreement or arrangement related to any Acquisition Proposal, (B) any liquidation, dissolution, recapitalization, extraordinary dividend or other significant corporate reorganization of Seller or any of its subsidiaries, or (C) any other transaction the consummation of which would reasonably be expected to impede, interfere with, prevent or materially delay the Offer or the Merger and (iii) in favor of any other matter necessary for consummation of the transactions contemplated by the Merger Agreement, which is considered at any such meeting of stockholders, and in connection therewith to execute any documents reasonably requested by Parent which are necessary or appropriate in order to effectuate the foregoing. Each Stockholder also agreed that he, she or it will not, director or indirectly: (a) transfer or consent to or permit any such transfer of any or all of its Subject Shares, or any interest therein, or create or permit to exist any lien, other than any restrictions imposed by applicable law or pursuant to the Tender and Support Agreement, on any such Subject Shares (other than transfers to charitable organizations or a trust for the benefit of the Stockholder where such transferee has agreed in writing to be bound by the terms of the Tender and Support Agreement), (b) enter into any contract with respect to any transfer of such Subject Shares or any interest therein, (c) grant or permit the grant of any proxy, power of attorney or other authorization in or with respect to such Subject Shares, (d) deposit or permit the deposit of such Subject Shares into a voting trust or enter into a voting agreement or arrangement with respect to such Subject Shares, or (e) take or permit any other action that would in any way restrict, limit or interfere with the performance of its obligations under the Tender and Support Agreement or the transactions contemplated thereby or otherwise make any representation or warranty of each Stockholder therein untrue or incorrect.

The Tender and Support Agreement shall terminate automatically, without any notice or other action by any person, upon the later of (i) the termination of the Merger Agreement in accordance with its terms and (ii) the termination of the Offer by Parent.

***Employment and Non-Competition Agreements*.** The following is a summary of the Employment and Non-Competition Agreements, forms of which are filed as an Exhibit to the Schedule TO, and are incorporated herein by reference. The summary is qualified in its entirety by reference to the applicable agreements.

In connection with the execution of the Merger Agreement, Kenneth Klein, President and Chief Executive Officer of Seller, and Ian Halifax, Chief Financial Officer of Seller, each entered into an employment agreement with Seller and Parent. Mr. Klein also entered into a Non-Competition Agreement with Seller and Parent.

Kenneth Klein Employment Agreement

The employment agreement for Mr. Klein, which shall become effective upon the Acceptance Date (as defined in the Merger Agreement), provides for a two (2) year period of employment following the Acceptance Date as President of Seller. Mr. Klein's existing Employment Agreement, originally dated November 5, 2003, as amended through January 30, 2009, will remain in effect until the effective time of the employment agreement described herewith. Seller will pay Mr. Klein an annual base salary of $500,000 and he will be eligible to receive an incentive bonus, based on performance objectives for each relevant installment period, subject to a certain stipulated minimum amount payable in four (4) equal installments.

Mr. Klein will no longer be eligible to participate in certain change of control and severance plans sponsored by Seller. Equity awards outstanding as of the Acceptance Date, except certain performance share awards, will be accelerated by a period of two (2) years and will otherwise continue vesting at the same prior rate of vesting. Outstanding performance share awards will have revised vesting terms and will vest going forward based on Mr. Klein's projected period of employment.

Mr. Klein will be eligible to receive a lump sum retention bonus if he continues his employment with Seller through the one (1) year anniversary of the Acceptance Date (the "First Retention Date") and meets certain performance goals. The first retention bonus can be up to $2,000,000. Mr. Klein will also be eligible to receive a lump sum retention bonus if he continues his employment with Seller through the two (2) year anniversary of the Acceptance Date and meets certain performance goals (the "Second Retention Date"). The second retention bonus can be up to $3,000,000.

Notwithstanding the foregoing, if Mr. Klein is terminated during the two (2) year period following the Acceptance Date as a result of an Involuntary Termination or if he resigns his employment for Good Reason (as each such term is defined in Mr. Klein's employment agreement), Mr. Klein, subject to signing and not revoking a full release of claims in favor of Seller, will receive: (i) an amount equal to the base salary actually paid to Mr. Klein for the eighteen (18) month period prior to his severance date (which amount will not be less than a certain prescribed amount), (ii) the difference between (*x*) one hundred fifty percent (150%) of the target bonus for the fiscal year in which the termination occurs and (*y*) any amount of the bonus already received by Mr. Klein during the fiscal year in which the termination occurs on account of such fiscal year (e.g., quarterly bonus amounts already paid), (iii) an amount equal to the actual bonus paid for the fiscal year prior to the fiscal year in which the termination occurs, pro-rated according to the number of months Mr. Klein is employed by Seller during the year in which the termination occurs, (iv) reimbursement for up to eighteen (18) months for premiums related to continued group health coverage under COBRA, (v) full vesting as to any awards outstanding as of the Acceptance Date that remain outstanding on his severance date, and (vi) either the first retention bonus if Mr. Klein's termination occurs prior to the First Retention Date, determined based on the actual achievement of the applicable performance goals and pro-rated on based on how long Mr. Klein has worked prior to the First Retention Date, or, the second retention bonus if Mr. Klein's termination occurs after the First Retention Date, but prior to the Second Retention Date, determined based on the actual achievement of the applicable performance goals and pro-rated on based on how long Mr. Klein has worked after the First Retention Date. Mr. Klein is subject to certain confidentiality, privacy, invention assignment, and non-solicitation provisions following any termination of employment.

Kenneth Klein Non-Competition Agreement

Seller, Parent and Mr. Klein entered into a Non-Competition Agreement on June 4, 2009 (the "Non-Compete"), which will become effective upon the Acceptance Date. The Non-Competition Agreement provides that for a period of three years from Mr. Klein's termination of employment with Seller for any reason (the "Restricted Period"), Mr. Klein shall not, directly or indirectly, engage or participate in the development of any technologies, products or services relating to the operating systems, middleware and software development tools for use in or with non-enterprise products (whether as an employee, agent, consultant, advisor, independent contractor, proprietor, principal, partner, stockholder, trustee, officer or director) or have an ownership or

financial interest (except for ownership of a de minimus amount of any publicly held entity or privately-held entity) in any person engaged in Seller's business, anywhere in the world in which Seller is currently engaged in business or otherwise proposing to or targeting to distribute, license or sell its products, services or technologies. Furthermore, Mr. Klein shall not, directly or indirectly, solicit or take any action designed to induce an employee terminate such employee's relationship with Seller or engage in any competitive behavior described above for the Restricted Period.

Ian Halifax Employment Agreement

The employment agreement for Mr. Halifax, which shall become effective upon the Acceptance Date (as defined in the Merger Agreement), provides for a one (1) year period of employment following the Acceptance Date during which time he will render transition services to Seller. Mr. Halifax's existing certain Offer Letter, originally dated January 30, 2007, as amended through October 16, 2008, will remain in effect until the effective time of the employment agreement described herewith. Seller will pay Mr. Halifax an annual base salary of $400,000, and he will be eligible to receive an annual cash incentive bonus with the target percentage set at fifty percent (50%) of his annual base salary payable in two installments based on performance objectives for each relevant installment period.

Mr. Halifax will no longer be eligible to participate in certain change of control and severance plans sponsored by Seller. Equity awards outstanding as of the Acceptance Date including certain nonplan stock option grants, will be accelerated by a period of one (1) year and will otherwise continue vesting at the same prior rate of vesting.

Mr. Halifax will be eligible to receive a lump sum retention bonus if he continues his employment with Seller through the six (6) month anniversary of the Acceptance Date (the "First Halifax Retention Date"). The first retention bonus is equal to twelve (12) months' base salary, plus an amount equal to the actual bonus Mr. Halifax received in the prior fiscal year, and his equity awards that were outstanding as of the Acceptance Date that remain outstanding will fully vest (the "First Halifax Retention Bonus").

Mr. Halifax will also be eligible to receive a second retention bonus if he is employed by Seller through the one (1) year anniversary of the Acceptance Date or on the earlier successful completion of a transition period (the "Second Halifax Retention Date"). The second retention bonus is payable in a lump sum and is equal to a cash payment in the amount of the base salary earned by Mr. Halifax since the Acceptance Date plus an amount equal to his annual incentive bonus, which will be pro-rated to the extent Mr. Halifax has not been employed for a full year on the Second Halifax Retention Date (the "Second Halifax Retention Bonus").

Notwithstanding the foregoing, if Mr. Halifax is terminated before the First Halifax Retention Date as a result of an Involuntary Termination or if he resigns his employment for Good Reason (as each such term is defined in Mr. Halifax's employment agreement), Mr. Halifax, subject to signing and not revoking a full release of claims in favor of Seller, will receive (i) the First Halifax Retention Bonus, (ii) the total annual incentive bonus for the year in which termination occurs, which will be pro-rated based on how long Mr. Halifax has worked in the year of termination, and (iii) reimbursement for up to eighteen (18) months for premiums related to continued group health coverage under COBRA.

Notwithstanding the foregoing, if Mr. Halifax is terminated after the First Halifax Retention Date, but before the Second Halifax Retention Date, as a result of an Involuntary Termination or if he resigns his employment for Good Reason (as each such term is defined in Mr. Halifax's employment agreement), Mr. Halifax, subject to signing and not revoking a full release of claims in favor of Seller, will receive (1) a cash payment equal to the amount of the base salary earned by Mr. Halifax since the Acceptance Date through the date of severance, (2) the total annual incentive bonus for the year in which termination occurs minus any bonus actually paid, which will be pro-rated based on how long Mr. Halifax has worked in the year of termination, and (3) the Second Halifax Retention Bonus, pro-rated based on how long Mr. Halifax has worked following the First Halifax Retention Date. Mr. Halifax is subject to certain confidentiality, privacy, invention assignment, and non-solicitation provisions following any termination of employment.

12. **Purpose of the Offer; Plans for Seller.**

Purpose of the Offer. The purpose of the Offer is to acquire control of, and the entire equity interest in, Seller. Pursuant to the Merger Agreement, Intel is entitled as soon as practicable after consummation of the Offer to seek representation on the Seller Board proportionate to its ownership of Company Shares and to seek to have Seller consummate the Merger pursuant to the Merger Agreement. Pursuant to the Merger, the outstanding Company Shares not owned by Intel or its subsidiaries (including Purchaser) will be converted into the right to receive cash in an amount equal to the price per Company Share provided pursuant to the Offer.

Approval. Under the Delaware General Corporation Law (the "DGCL"), the approval of the Seller Board and the affirmative vote of the holders of a majority of the outstanding Company Shares voting together as a single class, may be required to approve and adopt the Merger Agreement and the transactions contemplated thereby including the Merger. The Seller Board has unanimously approved and adopted the Merger Agreement and the transactions contemplated thereby and, unless the Merger is consummated pursuant to the short-form merger provisions under the DGCL described below, the only remaining required corporate action of Seller is the adoption of the Merger Agreement by the affirmative vote of the holders of a majority of the Company Shares voting together as a single class. If stockholder approval for the Merger is required, Intel intends to cause the Seller Board to set the record date for the stockholder approval for a date as promptly as practicable following the consummation of the Offer. Accordingly, if the Minimum Condition is satisfied, we believe the Purchaser will have sufficient voting power to cause the approval and adoption of the Merger Agreement and the transactions contemplated thereby without the affirmative vote of any other stockholders.

Stockholder Meetings. In the Merger Agreement, Seller has agreed, if a stockholder vote is required, to convene a meeting of its stockholders following consummation of the Offer for the purpose of considering and voting on the Merger. Seller, acting through its Board of Directors, has further agreed that, if a stockholders' meeting is convened, the Seller's Board shall recommend that stockholders of Seller vote to adopt and approve the Merger Agreement and the Merger. At any such meeting, all of the Shares then owned by Intel and the Purchaser and by any of Intel's other subsidiaries, and all Shares for which Seller has received proxies to vote, will be voted in favor of adoption of the Merger Agreement and approval of the Merger.

Board Representation. See Section 11 – "The Transaction Documents" of this Offer to Purchase. Intel currently intends to designate a majority of the directors of Seller following consummation of the Offer. It is currently anticipated that Purchaser will designate Paul Otellini, Arvind Sodhani, Renee James and Sean Maloney to serve as directors of Seller following consummation of the Offer. Purchaser expects that such representation would permit Purchaser to exert substantial influence over Seller's conduct of its business and operations. The foregoing information and certain other information contained in this Offer to Purchase and the Schedule 14D-9 being mailed to stockholders herewith are being provided in accordance with the requirements of Section 14(f) of the 1934 Act and Rule 14f-1 thereunder.

Short-form Merger. Under the DGCL, if Purchaser acquires, pursuant to the Offer or otherwise, at least 90% of the outstanding Company Shares, Purchaser will be able to approve the Merger without a vote of Seller's stockholders. In such event, Parent and Purchaser anticipate that they will take all necessary and appropriate action to cause the Merger to become effective as soon as reasonably practicable after such acquisition, without a meeting of Seller's stockholders. However, if the Purchaser does not acquire at least 90% of the outstanding Company Shares pursuant to the Offer or otherwise, a significantly longer period of time would be required to effect the Merger. Pursuant to the Merger Agreement, Seller has agreed to convene a meeting of its stockholders as soon as practicable following consummation of the Offer to consider and vote on the Merger, if a stockholders' vote is required.

Rule 13e-3. The SEC has adopted Rule 13e-3 under the Exchange Act, which is applicable to certain "going private" transactions and under certain circumstances may be applicable to the Merger or another business combination following the purchase of Shares pursuant to the Offer or otherwise in which the Purchaser seeks to acquire the remaining Shares not held by it. The Purchaser believes, however, that Rule 13e-3 will not be

applicable to the Merger if the Merger is consummated within one (1) year after the consummation of the Offer at the same per Share price as paid in the Offer. If applicable, Rule 13e-3 requires, among other things, that certain financial information concerning Seller and certain information relating to the fairness of the proposed transaction and the consideration offered to minority stockholders in such transaction be filed with the SEC and disclosed to stockholders prior to consummation of the transaction.

Plans for Seller. In connection with Intel's consideration of the Offer, Intel has developed an initial plan, on the basis of available information, for the combination of the business of Seller with that of Intel. Intel intends to continue reviewing such information as part of a comprehensive review of Seller's business, operations, capitalization and management with a view to optimizing development of Seller's potential in conjunction with Intel's existing business. This planning process will continue throughout the pendency of the Offer and the Merger, but will not be implemented until the completion of the Merger.

Extraordinary Corporate Transactions. Except as described above or elsewhere in this Offer to Purchase, Intel and Purchaser have no present plans or proposals that would relate to or result in an extraordinary corporate transaction involving Seller or any of its subsidiaries (such as a merger, reorganization, liquidation, relocation of any operations or sale or other transfer of a material amount of assets), any change in Seller's Board or management, any material change in Seller's capitalization or dividend policy or any other material change in Seller's corporate structure or business.

Appraisal Rights. No appraisal rights are available in connection with the Offer. However, if the Merger is consummated, stockholders will have certain rights under the DGCL to dissent and demand appraisal of, and to receive payment in cash of the fair value of, their Company Shares. Such rights to dissent, if the statutory procedures are met, could lead to a judicial determination of the fair value of the Company Shares, as of the day prior to the date on which the stockholders' vote was taken approving the Merger or similar business combination (excluding any element of value arising from the accomplishment or expectation of the Merger), required to be paid in cash to such dissenting holders for their Company Shares. In addition, such dissenting stockholders would be entitled to receive payment of a fair rate of interest from the date of consummation of the Merger on the amount determined to be the fair value of their Company Shares. In determining the fair value of the Company Shares, the court is required to take into account all relevant factors. Accordingly, such determination could be based upon considerations other than, or in addition to, the market value of the Company Shares, including, among other things, asset values and earning capacity. In *Weinberger v. UOP, Inc.*, the Delaware Supreme Court stated, among other things, that "proof of value by any techniques or methods which are generally considered acceptable in the financial community and otherwise admissible in court" should be considered in an appraisal proceeding. Therefore, the value so determined in any appraisal proceeding could be the same as, or more or less than, the purchase price per Company Share in the Offer or the Merger consideration.

In addition, several decisions by Delaware courts have held that, in certain circumstances, a controlling stockholder of a company involved in a merger has a fiduciary duty to other stockholders which requires that the Merger be fair to such other stockholders. In determining whether a merger is fair to minority stockholders, Delaware courts have considered, among other things, the type and amount of consideration to be received by the stockholders and whether there was fair dealing among the parties. The Delaware Supreme Court stated in *Weinberger* and *Rabkin v. Philip A. Hunt Chemical Corp.* that the remedy ordinarily available to minority stockholders in a cash-out merger is the right to appraisal described above.

13. Certain Effects of the Offer.

Market for the Company Shares. The purchase of Company Shares pursuant to the Offer will reduce the number of holders of Company Shares and the number of Company Shares that might otherwise trade publicly, which could adversely affect the liquidity and market value of the remaining Company Shares held by stockholders other than the Purchaser and Intel. The Purchaser cannot predict whether the reduction in the

number of Company Shares that might otherwise trade publicly would have an adverse or beneficial effect on the market price for, or marketability of, the Company Shares or whether such reduction would cause future market prices to be greater or less than the Offer Price.

Stock Listing. Depending upon the number of Company Shares purchased pursuant to the Offer, the Company Shares may no longer meet the standards for continued inclusion in NASDAQ. If, as a result of the purchase of Company Shares pursuant to the Offer, the Company Shares no longer meet the criteria for continuing inclusion in NASDAQ, the market for the Company Shares could be adversely affected. According to NASDAQ's published guidelines, the Company Shares would not meet the criteria for continued inclusion in NASDAQ if, among other things, the number of publicly held Company Shares were less than 750,000, the aggregate market value of the publicly held Company Shares were less than $5,000,000 or there were fewer than two market makers for the Company Shares. If, as a result of the purchase of the Company Shares pursuant to the Offer, the Company Shares no longer meet these standards, the quotations on NASDAQ will be discontinued. In the event the Company Shares were no longer quoted on NASDAQ, quotations might still be available from other sources. The extent of the public market for the Company Shares and availability of such quotations would, however, depend upon such factors as the number of holders and/or the aggregate market value of the publicly held Company Shares at such time, the interest in maintaining a market in the Company Shares on the part of securities firms, the possible termination of registration of the Company Shares under the Exchange Act, and other factors.

Margin Regulations. The Company Shares are currently "margin securities" under the Regulations of the Board of Governors of the Federal Reserve System (the "Federal Reserve Board"), which designation has the effect, among other effects, of allowing brokers to extend credit on the collateral of the Company Shares. Depending upon factors similar to those described above regarding the market for the Company Shares and stock listings, it is possible that, following the Offer, the Company Shares would no longer constitute "margin securities" for the purposes of the margin regulations of the Federal Reserve Board and, therefore, could no longer be used as collateral for loans made by brokers.

Exchange Act Registration. The Company Shares are currently registered under the Exchange Act. Such registration may be terminated upon application of Seller to the SEC if the Company Shares are neither listed on a national securities exchange nor held by 300 or more holders of record. Termination of registration of the Company Shares under the Exchange Act would substantially reduce the information required to be furnished by Seller to its stockholders and to the SEC and would make certain provisions of the Exchange Act no longer applicable to Seller, such as the short-swing profit recovery provisions of Section 16(b) of the Exchange Act, the requirement of furnishing a proxy statement pursuant to Section 14(a) of the Exchange Act in connection with stockholders' meetings and the related requirement of furnishing an annual report to stockholders, and the requirements of Rule 13e-3 under the Exchange Act with respect to "going private" transactions. Furthermore, the ability of "affiliates" of Seller and persons holding "restricted securities" of Seller to dispose of such securities pursuant to Rule 144 promulgated under the Securities Act of 1933, as amended, may be impaired or eliminated. If registration of the Company Shares under the Exchange Act were terminated, the Company Shares would no longer be "margin securities" or be eligible for listing on the NASDAQ. Parent and the Purchaser currently intend to seek to cause Seller to terminate the registration of the Company Shares under the Exchange Act as soon after consummation of the Offer as the requirements for termination of registration are met.

14. Dividends and Distributions.

The Merger Agreement provides that, from the date of the Merger Agreement to the Effective Time, without the prior written consent of Intel, Seller will not, and will not permit any of its subsidiaries to, declare, set aside, make or pay any dividends on or other distributions (whether in cash, stock, property or otherwise) in respect of, any shares of its capital stock, other than dividends or distributions by a subsidiary of Seller to Seller or another subsidiary of Seller. Neither Intel nor Purchaser anticipate waiving this restriction or otherwise consenting to the payment of any dividend on Seller's common stock. Accordingly, it is anticipated that no dividends will be declared or paid on the Company Shares following the date of the Merger Agreement.

15. **Conditions of the Offer.**

Notwithstanding any other provisions of the Offer, the Purchaser shall not be required to, and Parent shall not be required to cause the Purchaser to, accept for payment or, subject to any applicable rules and regulations of the SEC, including Rule 14e-1(c) under the Exchange Act, pay for any tendered Company Shares, if:

(a) there shall not have been validly tendered prior to the expiration date for the Offer (as it may have been extended or re-extended pursuant to the Merger Agreement, the "Expiration Date") that number of Company Shares which, when added to the Company Shares already owned by Parent and its controlled subsidiaries, represents at least (i) at least fifty percent (50%) of the then outstanding Company Shares on a "fully diluted basis" (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights), including the Seller's outstanding RSUs, in each case, which are convertible or exercisable prior the Outside Date, but excluding the Subject Shares plus (ii) the Subject Shares (the "Minimum Condition");

(b) any applicable waiting period under the HSR Act shall not have been terminated or expired and the foreign antitrust and similar regulatory waiting periods, clearances, consents or approvals under the German Act against Restraints of Competition, the Restrictive Trade Practices Laws 5748-1998 of Israel, or any other applicable material consents or approvals of any governmental authority shall not have expired, been obtained or been terminated, as the case may;

(c) there shall have been instituted or be pending, or be threatened in writing, any litigation, suit claim, action, hearing, proceeding or mediation by any governmental authority, (i) challenging or seeking to make illegal, materially delay, or otherwise, directly or indirectly, restrain or prohibit, the acceptance for payment, payment for or purchase of any Company Shares by Parent or Purchaser, or the consummation of the Merger; (ii) seeking to prohibit or limit the ownership or operation by the Seller, Parent or any of their subsidiaries of all or any of the business or assets of the Seller, Parent or any of their subsidiaries, or to compel the Seller, Parent or any of their subsidiaries, to dispose of, license or to hold separate all or any portion of the business or assets of the Seller, Parent or any of their subsidiaries, in any such case (individually or in the aggregate with all other such cases) in a manner that has or would reasonably be expected to have a materially detrimental effect on the Seller or Parent or on the benefits expected to be derived by Parent from the transactions contemplated in the Merger Agreement; (iii) seeking to impose or confirm any limitation on the ability of Parent, Purchaser or any other affiliate of Parent to acquire, hold or exercise effectively full rights of ownership of any Company Shares, including the right to vote any Company Shares acquired by Purchaser pursuant to the Offer or otherwise on all matters properly presented to the Seller's stockholders; (iv) seeking to require divestiture by Parent, Purchaser or any other affiliate of Parent of any Company Shares; or (v) that otherwise (individually or in the aggregate with all other such Actions) would have a Material Adverse Effect;

(d) there shall be any action taken, or any United States or non-United States law (statutory, common or otherwise), including any statute, ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order of a governmental authority or interpretation enacted, entered, enforced, promulgated, amended, issued or deemed applicable to (i) Parent, the Seller or any subsidiary or affiliate of Parent or the Seller or (ii) the Offer or the Merger of any governmental authority that is reasonably likely to result, directly or indirectly, in any of the consequences referred to in paragraph (c) above;

(e) any Material Adverse Effect shall have occurred and be continuing;

(f) (i) any representation or warranty of Seller set forth in the Merger Agreement (other than in Section 4.3, Section 4.4, Section 4.7(b), the third sentence of Section 4.10(h), Section 4.19, Section 4.20 and Section 4.24) shall not be true and correct (without giving effect to any qualification

as to "materiality" or "Material Adverse Effect" set forth therein) as of the date of the Merger Agreement and as of immediately prior to the expiration of the Offer as though made on or as of such date, except, in each case, (A) those representations and warranties that address matters only as of a particular date or only with respect to a specified period of time, that need only be true and correct as of such date or with respect to such period, or (B) where the failure of such representations and warranties to be true and correct, individually or in the aggregate, has not had and would not have a Material Adverse Effect, (ii) any representation or warranty of Seller set forth in Section 4.4, the third sentence of Section 4.10(h), Section 4.19, Section 4.20 and Section 4.24 shall not be true and correct (in all material respects) as of the date of the Merger Agreement and as of immediately prior to the expiration of the Offer as though made on or as of such date except, in each case, those representations and warranties that address matters only as of a particular date or only with respect to a specified period of time, that need only be true and correct as of such date or with respect to such period, (iii) any representation or warranty of Seller set forth in Section 4.7(b) shall not be true and correct in a manner resulting in a restatement of any of Seller Financial Reports (as defined in the Merger Agreement), the basis of which restatement would be reasonably likely to result in a material diminution in value of Seller for Parent as of immediately prior to the expiration of the Offer, or (iv) any representation or warranty of Seller set forth in Section 4.3 shall not be true and correct in a manner that could result in Parent or Purchaser becoming obligated under the terms of the Merger Agreement to pay consideration for or assume an aggregate of 250,000 or more Company Shares, Company Options, Company RSUs or any other securities of Seller more than the number of Company Shares, Company Options, Company RSUs or any other securities of Seller contemplated by Section 4.3 to be purchased or assumed by Purchaser or Parent pursuant to the Offer and the Merger as of the date of the Merger Agreement and as of immediately prior to the expiration of the Offer as though made on or as of such date, except, in each case, those representations and warranties that address matters only as of a particular date or only with respect to a specified period of time, that need only be true and correct as of such date or with respect to such period;

(g) Seller shall have failed to comply with or perform in any material respect any covenant, obligation or agreement of the Seller under the Merger Agreement;

(h) Seller shall have furnished to Parent a certificate dated as of the date of determination signed on behalf of Seller by the chief executive officer and the chief financial officer of Seller to the effect that the conditions in (e), (f) and (g) of the foregoing shall not have occured;

(i) the Merger Agreement shall have been terminated in accordance with its term; or

(j) the closing price of the Standard & Poor's 500 Stock Index, as reported in the Wall Street Journal, shall be below 737 each trading day during the "Applicable Lookback Period."

The Merger Agreement defines "Applicable Lookback Period" as a number of consecutive trading days immediately preceding an Expiration Date upon which none of the conditions or events set in this Section 15 shall have occurred and be continuing (the "Qualified Expiration Date"). If the Qualified Expiration Date occurs during the period beginning with the date of the Merger Agreement and ending on (and including) the date that is sixty-nine (69) calendar days following the date of the Merger Agreement, then the Applicable Lookback Period shall be the five (5) consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is seventy (70) calendar days from date of the Merger Agreement and ending on (and including) the date that is eighty-nine (89) calendar days from the date of the Merger Agreement, then the Applicable Lookback Period shall be the six (6) consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is ninety (90) calendar days from date of the Merger Agreement and ending on (and including) the date that is one hundred and nine (109) calendar days from the date of the Merger Agreement, then the Applicable Lookback Period shall be the seven (7) consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is one hundred and ten (110)

calendar days from date of the Merger Agreement and ending on (and including) the date that is one hundred and twenty-nine (129) calendar days from the date of the Merger Agreement, then the Applicable Lookback Period shall be the eight (8) consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is one hundred and thirty (130) calendar days from date of the Merger Agreement and ending on (and including) the date that is one hundred and forty-nine (149) calendar days from the date of the Merger Agreement then the Applicable Lookback Period shall be the nine (9) consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs on or after the date that is one hundred and fifty (150) calendar days following the date of the Merger Agreement, then the Applicable Lookback Period shall be the ten (10) consecutive trading days immediately preceding the Qualified Expiration Date.

The foregoing conditions are in addition to, and not a limitation of, the rights of Parent and the Purchaser to extend, terminate and/or modify the Offer pursuant to the terms of the Merger Agreement.

Purchaser expressly reserves the right (but shall not be obligated) at any time or from time to time, in its sole discretion, to amend or waive any such condition (other than the Minimum Condition, which may not be amended or waived), to increase the price per Share payable in the Offer, and to make any other changes in the terms and conditions of the Offer; provided, that, without the prior written consent of Seller, no change may be made that decreases the price per Share payable in the Offer, changes the form of consideration payable in the Offer, reduces the maximum number of Shares sought to be purchased in the Offer, adds to the conditions to the Offer set forth in this Section 15 — "Conditions of the Offer," extends the Offer other than as permitted by the Merger Agreement, or modifies or amends any condition to the Offer in any manner adverse to the holders of Shares.

16. Certain Legal Matters; Regulatory Approvals.

General. Other than as set forth below, Purchaser is not aware of any pending legal proceeding relating to the Offer. Except as described in this Section 16—"Certain Legal Matters; Regulatory Approvals" based on its examination of publicly available information filed by Seller with the SEC and other publicly available information concerning Seller, the Purchaser is not aware of any governmental license or regulatory permit that appears to be material to Seller's business that might be adversely affected by the Purchaser's acquisition of Company Shares as contemplated herein or of any approval or other action by any governmental, administrative or regulatory authority or agency, domestic or foreign, that would be required for the acquisition or ownership of Company Shares by the Purchaser or Parent as contemplated herein. Should any such approval or other action be required, the Purchaser currently contemplates that, except as described below under "State Takeover Statutes," such approval or other action will be sought. While the Purchaser does not currently intend to delay acceptance for payment of Company Shares tendered pursuant to the Offer pending the outcome of any such matter, there can be no assurance that any such approval or other action, if needed, would be obtained or would be obtained without substantial conditions or that if such approvals were not obtained or such other actions were not taken, adverse consequences might not result to Seller's business, any of which under certain conditions specified in the Merger Agreement could cause the Purchaser to elect to terminate the Offer without the purchase of Company Shares thereunder. See Section 15 — "Conditions of the Offer."

Securities Class Action Litigation. On June 4, 2009, Mark Harvey filed on behalf of himself and the public stockholders of Seller, a complaint (the "Harvey Complaint") in the Superior Court of the State of California, Alameda County against Seller and the Seller Board alleging that the Seller Board breached its fiduciary duties to Seller's stockholders in connection with the negotiation and execution of the Merger Agreement and the Offer. The complaint seeks declaratory and injunctive relief, including declaring the Merger Agreement to be unenforceable as a breach of the fiduciary duties of the directors, rescinding the Offer and related documents, enjoining the directors from entering into the Offer until a fair price for the stockholders is obtained, directing the individual defendants to obtain a transaction in the best interest of Seller's stockholders, and requiring payment of plaintiff's costs and attorneys' fees.

On June 5, 2009, Donald Smith filed on behalf of himself and the public stockholders of Seller, a complaint in the Superior Court of the State of California, Alameda County against Seller, the Seller Board and Intel raising substantially similar allegations as the Harvey Complaint.

Intel is currently evaluating these complaints.

State Takeover Statutes. As a Delaware corporation, Seller is subject to Section 203 of the DGCL. In general, Section 203 of the DGCL would prevent an "interested stockholder" (generally defined in Section 203 of the DGCL as a person beneficially owning 15% or more of a corporation's voting stock) from engaging in a "business combination" (as defined in Section 203 of the DGCL) with a Delaware corporation for three (3) years following the time such person became an interested stockholder unless: (i) before such person became an interested stockholder, the board of directors of the corporation approved the transaction in which the interested stockholder became an interested stockholder or approved the business combination; (ii) upon consummation of the transaction which resulted in the interested stockholder becoming an interested stockholder, the interested stockholder owned at least eighty-five percent (85%) of the voting stock of the corporation outstanding at the time the transaction commenced (excluding for purposes of determining the number of shares of outstanding stock held by directors who are also officers and by employee stock plans that do not allow plan participants to determine confidentially whether to tender shares); or (iii) at or following the transaction in which such person became an interested stockholder, the business combination is (A) approved by the board of directors of the corporation and (B) authorized at a meeting of stockholders by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3 %) of the outstanding voting stock of the corporation not owned by the interested stockholder. In accordance with the provisions of Section 203, Seller Board has approved the Merger Agreement and the transactions contemplated thereby and, therefore, the restrictions of Section 203 are inapplicable to the Merger and the transactions contemplated under the Merger Agreement.

A number of other states have adopted laws and regulations applicable to attempts to acquire securities of corporations which are incorporated, or have substantial assets, stockholders, principal executive offices or principal places of business or whose business operations otherwise have substantial economic effects in such states. If any government official or third party seeks to apply any state takeover law to the Offer or the Merger, we will take such action as then appears desirable, which action may include challenging the applicability or validity of such statute in appropriate court proceedings. If it is asserted that one or more state takeover statutes is applicable to the Offer or any such merger or other business combination and an appropriate court does not determine that it is inapplicable or invalid as applied to the Offer the Merger, we might be required to file certain information with, or to receive approvals from, the relevant state authorities or holders of Shares, and we may be unable to accept for payment or pay for Shares tendered pursuant to the Offer, or be delayed in continuing or consummating the Offer the Merger. In such case, we may not be obligated to accept for payment or pay for any tendered Shares. See Section 1 — "Terms of the Offer."

United States Antitrust Compliance. Under the HSR Act, and the related rules and regulations that have been issued by the Federal Trade Commission (the "FTC"), certain acquisition transactions may not be consummated until certain information and documentary material has been furnished for review by the FTC and the Antitrust Division of the Department of Justice (the "Antitrust Division") and certain waiting period requirements have been satisfied. These requirements apply to the Purchaser's acquisition of the Company Shares in the Offer and the Merger.

Under the HSR Act, the purchase of Company Shares in the Offer may not be completed until the expiration of a fifteen (15) calendar day waiting period, which begins when Parent has filed a Premerger Notification and Report Form under the HSR Act with the FTC and the Antitrust Division, unless the FTC and Antitrust Division grant early termination of such waiting period. If the fifteen (15) calendar day waiting period expires on a federal holiday or weekend day, the waiting period is automatically extended until 11:59 p.m. the next business day. Seller must file a Premerger Notification and Report Form ten days after Parent files its Premerger Notification and Report Form. Parent and Seller filed a Premerger Notification and Report Form under the HSR Act with the

FTC and Antitrust Division in connection with the purchase of Company Shares in the Offer and the Merger on June 5, 2009. The required waiting period with respect to the Offer and the Merger will expire at 11:59 p.m., New York City time, on or about June 22, 2009, unless the FTC and Antitrust Division grant early termination of the waiting period, or Parent receives a request for additional information or documentary material prior to that time. If within the fifteen (15) calendar day waiting period either the FTC or the Antitrust Division requests additional information or documentary material from Parent, the waiting period with respect to the Offer and the Merger would be extended for an additional period of ten (10) calendar days following the date of Parent's substantial compliance with that request. Only one (1) extension of the waiting period pursuant to a request for additional information is authorized by the HSR Act rules. After that time, the waiting period may be extended only by court order. The FTC or the Antitrust Division may terminate the additional ten (10) calendar day waiting period before its expiration. In practice, complying with a request for additional information and documentary material can take a significant period of time.

The FTC and the Antitrust Division may scrutinize the legality under the antitrust laws of proposed transactions such as the Purchaser's acquisition of Company Shares in the Offer and the Merger. At any time before or after the purchase of Company Shares by the Purchaser, the FTC or the Antitrust Division could take any action under the antitrust laws that it either considers necessary or desirable in the public interest, including seeking to enjoin the purchase of Company Shares in the Offer and the Merger, the divestiture of Company Shares purchased in the Offer or the divestiture of substantial assets of Parent, Seller or any of their respective subsidiaries or affiliates. Private parties as well as state attorneys general also may bring legal actions under the antitrust laws under certain circumstances.

Antitrust in Germany. Under the provisions of the German Act against Restraints on Competition ("ARC"), the acquisition of Company Shares pursuant to the Offer may be consummated if the acquisition is approved by the German Federal Cartel Office ("FCO"), either by written approval or by expiration of a one (1) month waiting period commenced by the filing by Parent of a complete notification (the "German Notification") with respect to the Offer, unless the FCO notifies Parent within the one (1) month waiting period of the initiation of an in-depth investigation. Parent filed the German Notification on June 5, 2009, on behalf of itself and the Company. If the FCO initiates an in-depth investigation, the acquisition of Company Shares under the Offer may be consummated if the acquisition is approved by the FCO, either by written approval or by expiration of a four (4) month waiting period commenced by the filing of the German Notification, unless the FCO notifies Parent within the four (4) month waiting period that the acquisition satisfies the conditions for a prohibition and may not be consummated. The written approval by the FCO or the expiration of any applicable waiting period is a condition to the Purchaser's obligation to accept for payment and pay for Company Shares tendered pursuant to the Offer.

The Merger will not require an additional filing under the ARC if the Purchaser owns fifty percent (50%) or more of the outstanding shares at the time of the Merger and if the Merger occurs after the acquisition of shares under the Offer is approved by the FCO, either by written approval or by expiration of any applicable waiting period.

Antitrust in Israel. The Restrictive Trade Practices Law 5748-1988 and the regulations promulgated thereunder require the filing of a notice of merger with the Restrictive Trade Practices Commissioner where the applicable criteria are met. Parent and the Company each filed a notice of merger under said Act on June 7, 2009. Within thirty (30) days of receiving such notice of merger from the parties to the merger, the Restrictive Trade Practices Commissioner will notify the parties that it (i) objects to the Merger, (ii) consents to the Merger, subject to certain conditions, or (iii) will require additional information or an extension of time to properly review the transactions. The consent of the Restrictive Trade Commissioner must be received prior to closing the Merger.

Antitrust in Brazil. The parties have submitted the Merger for approval by the Brazilian antitrust authorities. The Secretariat for Economic Monitoring and Secretariat of Economic Law will consider the Merger and each

will issue an opinion to the Administrative Council for Economic Defense, Brazil's antitrust tribunal (the "Brazilian Council"). The Brazilian Council will make a decision with respect to the Merger. The review of the Merger by the Brazilian antitrust authorities may take longer than six (6) months, but will not prevent the consummation of the Merger. However, if the Brazilian Council decides that the Merger would harm competition, it may impose restrictions on the parties or order an unwinding of the Merger.

Antitrust in Japan. After the transaction closes, the parties intend to submit the Merger for approval by the Japanese antitrust authorities consistent with applicable law. The Japan Fair Trade Commission ("JFTC") will then review the Merger under the applicable law. This review will not prevent the consummation of the Merger. However, the JFTC has the ability to impose restrictions on the parties or bring suit with the Tokyo High Court to unwind the merger if it determines that the transaction would harm competition.

Other Foreign Laws. Seller and Parent and certain of their respective subsidiaries conduct business in other foreign countries where regulatory filings or approvals may be required or desirable in connection with the consummation of the Offer or the Merger. Parent and Seller are analyzing the applicability of any such laws and currently intend to take such action as may be required or desirable. If any such laws are applicable or any foreign governmental entity takes an action prior to the completion of the Offer, the Purchaser may not be obligated to accept for payment or pay for any Company Shares tendered. See Section 15 — "Conditions of the Offer."

17. **Fees and Expenses.**

Georgeson Securities Corporation ("GSC") is acting as Dealer Manager in connection with the Offer, for which services GSC will receive customary compensation. Parent and the Purchaser have agreed to reimburse GSC for reasonable costs and expenses incurred in connection with GSC's engagement, and to indemnify GSC and certain related parties against specified liabilities. In the ordinary course of GSC's businesses, GSC and its affiliates may actively trade or hold securities of Parent and Seller for the accounts of customers and, accordingly, GSC or its affiliates may at any time hold long or short positions in these securities or loans.

We have retained Georgeson Inc. to act as the information agent and Computershare Trust Company, N.A., to act as the depositary in connection with the Offer and the Merger. The Information Agent may contact holders of Company Shares by mail, telephone, telex, telegraph and personal interviews and may request brokers, dealers, banks, trust companies and other nominees to forward materials relating to the Offer to beneficial owners. The Information Agent and the Depositary each will receive reasonable and customary compensation for their respective services and will be reimbursed for certain reasonable out-of-pocket expenses.

We will not pay any fees or commissions to any broker or dealer or any other person (other than the Information Agent and the Depositary) for soliciting tenders of Company Shares pursuant to the Offer. Brokers, dealers, banks, trust companies and other nominees will, upon request, be reimbursed by us for reasonable and necessary costs and expenses incurred by them in forwarding materials to their customers.

18. **Miscellaneous.**

The Offer is not being made to (nor will tenders be accepted from or on behalf of) holders of Company Shares in any jurisdiction in which the making of the Offer or the acceptance thereof would not be in compliance with the securities, blue sky or other laws of such jurisdiction. We may, in our sole discretion, take such action as we may deem necessary to make the Offer in any such jurisdiction and extend the Offer to holders of Shares in such jurisdiction. In those jurisdictions where applicable laws require the Offer to be made by a licensed broker or dealer, the Offer will be deemed to be made on behalf of the Purchaser by the Dealer Manager or one (1) or more registered brokers or dealers licensed under the laws of such jurisdiction to be designated by the Purchaser.

No person has been authorized to give any information or to make any representation on behalf of Parent or the Purchaser not contained herein or in the Letter of Transmittal, and, if given or made, such information or representation must not be relied upon as having been authorized. No broker, dealer, bank, trust company, fiduciary or other person will be deemed to be the agent of the Purchaser, the Depositary, the Dealer Manager or the Information Agent for the purpose of the Offer.

The Purchaser has filed with the SEC a Tender Offer Statement on Schedule TO pursuant to Rule 14d-3 of the Exchange Act, together with exhibits furnishing certain additional information with respect to the Offer, and may file amendments thereto. In addition, Seller has filed with the SEC a Schedule 14D-9, together with exhibits, pursuant to Rule 14d-9 under the Exchange Act, setting forth the recommendation of the Seller Board with respect to the Offer and the reasons for such recommendation and furnishing certain additional related information. A copy of such documents, and any amendments thereto, may be examined at, and copies may be obtained from, the SEC in the manner set forth in Section 7 — "Certain Information Concerning Seller" above.

APC II Acquisition Corporation

June 11, 2009

SCHEDULE I

DIRECTORS AND EXECUTIVE OFFICERS OF
PARENT AND THE PURCHASER

1. **Directors and Executive Officers of Parent.** The following table sets forth the name, present principal occupation or employment and past material occupations, positions, offices or employment for at least the past five (5) years for each director and the name, present principal occupation or employment and material occupations, positions, offices or employment for at least the past five (5) years for each executive officer of Parent. The current business address of each person is at 2200 Mission College Boulevard, Santa Clara, California 95054-1549. The telephone number of each person is (408) 765-8080. Unless otherwise indicated, each such person is a citizen of the United States of America.

DIRECTORS

Name and Address	Present Principal Occupation or Employment, Material Positions Held During the Last Five (5) Years
Ambassador Charlene Barshefsky	Intel Board member since 2004 2001 – present, Senior International Partner at Wilmer Cutler Pickering Hale and Dorr LLP, multinational law firm, Washington, D.C. 1997 – 2001, United States Trade Representative, chief trade negotiator, and principal trade policy maker for the United States, and a member of the President's cabinet Member of American Express Company, Estée Lauder Companies, and Starwood Hotels & Resorts Worldwide Boards of Directors
Susan L. Decker	Intel Board member since 2006 2007 – 2009, President of Yahoo! Inc., global Internet company, Sunnyvale, California 2006 – 2007, Executive Vice President of the Advertiser and Publisher Group of Yahoo! Inc. 2000 – 2007, Executive Vice President of Finance and Administration, and Chief Financial Officer of Yahoo! Inc. Member of Berkshire Hathaway Inc. and Costco Wholesale Corporation Boards of Directors
John J. Donahoe	Intel Board member since 2009 2008 – present, President and Chief Executive Officer of eBay, Inc., online marketplace, San Jose, California 2005 – 2008, President of eBay Marketplaces 2000 – 2005, Worldwide Managing Director, Bain & Company
Reed E. Hundt	Intel Board member since 2001 1998 – present, Principal of Charles Ross Partners, LLC, private investor and advisory service, Washington, D.C. 1998 – present, independent adviser to McKinsey & Company, Inc., worldwide management consulting firm, Washington, D.C. 1993 – 1997, Chairman of Federal Communications Commission Member of Data Domain, Inc. and Infinera Corporation Boards of Directors

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Name and Address	Present Principal Occupation or Employment, Material Positions Held During the Last Five (5) Years
Paul S. Otellini	Intel Board member since 2002 2005 – present, President and Chief Executive Officer of Intel Corporation 2002 – 2005, President and Chief Operating Officer Member of Google, Inc. Board of Directors Joined Intel in 1974
James D. Plummer	Intel Board member since 2005 1999 – present, Dean of the School of Engineering at Stanford University, Stanford, California 1978 – present, Professor of Electrical Engineering at Stanford University Member of National Academy of Engineering Member of International Rectifier Corporation and Leadis Technology, Inc. Boards of Directors
David S. Pottruck	Intel Board member since 1998 2005 – present, Chairman and Chief Executive Officer of Red Eagle Ventures, Inc., private equity firm, San Francisco, California 2004 – present, Senior Fellow at Wharton School of Business Center for Leadership and Change Management 2005 – 2008, Chairman of Eos Airlines 1984 – 2004, served in various capacities at The Charles Schwab Corporation, including President, Chief Executive Officer, and member of the Board of Directors
Jane E. Shaw	Intel Board member since 1993, Chairman of the Board since May 2009 1998 – 2005, Chairman and Chief Executive Officer of Aerogen, Inc., specialty medical device company, Mountain View, California Member of McKesson Corporation Board of Directors
John L. Thornton	Intel Board member since 2003 2003 – present, Professor and Director of Global Leadership at Tsinghua University, Beijing, China 1981 – 2003, served in various capacities at Goldman Sachs Group, Inc., including President, Co-Chief Operating Officer, and member of the Board of Directors Member of HSBC Holdings plc, China Unicom (Hong Kong) Limited, Ford Motor Company, and News Corporation Boards of Directors
Frank D. Yeary	Intel Board member since 2009 2008 – present, Vice Chancellor, University of California, Berkeley, California 2004 – 2008, Managing Director, Global Head of Mergers and Acquisitions, Citigroup Investment Banking
David B. Yoffie	Intel Board member since 1989 1993 – present, Professor of International Business Administration, Harvard Business School, Cambridge, Massachusetts 1981 – present, member of Harvard University faculty

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OFFICERS

Name and Address	Present Principal Occupation or Employment, Material Positions Held During the Last Five (5) Years
Andy D. Bryant	2007 – present, Executive VP, Finance and Enterprise Services, Chief Administrative Officer 2001 – 2007, Executive VP, Chief Financial and Enterprise Services Officer Member of Columbia Sportswear Company and McKesson Corporation Boards of Directors Joined Intel in 1981
Stacy J. Smith	2007 – present, VP, Chief Financial Officer 2006 – 2007, VP, Assistant Chief Financial Officer 2004 – 2006, VP of Finance and Enterprise Services, Chief Information Officer 2002 – 2004, VP of Sales and Marketing Group, General Manager (GM) of Europe, Middle East, and Africa Joined Intel in 1988
Sean M. Maloney	2008 – present, Executive VP, Chief Sales and Marketing Officer 2006 – 2008, Executive VP, GM of Sales and Marketing Group, Chief Sales and Marketing Officer 2005 – 2006, Executive VP, GM of Mobility Group 2001 – 2005, Executive VP, GM of Intel Communications Group Member of Autodesk, Inc. Board of Directors Joined Intel in 1982
David Perlmutter	2007 – present, Executive VP, GM of Mobility Group 2005 – 2007, Senior VP, GM of Mobility Group 2005 – VP, GM of Mobility Group 2000 – 2005, VP, GM of Mobile Platforms Group Joined Intel in 1980
Arvind Sodhani	2007 – present, Executive VP of Intel, President of Intel Capital 2005 – 2007, Senior VP of Intel, President of Intel Capital 1990 – 2005, VP, Treasurer Joined Intel in 1981
Robert J. Baker	2001 – present, Senior VP, GM of Technology and Manufacturing Group Joined Intel in 1979
Patrick P. Gelsinger	2005 – present, Senior VP, GM of Digital Enterprise Group 2002 – 2005, Senior VP, Chief Technology Officer Joined Intel in 1979
William M. Holt	2006 – present, Senior VP, GM of Technology and Manufacturing Group 2005 – 2006, VP, Co-GM of Technology and Manufacturing Group 1999 – 2005, VP, Director of Logic Technology Development Joined Intel in 1974
Bruce Sewell	2005 – present, Senior VP, General Counsel 2004 – 2005, VP, General Counsel 2001 – 2004, VP of Legal and Government Affairs, Deputy General Counsel Joined Intel in 1995

Name and Address	Present Principal Occupation or Employment, Material Positions Held During the Last Five (5) Years
Thomas M. Kilroy	2005 – present, VP, GM of Digital Enterprise Group 2003 – 2005, VP of Sales and Marketing Group, Co-President of Intel Americas Joined Intel in 1990

2. **Directors and Executive Officers of the Purchaser.** The following table sets forth the name, present principal occupation or employment and past material occupations, positions, offices or employment for at least the past five (5) years for each director and the name, citizenship, business address, business phone number, present principal occupation or employment and material occupations, positions, offices or employment for at least the past five (5) years for each executive officer of the Purchaser. The current business address of each person is at 2200 Mission College Boulevard, Santa Clara, California 95054-1549. The telephone number of each person is (408) 765-8080. Unless otherwise indicated, each such person is a citizen of the United States of America.

Name and Address	Present Principal Occupation or Employment; Material Positions Held During the Past Five (5) Years
Arvind Sodhani	2007 – present, Executive VP of Intel, President of Intel Capital 2005 – 2007, Senior VP of Intel, President of Intel Capital 1990 – 2005, VP, Treasurer Joined Intel in 1981
Marty Linné	2008 – present, General Counsel Intel Capital Corporation 2005 – 2006, Managing Director, Air Group GATX Corporation 1998 – 2005, Vice President, Air Group GATX Corporation Joined Intel in 2008
Tiffany Doon Silva	2001 – present, Treasury Counsel at Intel Corporation Joined Intel in 1999
Ravi Jacob	2004 – present, Vice President and Treasurer Joined Intel in 1984
Cary Klafter	2003 – present, Vice President of Legal and Corporate Affairs, Director of Corporate Legal and Corporate Secretary Joined Intel in 1996
Trina Van Pelt	2004 – present, Director of Mergers, Acquisitions & Divestitures at Intel Corporation. Joined Intel in 2004

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Manually signed facsimiles of the Letter of Transmittal, properly completed, will be accepted. The Letter of Transmittal and certificates evidencing Company Shares and any other required documents should be sent or delivered by each stockholder or its, his or her broker, dealer, commercial bank, trust company or other nominee to the Depositary at one of its addresses set forth below.

The Depositary for the Offer is:

Computershare Trust Company, N.A.

If delivering by mail:

Computershare Trust Company, N.A
c/o Voluntary Corporate Actions
P.O. Box 43011
Providence, RI, 02940-3011

If delivering by overnight delivery:

Computershare Trust Company, N.A.
c/o Voluntary Corporate Actions
250 Royall Street
Suite V
Canton, MA, 02021

Questions or requests for assistance may be directed to the Information Agent or the Dealer Manager at their respective telephone numbers and addresses set forth below. Questions or requests for assistance or additional copies of this Offer to Purchase, the Letter of Transmittal and the Notice of Guaranteed Delivery may also be obtained from the Information Agent or the Dealer Manager. Stockholders may also contact their broker, dealer, commercial bank or trust company for assistance concerning the Offer.

The Information Agent for the Offer is:

Georgeson Inc.

199 Water Street, 26th Floor
New York, NY 10038-3560

Banks and Brokerage Firms, Please Call:
(212) 440-9800

Stockholders and All Others Please Call Toll-Free:
(877) 278-4762

The Dealer Manager for the Offer is:

Georgeson Securities Corporation

199 Water Street, 26th Floor
New York, NY 10038-3560

Please Call Toll-Free:
(800) 445-1790

LETTER OF TRANSMITTAL

To Tender Shares of Common Stock
And the Associated Rights of the Series A Junior Participating Preferred Stock
of
Wind River Systems, Inc., a Delaware corporation
at
$11.50 NET PER SHARE
Pursuant to the Offer to Purchase dated June 11, 2009
by
APC II Acquisition Corporation, a Delaware corporation
a wholly owned subsidiary of
Intel Corporation, a Delaware corporation

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON JULY 9, 2009, UNLESS THE OFFER IS EXTENDED.

The Depositary for the Offer is:

Computershare Trust Company, N.A.

If delivering by mail:
Computershare Trust Company, N.A.
c/o Voluntary Corporate Actions
P.O. Box 43011
Providence, RI 02940-3011

If delivering by overnight delivery:
Computershare Trust Company, N.A
c/o Voluntary Corporate Actions
Suite V
250 Royall Street
Canton, MA 02021

DESCRIPTION OF COMPANY SHARES TENDERED			
Name(s) and Address(es) of Registered Holder(s) (Please fill in, if blank, exactly as name(s) appear(s) on Share Certificate(s))	**Company Shares Tendered (Attach additional signed list, if necessary)**		
	Share Certificate Number(s)(1)	**Total Number of Company Shares Represented by Share Certificate(s)(1)**	**Total Number of Company Shares Tendered(2)**
	Total Company Shares		

(1) Need not be completed by stockholders tendering by book-entry transfer.
(2) Unless otherwise indicated, it will be assumed that all Company Shares described above are being tendered. See Instruction 4.

Delivery of this Letter of Transmittal to an address other than as set forth above will not constitute a valid delivery to the Depositary. You must sign this Letter of Transmittal in the appropriate space provided therefor below, with signature guarantee if required, and complete the substitute W-9 set forth below, if required. The instructions set forth in this Letter of Transmittal should be read carefully before this Letter of Transmittal is completed.

The Offer (as defined below) is not being made to (nor will tender of Company Shares (as defined below) be accepted from or on behalf of) stockholders in any jurisdiction where it would be illegal to do so.

This Letter of Transmittal is to be used by stockholders of Wind River Systems, Inc. (the "Seller"), if certificates for Company Shares ("Share Certificates") are to be forwarded herewith or, unless an Agent's Message (as defined in Section 2 of the Offer to Purchase) is utilized, if delivery of Company Shares is to be made by book-entry transfer to an account maintained by the Depositary at the Book-Entry Transfer Facility (as defined in Section 2 of the Offer to Purchase and pursuant to the procedures set forth in Section 3 thereof).

Stockholders whose Share Certificates are not immediately available, or who cannot complete the procedure for book-entry transfer on a timely basis, or who cannot deliver all other required documents to the Depositary prior to the Expiration Date (as defined in Section 1 of the Offer to Purchase), must tender their Company Shares according to the guaranteed delivery procedure set forth in Section 3 of the Offer to Purchase in order to participate in the Offer. See Instruction 2. **Delivery of documents to the Book-Entry Transfer Facility does not constitute delivery to the Depositary.**

Additional Information if Company Shares Have Been Lost, Are Being Delivered By Book-Entry Transfer, or Are Being Delivered Pursuant to a Previous Notice of Guaranteed Delivery

If any Share Certificate(s) you are tendering with this Letter of Transmittal has been lost, stolen, destroyed or mutilated, you should contact American Stock Transfer & Trust Company, as Transfer Agent (the "Transfer Agent"), at 1-(800) 937-5449, regarding the requirements for replacement. You may be required to post a bond to secure against the risk that the Share Certificate(s) may be subsequently recirculated. **You are urged to contact the Transfer Agent immediately in order to receive further instructions, for a determination of whether you will need to post a bond and to permit timely processing of this documentation. See Instruction 11.**

☐ **Check here if tendered Company Shares are being delivered by book-entry transfer made to an account maintained by the Depositary with the Book-Entry Transfer Facility and complete the following (only financial institutions that are participants in the system of any Book-Entry Transfer Facility may deliver Company Shares by book-entry transfer):**

Name of Tendering Institution - _____

DTC Account Number - _____ Transaction Code Number - _____

☐ **Check here if tendered Company Shares are being delivered pursuant to a Notice of Guaranteed Delivery previously sent to the Depositary and complete the following:**

Name(s) of Tendering Stockholder(s) - _____

Date of Execution of Notice of Guaranteed Delivery - _____

Name of Eligible Institution that Guaranteed Delivery - _____

If Delivery is by Book-Entry Transfer, Provide the Following: - _____

Account Number - _____ Transaction Code Number - _____

NOTE: SIGNATURES MUST BE PROVIDED BELOW.
PLEASE READ ACCOMPANYING INSTRUCTIONS CAREFULLY.

Ladies and Gentlemen:

The undersigned hereby tenders to APC II Acquisition Corporation, a Delaware corporation (the "Purchaser") and a wholly owned subsidiary of Intel Corporation, a Delaware corporation ("Parent"), the above described shares of common stock, par value $0.001 per share ("Company Shares"), including the associated rights to purchase shares of Series A Junior Participating Preferred Stock, par value $0.001 per share of Wind River Systems, Inc., a Delaware corporation (the "Seller"), pursuant to the Purchaser's offer to purchase (the "Offer") all outstanding Company Shares, at a purchase price of $11.50 per share, net to the tendering stockholder in cash, without interest and less any required withholding taxes (the "Offer Price"), upon the terms and subject to the conditions set forth in the Offer to Purchase dated June 11, 2009 (the "Offer to Purchase"), and in this Letter of Transmittal.

Upon the terms and subject to the conditions of the Offer (and if the Offer is extended or amended, the terms of any such extension or amendment), and effective upon acceptance for payment of Company Shares tendered herewith in accordance with the terms of the Offer, the undersigned hereby sells, assigns and transfers to or upon the order of the Purchaser all right, title and interest in and to all Company Shares that are being tendered hereby (and any and all dividends, distributions, rights, other Company Shares or other securities issued or issuable in respect thereof on or after the date hereof (collectively, "Distributions")) and irrevocably constitutes and appoints Computershare Trust Company, N.A. (the "Depositary") the true and lawful agent and attorney-in-fact of the undersigned with respect to such Company Shares (and any and all Distributions), with full power of substitution (such power of attorney being deemed to be an irrevocable power coupled with an interest), to (i) deliver Share Certificates for such Company Shares (and any and all Distributions) or transfer ownership of such Company Shares (and any and all Distributions) on the account books maintained by the Book-Entry Transfer Facility (as defined in Section 2 of the Offer to Purchase), together, in any such case, with all accompanying evidences of transfer and authenticity, to or upon the order of the Purchaser, (ii) present such Company Shares (and any and all Distributions) for transfer on the books of the Seller and (iii) receive all benefits and otherwise exercise all rights of beneficial ownership of such Company Shares (and any and all Distributions), all in accordance with the terms of the Offer.

By executing this Letter of Transmittal, the undersigned hereby irrevocably appoints Arvind Sodhani and Renee James, and each of them, and any other designees of the Purchaser, the attorneys-in-fact and proxies of the undersigned, each with full power of substitution, (i) to vote at any annual or special meeting of the Seller's stockholders or any adjournment or postponement thereof or otherwise in such manner as each such attorney-in-fact and proxy or its, his or her substitute shall in its, his or her sole discretion deem proper with respect to, (ii) to execute any written consent concerning any matter as each such attorney-in-fact and proxy or its, his or her substitute shall in its, his or her sole discretion deem proper with respect to and (iii) to otherwise act as each such attorney-in-fact and proxy or its, his or her substitute shall in its, his or her sole discretion deem proper with respect to, all Company Shares (and any and all Distributions) tendered hereby and accepted for payment by the Purchaser. This appointment will be effective if and when, and only to the extent that, the Purchaser accepts such Company Shares for payment pursuant to the Offer. This power of attorney and proxy are irrevocable and are granted in consideration of the acceptance for payment of such Company Shares in accordance with the terms of the Offer. Such acceptance for payment shall, without further action, revoke any prior powers of attorney and proxies granted by the undersigned at any time with respect to such Company Shares (and any and all Distributions), and no subsequent powers of attorney, proxies, consents or revocations may be given by the undersigned with respect thereto (and, if given, will not be deemed effective). The Purchaser reserves the right to require that, in order for Company Shares to be deemed validly tendered, immediately upon the Purchaser's acceptance for payment of such Company Shares, the Purchaser must be able to exercise full voting, consent and other rights with respect to such Company Shares (and any and all Distributions), including voting at any meeting of the Seller's stockholders.

The undersigned hereby represents and warrants that the undersigned has full power and authority to tender, sell, assign and transfer any and all Company Shares tendered hereby (and any and all Distributions) and that, when the same are accepted for payment by the Purchaser, the Purchaser will acquire good, marketable and unencumbered title to such Company Shares (and any and all Distributions), free and clear of all liens, restrictions, charges and encumbrances and the

same will not be subject to any adverse claims. The undersigned will, upon request, execute and deliver any additional documents deemed by the Depositary or the Purchaser to be necessary or desirable to complete the sale, assignment and transfer of any and all Company Shares tendered hereby (and any and all Distributions). In addition, the undersigned shall remit and transfer promptly to the Depositary for the account of the Purchaser all Distributions in respect of any and all Company Shares tendered hereby, accompanied by appropriate documentation of transfer, and, pending such remittance and transfer or appropriate assurance thereof, the Purchaser shall be entitled to all rights and privileges as owner of each such Distribution and may deduct from the purchase price of Company Shares tendered hereby the amount or value of such Distribution as determined by the Purchaser in its sole discretion.

All authority herein conferred or agreed to be conferred shall survive the death or incapacity of the undersigned, and any obligation of the undersigned hereunder shall be binding upon the heirs, executors, administrators, personal representatives, trustees in bankruptcy, successors and assigns of the undersigned. Except as stated in the Offer to Purchase, this tender is irrevocable.

The undersigned hereby acknowledges that delivery of any Share Certificate shall be effected, and risk of loss and title to such Share Certificate shall pass, only upon the proper delivery of such Share Certificate to the Depositary.

The undersigned understands that the valid tender of Company Shares pursuant to any of the procedures described in the Offer to Purchase and in the Instructions hereto will constitute a binding agreement between the undersigned and the Purchaser upon the terms of and subject to the conditions of the Offer (and if the Offer is extended or amended, the terms of or the conditions of any such extension or amendment).

Unless otherwise indicated under "Special Payment Instructions," please issue the check for the purchase price of all of Company Shares purchased and, if appropriate, return any Share Certificates not tendered or accepted for payment in the name(s) of the registered holder(s) appearing above under "Description of Shares Tendered." Similarly, unless otherwise indicated under "Special Delivery Instructions," please mail the check for the purchase price of all Company Shares purchased and, if appropriate, return any Share Certificates not tendered or not accepted for payment (and any accompanying documents, as appropriate) to the address(es) of the registered holder(s) appearing above under "Description of Shares Tendered." In the event that the boxes entitled "Special Payment Instructions" and "Special Delivery Instructions" are both completed, please issue the check for the purchase price of all Company Shares purchased and, if appropriate, return any Share Certificates not tendered or not accepted for payment (and any accompanying documents, as appropriate) in the name(s) of, and deliver such check and, if appropriate, return any such Share Certificates (and any accompanying documents, as appropriate) to, the person(s) so indicated. Unless otherwise indicated herein in the box entitled "Special Payment Instructions," please credit any Company Shares tendered herewith by book-entry transfer that are not accepted for payment by crediting the account at the Book-Entry Transfer Facility designated above. The undersigned recognizes that the Purchaser has no obligation, pursuant to the "Special Payment Instructions," to transfer any Company Shares from the name of the registered holder thereof if the Purchaser does not accept for payment any of such Company Shares so tendered.

SPECIAL PAYMENT INSTRUCTIONS
(See Instructions 1, 5, 6 and 7)

To be completed ONLY if the check for the purchase price of Company Shares accepted for payment and/or Share Certificates not tendered or not accepted are to be issued in the name of someone other than the undersigned.

Issue check and/or Share Certificates to:

Name _____
(Please Print)

Address _____

_____
(Include Zip Code)

_____
(Taxpayer Identification or Social Security No.)

(Also Complete Substitute W-9 Below)

SPECIAL DELIVERY INSTRUCTIONS
(See Instructions 1, 5, 6 and 7)

To be completed ONLY if the check for the purchase price of Company Shares accepted for payment and/or Share Certificates not tendered or not accepted are to be mailed to someone other than the undersigned or to the undersigned at an address other than that shown above.

Mail check and/or Share Certificates to:

Name _____
(Please Print)

Address _____

_____
(Include Zip Code)

_____
(Taxpayer Identification or Social Security No.)

(Also Complete Substitute W-9 Below)

IMPORTANT

STOCKHOLDER: SIGN HERE
(Please complete and return the attached Substitute Form W-9 below)

Signature(s) of Holder(s) of Company Shares

Dated: _____, 2009

Name(s) _____

(Please Print)

Capacity (full title)
(See Instruction 5) _____

(Include Zip Code)

Address _____

Area Code and
Telephone No. _____

Tax Identification or Social Security No. (See Substitute Form W-9 Enclosed herewith) _____

Must be signed by registered holder(s) exactly as name(s) appear(s) on Share Certificate(s) or on a security position listing or by person(s) authorized to become registered holder(s) by Share Certificates and documents transmitted herewith. If signature is by a trustee, executor, administrator, guardian, attorney-in-fact, agent, officer of a corporation or other person acting in a fiduciary or representative capacity, please set forth full title and see Instruction 5.

Guarantee of Signature(s)
(If Required — See Instructions 1 and 5)

Authorized Signature _____

Name _____

Name of Firm _____

Address _____

(Include Zip Code)

Area Code and Telephone No. _____

Dated: _____ , 2009

INSTRUCTIONS
FORMING PART OF THE TERMS AND CONDITIONS OF THE OFFER

1. Guarantee of Signatures. No signature guarantee is required on this Letter of Transmittal (a) if this Letter of Transmittal is signed by the registered holder(s) (which term, for purposes of this Section, includes any participant in the Book-Entry Transfer Facility's systems whose name(s) appear(s) on a security position listing as the owner(s) of Company Shares) of Company Shares tendered herewith, unless such registered holder(s) has completed either the box entitled "Special Payment Instructions" or the box entitled "Special Delivery Instructions" on the Letter of Transmittal or (b) if such Company Shares are tendered for the account of a financial institution (including most commercial banks, savings and loan associations and brokerage houses) that is a participant in the Securities Transfer Agents Medallion Program or by any other "eligible guarantor institution," as such term is defined in Rule 17Ad-15 under the Exchange Act (each, an "Eligible Institution"). In all other cases, all signatures on this Letter of Transmittal must be guaranteed by an Eligible Institution. See Instruction 5.

2. Requirements of Tender. This Letter of Transmittal is to be completed if Share Certificates are to be forwarded herewith or, unless an Agent's Message is utilized, if tenders are to be made pursuant to the procedure for tender by book-entry transfer set forth in Section 3 of the Offer to Purchase. Share Certificates evidencing tendered Company Shares, or timely confirmation of a book-entry transfer of Company Shares (a "Book-Entry Confirmation") into the Depositary's account at the Book-Entry Transfer Facility, as well as this Letter of Transmittal (or a manually signed facsimile hereof), properly completed and duly executed, with any required signature guarantees, or an Agent's Message in connection with a book-entry transfer, and any other documents required by this Letter of Transmittal, must be received by the Depositary at one of its addresses set forth herein prior to the Expiration Date (as defined in Section 1 of the Offer to Purchase). Stockholders whose Share Certificates are not immediately available, or who cannot complete the procedure for delivery by book-entry transfer on a timely basis or who cannot deliver all other required documents to the Depositary prior to the Expiration Date, may tender their Company Shares by properly completing and duly executing a Notice of Guaranteed Delivery pursuant to the guaranteed delivery procedure set forth in Section 3 of the Offer to Purchase. Pursuant to such procedure: (i) such tender must be made by or through an Eligible Institution; (ii) a properly completed and duly executed Notice of Guaranteed Delivery, substantially in the form made available by the Purchaser, must be received by the Depositary prior to the Expiration Date and (iii) Share Certificates (or a Book-Entry Confirmation) evidencing all tendered Company Shares, in proper form for transfer, in each case together with this Letter of Transmittal (or a manually signed facsimile hereof), properly completed and duly executed, with any required signature guarantees (or, in the case of a book-entry delivery, an Agent's Message) and any other documents required by this Letter of Transmittal, must be received by the Depositary within three trading days after the date of execution of such Notice of Guaranteed Delivery. If Share Certificates are forwarded separately to the Depositary, a properly completed and duly executed Letter of Transmittal must accompany each such delivery.

The method of delivery of this Letter of Transmittal, Share Certificates and all other required documents, including delivery through the Book-Entry Transfer Facility, is at the option and the risk of the tendering stockholder and the delivery will be deemed made (and the risk of loss and title to Share Certificates will pass) only when actually received by the Depositary (including, in the case of Book-Entry Transfer, by Book-Entry Confirmation). If delivery is by mail, registered mail with return receipt requested, properly insured, is recommended. In all cases, sufficient time should be allowed to ensure timely delivery.

The Purchaser will not accept any alternative, conditional or contingent tenders, and no fractional Company Shares will be purchased. By executing this Letter of Transmittal (or facsimile thereof), the tendering stockholder waives any right to receive any notice of the acceptance for payment of Company Shares.

3. Inadequate Space. If the space provided herein is inadequate, Share Certificate numbers and/or the number of Company Shares should be listed on a signed separate schedule attached hereto.

4 . Partial Tenders. If fewer than all Company Shares represented by any Share Certificate delivered to the Depositary are to be tendered, fill in the number of Company Shares which are to be tendered in the box entitled "Total Number of Shares Tendered." In such case, a new certificate for the remainder of Company Shares represented by the old certificate will

be sent to the person(s) signing this Letter of Transmittal, unless otherwise provided in the appropriate box on this Letter of Transmittal, as promptly as practicable following the expiration or termination of the Offer. All Company Shares represented by Share Certificates delivered to the Depositary will be deemed to have been tendered unless otherwise indicated.

5. Signatures on Letter of Transmittal; Stock Powers and Endorsements.

(a) *Exact Signatures.* If this Letter of Transmittal is signed by the registered holder(s) of Company Shares tendered hereby, the signature(s) must correspond with the name(s) as written on the face of such Share Certificates for such Company Shares without alteration, enlargement or any change whatsoever.

(b) *Joint Holders.* If any Company Shares tendered hereby are held of record by two or more persons, all such persons must sign this Letter of Transmittal.

(c) *Different Names on Share Certificates.* If any Company Shares tendered hereby are registered in different names on different Share Certificates, it will be necessary to complete, sign and submit as many separate Letters of Transmittal as there are different registrations of Share Certificates.

(d) *Endorsements.* If this Letter of Transmittal is signed by the registered holder(s) of Company Shares tendered hereby, no endorsements of Share Certificates for such Company Shares or separate stock powers are required unless payment of the purchase price is to be made, or Company Shares not tendered or not purchased are to be returned, in the name of any person other than the registered holder(s). Signatures on any such Share Certificates or stock powers must be guaranteed by an Eligible Institution.

If this Letter of Transmittal is signed by a person other than the registered holder(s) of Company Shares tendered hereby, such Share Certificates for such Company Shares must be endorsed or accompanied by appropriate stock powers, in either case, signed exactly as the name(s) of the registered holder(s) appear(s) on such Share Certificates for such Company Shares. Signature(s) on any such Share Certificates or stock powers must be guaranteed by an Eligible Institution. See Instruction 1.

If this Letter of Transmittal or any Share Certificate or stock power is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation or other person acting in a fiduciary or representative capacity, such person should so indicate when signing, and proper evidence satisfactory to the Depositary of the authority of such person so to act must be submitted.

6. Stock Transfer Taxes. Except as otherwise provided in this Instruction 6, the Purchaser or any successor entity thereto will pay all stock transfer taxes with respect to the transfer and sale of any Company Shares to it or its order pursuant to the Offer. If, however, payment of the purchase price is to be made to, or if Share Certificate(s) for Company Shares not tendered or not accepted for payment are to be registered in the name of, any person(s) other than the registered holder(s), or if tendered Share Certificate(s) are registered in the name of any person(s) other than the person(s) signing this Letter of Transmittal, the amount of any stock transfer taxes or other taxes required by reason of the payment to a person other than the registered holder of such Share Certificate (in each case whether imposed on the registered holder(s) or such other person(s)) payable on account of the transfer to such other person(s) will be deducted from the purchase price of such Company Shares purchased unless evidence satisfactory to the Purchaser of the payment of such taxes, or exemption therefrom, is submitted.

Except as provided in this Instruction 6, it will not be necessary for transfer tax stamps to be affixed to Share Certificate(s) evidencing the Company Shares tendered hereby.

7. Special Payment and Delivery Instructions. If a check is to be issued in the name of, and, if appropriate, Share Certificates for Company Shares not tendered or not accepted for payment are to be issued or returned to, any person(s) other than the signer of this Letter of Transmittal or if a check and, if appropriate, such Share Certificates are to be returned to any person(s) other than the person(s) signing this Letter of Transmittal or to an address other than that shown in this Letter of Transmittal, the appropriate boxes on this Letter of Transmittal must be completed.

8. Substitute Form W-9. To avoid backup withholding, a tendering stockholder is required to provide the Depositary with a correct Taxpayer Identification Number ("TIN") on Substitute Form W-9, which is provided under "Important Tax Information" below, and to certify, under penalties of perjury, that such number is correct and that such stockholder is not

subject to backup withholding of federal income tax, and that such stockholder is a U.S. person (as defined for U.S. federal income tax purposes). If a tendering stockholder has been notified by the Internal Revenue Service ("IRS") that such stockholder is subject to backup withholding, such stockholder must cross out item (2) of the Certification box of the Substitute Form W-9, unless such stockholder has since been notified by the IRS that such stockholder is no longer subject to backup withholding. Failure to provide the information on the Substitute Form W-9 may subject the tendering stockholder to federal income tax withholding on the payment of the purchase price of all Company Shares purchased from such stockholder. If the tendering stockholder has not been issued a TIN and has applied for one or intends to apply for one in the near future, such stockholder should check the box in Part 3 of the Substitute Form W-9, and sign and date the Substitute Form W-9. If the box in Part 3 is checked and the Depositary is not provided with a TIN by the time of payment, the Depositary will withhold a portion of all payments of the purchase price to such stockholder until a TIN is provided to the Depositary.

Certain stockholders (including, among others, all corporations and certain foreign individuals and entities) may not be subject to backup withholding. Foreign stockholders should submit an appropriate and properly completed IRS Form W-8, a copy of which may be obtained from the Depositary, in order to avoid backup withholding. Such stockholders should consult a tax advisor to determine which Form W-8 is appropriate. See the enclosed "Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9" for more instructions.

9. Irregularities. All questions as to purchase price, the form of documents and the validity, eligibility (including time of receipt) and acceptance for payment of any tender of Company Shares will be determined by the Purchaser in its sole discretion, which determinations shall be final and binding on all parties. The Purchaser reserves the absolute right to reject any or all tenders of Company Shares it determines not to be in proper form or the acceptance of which or payment for which may, in the opinion of the Purchaser, be unlawful. The Purchaser also reserves the absolute right to waive any of the conditions of the Offer (other than the Minimum Condition (as defined in the Offer to Purchase)) which may only be waived with the consent of the Seller and any defect or irregularity in the tender of any particular Company Shares, and the Purchaser's interpretation of the terms of the Offer (including these instructions) will be final and binding on all parties. No tender of Company Shares will be deemed to be properly made until all defects and irregularities have been cured or waived. Unless waived, any defects or irregularities in connection with tenders must be cured within such time as the Purchaser shall determine. None of the Purchaser, the Depositary, the Dealer Manager, the Information Agent (as the foregoing are defined in the Offer to Purchase) or any other person is or will be obligated to give notice of any defects or irregularities in tenders and none of them will incur any liability for failure to give any such notice.

10. Requests for Additional Copies. Questions and requests for assistance or additional copies of the Offer to Purchase and this Letter of Transmittal should be directed to the Information Agent or the Dealer Manager at their respective addresses and telephone numbers set forth below.

11. Lost, Destroyed or Stolen Certificates. If any Share Certificate representing Company Shares has been lost, destroyed or stolen, the stockholder should promptly notify the Transfer Agent at 1-(800) 937-5449. The stockholder will then be instructed as to the steps that must be taken in order to replace such Share Certificate(s). This Letter of Transmittal and related documents cannot be processed until the procedures for replacing lost or destroyed Share Certificates have been followed.

This Letter of Transmittal, properly completed and duly executed, together with Share Certificates representing Company Shares being tendered (or confirmation of book-entry transfer) and all other required documents, must be received before 12:00 midnight, New York City time, on the Expiration Date, or the tendering stockholder must comply with the procedures for guaranteed delivery.

IMPORTANT TAX INFORMATION

Under federal income tax law, a stockholder who is a U.S. person (as defined for U.S. federal income tax purposes) surrendering Company Shares must, unless an exemption applies, provide the Depositary (as payer) with the stockholder's correct TIN on IRS Form W-9 or on the Substitute Form W-9 included in this Letter of Transmittal. If the stockholder is an individual, the stockholder's TIN is such stockholder's Social Security number. If the correct TIN is not provided, the stockholder may be subject to a $50.00 penalty imposed by the IRS and payments of cash to the stockholder (or other payee) pursuant to the Offer may be subject to backup withholding of a portion of all payments of the purchase price.

Certain stockholders (including, among others, corporations and certain foreign individuals and entities) may not be subject to backup withholding and reporting requirements. In order for an exempt foreign stockholder to avoid backup withholding, such person should complete, sign and submit an appropriate Form W-8 signed under penalties of perjury, attesting to his or her exempt status. A Form W-8 can be obtained from the Depositary. Such stockholders should consult a tax advisor to determine which Form W-8 is appropriate. Exempt stockholders, other than foreign stockholders, should furnish their TIN, check the box in Part 4 of the Substitute Form W-9 and sign, date and return the Substitute Form W-9 to the Depositary in order to avoid erroneous backup withholding. See the enclosed "Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9" for additional instructions.

If backup withholding applies, the Depositary is required to withhold and pay over to the IRS a portion of any payment made to a stockholder. Backup withholding is not an additional tax. Rather, the federal income tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If backup withholding results in an overpayment of taxes, a refund may be obtained from the IRS.

Purpose of Substitute Form W-9

To prevent backup withholding on payments that are made to a stockholder with respect to Company Shares purchased pursuant to the Offer, the stockholder is required to notify the Depositary of the stockholder's correct TIN by completing the Substitute Form W-9 included in this Letter of Transmittal certifying that (1) the TIN provided on the Substitute Form W-9 is correct (or that such stockholder is awaiting a TIN), (2) the stockholder is not subject to backup withholding because (i) the stockholder is exempt from backup withholding, (ii) the stockholder has not been notified by the IRS that the stockholder is subject to backup withholding as a result of a failure to report all interest and dividends or (iii) the IRS has notified the stockholder that the stockholder is no longer subject to backup withholding and (3) the stockholder is a U.S. person (as defined for U.S. federal income tax purposes).

What Number to Give the Depositary

The tendering stockholder is required to give the Depositary the TIN, generally the Social Security number or employer identification number, of the record holder of all Company Shares tendered hereby. If such Company Shares are in more than one name or are not in the name of the actual owner, consult the enclosed "Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9" for additional guidance on which number to report. If the tendering stockholder has not been issued a TIN and has applied for a number or intends to apply for a number in the near future, such stockholder should check the box in Part 3 of the Substitute Form W-9, sign and date the Substitute Form W-9 and sign and date the Certificate of Awaiting Taxpayer Identification Number, which appears in a separate box below the Substitute Form W-9. If the box in Part 3 of the Substitute Form W-9 is checked and the Depositary is not provided with a TIN by the time of payment, the Depositary will withhold a portion of all payments of the purchase price, which will be refunded if a TIN is provided to the Depositary within sixty (60) days of the Depositary's receipt of the Certificate of Awaiting Taxpayer Identification Number. If the Depositary is provided with an incorrect TIN in connection with such payments, the stockholder may be subject to a $50.00 penalty imposed by the IRS.

PAYER'S NAME: Computershare Trust Company, N.A.		
SUBSTITUTE **FORM W-9** **Department of the Treasury Internal Revenue Service** **Payer's Request for Taxpayer Identification Number ("TIN")** **Please fill in your name and address below.** **Name** **Address (Number and Street)** **City, State and Zip Code**	**Part 1—**PLEASE PROVIDE YOUR TIN IN THE BOX AT RIGHT AND CERTIFY BY SIGNING AND DATING BELOW. CHECK APPROPRIATE BOX: ☐ Individual/Sole Proprietor ☐ Corporation ☐ Partnership ☐ Other	Social Security Number OR Employer Identification Number
	Part 2—Certification— Under penalties of perjury, I certify that: (1)The number shown on this form is my correct Taxpayer Identification Number (or I am waiting for a number to be issued to me); (2)I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (the "IRS") that I am subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified me that I am no longer subject to backup withholding; and (3)I am a U.S. Person (including a U.S. resident alien).	**Part 3—** Awaiting TIN ☐ **Part 4—** Exempt ☐
	Certification Instructions—You must cross out Item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report interest or dividends on your tax return. However, if after being notified by the IRS that you were subject to backup withholding you received another notification from the IRS that you are no longer subject to backup withholding, do not cross out such Item (2). If you are exempt from backup withholding, check the box in Part 4 above.	
	Signature _____	Date _____ , 200__

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM MAY RESULT IN BACKUP WITHHOLDING OF A PORTION OF ANY PAYMENTS MADE TO YOU PURSUANT TO THE OFFER. PLEASE REVIEW THE ENCLOSED GUIDELINES FOR CERTIFICATION OF TAXPAYER IDENTIFICATION NUMBER ON SUBSTITUTE FORM W-9 FOR ADDITIONAL DETAILS. YOU MUST COMPLETE THE FOLLOWING CERTIFICATE IF YOU CHECKED THE BOX IN PART 3 OF SUBSTITUTE FORM W-9.

CERTIFICATE OF AWAITING TAXPAYER IDENTIFICATION NUMBER

I certify under penalties of perjury that a taxpayer identification number has not been issued to me, and either (1) I have mailed or delivered an application to receive a taxpayer identification number to the appropriate IRS Center or Social Security Administration Office, or (2) I intend to mail or deliver an application in the near future. I understand that if I do not provide a taxpayer identification number by the time of payment, a portion of all reportable payments made to me will be withheld, but that such amounts will be refunded to me if I then provide a Taxpayer Identification Number within sixty (60) days.

_____ _____

Signature **Date**

GUIDELINES FOR CERTIFICATION OF TAXPAYER IDENTIFICATION NUMBER ON SUBSTITUTE FORM W-9

GUIDELINES FOR DETERMINING THE PROPER IDENTIFICATION NUMBER TO GIVE THE PAYER. Social Security numbers have nine digits separated by two hyphens: i.e., 000-00-0000. Employer identification numbers have nine digits separated by only one hyphen: i.e., 00-0000000. The table below will help determine the number to give the payer.

WHAT NAME AND NUMBER TO GIVE THE PAYER

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account(1)
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor(2)
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor—trustee(1)
b. So-called trust account that is not a legal or valid trust under state law	The actual owner(1)
5. Sole proprietorship or single-owner LLC	The owner(3)

For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner(3)
7. A valid trust, estate, or pension trust	Legal entity(4)
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

(1) List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.
(2) Circle the minor's name and furnish the minor's SSN.
(3) You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.
(4) List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

OBTAINING A NUMBER

If you don't have a taxpayer identification number or you don't know your number, obtain Form SS-5, Application for a Social Security Number Card, or Form SS-4, Application for Employer Identification Number, at the local office of the Social Security Administration or the IRS and apply for a number.

PAYEES EXEMPT FROM BACKUP WITHHOLDING

Payees specifically exempted from backup withholding on ALL payments include the following:

- An organization exempt from tax under section 501(a), or an individual retirement plan or a custodial account under Section 403(b)(7).
- The United States or any agency or instrumentality thereof.
- A State, the District of Columbia, a possession of the United States, or any subdivision or instrumentality thereof.
- A foreign government, a political subdivision of a foreign government, or any agency or instrumentality thereof.
- An international organization, or any agency, or instrumentality thereof.

Payees that may be exempt from backup withholding include the following:

- A corporation.
- A financial institution.
- A registered dealer in securities or commodities registered in the U.S. or a possession of the U.S.
- A real estate investment trust.
- A common trust fund operated by a bank under section 584(a).
- An exempt charitable remainder trust, or a non-exempt trust described in section 4947(a)(1).
- An entity registered at all times under the Investment Company Act of 1940.
- A foreign central bank of issue.
- A futures commission merchant registered with the Commodity Futures Trading Commission.
- A middleman known in the investment community as a nominee or listed in the most recent publication of the American Society of Corporate Secretaries, Inc. Nominee List.

Payments of dividends and patronage dividends not generally subject to backup withholding include the following:

- Payments to nonresident aliens subject to withholding under section 1441.
- Payments to partnerships not engaged in a trade or business in the U.S. and which have at least one nonresident partner.
- Payments of patronage dividends where the amount received is not paid in money.
- Payments made by certain foreign organizations.

Payments of interest not generally subject to backup withholding include the following:

- Payments of interest on obligations issued by individuals. Note: You may be subject to backup withholding if this interest is $600 or more and is paid in the course of the payer's trade or business and you have not provided your correct taxpayer identification number to the payer.
- Payments of tax-exempt interest (including exempt-interest dividends under section 852).

- Payments described in section 6049(b)(5) to non-resident aliens.
- Payments on tax-free covenant bonds under section 1451.
- Payments made by certain foreign organizations.
- Mortgage interest paid to an individual.

Exempt payees described above should file Form W-9 to avoid possible erroneous backup withholding. FILE THIS FORM WITH THE PAYER, FURNISH YOUR TAXPAYER IDENTIFICATION NUMBER, WRITE "EXEMPT" ON THE FACE OF THE FORM, AND RETURN IT TO THE PAYER. IF THE PAYMENTS ARE INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS, ALSO SIGN AND DATE THE FORM.

Certain payments, other than interest, dividends, and patronage dividends, that are not subject to information reporting, are also not subject to backup withholding. For details, see the regulations under sections 6041, 6041A(a), 6045, and 6050A.

PRIVACY ACT NOTICE—Section 6109 requires most recipients of dividend, interest, or other payments to give taxpayer identification numbers to payers who must report the payments to the IRS. The IRS uses the numbers for identification purposes. Payers must be given the numbers whether or not recipients are required to file tax returns. Payers must generally withhold a portion of taxable interest, dividend, and certain other payments to a payee who does not furnish a taxpayer identification number to a payer. Certain penalties may also apply.

PENALTIES

(1) PENALTY FOR FAILURE TO FURNISH TAXPAYER IDENTIFICATION NUMBER—If you fail to furnish your taxpayer identification number to a payer, you are subject to a penalty of $50.00 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

(2) CIVIL PENALTY FOR FALSE INFORMATION WITH RESPECT TO WITHHOLDING—If you make a false statement with no reasonable basis which results in no imposition of backup withholding, you are subject to a penalty of $500.00.

(3) CRIMINAL PENALTY FOR FALSIFYING INFORMATION—Falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Unless otherwise indicated, all references to "section" are to the Internal Revenue Code of 1986, as amended.

FOR ADDITIONAL INFORMATION CONTACT YOUR TAX CONSULTANT OR THE IRS.

The Depositary for the Offer is:
Computershare Trust Company, N.A.

If delivering by mail:

Computershare Trust Company, N.A.
c/o Voluntary Corporate Actions
P.O. Box 43011
Providence, RI 02940-3011

If delivering by overnight delivery

Computershare Trust Company, N.A
C/O Voluntary Corporate Actions
Suite V
250 Royall Street
Canton, MA 02021

Questions or requests for assistance may be directed to the Information Agent or the Dealer Manager at their respective telephone numbers and addresses set forth below. Questions or requests for assistance or additional copies of the Offer to Purchase, this Letter of Transmittal and the Notice of Guaranteed Delivery may be directed to the Information Agent at the address and telephone numbers set forth below. Stockholders may also contact their broker, dealer, commercial bank or trust company for assistance concerning the Offer.

The Information Agent for the Offer is:

Georgeson Inc.

199 Water Street, 26th Floor
New York, NY 10038-3560

Banks and Brokerage Firms, Please Call:
(212) 440-9800

Stockholders and All Others Call Toll-Free
(877) 278-4762

The Dealer Manager for the Offer is:

Georgeson Securities Corporation

199 Water Street, 26th Floor
New York, NY 10038-3560

Please Call Toll-Free
(800) 445-1790

NOTICE OF GUARANTEED DELIVERY

For Offer to Purchase All Outstanding Shares of Common Stock
And the Associated Rights to Purchase Shares of
Series A Junior Participating Preferred Stock
of
Wind River Systems, Inc., a Delaware corporation
at
$11.50 NET PER SHARE
Pursuant to the Offer to Purchase dated June 11, 2009
by
APC II Acquisition Corporation, a Delaware corporation
a wholly owned subsidiary of
Intel Corporation, a Delaware corporation

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON JULY 9, 2009, UNLESS THE OFFER IS EXTENDED.

This Notice of Guaranteed Delivery, or one substantially in the form hereof, must be used to accept the Offer (as defined below) if (i) certificates representing shares of common stock, par value $0.001 per share (the "Company Shares"), of Wind River Systems, Inc., a Delaware corporation (the "Seller"), are not immediately available, (ii) the procedure for book-entry transfer cannot be completed on a timely basis or (iii) time will not permit all required documents to reach Computershare Trust Company, N.A. (the "Depositary") prior to the expiration of the Offer. This Notice of Guaranteed Delivery may be delivered by facsimile transmission or mailed to the Depositary. See Section 3 of the Offer to Purchase (as defined below).

The Depositary for the Offer is:
Computershare Trust Company, N.A.

By Mail:
Computershare Trust Company, N.A
c/o Voluntary Corporate Actions
P.O. Box 43011
Providence, RI 02940-3011

By Overnight Delivery:
Computershare Trust Company, N.A.
c/o Voluntary Corporate Actions
Suite V
250 Royall Street
Canton, MA 02021

By Facsimile:
(Eligible Institutions Only)
(617) 360-6810

Confirm Facsimile Receipt
by Telephone:
(781) 575-2332

DELIVERY OF THIS INSTRUMENT TO AN ADDRESS, OR TRANSMISSION OF INSTRUCTIONS VIA FACSIMILE TRANSMISSION, OTHER THAN AS SET FORTH ABOVE WILL NOT CONSTITUTE A VALID DELIVERY.

THIS FORM IS NOT TO BE USED TO GUARANTEE SIGNATURES. IF A SIGNATURE ON A LETTER OF TRANSMITTAL IS REQUIRED TO BE GUARANTEED BY AN "ELIGIBLE INSTITUTION" UNDER THE INSTRUCTIONS THERETO, SUCH SIGNATURE GUARANTEE MUST APPEAR IN THE APPLICABLE SPACE PROVIDED IN THE SIGNATURE BOX ON THE APPROPRIATE LETTER OF TRANSMITTAL.

The Eligible Institution that completes this form must communicate the guarantee to the Depositary and must deliver the Letter of Transmittal or an Agent's Message (as defined in the Offer to Purchase) and certificates for Company Shares ("Share Certificates") to the Depositary within the time period shown herein. Failure to do so could result in a financial loss to such Eligible Institution.

Ladies and Gentlemen:

The undersigned hereby tenders to APC II Acquisition Corporation, a Delaware corporation and a wholly owned subsidiary of Intel Corporation, a Delaware corporation, upon the terms and subject to the conditions set forth in the offer to purchase, dated June 11, 2009 (the "Offer to Purchase"), and the related Letter of Transmittal (such offer, the "Offer"), receipt of which is hereby acknowledged, the number of Company Shares specified below, pursuant to the guaranteed delivery procedure set forth in Section 3 of the Offer to Purchase.

Number of Company Shares and Share Certificate No(s):
(if available)

☐ Check here if Company Shares will be tendered by book entry transfer.

DTC Account Number: _____

Dated: _____, 2009

Name(s) of Record Holder(s):

_____

(Please type or print)

Address(es): _____

_____

(Zip Code)

Area Code and Tel. No. _____

(Daytime telephone number)

Signature(s): _____

_____

GUARANTEE
(Not to be used for signature guarantee)

The undersigned, an Eligible Institution (defined in Section 3 of the Offer to Purchase), hereby (i) guarantees that the above named person(s) "own(s)" the Company Shares tendered hereby within the meaning of Rule 14e-4 under the Securities Exchange Act of 1934, as amended, (ii) represents that the tender of Company Shares effected hereby complies with Rule 14e-4 under the Securities Exchange Act of 1934, as amended and (iii) guarantees delivery to the Depositary, at one of its addresses set forth above, of Share Certificates representing the Company Shares tendered hereby, in proper form for transfer, or a confirmation of a book-entry transfer of such Company Shares into the Depositary's account at the Book-Entry Transfer Facility (defined in Section 2 of the Offer to Purchase), in either case together with a properly completed and duly executed Letter of Transmittal (or facsimile thereof) or, in the case of a book-entry transfer, an Agent's Message, together with any other documents required by the Letter of Transmittal, all within three (3) New York Stock Exchange trading days after the date hereof.

Name of Firm: _____

Address: _____

_____

(Zip Code)

Area Code and Tel. No.: _____

_____

(Authorized Signature)

Name: _____

(Please type or print)

Title: _____

Date: _____

NOTE: DO NOT SEND SHARE CERTIFICATES FOR COMPANY SHARES WITH THIS NOTICE. SHARE CERTIFICATES SHOULD BE SENT WITH YOUR LETTER OF TRANSMITTAL.

Offer To Purchase For Cash
All Outstanding Shares of Common Stock
And the Associated Rights to Purchase Shares
of Series A Junior Participating Preferred Stock
of
Wind River Systems, Inc., a Delaware corporation
at
$11.50 NET PER SHARE
Pursuant to the Offer to Purchase dated June 11, 2009
by
APC II Acquisition Corporation, a Delaware corporation
a wholly owned subsidiary of
Intel Corporation, a Delaware corporation

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON JULY 9, 2009, UNLESS THE OFFER IS EXTENDED.

June 11, 2009

To Our Clients:

Enclosed for your consideration are the Offer to Purchase, dated June 11, 2009 (the "Offer to Purchase"), and the related Letter of Transmittal in connection with the offer (the "Offer") by APC II Acquisition Corporation, a Delaware corporation (the "Purchaser") and a wholly owned subsidiary of Intel Corporation, a Delaware corporation, to purchase all outstanding shares of common stock, par value $0.001 per share (the "Company Shares"), including the associated rights to purchase shares of Series A Junior Participating Preferred Stock, par value $0.001 per share, of Wind River Systems, Inc., a Delaware corporation (the "Seller"), at a purchase price of $11.50 per Company Share, net to the tendering stockholder in cash, without interest and less any required withholding taxes, upon the terms and subject to the conditions of the Offer.

We or our nominees are the holder of record of the Company Shares held for your account. A tender of such Company Shares can be made only by us as the holder of record and pursuant to your instructions. **The Letter of Transmittal is furnished to you for your information only and cannot be used by you to tender the Company Shares held by us for your account.**

We request instructions as to whether you wish us to tender any or all of the Company Shares held by us for your account, upon the terms and subject to the conditions set forth in the enclosed Offer to Purchase and Letter of Transmittal.

Please note carefully the following:

1. The offer price for the Offer is $11.50 per Company Share, net to you in cash, without interest and less any required withholding taxes.

2. The Offer is being made for all outstanding Company Shares.

3. The Offer and withdrawal rights will expire at 12:00 midnight, New York City time, on July 9, 2009, unless the Offer is extended by the Purchaser. Previously tendered Company Shares may be withdrawn at any time until the Offer has expired and, if the Purchaser has not accepted such Company Shares for payment by 12:00 midnight, New York City time, on July 9, 2009, such Company Shares may be withdrawn at any time after that date until the Purchaser accepts such Company Shares for payment.

4. The Offer is subject to certain conditions described in Section 15 of the Offer to Purchase.

5. Tendering stockholders who are registered stockholders or who tender their Company Shares directly to Computershare Trust Company, N.A. will not be obligated to pay any brokerage commissions or fees, solicitation fees, or, except as set forth in the Offer to Purchase and the Letter of Transmittal, stock transfer taxes on the Purchaser's purchase of Company Shares pursuant to the Offer.

If you wish to have us tender any or all of your Company Shares, please so instruct us by completing, executing, detaching and returning to us the Instruction Form on the detachable part hereof. An envelope to return your instructions to us is enclosed. If you authorize tender of your Company Shares, all such Company Shares will be tendered unless otherwise specified on the Instruction Form.

Your prompt action is requested. Your Instruction Form should be forwarded to us in ample time to permit us to submit the tender on your behalf before the expiration of the Offer.

The Offer is not being made to, nor will tenders be accepted from or on behalf of, holders of Company Shares in any jurisdiction in which the making of the Offer or acceptance thereof would not be in compliance with the laws of such jurisdiction. In any jurisdiction where the applicable laws require the Offer to be made by a licensed broker or dealer, the Offer shall be deemed to be made on behalf of the Purchaser by Georgeson Securities Corporation, the Dealer Manager for the Offer, or by one or more registered brokers or dealers licensed under the laws of such jurisdiction.

INSTRUCTION FORM

With Respect to the Offer to Purchase for Cash
All Outstanding Shares of Common Stock
And the Associated Rights to Purchase Shares of
Series A Junior Participating Preferred Stock
of
Wind River Systems, Inc., a Delaware corporation
at
$11.50 NET PER SHARE
Pursuant to the Offer to Purchase dated June 11, 2009
by
APC II Acquisition Corporation, a Delaware corporation
a wholly owned subsidiary of
Intel Corporation, a Delaware corporation

The undersigned acknowledge(s) receipt of your letter and the enclosed Offer to Purchase, dated June 11, 2009, and the related Letter of Transmittal, in connection with the offer (the "Offer") by APC II Acquisition Corporation, a Delaware corporation (the "Purchaser") and a wholly owned subsidiary of Intel Corporation, a Delaware corporation, to purchase all outstanding shares of common stock, par value $0.001 per share (the "Company Shares"), including the associated rights to purchase shares of Series A Junior Participating Preferred Stock, par value $0.001 per share, of Wind River Systems, Inc., a Delaware corporation (the "Seller"), at a purchase price of $11.50 per Company Share, net to the tendering stockholder in cash, without interest and less any required withholding taxes, upon the terms and subject to the conditions of the Offer.

The undersigned hereby instruct(s) you to tender to the Purchaser the number of Company Shares indicated below or, if no number is indicated, all Company Shares held by you for the account of the undersigned, upon the terms and subject to the conditions set forth in the Offer.

ACCOUNT NUMBER:

NUMBER OF COMPANY SHARES BEING TENDERED HEREBY: COMPANY SHARES*

The method of delivery of this document is at the election and risk of the tendering stockholder. If delivery is by mail, then registered mail with return receipt requested, properly insured, is recommended. In all cases, sufficient time should be allowed to ensure timely delivery.

*** Unless otherwise indicated, it will be assumed that all Company Shares held by us for your account are to be tendered.**

Dated: , 2009

_____
(Signature(s))

_____
Please Print Name(s)

_____
Address _____

_____

_____
Include Zip Code

Area Code and
Telephone No. _____

Taxpayer Identification or Social
Security No. _____

Offer To Purchase For Cash
All Outstanding Shares of Common Stock
And the Associated Rights to Purchase Shares of
Series A Junior Participating Preferred Stock
of
Wind River Systems, Inc., a Delaware corporation
at
$11.50 NET PER SHARE
Pursuant to the Offer to Purchase dated June 11, 2009,
by
APC II Acquisition Corporation, a Delaware corporation
a wholly owned subsidiary of
Intel Corporation, a Delaware corporation

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON JULY 9, 2009, UNLESS THE OFFER IS EXTENDED.

June 11, 2009

To Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees:

We have been engaged by APC II Acquisition Corporation, a Delaware corporation (the "Purchaser") and a wholly owned subsidiary of Intel Corporation, a Delaware corporation, to act as Dealer Manager in connection with the Purchaser's offer to purchase (the "Offer") all outstanding shares of common stock, par value $0.001 per share (the "Company Shares"), including the associated rights to purchase shares of Series A Junior Participating Preferred Stock, par value $0.001 per share, of Wind River Systems, Inc., a Delaware corporation (the "Seller"), at a purchase price of $11.50 per Company Share, net to the tendering stockholder in cash, without interest and less any required withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated June 11, 2009 (the "Offer to Purchase"), and the related Letter of Transmittal enclosed herewith.

For your information and for forwarding to your clients for whom you hold Company Shares registered in your name or in the name of your nominee, we are enclosing the following documents:

1. The Offer to Purchase;

2. The Letter of Transmittal for your use in accepting the Offer and tendering Company Shares and for the information of your clients, together with "Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9" providing information relating to backup federal income tax withholding;

3. A Notice of Guaranteed Delivery to be used to accept the Offer if the certificate(s) for the Company Shares ("Share Certificates") and all other required documents cannot be delivered to Computershare Trust Company, N.A. (the "Depositary") by the Expiration Date (as defined in the Offer to Purchase) or if the procedure for book-entry transfer cannot be completed by the Expiration Date;

4. A form of letter which may be sent to your clients for whose accounts you hold Company Shares registered in your name or in the name of your nominee, with space provided for obtaining such clients' instructions with regard to the Offer; and

5. A return envelope addressed to the Depositary for your use only.

Certain conditions to the Offer are described in Section 15 of the Offer to Purchase.

We urge you to contact your clients as promptly as possible. Please note that the Offer will expire at 12:00 midnight, New York City time, on July 9, 2009, unless the Offer is extended. Previously tendered Company Shares may be withdrawn at any time until the Offer has expired and, if the Purchaser has not accepted such Company Shares for payment by 12:00 midnight, New York City time, on July 9, 2009, such Company Shares may be withdrawn at any time after that date until the Purchaser accepts Company Shares for payment.

For Company Shares to be properly tendered pursuant to the Offer, (a) the Share Certificates or confirmation of receipt of such Company Shares under the procedure for book-entry transfer, together with a properly completed and duly executed Letter of Transmittal, including any required signature guarantees, or an "Agent's Message" (as defined in the Offer to Purchase) in the case of book-entry transfer, and any other documents required in the Letter of Transmittal, must be timely received by the Depositary or (b) the tendering stockholder must comply with the guaranteed delivery procedures, all in accordance with the Offer to Purchase and Letter of Transmittal.

The Purchaser will not pay any fees or commissions to any broker or dealer or other person (other than the Depositary and the Information Agent as described in the Offer to Purchase) for soliciting tenders of Company Shares pursuant to the Offer. The Purchaser will, however, upon request, reimburse brokers, dealers, commercial banks and trust companies for reasonable and necessary costs and expenses incurred by them in forwarding materials to their customers. The Purchaser will pay all stock transfer taxes applicable to its purchase of Company Shares pursuant to the Offer, subject to Instruction 6 of the Letter of Transmittal.

Any inquiries you may have with respect to the Offer should be addressed to, and additional copies of the enclosed materials may be obtained from, the Information Agent (as defined in the Offer to Purchase) or the undersigned at the addresses and telephone numbers set forth on the back cover of the Offer to Purchase.

Very truly yours,

Georgeson Securities Corporation

Nothing contained herein or in the enclosed documents shall render you the agent of the Purchaser, the Dealer Manager, the Information Agent or the Depositary or any affiliate of any of them or authorize you or any other person to use any document or make any statement on behalf of any of them in connection with the Offer other than the enclosed documents and the statements contained therein.

This announcement is neither an offer to purchase nor a solicitation of an offer to sell Shares (as defined below). The Offer (as defined below) is made only by the Offer to Purchase, dated June 11, 2009 (the "Offer to Purchase"), and the related Letter of Transmittal and any amendments or supplements thereto, and is being made to all holders of Shares. The Offer is not being made to (nor will tenders be accepted from or on behalf of) holders of Shares in any jurisdiction in which the making of the Offer or the acceptance thereof would not be in compliance with the securities, blue sky or other laws of such jurisdiction. In those jurisdictions where applicable laws require the Offer to be made by a licensed broker or dealer, the Offer shall be deemed to be made on behalf of the Purchaser (as defined below) by Georgeson Securities Corporation (the "Dealer Manager") or one or more registered brokers or dealers licensed under the laws of such jurisdiction to be designated by the Purchaser.

Notice of Offer to Purchase for Cash

All of the Outstanding Shares of Common Stock
of
WIND RIVER SYSTEMS, INC.
at
$11.50 Net Per Share
by
APC II ACQUISITION CORPORATION
a Wholly Owned Subsidiary
of
INTEL CORPORATION

APC II Acquisition Corporation, a Delaware corporation (the "Purchaser") and a wholly owned subsidiary of Intel Corporation, a Delaware corporation ("Parent"), offers to purchase all outstanding shares of common stock, par value $0.001 per share (the "Common Stock"), of Wind River Systems, Inc., a Delaware corporation ("Seller"), including the associated rights to purchase shares of Seller's Series A Junior Participating Preferred Stock, par value $0.001 per share (the "Rights," and collectively with the Common Stock, the "Shares"), at a price of $11.50 per Share, net to the tendering stockholder in cash, without interest and less any required withholding taxes (the "Per Share Amount"), upon the terms and subject to the conditions set forth in the Offer to Purchase and in the related Letter of Transmittal (such offer, the "Offer").

THE OFFER WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON JULY 9, 2009, UNLESS THE OFFER IS EXTENDED. PREVIOUSLY TENDERED SHARES MAY BE WITHDRAWN AT ANY TIME UNTIL THE OFFER HAS EXPIRED AND, IF THE PURCHASER HAS NOT ACCEPTED SUCH SHARES FOR PAYMENT BY 12:00 MIDNIGHT, NEW YORK CITY TIME, ON JULY 9, 2009, SUCH SHARES MAY BE WITHDRAWN AT ANY TIME AFTER THAT DATE UNTIL THE PURCHASER ACCEPTS SHARES FOR PAYMENT.

The Offer is being made pursuant to the Agreement and Plan of Merger, dated June 4, 2009 (the "Merger Agreement"), by and among Parent, the Purchaser and Seller. The Offer is conditioned upon, among other things, (i) satisfaction of the Minimum Condition (as defined below) and (ii) termination or expiration of the waiting period (and any extension thereof) applicable to the Offer under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and expiration, termination or obtainment of the foreign antitrust and similar regulatory waiting periods, clearances, consents or approvals under the German Act against Restraints of Competition, the Restrictive Trade Practices Laws 5748-1998 of Israel or any other applicable material consents or approvals of any governmental authority.

The "Minimum Condition" is defined in Section 15—"Conditions of the Offer" and generally requires that there has been validly tendered and not validly withdrawn prior to the Expiration Date (as defined below) that number of Shares equal to (i) at least fifty percent (50%) of the then outstanding Shares on a "fully diluted basis" (including all Shares potentially issuable upon the conversion of any convertible securities or upon the exercise

of any options, warrants or rights (other than the Rights), including the Seller's outstanding restricted stock units and performance shares (each a "RSU" and collectively the "RSUs"), in each case, which are convertible or exercisable prior to the "Outside Date" (which is defined in the Merger Agreement as October 31, 2009, subject to extension under certain circumstances until January 29, 2010) but excluding the sum of all Shares that are subject to the Tender and Support Agreement, dated June 4, 2009 (the "Tender and Support Agreement") between Purchaser, Parent, Jerry Fiddler, Narendra Gupta and Kenneth Klein, and various other entities affiliated with Messrs. Fiddler and Gupta (the "Subject Shares")) plus (ii) the Subject Shares.

The Merger Agreement provides that, subject to the conditions described in Section 15 of the Offer to Purchase, the Purchaser will be merged with and into Seller with Seller continuing as the surviving corporation as a wholly owned subsidiary of Parent. Pursuant to the Merger Agreement, at the effective time of the Merger (the "Effective Time"), each Share outstanding immediately prior to the Effective Time (other than (i) Shares directly owned by Seller and its subsidiaries, Parent or the Purchaser, which will be canceled and shall cease to exist and (ii) Shares owned by Seller's stockholders who perfect their dissenters' rights under the Delaware General Corporation Law (the "DGCL") will be converted into the right to receive $11.50 (or any other per Share price paid in the Offer) net in cash, without interest and less any required withholding taxes).

At a meeting held on June 3, 2009, the Board of Directors of Seller, by unanimous vote of all of its directors, (i) determined that the Merger Agreement and the transactions contemplated thereby (including the Offer and the Merger (as defined in the Merger Agreement)) are advisable and are fair to and in the best interests of Seller's stockholders, (ii) approved the Merger Agreement, the Tender and Support Agreement, and the transactions contemplated thereby (including the Offer and the Merger), which approvals constituted approval under Section 203 of the DGCL and the Amended and Restated Rights Agreement, dated September 29, 2006, as amended, and (iii) recommended that Seller's stockholders accept the Offer and tender their Shares pursuant to the Offer.

For purposes of the Offer, the Purchaser will be deemed to have accepted for payment, and thereby purchased, Shares validly tendered and not validly withdrawn as, if and when the Purchaser gives oral or written notice to Computershare Trust Company, N.A. (the "Depositary") of the Purchaser's acceptance for payment of such Shares pursuant to the Offer. Upon the terms and subject to the conditions of the Offer, payment for Shares accepted for payment pursuant to the Offer will be made by deposit of the Per Share Amount for such Shares with the Depositary, which will act as agent for tendering stockholders for the purpose of receiving payments from the Purchaser and transmitting such payments to tendering stockholders whose Shares have been accepted for payment. In all cases, payment for Shares accepted for payment pursuant to the Offer will be made only after timely receipt by the Depositary of (i) the certificates evidencing such Shares or confirmation of a book-entry transfer of such Shares into the Depositary's account at the Book-Entry Transfer Facility (as defined in the Offer to Purchase) pursuant to the procedures set forth in the Offer to Purchase, (ii) the Letter of Transmittal (or a manually signed facsimile thereof), properly completed and duly executed, with any required signature guarantees or, in the case of book-entry transfer, an Agent's Message (as defined in the Offer to Purchase) and (iii) any other documents required by the Letter of Transmittal.

The term "Expiration Date" means 12:00 midnight, New York City time, on July 9, 2009, unless the Purchaser, in accordance with the Merger Agreement, extends the period during which the Offer is open, in which event the term "Expiration Date" means the latest time and date at which the Offer, as so extended, expires.

The Merger Agreement provides that the Purchaser may, in its sole discretion, without the consent of Seller, extend the Offer on one or more occasions, if on any then-scheduled expiration date of the Offer any of the conditions to the Purchaser's obligation to accept for payment and pay for the Shares validly tendered in the Offer (the "Offer Conditions") are not satisfied or waived for such period of time as Purchaser reasonably determines to be necessary to permit such Offer Conditions to be satisfied or waived. Further, Purchaser is required to extend the Offer: (i) for any period required by any rule, regulation, interpretation or position of the Securities and Exchange Commission (the "SEC") or the staff thereof applicable to the Offer; (ii) for two (2) consecutive ten (10) business day periods beyond the original expiration date of the Offer if, at the time of such scheduled expiration, all of the Offer Conditions, other than the Minimum Condition, are satisfied; (iii) for such period of time up to ten (10) business days from the date of notice to Seller regarding inaccuracies in

Seller's representations or breach of Seller's covenants in the Merger Agreement to the extent necessary to provide Seller a ten (10) business day period to attempt to cure such inaccuracies or breaches if they are reasonable curable; provided, that, Purchaser is only required to extend the Offer one (1) time for such a cure period; or (iv) (A) for any period of time, if all of the Offer Conditions, other than the Minimum Condition and the receipt of required governmental approvals with respect to the Offer and the Merger, are satisfied for such period of time as is necessary to obtain such governmental consents and (B) for one ten (10) business day period after receipt of all required governmental approvals with respect to the Offer and the Merger, if all other Offer Conditions, other than the Minimum Condition, are satisfied; provided, however, in no event will these extension provisions extend the Offer beyond the Outside Date.

Following the Purchaser's acceptance for payment of Shares pursuant to and subject to the Offer Conditions upon the expiration of the Offer, the Purchaser may, without the consent of Seller, elect to provide for a "subsequent offering period" (a "Subsequent Offering Period") in accordance with Rule 14d-11 of the Securities Exchange Act of 1934, as amended (together with the rules and regulations promulgated thereunder, the "Exchange Act").

Any extension of the Offer will be followed as promptly as practicable by a public announcement if required. Such announcement will be made no later than 9:00 a.m., New York City time, on the next business day after the previously scheduled Expiration Date, in accordance with the public announcement requirements of Rule 14e-1(d) of the Exchange Act. During any such extension, all Shares previously tendered and not validly withdrawn will remain subject to the Offer, subject to the rights of a tendering stockholder to withdraw such stockholder's Shares except during a Subsequent Offering Period. Shares tendered pursuant to the Offer may be withdrawn at any time prior to the Expiration Date and, unless previously accepted for payment by the Purchaser pursuant to the Offer, may also be withdrawn at any time after August 10, 2009. If the initial offering period has expired and the Purchaser elects to provide for a Subsequent Offering Period, Shares tendered during a Subsequent Offering Period may not be withdrawn. For a withdrawal to be effective, a written, telegraphic or facsimile transmission notice of withdrawal must be timely received by the Depositary at one of its addresses set forth on the back cover of the Offer to Purchase. Any such notice of withdrawal must specify the name of the person who tendered the Shares to be withdrawn, the number of Shares to be withdrawn and the name of the registered holder of such Shares, if different from that of the person who tendered such Shares. If share certificates evidencing Shares to be withdrawn have been delivered or otherwise identified to the Depositary, then, prior to the physical release of such share certificates, the serial numbers shown on such share certificates must be submitted to the Depositary and the signature(s) on the notice of withdrawal must be guaranteed by an Eligible Institution (as defined in the Offer to Purchase), unless such Shares have been tendered for the account of a financial institution (including most commercial banks, savings and loan associations and brokerage houses) that is a participant in the Securities Transfer Agents Medallion Program or any other "eligible guarantor institution," as such term is defined in Rule 17Ad-15 of the Exchange Act. If Shares have been tendered pursuant to the procedure for book-entry transfer as set forth in the Offer to Purchase, any notice of withdrawal must also specify the name and number of the account at the Book-Entry Transfer Facility to be credited with the withdrawn Shares. All questions as to validity, form, eligibility (including time of receipt) and acceptance for payment of any tendered Shares will be determined by the Purchaser, in its sole discretion, which determination shall be final and binding on all parties.

The receipt of cash for Shares in the Offer and the Merger will be a taxable transaction for United States federal income tax and may also be a taxable transaction under applicable state, local or foreign tax laws. Stockholders should consult with their tax advisors as to the particular tax consequences of the Offer and the Merger to them, including the applicability and effect of the alternative minimum tax and any state, local or foreign income and other tax laws and of changes in such tax laws. For a more complete description of certain material United States federal income tax consequences of the Offer and the Merger, see Section 5—"Certain Material United States Federal Income Tax Consequences" of the Offer to Purchase.

The information required to be disclosed by Paragraph (d)(1) of Rule 14d-6 of the Exchange Act is contained in the Offer to Purchase and is incorporated herein by reference. The Company has provided the Purchaser with Seller's stockholder list and security position listings for the purpose of disseminating the Offer to holders of Shares. The Offer to Purchase and the related Letter of Transmittal will be mailed to record holders of Shares whose names appear on Seller's stockholder list and will be furnished, for subsequent transmittal to beneficial owners of Shares, to banks, brokers, dealers and other nominees whose names, or the names of whose nominees, appear on the stockholder list or, if applicable, who are listed as participants in a clearing agency's security position listing.

THE OFFER TO PURCHASE AND THE RELATED LETTER OF TRANSMITTAL CONTAIN IMPORTANT INFORMATION THAT SHOULD BE READ CAREFULLY BEFORE ANY DECISION IS MADE WITH RESPECT TO THE OFFER.

Questions or requests for assistance may be directed to the Information Agent (as defined below) or the Dealer Manager at their respective addresses and telephone numbers set forth below. Questions or requests for additional copies of the Offer to Purchase, the Letter of Transmittal and the Notice of Guaranteed Delivery may also be obtained from the Information Agent or the Dealer Manager. Stockholders may also contact their broker, dealer, commercial bank or trust company for assistance concerning the Offer.

The Information Agent for the Offer is:

Georgeson Inc.

199 Water Street, 26th Floor
New York, NY 10038-3560

Banks and Brokerage Firms, Please Call:

(212) 440-9800

Stockholders and All Others Call Toll-Free:

(877) 278-4762

The Dealer Manager for the Offer is:

Georgeson Securities Corporation

199 Water Street, 26th Floor
New York, NY 10038-3560

Please Call Toll-Free:

(800) 445-1790

June 11, 2009

Exhibit (d)(1)

AGREEMENT AND PLAN OF MERGER

Among

INTEL CORPORATION,

APC II ACQUISITION CORPORATION

and

WIND RIVER SYSTEMS, INC.

Dated as of June 4, 2009

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of June 4, 2009 (this "**Agreement**"), among Intel Corporation, a Delaware corporation ("**Parent**"), APC II Acquisition Corporation, a Delaware corporation and a wholly owned subsidiary of Parent ("**Purchaser**"), and Wind River Systems, Inc., a Delaware corporation (the "**Company**").

RECITALS

WHEREAS, the Boards of Directors of Parent, Purchaser and the Company have each determined that it is in the best interests of their respective stockholders for Parent to acquire the Company upon the terms and subject to the conditions set forth herein;

WHEREAS, in furtherance of such acquisition, it is proposed that Purchaser make a cash tender offer (as it may be amended from time to time, the "**Offer**") to acquire all of the issued and outstanding shares of Common Stock, par value $0.001 per share, of the Company ("**Company Common Stock**") (shares of Company Common Stock being hereinafter collectively referred to as "**Company Shares**"), including the associated Rights (as defined below), for $11.50 per Company Share (such amount, or any greater amount per Company Share paid pursuant to the Offer, the "**Per Share Amount**") net to the holder thereof in cash, on the terms and subject to the conditions of this Agreement and the Offer;

WHEREAS, it is also proposed that, following the consummation of the Offer, Purchaser will merge with and into the Company, with the Company surviving the merger as a wholly-owned subsidiary of Parent (the "**Merger**"), and each Company Share that is not tendered and accepted pursuant to the Offer will thereupon be cancelled and converted into the right to receive cash in an amount equal to the Per Share Amount, on the terms and subject to the conditions set forth herein;

WHEREAS, the Board of Directors of the Company (the "**Company Board**") has unanimously (i) determined that the Offer is fair to, and in the best interests of, the Company's stockholders; (ii) approved and declared advisable this Agreement and the transactions contemplated hereby, including the Offer and the Merger; and (iii) resolved and agreed to recommend that holders of Company Shares tender their Company Shares pursuant to the Offer and (to the extent necessary) adopt this Agreement and approve the Merger;

WHEREAS, the Boards of Directors of Parent and Purchaser have each approved and declared advisable this Agreement and the Merger;

WHEREAS, concurrently with the execution and delivery of this Agreement, and as a condition and inducement to Parent's willingness to enter into this Agreement, Parent, Purchaser and certain stockholders of the Company (the "**Stockholders**") are entering into a Tender and Support Agreement, dated as of the date hereof (the "**Stockholder Agreement**"), providing that, among other things, the Stockholders shall (i) tender their Company Shares into the Offer (the sum of all Company Shares subject to the Stockholder Agreement, the "**Subject Shares**"), and (ii) vote their Company Shares in favor of the Merger, if applicable, in each case subject to the conditions set forth therein;

WHEREAS, concurrently with the execution and delivery of this Agreement, and as a material inducement to Parent's willingness to enter into this Agreement, certain employees of the Company are executing and delivering to Parent Employment Agreements substantially in the forms hereto as Exhibit A and Exhibit B (the "**Employment Agreements**"); and

WHEREAS, concurrently with the execution and delivery of this Agreement, and as a material inducement to Parent's willingness to enter into this Agreement, a certain employee of the Company is executing and delivering to Parent a Non-Competition Agreement substantially in the form attached hereto as Exhibit C (the "**Non-Competition Agreement**").

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Parent, Purchaser and the Company hereby agree as follows:

1. DEFINITIONS

1.1 Definitions. For purposes of this Agreement:

"**Acquisition Proposal**" means any proposal, offer or indication of interest (whether or not in writing) relating to, or that could reasonably be expected to lead to, in one transaction or a series of transactions, (i) any direct or indirect acquisition or purchase (including by any license or lease) of (A) assets (including equity securities of any Company Subsidiary) or businesses that constitute fifteen percent (15%) or more of the revenues, net income or assets of the Company or of any Company Subsidiary or (B) beneficial ownership of fifteen percent (15%) or more of any class of equity securities of the Company or of any Company Subsidiary; (ii) any purchase or sale of, or tender offer or exchange offer for, equity securities of the Company or any Company Subsidiary that, if consummated, would result in any person beneficially owning fifteen percent (15%) or more of any class of equity securities of the Company or any Company Subsidiary; or (iii) any merger, consolidation, business combination, recapitalization, liquidation, dissolution, joint venture (other than a Customer Optimization Arrangement), share exchange or similar transaction involving the Company or any of the significant Company Subsidiaries, other than the Transactions. An Acquisition Proposal includes a Superior Proposal and an Equity Consideration Acquisition Proposal.

"**Action**" means litigation, suit, claim, action, hearing, proceeding, arbitration, mediation, inquiry or investigation.

"**affiliate**" of a specified person means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person.

"**Applicable Lookback Period**" means a number of consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date of this Agreement and ending on (and including) the date that is 69 calendar days following the date of this Agreement, then the Applicable Lookback Period shall be the 5 consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is 70 calendar days from date of this Agreement and ending on (and including) the date that is 89

calendar days from the date of this Agreement, then the Applicable Lookback Period shall be the 6 consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is 90 calendar days from date of this Agreement and ending on (and including) the date that is 109 calendar days from the date of this Agreement, then the Applicable Lookback Period shall be the 7 consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is 110 calendar days from date of this Agreement and ending on (and including) the date that is 129 calendar days from the date of this Agreement, then the Applicable Lookback Period shall be the 8 consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs during the period beginning with the date that is 130 calendar days from date of this Agreement and ending on (and including) the date that is 149 calendar days from the date of this Agreement then the Applicable Lookback Period shall be the 9 consecutive trading days immediately preceding the Qualified Expiration Date. If the Qualified Expiration Date occurs on or after the date that is 150 calendar days following the date of this Agreement, then the Applicable Lookback Period shall be the 10 consecutive trading days immediately preceding the Qualified Expiration Date.

"**beneficial owner**" means a person who shall be deemed to be the beneficial owner of any Company Shares or other shares (i) that such person or any of its affiliates or associates (as such term is defined in Rule 12b-2 promulgated under the Exchange Act) beneficially owns, directly or indirectly; (ii) that such person or any of its affiliates or associates has, directly or indirectly, (A) the right to acquire (whether such right is exercisable immediately or subject to the passage of time or other conditions), pursuant to any Contract, arrangement or understanding or upon the exercise of conversion rights (including convertible debt), exchange rights, warrants or options, or otherwise, or (B) the right to vote pursuant to any Contract, arrangement or understanding; or (iii) that are beneficially owned, directly or indirectly, by any other persons with whom such person or any of its affiliates or associates or person with whom such person or any of its affiliates or associates has any Contract, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any such Company Shares or other shares.

"**business day**" has the meaning set forth in Rule 14d-1(g)(3) of the Exchange Act.

"**Claim**" means any and all claims, demands and causes of action.

"**Company Intellectual Property**" means any and all Intellectual Property and Intellectual Property Rights that are owned by (solely or jointly) or licensed to the Company or any Company Subsidiary (or that the Company or any Company Subsidiary claims or purports to own or have a license with respect to).

"**Company Restricted Stock**" means Company Common Stock that is unvested or is subject to repurchase option, risk of forfeiture or other condition on title or ownership under any applicable restricted stock purchase agreement or other Contract with the Company.

"**Company SAR**" means any stock appreciation right outstanding, whether or not granted under a Company Stock Option Plan, whether or not exercisable or vested.

"**Company Stock Option Plans**" means any equity incentive plans of the Company, as amended, pursuant to which the Company granted Company Stock Options, Company RSUs or Company SARs, including that certain non-plan stock option dated March 21, 2007 granted to Ian Halifax.

"**Company Stock Options**" means any option to purchase shares of the Company's Common Stock granted under the Company Stock Option Plans.

"**Consent**" means any approval, license, consent, ratification, permission, waiver or authorization.

"**Continuing Employees**" mean all employees of the Company or any Company Subsidiary who (a) are offered and accept employment, prior to the Effective Time, by Parent or any subsidiary of Parent, (b) at the Effective Time, continue their employment with the Company or any Company Subsidiary, or (c) remain or become at the Effective Time employees of the Company or, outside the U.S., at the Effective Time remain or become employees of the Company, Parent or any subsidiary as required by applicable Law.

"**Contract**" means any contract, agreement, indenture, deed of trust, license, note, bond, loan instrument, mortgage, lease, purchase or sales order, guarantee and any similar undertaking, commitment, pledge, or binding understanding or arrangement, in each case, whether written, oral, express or implied.

"**control**" (including the terms "**controlled by**" and "**under common control with**") means the possession, directly or indirectly, or as trustee or executor, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, as trustee or executor, by contract or credit arrangement or otherwise.

"**Copyleft Open Source**" means Software or similar subject matter that is generally available in source code form and that is distributed under a license which, by its terms, (i) does not prohibit licensees of such Software from licensing or otherwise distributing such Software in source code form, (ii) does not prohibit licensees of such Software from making modifications thereof, (iii) does not require a royalty or other payment for the licensing or other distribution, or the modification, of such Software (other than a reasonable charge to compensate the provider for the cost of providing a copy thereof) and (iv) purports to require a licensee to make one's modifications, derivatives and or enhancements of such licensed Software or similar subject matter available to distributees or others in designated circumstances under the terms of such copyleft open source license. Copyleft Open Source includes Software distributed under such licenses as the GNU General Public License and GNU Lesser General Public License.

"**Copyrights**" means any and all U.S. and foreign copyrights, mask works, and all other rights with respect to Works of Authorship and all registrations thereof and applications therefor (including moral and economic rights, however denominated).

"**Customer Optimization Arrangement**" means an optimization agreement or similar arrangement involving the Company or any Company Subsidiary, on the one hand, and a customer of the Company or any Company Subsidiary, on the other hand, formed for the purpose of customizing Company Products and/or such customer's products to effectively interface with one another in the ordinary course of business but excluding any agreement involving the formation of a new entity or an investment by the Company, or any Company Subsidiary, and such customer.

"**DGCL**" means the General Corporation Law of the State of Delaware.

"**Environmental Laws**" means any Law, including common law, relating to (i) releases or threatened releases of Hazardous Substances or materials containing Hazardous Substances, (ii) the manufacture, handling, transport, use, treatment, storage or disposal of Hazardous Substances or materials containing Hazardous Substances; (iii) pollution or protection of the indoor or outdoor environment, health or natural resources; or (iv) the European Union's Directives on the Restriction of Hazardous Substances (RoHS), Waste Electrical and Electronic Equipment (WEEE), and similar product stewardship laws.

"**Equity Consideration Acquisition Proposal**" means any Acquisition Proposal involving proposed consideration to the Company, any Company Subsidiary or stockholders of the Company that includes equity securities or other securities convertible into equity securities of a Third Party. Any Acquisition Proposal involving such equity consideration and cash consideration shall only be an Equity Consideration Acquisition Proposal if the cash consideration per Company Share is less on a per Company Share basis (as adjusted for stock splits, recapitalizations and similar transactions) than the Per Share Amount.

"**ERISA Affiliate**" means any trade or business (whether or not incorporated) under common control with the Company or any Company Subsidiary and that, together with the Company or any Company Subsidiary, is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA.

"**Exchange Act**" means the Securities and Exchange Act of 1934, as amended.

"**Governmental Authority**" means any (i) nation, principality, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (ii) federal, state, local, municipal, foreign or other government; (iii) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or entity and any court or other tribunal); or (iv) organization, entity or body or individual exercising, or entitled to exercise, any executive, legislative, judicial, administrative, arbitral, regulatory, police, military or taxing authority or power of any nature (including persons acting as arbitrators, alternative dispute resolution organizations and stock exchanges).

"**Hazardous Substances**" means (i) those substances defined in or regulated as hazardous or toxic substances, materials or wastes under the following U.S. federal statutes and their state counterparts, as each may be amended from time to time, and all regulations thereunder: the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act, the Safe Drinking Water Act, the Atomic Energy Act, the Federal Insecticide, Fungicide, and Rodenticide Act and the Clean Air Act; (ii) petroleum and petroleum

products, including crude oil and any fractions thereof; (iii) natural gas, synthetic gas, and any mixtures thereof; (iv) polychlorinated biphenyls, asbestos and radon; (v) any other contaminant; and (vi) any biological or chemical substance, material or waste regulated or classified as hazardous, toxic, or radioactive by any Governmental Authority pursuant to any Environmental Law.

"**Income Tax**" means any U.S. federal, state, local, or non-U.S. income tax, including any interest, penalty, or addition thereto.

"**Intellectual Property**" means any and all (i) formulae, algorithms, procedures, processes, methods, techniques, know-how, ideas, creations, inventions, discoveries, and improvements (whether patentable or unpatentable and whether or not reduced to practice); (ii) technical, engineering, manufacturing, product, marketing, servicing, financial, supplier, and other information and materials; (iii) customer, vendor, and distributor lists, contact and registration information, and correspondence; (iv) specifications, designs, models, devices, prototypes, schematics and development tools; (v) Software, websites, content, images, graphics, text, photographs, artwork, audiovisual works, sound recordings, graphs, drawings, reports, analyses, writings, designs, mask works, and other works of authorship and copyrightable subject matter ("**Works of Authorship**"); (vi) databases and other compilations and collections of data or information **(**"**Databases**"); (vii) trademarks, service marks, logos and design marks, trade dress, trade names, fictitious and other business names, and brand names, together with all goodwill associated with any of the foregoing ("**Trademarks**"); (viii) domain names, uniform resource locators and other names and locators associated with the Internet ("**Domain Names**") and (ix) information and materials not generally known to the public, including trade secrets and other confidential and proprietary information ("**Trade Secrets**").

"**Intellectual Property Rights**" means any and all rights (anywhere in the world, whether statutory, common law or otherwise) relating to, arising from, or associated with Intellectual Property, including (i) Patents; (ii) Copyrights; (iii) other rights with respect to Software, including registrations thereof and applications therefor; (iv) industrial design rights and registrations thereof and applications therefor; (v) rights with respect to Trademarks, and all registrations thereof and applications therefor; (vi) rights with respect to Domain Names, including registrations thereof and applications therefor; (vii) rights with respect to Trade Secrets, including rights to limit the use or disclosure thereof by any Person; (viii) rights with respect to Databases, including registrations thereof and applications therefor; (ix) publicity and privacy rights, including all rights with respect to use of a Person's name, signature, likeness, image, photograph, voice, identity, personality, and biographical and personal information and materials; and (x) any rights equivalent or similar to any of the foregoing.

"**knowledge of the Company**" means the actual knowledge of each of the individuals set forth in Section 1.1 of the Disclosure Schedule, including in each case the knowledge that such person would reasonably have obtained in the reasonable conduct of his or her duties after familiarizing himself or herself with the terms and conditions of this Agreement (including Section 4) and the Disclosure Schedule.

"**Lien**" means any liens, mortgages, encumbrances, pledges, security interests, options, rights of first refusal, or other charges of any kind.

"**Material Adverse Effect**" means any event, condition, circumstance, development, state of facts, change or effect, individually or in the aggregate, that is or would reasonably be expected to be materially adverse to, or has had or would reasonably be expected to have a material adverse effect on, (x) the business, condition (financial or otherwise), capitalization, assets, liabilities or results of operations of the Company and the Company Subsidiaries, taken as a whole, or (y) the Company's ability to timely consummate the Offer and the Merger; provided, that with respect to clause (x) above, Material Adverse Effect shall not include any events, conditions, circumstances, developments, state of facts, changes and effects to the extent arising or resulting from (i) changes in the industry in which the Company operates, (ii) changes in the general economic conditions within the U.S. or other jurisdictions in which the Company has material operations, (iii) the announcement or pendency of the transactions contemplated by this Agreement, or the performance or compliance with the terms of this Agreement or (iv) acts of God, natural disasters or calamities, including the engagement by any country in hostility (whether commenced before, on or after the date hereof, and whether or not pursuant to the declaration of a national emergency or war), (v) the occurrence of a military or terrorist attack, or (vi) any changes in Law or GAAP (or any interpretation thereof); provided, that in the case of each of clauses (i), (ii), (iv) and (v), the Company and the Company Subsidiaries are not significantly disproportionately affected thereby relative to other companies of comparable size in the same industries and geographies in which the Company operates.

"**Open Source**" means Software or similar subject matter that is generally available in source code form and that is distributed under a license which, by its terms, (i) does not prohibit licensees of such Software from licensing or otherwise distributing such Software in source code form, (ii) does not prohibit licensees of such Software from making modifications thereof, and (iii) does not require a royalty or other payment for the licensing or other distribution, or the modification, of such Software (other than a reasonable charge to compensate the provider for the cost of providing a copy thereof). Open Source Software includes Software distributed under such licenses as the GNU General Public License, GNU Lesser General Public License, New BSD License, MIT License, Common Public License and other licenses approved as open source licenses under the Open Source Definition of the Open Source Initiative.

"**Owned Company Intellectual Property**" means any and all Intellectual Property and Intellectual Property Rights that are owned by (solely or jointly) Company or any Company Subsidiary (or that Company or any Company Subsidiary claims or purports to own).

"**Owned Copyrights**" means any and all Copyrights in the Owned Company Intellectual Property.

"**Patents**" means any and all U.S. and foreign patent rights, including without limitation, all (i) patents, (ii) pending patent applications, including all provisional applications, substitutions, continuations, continuations-in-part, divisions, renewals, and all patents granted thereon, (iii) all patents-of-addition, reissues, reexaminations, confirmations, re-registrations, invalidations, and extensions or restorations by existing or future extension or restoration mechanisms, including supplementary protection certificates or the equivalent thereof, and (iv) all foreign counterparts of any of the foregoing.

"**person**" means an individual, corporation, partnership, limited partnership, limited liability company, syndicate, person (including a "person" as defined in Section 13(d)(3) of the Exchange Act), trust, association or entity or government, political subdivision, agency or instrumentality of a government.

"**Qualified Expiration Date**" means an Expiration Date upon which none of the conditions or events set forth in Annex A hereto shall have occurred and be continuing.

"**Registered Company Intellectual Property**" means (i) all Patents, registered Trademarks, applications to register Trademarks, registered Copyrights, applications to register Copyrights, and Domain Names included in the Owned Company Intellectual Property that are registered, recorded, assigned but not recorded or filed by, for, or under authorization from (or in the name of) Company or any Company Subsidiary, and (ii) any other applications, registrations, recordings and filings by Company or any Company Subsidiary (or otherwise authorized by or in the name of Company or any Company Subsidiary) with respect to any Owned Company Intellectual Property.

"**Representative**" means the directors, officers, employees, agents (including financial and legal advisors) and other representatives of a person.

"**SEC**" means the Securities and Exchange Commission, or any successor thereto.

"**Software**" means all (i) computer programs and other software, including software implementations of algorithms, models, and methodologies, whether in source code, object code or other form, including libraries, subroutines and other components thereof; (ii) computerized databases and other computerized compilations and collections of data or information, including all data and information included in such databases, compilations or collections; (iii) screens, user interfaces, command structures, report formats, templates, menus, buttons and icons; (iv) descriptions, flow-charts, architectures, development tools, and other materials used to design, plan, organize and develop any of the foregoing; and (v) all documentation, including development, diagnostic, support, user and training documentation related to any of the foregoing.

"**subsidiary**" or "**subsidiaries**" of the Company, the Surviving Corporation, Parent or any other person means an affiliate controlled by such person, directly or indirectly, through one or more intermediaries.

"**Tax**" or "**Taxes**" means all U.S. federal, state, local, non-U.S. and other net income, gross income, gross receipts, value-added, sales, use, ad valorem, customs duties, capital stock, environmental (including taxes under Section 59A of the Code), transfer, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, registration, severance, stamp, occupation, premium, real property, personal property, windfall profits, customs, duties, alternative or add-on minimum, estimated, or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, any penalties or additions to tax with respect thereto, whether disputed or not, including any fees or penalties imposed on a person in respect of any information Tax Return made to a Governmental Authority, and including any obligations to indemnify or otherwise assume or succeed to the Tax Liability of any other Person.

"**Tax Returns**" means all returns and reports, elections, declarations, disclosures, schedules, estimates and information returns, including any schedule or attachment thereto, required to be supplied to a Governmental Authority (or any agent thereof) relating to Taxes.

"**Termination Trigger Date**" means, if the Company Board or any committee thereof shall have determined, pursuant to Section 7.5(b), to enter into a definitive agreement with respect to an Equity Consideration Acquisition Proposal in full compliance with all procedures described in Section 7.5, the first day after the fortieth (40th) business day following the commencement of the Offer (determined pursuant to Rule 14d-1(g)(3) under the Exchange Act) on which there shall not be in effect any law or interpretation or position of the SEC which requires the Offer to remain open.

"**Third Party**" means any person other than the Parent and its subsidiaries (including Purchaser) and the respective Representatives of Parent and its subsidiaries.

"**U.S.**" means United States of America.

The following terms have the meaning set forth in the Sections set forth below:

Defined Term	Location of Definition
2009 Balance Sheet	4.7(c)
Acceptance Date	2.1(g)
Acquiring Person	4.25(a)
Acquisition Agreement	7.5(b)(ii)
Agreement	Preamble
Antitrust Division	7.12(a)
Blue Sky Laws	4.5(b)
Certificate of Merger	3.2
Certificates	3.9(b)
Change in Recommendation	7.5(b)(i)
Code	3.10
Company	Preamble
Company Arrangements	4.10(h)
Company Board	Recitals
Company Board Recommendation	7.5(b)(i)
Company Common Stock	Recitals
Company Compensation Committee	4.10(h)
Company ESPP	3.7(e)
Company Financial Advisor	4.26
Company Intellectual Property Agreements	4.14(l)(iii)
Company Leased Real Property	4.13(c)
Company Material Contracts	4.17(a)
Company Owned Real Property	4.13(b)
Company Preferred Stock	4.3(a)
Company Products	4.14(p)
Company Required Approvals	4.5(b)
Company RSUs	3.7(c)

Company Run Time Product	4.14(n)
Company Securities	4.3(c)
Company Shares	Recitals
Company Subsidiary	4.1(b)
Compliance Violation	4.14(i)
Confidentiality Agreement	7.4(b)
Continuing Option	3.7(a)
Continuing RSU	3.7(c)
Control Date	6.1
Contaminants	4.14(q)
Covered Securityholders	4.10(h)
D&O Insurance	7.7(c)
Databases	1.1
Data Room	7.4(b)
Designated Superior Proposal	7.5(b)
Disclosure Schedule	Article 4
Dissenting Company Shares	3.8(a)
Distribution Date	4.25(b)
Domain Names	1.1
Effective Time	3.2
Employee IP Agreement	4.14(g)
Employee Retained IP	4.14(g)
Employment Agreements	Recitals
Environmental Permits	4.16
ERISA	4.10(a)
Exchange Ratio	3.7(a)
Expiration Date	2.1(c)
Fee	9.3(a)
Final Purchase Date	3.7(e)
FTC	7.12(a)
GAAP	4.7(b)
Grant Date	4.3(e)
HSR Act	4.5(b)
Indemnified Person	7.7(a)
Independent Directors	7.3(c)
IRS	4.10(a)
Law	4.5(a)
Merger	Recitals
Merger Consideration	3.6(a)
Minimum Condition	2.1(b)
Multiemployer Plan	4.10(b)
Multiple Employer Plan	4.10(b)
Non-Competition Agreement	Recitals
Non-U.S. Benefit Plan	4.10(i)
Notice of Designated Superior Proposal	7.5(b)(A)
Offer	Recitals

Offer Documents	2.1(f)
Offer to Purchase	2.1(f)
Outside Date	9.1(b)
Parent	Preamble
Parent Common Stock	3.7(a)
Parent Disclosure Schedule	5.6
Paying Agent	3.9(a)
Permits	4.6
Permitted Title Exceptions	4.13(b)
Per Share Amount	Recitals
Plans	4.10(a)
Proxy Statement	4.12
Purchaser	Preamble
Required Shareholder Vote	4.24
Rights	4.3(c)
Rights Agreement	4.3(c)
Schedule 14D-9	2.2(b)
Schedule TO	2.1(f)
SEC Reports	4.7(a)
Securities Act	4.7(a)
SOX	4.7(a)
Shares Acquisition Date	4.25(a)
Stockholder Agreement	Recitals
Stockholders	Recitals
Stockholders' Meeting	7.1(a)
Subject Shares	Recitals
Superior Proposal	7.5(a)
Surviving Corporation	3.1
Systems	4.14(r)
Takeover Law	7.8
Terminating Option	3.7(b)
Terminating RSU	3.7(d)
Top-Up Closing	2.3(c)
Top-Up Exercise Notice	2.3(c)
Top-Up Option	2.3(a)
Top-Up Option Shares	2.3(a)
Trademarks	1.1
Trade Secrets	1.1
Transactions	4.4(b)
2009 Balance Sheet	4.7(c)
US Plans	4.10(a)
USRPHC	4.15(h)
Works of Authorship	1.1

2. THE OFFER

2.1 The Offer.

(a) Provided, that nothing shall have occurred that gives rise to a right of Parent to terminate the Offer or this Agreement; provided, further, that none of the conditions set forth in Sections (iii)(c) through (iii)(e) of Annex A hereto shall have occurred and be continuing as of the date that Purchaser would otherwise commence the Offer; and provided, further, that the Company has fulfilled its obligation to provide information to Parent and Purchaser on a timely basis as contemplated by Section 2.1(f), Purchaser shall commence (within the meaning of Rule 14d-2 under the Exchange Act) the Offer as promptly as reasonably practicable after the date hereof. Parent or Purchaser shall provide the Company with prior written notice if Purchaser fails to commence the Offer within 10 business days of the date of this Agreement together with a brief explanation of the reasons therefore.

(b) The obligation of Purchaser to accept for payment, purchase and pay for any Company Shares tendered pursuant to the Offer shall be subject to (x) the condition (the "**Minimum Condition**") that at least that number of Company Shares equal to (i) fifty percent (50%) of the then outstanding Company Shares on a fully diluted basis (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights) including the Company RSUs, in each case, which are convertible or exercisable prior to the Outside Date but excluding the Subject Shares) plus (ii) the Subject Shares, shall have been validly tendered and not withdrawn prior to the expiration of the Offer and (y) the other conditions set forth in Annex A hereto. Purchaser expressly reserves the right (but shall not be obligated) at any time or from time to time, in its sole discretion, to amend or waive any such condition (other than the Minimum Condition which may not be amended or waived), to increase the price per Company Share payable in the Offer, and to make any other changes in the terms and conditions of the Offer; provided, that without the prior written consent of the Company no change may be made that decreases the price per Company Share payable in the Offer, changes the form of consideration payable in the Offer, reduces the maximum number of Company Shares sought to be purchased in the Offer, adds to the conditions to the Offer set forth in Annex A hereto, extends the Offer other than as set forth in this Section 2.1, or modifies or amends any condition to the Offer in any manner adverse to the holders of Company Shares.

(c) Subject to the terms and conditions thereof, the Offer shall remain open until midnight, New York City time, at the end of the twentieth (20^{th}) business day beginning with (and including) the date that the Offer is commenced (determined in accordance with Rule 14d-1(g)(3) under the Exchange Act) (the "**Expiration Date**"), unless the period of time for which the Offer is open shall have been extended pursuant to, and in accordance with, the provisions of this Section 2.1(c) (in which event the term "**Expiration Date**" shall mean the latest time and date as the Offer, as so extended, may expire). Purchaser may, without the consent of the Company, extend the Offer for one or more periods beyond the scheduled expiration date if, at the scheduled expiration of the Offer, any of the conditions to Purchaser's obligation to accept Company Shares for payment shall not be satisfied or waived, for such period of time as Purchaser reasonably determines to be necessary to permit such conditions to be satisfied or waived. In addition, Purchaser shall extend the Offer:

(i) for two successive 10 business day periods beyond the original Expiration Date if at the original Expiration Date or the Expiration Date of any extension thereof pursuant to this Section 2.1(b)(i) the Minimum Condition is not satisfied but none of the other conditions to Purchaser's obligation to accept Company Shares for payment shall fail to be satisfied or waived by Parent or Purchaser;

(ii) if, at the end of any scheduled expiration of the Offer, the conditions to the consummation of the Offer set forth in Sections (iii)(d) or (iii)(e) of Annex A hereto shall have occurred such that any of the conditions set forth in Section (iii)(d) or (iii)(e) in Annex A, as applicable, would fail to be satisfied, for such period of time as is necessary to provide the Company with a ten (10) business day period measured from the date of receipt of notice of an inaccuracy or breach to cure such inaccuracy or breach; provided that such inaccuracy or breach is reasonably capable of being cured within such time period and provided, further that Purchaser shall only be required to extend the Offer once pursuant to this Section 2.1(c)(ii);

(iii) for one or more periods beyond any scheduled expiration date for any period required by any Law, rule, regulation or interpretation of the SEC, or the staff thereof, applicable to the Offer; and

(iv)(A) for one or more periods beyond any scheduled expiration date if, at the scheduled expiration of the Offer or at the scheduled expiration of any subsequent offering periods (as provided in Rule 14d-11 under the Exchange Act), none of the conditions or events set forth in Annex A hereto (other than Sections (i) and (ii)) shall have occurred or be continuing, for such period of time necessary to permit the condition in Section (ii) of Annex A hereto to be satisfied; and (B) for one ten (10) business day period following the satisfaction of the condition set forth in Section (ii) of Annex A hereto.

Purchaser also may, without the consent of the Company, provide for one or more subsequent offering periods (as provided in Rule 14d-11 under the Exchange Act). Notwithstanding the foregoing, no extension provided for in this Section 2.1(c) shall extend the Offer beyond the Outside Date.

(d) Notwithstanding anything to the contrary in the Confidentiality Agreement or the termination of this Agreement, and without limiting, restricting or otherwise impairing the rights of Parent or Purchaser following any termination of this Agreement in accordance with its terms, Purchaser shall be permitted to continue the Offer in accordance with the terms hereof if this Agreement is terminated by the Company pursuant to Section 9.1(f). If Purchaser shall elect to continue the Offer pursuant to this Section 2.1(d) notwithstanding the termination of this Agreement by the Company pursuant to Section 9.1(f), Parent, Purchaser and the Company acknowledge and hereby agree that (i) the Company shall not amend the Rights Agreement in a manner inconsistent with Section 4.25 and (ii) the waiver by the Company Board of the applicability of the provisions of Section 203 of the DGCL to the Transactions, including the Offer and the Merger (as may be amended by Parent and Purchaser following any such termination), shall continue in full force and effect until Purchaser shall withdraw the Offer or the Offer shall have expired or terminated in accordance with the terms thereof without Purchaser (or Parent on Purchaser's behalf) having accepted for payment any Company Shares pursuant to the Offer. If Purchaser shall elect to continue the Offer pursuant to this Section 2.1(d) and such Offer is not consummated prior to the approval by the Company stockholders of an acquisition of the Company following termination of this Agreement by the Company

pursuant to Section 9.1(f), Parent agrees that it shall terminate the Offer after such approval by the Company stockholders of such acquisition, but prior to the closing of such acquisition. Notwithstanding anything to the contrary stated in Section 2.1(d), in the event that Purchaser is not permitted, or does not elect, to continue the Offer pursuant to this Section 2.1(d), Purchaser shall terminate the Offer upon termination of this Agreement.

(e) The Per Share Amount shall, subject to applicable withholding of taxes, be net to the applicable seller in cash, upon the terms and subject to the conditions of the Offer. Purchaser or Parent on Purchaser's behalf shall pay for all Company Shares validly tendered and not withdrawn promptly following the Acceptance Date. Notwithstanding the immediately preceding sentence and subject to the applicable rules of the SEC and the terms and conditions of the Offer, Purchaser expressly reserves the right to delay payment for Company Shares in order to comply in whole or in part with applicable Laws. If payment of the Per Share Amount is to be made to a person other than the person in whose name the surrendered certificate formerly evidencing Company Shares is registered on the stock transfer books of the Company, it shall be a condition of payment that the certificate so surrendered shall be endorsed properly or otherwise be in proper form for transfer and that the person requesting such payment shall have paid all transfer and other similar taxes required by reason of the payment of the Per Share Amount to a person other than the registered holder of the certificate surrendered, or shall have established to the satisfaction of Purchaser that such taxes either have been paid or are not applicable.

(f) As promptly as reasonably practicable on the date of commencement of the Offer, Purchaser shall file with the SEC a Tender Offer Statement on Schedule TO (together with all amendments and supplements thereto, the "**Schedule TO**") with respect to the Offer. The Schedule TO shall contain or shall incorporate by reference an offer to purchase (the "**Offer to Purchase**") and form of the related letter of transmittal and any other ancillary documents pursuant to which the Offer will be made (the Schedule TO, the Offer to Purchase and such other documents, together with all exhibits, supplements and amendments thereto, being referred to herein collectively as the "**Offer Documents**"). Purchaser shall use its reasonable best efforts to cause the Offer Documents to be disseminated to holders of Company Shares in all material respects to the extent required by applicable federal securities laws. Parent and Purchaser shall use their respective reasonable best efforts to cause the Offer Documents to comply in all material respects with the applicable requirements of federal securities laws. Parent, Purchaser and the Company agree to correct promptly any information provided by any of them for use in the Offer Documents that shall have become false or misleading in any material respect, and Parent and Purchaser further agree to use reasonable best efforts to cause the Schedule TO, as so corrected, to be filed with the SEC, and the other Offer Documents, as so corrected, to be disseminated to holders of Company Shares, in each case in all material respects as required by applicable federal securities laws. The Company shall promptly furnish to Purchaser or Parent all information concerning the Company that is required or reasonably requested by Purchaser or Parent in connection with their obligations relating to the Offer Documents or any action contemplated by this Section 2.1(f). Parent and Purchaser shall give the Company and its counsel a reasonable opportunity to review and comment on the Schedule TO before it is filed with the SEC. In addition, Parent and Purchaser agree to (i) provide the Company and its counsel in writing with any written comments Parent, Purchaser or their counsel may receive from time to time from the SEC or its staff with respect to the Offer Documents promptly after the receipt of such comments, (ii) use commercially reasonable efforts to provide a reasonably

detailed description of any oral comments Parent, Purchaser or their counsel may receive from time to time from the SEC or its staff with respect to the Offer Documents promptly after the receipt of such comments, and (iii) provide the Company and its counsel reasonable opportunity to review and comment on any written or oral response to such comments or any proposed amendment to the Offer Documents prior to the filing thereof with the SEC.

(g) If, between the date of this Agreement and the first date on which any particular Company Share is accepted for payment and paid for pursuant to the Offer (the "**Acceptance Date**"), the outstanding shares of Company Common Stock are changed into a different number or class of shares by means of any stock split, division or subdivision of shares, stock dividend, reverse stock dividend, reverse stock split, consolidation of shares, reclassification, recapitalization or similar transaction, then the Per Share Amount applicable to such Company Share shall be appropriately adjusted.

2.2 Company Action.

(a) The Company hereby consents to and approves the Offer pursuant to the terms of this Agreement. The Company hereby further consents to the inclusion in the Offer Documents of such approval and of the determination and recommendation of the Company Board described in Section 4.4(b). The Company shall not withdraw or modify such recommendation in any manner adverse to Purchaser or Parent except as provided in Section 7.5(b). The Company represents that it has been advised by its directors and executive officers that they intend to tender all Company Shares beneficially owned by them to Purchaser pursuant to the Offer.

(b) Concurrently with the filing of the Schedule TO by Purchaser, the Company shall file with the SEC a Solicitation/Recommendation Statement on Schedule 14D-9 (together with all amendments and supplements thereto, the "**Schedule 14D-9**") containing, except as provided in Section 7.5(b), the recommendation of the Company Board described in Section 4.4(b). The Company shall promptly mail the Schedule 14D-9 to the holders of Company Shares together with the Offer Documents and shall use its reasonable best efforts to cause the Offer Documents to be disseminated in all material respects as required by applicable federal securities laws. The Company shall use its reasonable best efforts to cause the Schedule 14D-9 to comply in all material respects with the applicable requirements of federal securities laws. The Company, Parent and Purchaser agree to correct promptly any information provided by any of them for use in the Schedule 14D-9 that shall have become false or misleading in any material respect, and the Company further agrees to use its reasonable best efforts to cause the Schedule 14D-9, as so corrected, to be filed with the SEC and disseminated to holders of Company Shares, in each case in all material respects as required by applicable federal securities laws. Parent or Purchaser shall promptly furnish to the Company all information concerning Parent and Purchaser that is required or reasonably requested by the Company in connection with its obligations relating to the Schedule 14D-9. The Company shall give Parent, Purchaser and their counsel a reasonable opportunity to review and comment on the Schedule 14D-9 before it is filed with the SEC. In addition, the Company agrees to (i) provide Parent, Purchaser and their counsel in writing with any written comments the Company or its counsel may receive from time to time from the SEC or its staff with respect to the Schedule 14D-9 promptly after the receipt of such comments, (ii) use commercially reasonable efforts to provide Parent, Purchaser and their

counsel a reasonably detailed description of any oral comments the Company or its counsel may receive from time to time from the SEC or its staff with respect to the Schedule 14D-9 promptly after the receipt of such comments, and (iii) provide Parent, Purchaser and their counsel reasonable opportunity to review and comment on any written or oral response to such comments or any proposed amendment to the Schedule 14D-9 prior to the filing thereof with the SEC.

(c) In connection with the Offer, the Company shall promptly furnish or cause to be furnished (including by instructing its transfer agent to promptly furnish) to Purchaser mailing labels containing the names and addresses of all record holders of Company Shares and with security position listings of Company Shares held in stock depositories, each as of a recent date, together with all other available listings and computer files containing names, addresses and security position listings of record holders and beneficial owners of Company Shares. The Company shall promptly furnish or cause to be furnished to Purchaser such additional information, including updated listings and computer files of stockholders, mailing labels and security position listings, and such other assistance in disseminating the Offer Documents to holders of Company Shares as Parent or Purchaser may reasonably request. Subject to the requirements of Law, including applicable stock exchange rules, and except for such steps as are necessary to disseminate the Offer Documents and any other documents necessary to consummate the Offer or the Merger, Parent and Purchaser shall hold in confidence the information contained in such labels, listings and files and shall use such information only in connection with the Transactions. Notwithstanding anything to the contrary in the Confidentiality Agreement or the termination of this Agreement and without limiting, restricting or otherwise impairing the rights of Parent or Purchaser following any termination of this Agreement in accordance with its terms, if Parent and Purchaser elect to continue the Offer (as may be amended in a manner consistent with the terms hereof) notwithstanding the termination of this Agreement by the Company pursuant to Section 9.1(f), Parent and Purchaser shall be permitted to retain and use any and all such information for purposes of disseminating and otherwise communicating the Offer and the related Offer Documents to the record and beneficial holders of Company Shares.

2.3 Top-Up Option.

(a) The Company hereby grants to Parent and Purchaser an irrevocable option (the "**Top-Up Option**") to purchase up to that number of Company Shares (the "**Top-Up Option Shares**") equal to the lowest number of Company Shares that, when added to the number of Company Shares collectively owned by Parent or Purchaser at the time of exercise, shall constitute one Company Share more than 90% of the then outstanding Company Shares on a fully diluted basis (including all Company Shares potentially issuable upon the conversion of any convertible securities or upon the exercise of any options, warrants or rights (other than the Rights) including the Company RSUs, in each case, which are convertible or exercisable prior to the Outside Date), at a purchase price per Top-Up Option Share equal to the Per Share Amount. Notwithstanding the foregoing provisions of this Section 2.3(a), the Top-Up Option shall not be exercisable for Company Shares in excess of the number of Company Shares authorized and unissued or held in the treasury of the Company (giving effect to the Company Shares issuable pursuant to all then-outstanding Company Stock Options, RSUs and any other rights to acquire Company Shares as if such shares were outstanding).

(b) Either Parent or Purchaser may, at its election, exercise the Top-Up Option at any time after the Acceptance Date and prior to the earlier of (A) the Effective Time and (B) the termination of this Agreement.

(c) If either Parent or Purchaser wishes to exercise the Top-Up Option, Parent or Purchaser, as applicable, shall send to the Company a written notice (a "**Top-Up Exercise Notice**") specifying the place for the closing of the purchase the Top-Up Option Shares (the "**Top-Up Closing**") and a date not earlier than one business day nor later than ten business days after the date of the Top-Up Exercise Notice for the Top-Up Closing. The Company shall, promptly after receipt of the Top-Up Exercise Notice, deliver a written notice to Parent or Purchaser confirming (i) the number of Company Shares then outstanding on a fully diluted basis, and (ii) the number of Top-Up Option Shares and the aggregate purchase price therefor.

(d) At the Top-Up Closing, subject to the terms and conditions of this Agreement, (i) the Company shall deliver to Parent or Purchaser a certificate or certificates evidencing the applicable number of Top-Up Option Shares and (ii) Parent or Purchaser shall purchase each Top-Up Option Share from the Company at the Per Share Amount. Payment of the purchase price for the Top-Up Option Shares may be made, at Parent's or Purchaser's option, by delivery of (A) immediately available funds by wire transfer to an account designated by the Company or (B) a promissory note, or any combination thereof. The parties shall cooperate to ensure that the issuance of the Top-Up Option Shares is accomplished consistent with all applicable legal requirements, including all federal securities laws.

(e) Upon the delivery by Parent or Purchaser to the Company of the Top-Up Exercise Notice, and the tender of the consideration described in Section 2.3(d), Parent or Purchaser, as applicable, shall be deemed to be the holder of record of the Top-Up Option Shares issuable upon that exercise, notwithstanding that certificates representing those Top-Up Option Shares shall not then be actually delivered to Parent or Purchaser or the Company shall have failed or refused to designate the account described in Section 2.3(d).

(f) Certificates evidencing Top-Up Option Shares delivered hereunder may include legends legally required by applicable securities laws. Parent and Purchaser acknowledge that the Top-Up Option Shares that Parent or Purchaser may acquire upon exercise of the Top-Up Option will not be registered under the Securities Act and will be issued in reliance upon an exemption thereunder for transactions not involving a public offering. Each of Parent and Purchaser hereby represents and warrants to the Company that it is, or will be upon the purchase of the Top-Up Option Shares, an "accredited investor", as defined in Rule 501 of Regulation D under the Securities Act.

3. THE MERGER

3.1 The Merger. Upon the terms and subject to the conditions set forth in Article 8, and in accordance with the DGCL, at the Effective Time Purchaser shall be merged with and into the Company. As a result of the Merger, the separate corporate existence of Purchaser shall cease and the Company shall continue as the surviving corporation of the Merger (the "**Surviving Corporation**"). Notwithstanding anything to the contrary contained in this Section 3.1, Parent may elect instead, at any time prior to the fifth business day immediately

preceding the date on which the Proxy Statement (as hereinafter defined) is mailed initially to the Company's stockholders, to merge the Company into Purchaser or another direct or indirect wholly owned subsidiary of Parent. In such event, the parties agree to execute an appropriate amendment to this Agreement in order to reflect the foregoing and to provide, as the case may be, that Purchaser or such other wholly owned subsidiary of Parent shall be the Surviving Corporation; provided, that in such event any impact on the Company or other implication of such amendment shall not be considered a breach of any Company representation, warranty or covenant under this Agreement.

3.2 Effective Time; Closing. As promptly as practicable after the satisfaction or, if permissible, waiver of the conditions set forth in Article 8, the parties hereto shall cause the Merger to be consummated by filing a certificate of merger, or certificate of ownership and merger if appropriate (in either such case, the "**Certificate of Merger**"), with the Secretary of State of the State of Delaware, in such form as is required by, and executed in accordance with, the relevant provisions of the DGCL (the date and time of such filing, or such later time as shall be agreed by Parent and the Company and specified in such filing, being the "**Effective Time**"). Prior to such filing, a closing shall be held at the offices of Morrison & Foerster LLP, 425 Market Street, San Francisco, California, or such other place as the parties shall agree, for the purpose of confirming the satisfaction or waiver, as the case may be, of the conditions set forth in Article 8.

3.3 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of the Company and Purchaser shall vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions, disabilities and duties of the Company and Purchaser shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Corporation.

3.4 Certificate of Incorporation; By-laws.

(a) At the Effective Time, the Certificate of Incorporation of the Surviving Corporation shall be amended and restated to conform to the Certificate of Incorporation of Purchaser, as in effect immediately prior to the Effective Time, until thereafter amended as provided by law and such Certificate of Incorporation; provided, that Article I of the Certificate of Incorporation of the Surviving Corporation shall read as follows: "The name of the corporation is Wind River Systems, Inc."

(b) Unless otherwise determined by Parent prior to the Effective Time, the By-laws of the Surviving Corporation shall be amended and restated at the Effective Time to conform to the By-laws of Purchaser as in effect immediately prior to the Effective Time, until thereafter amended as provided by Law, the Certificate of Incorporation of the Surviving Corporation and such By-laws.

3.5 Directors and Officers. The directors of Purchaser immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation, each to hold office in accordance with the Certificate of Incorporation and By-laws of the Surviving Corporation, and,

except as determined by Parent or Purchaser prior to the Effective Time, the officers of the Company immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation, in each case until their respective successors are duly elected or appointed and qualified or until their earlier death, resignation or removal.

3.6 Conversion of Securities. At the Effective Time, by virtue of the Merger and without any action on the part of Purchaser, the Company or the holders of any of the following securities:

(a) Each Company Share issued and outstanding immediately prior to the Effective Time (other than any Company Shares to be canceled pursuant to Section 3.6(b) and any Dissenting Company Shares) shall be canceled and shall be converted automatically into the right to receive an amount in cash, without interest, equal to the Per Share Amount (the "**Merger Consideration**") payable to the holder of such Company Share, upon surrender, in the manner provided in Section 3.9, of the certificate that formerly evidenced such Company Share. If, between the date of this Agreement and the Effective Time, the outstanding shares of Company Common Stock are changed into a different number or class of shares by reason of any stock split, division or subdivision of shares, stock dividend, reverse stock split, consolidation of shares, reclassification, recapitalization or other similar transaction, then the Merger Consideration shall be adjusted to the extent appropriate (taking into account any prior adjustments pursuant to Section 2.1(g)) for all purposes of this Article 3.

(b) Each Company Share held in the treasury of the Company and each Company Share owned by Purchaser, Parent or any direct or indirect wholly owned subsidiary of Parent or of the Company immediately prior to the Effective Time shall be canceled and retired without any conversion thereof, and no payment or distribution shall be made and no consideration of any kind shall be delivered with respect thereto.

(c) Each share of common stock of Purchaser issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for one validly issued, fully paid and nonassessable share of common stock of the Surviving Corporation.

3.7 Employee Stock Options; Company RSUs; Company ESPP.

(a) At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Purchaser, the Company or the holders of Company Stock Options, each Company Stock Option outstanding immediately prior to the Effective Time that is held by a Continuing Employee and not described in the following sentence (a "**Continuing Option**") will be assumed by Parent. A Company Stock Option shall not be considered a Continuing Option if the Company Stock Option is subject to the Laws of a non-U.S. jurisdiction and Parent determines the Company Stock Option may not be converted into a Continuing Option (1) under a Law of the relevant non-U.S. jurisdiction (including by reason of a failure to obtain any required regulatory consents or approvals after making reasonable commercial efforts), (2) under the policies and practices of Parent with respect to the grant of equity awards in the relevant non-U.S. jurisdiction, or (3) due to Parent's administrative practices with respect to equity awards. Parent will notify the Company at least twenty (20) days prior to the Effective Time of the Company Stock Options that will not be Continuing Options pursuant to the previous sentence.

Each Continuing Option assumed by Parent will continue to have, and be subject to the same terms and conditions of such option immediately prior to the Effective Time (as such terms and conditions have been amended in accordance with Section 7.6(d) of this Agreement), including the vesting restrictions, except for administrative changes that are not adverse to the holder of the Continuing Option or to which the holder consents and except that (i) each Continuing Option will be exercisable for a number of shares of common stock of Parent (the "**Parent Common Stock**") equal to the product of the number of Company shares that would be issuable upon exercise of the Continuing Option outstanding immediately prior to the Effective Time multiplied by a quotient obtained by dividing (A) the Merger Consideration by (B) the average closing price of Parent Common Stock on the NASDAQ Global Select Market for the five trading days immediately preceding (but not including) the Effective Time (the "**Exchange Ratio**"), rounded down to the nearest whole number of shares of Parent Common Stock, and (ii) the per share exercise price for the Parent Common Stock issuable upon exercise of such assumed Continuing Option will be equal to the quotient determined by dividing the per share exercise price for such Continuing Option outstanding immediately prior to the Effective Time by the Exchange Ratio, rounded up to the nearest whole cent, and (iii) all references to the "Company" in the applicable Company Stock Option Plans and the stock option agreements will be references to Parent. It is the intention of the parties that each Company Stock Option so assumed by Parent shall qualify following the Effective Time as an incentive stock option as defined in Section 422 of the Code to the extent permitted under Section 422 of the Code and to the extent such Company Stock Option qualified as an incentive stock option prior to the Effective Time.

(b) Each Company Stock Option that is not a Continuing Option (a "**Terminating Option**") shall in each case be cancelled at the Effective Time and shall be converted automatically into the right to receive, as soon as practicable after the Effective Time, an amount in cash determined by multiplying (x) the excess, if any, of the Merger Consideration over the applicable exercise price of such option by (y) the number of Company Shares subject to such Terminating Option (after giving effect to any acceleration provided under the terms of the applicable Company Stock Option Plan under which the Company Stock Option was granted, the applicable stock option agreement, and any other Plan disclosed in Section 4.10(a) of the Disclosure Schedule as such Plan is amended in connection with this Agreement), less all applicable deductions and withholdings required by law to be withheld in respect of such payment.

(c) Effective as of the Effective Time, by virtue of the Merger and without any action on the part of the Company, Parent, Purchaser or the holders of Company RSUs, each outstanding restricted stock unit or performance share under the Company Stock Option Plans (such restricted stock units and performance shares, the "**Company RSUs**") that is then outstanding, unvested and held by a Continuing Employee and not described in the following sentence (a "**Continuing RSU**") will be assumed by Parent. A Company RSU shall not be considered a Continuing RSU if the Company RSU is subject to the Laws of a non-U.S. jurisdiction and Parent determines the Company RSU may not be converted into a Continuing RSU (1) under a Law of the relevant non-U.S. jurisdiction (including by reason of a failure to obtain any required regulatory consents or approvals after making reasonable commercial efforts), (2) under the policies and practices of Parent with respect to the grant of equity awards in the relevant non-U.S. jurisdiction, or (3) due to Parent's administrative practices with respect

to equity awards. Parent will notify the Company at least twenty (20) days prior to the Effective Time of the Company RSUs that will not be Continuing RSUs pursuant to the previous sentence. Each Continuing RSU assumed by Parent will continue to have and be subject to, the same terms and conditions of such Company RSU immediately prior to the Effective Time (as such terms and conditions have been amended in accordance with Section 7.6(d) of this Agreement), including the vesting restrictions, except for administrative changes that are not adverse to the holder of the Continuing RSU or to which the holder consents and except that (i) each Company RSU shall cover a number of shares of Parent Common Stock equal to the product of the number of Company Shares that would be issuable under the Company RSU immediately prior to the Effective Time multiplied by the Exchange Ratio, rounded down to the nearest whole number of shares of Parent Company Stock and (ii) all references to the "Company" in the applicable Company Stock Option Plans and restricted stock unit agreements will be references to Parent. Each Company RSU (or any portion thereof) that vests and becomes settlable by its terms at the Effective Time will not be assumed but will instead be converted into the right to receive, in exchange for the cancellation of such Company RSU (or portion thereof), an amount in cash, without interest, equal to the Merger Consideration multiplied by the number of shares of Company Common Stock subject to such Company RSU (or settlable portion thereof) immediately prior to the Effective Time. Any such payment shall be subject to all applicable federal, state and local tax withholding requirements.

(d) By virtue of the Merger and without any action on the part of the Company, Parent, Purchaser or the holders of Company RSUs, each Company RSU that is not a Continuing RSU outstanding immediately prior to the Effective Time shall be cancelled at the Effective Time (each, a "**Terminating RSU**"). Each holder of a Terminating RSU (after giving effect to any acceleration provided under the terms of the applicable Company Stock Option Plan under which the Company RSU was granted, the applicable restricted stock unit agreement, and any other Plan disclosed in Section 4.10(a) of the Disclosure Schedule as such Plan is amended in connection with this Agreement) shall be eligible to receive at the Effective Time an amount in cash (without interest) equal to (A) the Merger Consideration multiplied by (B) the number of shares of Company Common Stock subject to each Terminating RSU, less all applicable deductions and withholdings required by Law to be withheld in respect of such payment.

(e) The Company hereby represents and warrants to Parent and Purchaser that it will take all actions necessary with respect to the 1993 Employee Stock Purchase Plan (the "**Company ESPP**") so that (i) the Company ESPP shall be suspended immediately following the end of the offering period in effect as of the date hereof after all outstanding purchase rights (if any) have been exercised (the "Final Purchase"), and no offering periods or purchase periods shall be thereafter commenced and no payroll deductions or other contributions (other than payroll deductions pursuant to elections in effect as of the date hereof as to the offering period in effect as of the date hereof) shall be thereafter made or effected with respect to the Company ESPP, and (iii) notice shall be given to participants in the Company ESPP as soon as administratively practicable following the date hereof describing the suspension of the Company ESPP pursuant to this Section 3.7(e) immediately following the Final Purchase, and (iv) the Company ESPP shall terminate effective upon the Effective Time.

(f) Prior to the Acceptance Date, the Company shall provide notice (in a form reasonably satisfactory to Parent) to each holder of an outstanding award granted pursuant to any Company Stock Option Plan describing the treatment of such award in accordance with this Section 3.7.

(g) Parent shall take such actions as are necessary for the assumption of Company Stock Options and Company RSUs as provided pursuant to Section 3.7, including the reservation, issuance and listing of Parent Common Stock as is necessary to effectuate the transactions contemplated by Sections 3.7(a) and 3.7(c). Parent shall prepare and file with the SEC a registration statement on Form S-8 (to the extent available) with respect to the Parent Common Stock subject to such Continuing Options and Continuing RSUs and shall use its reasonable best efforts to have such registration statement declared effective as soon as reasonably practicable, but in no event later than ten (10) business days, following the Effective Time. It is intended that the assumption of the Continuing Options assumed by Parent shall comply with Sections 409A and 424 of the Code and this Section 3.7 shall be construed consistent with such intent.

3.8 Dissenting Shares.

(a) Notwithstanding any provision of this Agreement to the contrary, Company Shares that are outstanding immediately prior to the Effective Time and that are held by stockholders who shall have not voted in favor of the Merger or consented thereto in writing and who shall have demanded properly in writing appraisal for such Company Shares in accordance with Section 262 of the DGCL (collectively, the "**Dissenting Company Shares**") shall not be converted into or represent the right to receive the Merger Consideration. From and after the Effective Time, a holder of Dissenting Company Shares shall not have and shall not be entitled to exercise any of the voting rights or other rights of a stockholder of the Surviving Corporation. Such stockholders shall be entitled to receive payment of the appraised value of such Dissenting Company Shares held by them in accordance with the provisions of such Section 262, except that all Dissenting Company Shares held by stockholders who shall have failed to perfect or who effectively shall have withdrawn or lost their rights to appraisal of such Dissenting Company Shares under such Section 262 shall thereupon be deemed to have been converted into and to have become exchangeable for, as of the Effective Time, the right to receive the Merger Consideration, without any interest thereon, upon surrender, in the manner provided in Section 3.9, of the certificate or certificates that formerly evidenced such Dissenting Company Shares.

(b) The Company shall give Parent (i) prompt notice of any demands for appraisal received by the Company, withdrawals of such demands, and any other instruments, notices, petitions, or other communication received from stockholders or provided to stockholders by Company with respect to any Dissenting Company Shares or shares claimed to be Dissenting Company Shares, and (ii) the opportunity to direct all negotiations and proceedings with respect to demands for appraisal under the DGCL. Payment of any amount payable to the holders of Dissenting Company Shares shall be the obligation of Company. The Company shall not, except with the prior written consent of Parent, make any payment with respect to any demands for appraisal or offer to settle or settle any such demands.

3.9 Surrender of Company Shares; Stock Transfer Books.

(a) Prior to the Effective Time, Purchaser shall designate a bank or trust company to act as paying agent (the "**Paying Agent**") for the payment of funds to which holders of Company Shares shall become entitled pursuant to Section 3.6(a). From time to time after the Effective Time, Parent or Purchaser shall deposit, or cause to be deposited, with the Paying Agent the aggregate amount payable pursuant to Section 3.6(a). The Paying Agent shall make payment of the funds to holders of Company Shares in accordance with this Section 3.9. Such funds shall be invested by the Paying Agent as directed by Parent or (after the Effective Time) the Surviving Corporation, and any and all interest earned on the funds shall be paid by the Paying Agent to Parent or (after the Effective Time) the Surviving Corporation. The Surviving Corporation shall bear and pay all charges and expenses, including those of Paying Agent, incurred in connection with the payment of funds to holders of Company Shares.

(b) Promptly after the Effective Time, the Surviving Corporation shall cause to be mailed to each person who was, at the Effective Time, a holder of record of Company Shares entitled to receive the Merger Consideration pursuant to Section 3.6(a) a form of letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the certificates evidencing such Company Shares (the "**Certificates**") shall pass, only upon proper delivery of the Certificates to the Paying Agent) and instructions for use in effecting the surrender of the Certificates pursuant to such letter of transmittal. Upon surrender to the Paying Agent of a Certificate, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, and such other documents as may be required pursuant to such instructions, the holder of such Certificate shall be entitled to receive in exchange therefor the Merger Consideration for each Company Share formerly evidenced by such Certificate, and such Certificate shall then be canceled. No interest shall accrue or be paid on the Merger Consideration payable upon the surrender of any Certificate for the benefit of the holder of such Certificate. If payment of the Merger Consideration is to be made to a person other than the person in whose name the surrendered Certificate is registered on the stock transfer books of the Company, it shall be a condition of payment that the Certificate so surrendered shall be endorsed properly or otherwise be in proper form for transfer and that the person requesting such payment shall have paid all transfer and other similar taxes required by reason of the payment of the Merger Consideration to a person other than the registered holder of the Certificate surrendered or shall have established to the satisfaction of the Surviving Corporation that such taxes either have been paid or are not applicable. The Merger Consideration paid upon the surrender for exchange of Certificates shall be deemed to have been paid in full satisfaction of all rights pertaining to the Company Shares theretofore represented by such Certificates.

(c) At any time following the sixth month after the Effective Time, the Surviving Corporation shall be entitled to require the Paying Agent to deliver to it any funds which had been made available to the Paying Agent and not disbursed to holders of Company Shares (including all interest and other income received by the Paying Agent in respect of all funds made available to it), and, thereafter, such holders shall be entitled to look to the Surviving Corporation (subject to abandoned property, escheat and other similar laws) only as general creditors thereof with respect to any Merger Consideration that may be payable upon due surrender of the Certificates held by them. Notwithstanding the foregoing, neither the Surviving

Corporation nor the Paying Agent shall be liable to any holder of a Company Share for any Merger Consideration delivered in respect of such Company Share to a public official pursuant to any abandoned property, escheat or other similar law.

(d) At the close of business on the day of the Effective Time, the stock transfer books of the Company shall be closed and thereafter there shall be no further registration of transfers of Company Shares on the records of the Company. From and after the Effective Time, the holders of Company Shares outstanding immediately prior to the Effective Time shall cease to have any rights with respect to such Company Shares except as otherwise provided herein or by applicable law.

(e) If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, the posting by such person of a bond in such reasonable amount as the Surviving Corporation may require as indemnity against claims that may be made against it with respect to such Certificate, the Paying Agent will issue in exchange for such lost, stolen or destroyed Certificate the Merger Consideration payable in respect thereof, pursuant to this Agreement.

3.10 Withholding Rights. Each of Purchaser, Parent, the Surviving Corporation or the Paying Agent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to Article 2 or 3 of this Agreement to any holder of Company Shares such amounts as are required to be deducted and withheld with respect to the making of such payment under the Internal Revenue Code of 1986, as amended (the "**Code**") and the treasury regulations promulgated thereunder, or any provision of state, local or foreign Tax law. To the extent that amounts are so deducted and withheld, and paid over to the appropriate Government Authority, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the Company Shares in respect of which such deduction and withholding was made.

3.11 Additional Actions. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any further deeds, assignments or assurances in law or any other acts are necessary or desirable to (i) vest, perfect or confirm, of record or otherwise, in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of the Company or (ii) otherwise carry out the provisions of this Agreement, the Company and its officers and directors shall be deemed to have granted to the Surviving Corporation an irrevocable power of attorney to execute and deliver all such deeds, assignments or assurances in law and to take all acts necessary, proper or desirable to vest, perfect or confirm title to and possession of such rights, properties or assets in the Surviving Corporation and otherwise to carry out the provisions of this Agreement, and the officers and directors of the Surviving Corporation are authorized in the name of the Company or otherwise to take any and all such action.

4. Representations and Warranties of the Company

Except as disclosed in a document of even date herewith delivered by the Company to Parent and Purchaser prior to the execution and delivery of this Agreement and referring by

section or sub-section number to the representations and warranties in this Agreement (the "**Disclosure Schedule**") (provided that any such disclosure shall qualify only the disclosure under the section or sub-section number referred to in the Disclosure Schedule and any other section or sub-section of the Disclosure Schedule that is explicitly cross-referenced), the Company hereby represents and warrants to Parent and Purchaser as follows:

4.1 Organization and Qualification; Company Subsidiaries.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power and authority to own, lease and operate all of its properties and assets and to carry on its business as it is now being conducted. The Company is duly qualified or licensed as a foreign corporation to do business, and is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification or licensing necessary, except where the failure to be so duly qualified or licensed and in good standing, individually or in the aggregate, would not have a Material Adverse Effect.

(b) Section 4.1(b) of the Disclosure Schedule contains a complete and accurate list of the name, and jurisdiction of organization of each subsidiary of the Company (each a "**Company Subsidiary**"). Each Company Subsidiary is duly organized, validly existing and, to the extent applicable, in good standing under the laws of the jurisdiction of its organization and has the requisite power and authority to own, lease and operate all of its properties and assets and to carry on its business as it is now being conducted, except where the failure, individually or in the aggregate, would not have a Material Adverse Effect.

(c) The Company does not directly or indirectly own any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for any equity or similar interest in, any corporation, partnership, joint venture or other business association or entity.

4.2 Certificate of Incorporation and By-laws. The Company has heretofore made available to Purchaser a complete and correct copy of the Certificate of Incorporation and the By-laws or equivalent organizational documents, each as amended to date, of the Company and each material Company Subsidiary. Such Certificates of Incorporation, By-laws or equivalent organizational documents are in full force and effect. Neither the Company nor any Company Subsidiary is in violation of any of the provisions of its Certificate of Incorporation, By-laws or equivalent organizational documents.

4.3 Capitalization.

(a) The authorized capital stock of the Company consists of 325,000,000 Company Shares and 2,000,000 shares of preferred stock, par value $0.001 per share ("**Company Preferred Stock**").

(b) As of May 31, 2009:

(i) 76,892,405 Company Shares were issued and outstanding, none of which were shares of Company Restricted Stock;

(ii) 16,218,657 Company Shares were held in the treasury of the Company;

(iii) no Company Shares were held by any Company Subsidiary;

(iv) 14,652,835 Company Shares were subject to outstanding Company Stock Options, of which Company Stock Options to purchase 11,632,789 shares of Company Common Stock were exercisable;

(v) no Company Shares were subject to outstanding Company SARs;

(vi) 3,173,360 Company RSUs were outstanding;

(vii) 200,000 Company Performance Share Awards were outstanding;

(viii) 2,931,650 Company Shares were reserved for issuance under the Company ESPP; and

(ix) no shares of Company Preferred Stock were issued or outstanding.

All outstanding Company Shares are validly issued, fully paid and nonassessable and are issued free of any preemptive rights.

(c) Except for changes since May 31, 2009 resulting from the exercise of Company Stock Options or vesting of Company RSUs outstanding on such date, and except for the rights (the "**Rights**") issued pursuant to the Amended and Restated Rights Agreement, dated as of September 29, 2006 (the "**Rights Agreement**"), between the Company and American Stock Transfer and Trust Company, as rights agent, there are no outstanding (i) options, warrants or other rights, Contracts, arrangements or commitments of any character relating to the issued or unissued capital stock of the Company or any Company Subsidiary or obligating the Company or any Company Subsidiary to issue or sell any shares of capital stock of, or other equity interests in, the Company or any Company Subsidiary, (ii) shares of capital stock of or other voting securities or ownership interests in the Company or any Company Subsidiary, or (iii) restricted shares, restricted share units, stock appreciation rights, performance shares, contingent value rights, "phantom" stock or similar securities or rights that are derivative of or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or other voting securities (including any bonds, debentures, notes or other indebtedness having voting rights or convertible into securities having voting rights) or ownership interests in the Company or any Company Subsidiary (the items in clauses (i), (ii) and (iii) being referred to collectively as the "**Company Securities**"). All Company Shares subject to issuance as aforesaid, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, will be duly authorized, validly issued, fully paid and nonassessable and free of any preemptive rights. There are no voting trusts or other Contracts to which the Company or any Company Subsidiary is a party with respect to the voting of any capital stock of, or other equity interest in, the Company or any Company Subsidiary.

(d) There are no outstanding contractual obligations of the Company or any Company Subsidiary to repurchase, redeem or otherwise acquire any Company Shares or any

other Company Securities or any capital stock of any Company Subsidiary or to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any Company Subsidiary or any other person. Each outstanding share of capital stock of each Company Subsidiary is duly authorized, validly issued, fully paid and nonassessable and was issued free of any preemptive rights, and each such share is owned by the Company or another Company Subsidiary free and clear of all Liens or Contracts or other limitations on the Company's or any Company Subsidiary's voting rights.

(e) Section 4.3(e) of the Disclosure Schedule sets forth a listing of (i) all equity plans of the Company; (ii) all outstanding Company Stock Options, Company Restricted Stock, Company RSUs, and as of May 31, 2009; (iii) the date of grant and name of holder of each Company Stock Option, Company RSU and the vesting schedule; (iv) with respect to Company Stock Options, the portion of which that is vested as of May 31, 2009 and if applicable, the exercise price or repurchase price therefore, (v) the date upon which each Company Stock Option would normally be expected to expire absent termination of employment or other acceleration, and (vi) with respect to Company Stock Options, whether or not such Company Stock Option is intended to qualify as an "incentive stock option" within the meaning of Section 422 of the Code. Each grant of a Company Stock Option was duly authorized no later than the date on which the grant of such Company Stock Option was by its terms to be effective (the "**Grant Date**") by all necessary corporate action, including, as applicable, approval by the Company Board (or a duly constituted and authorized committee thereof), or a duly authorized delegate thereof, and any required stockholder approval by the necessary number of votes or written consents; each such grant was made in all material respects in accordance with the terms of the applicable Company Stock Option Plan and all other applicable Law; each such grant intended to qualify as an "incentive stock option" under Section 422 of the Code so qualifies; and the per share exercise price of each Company Stock Option was not less than the fair market value of a Company Share on the applicable Grant Date.

4.4 Authority Relative to this Agreement.

(a) The Company has all necessary corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and, subject in the case of the Merger to obtaining the Required Shareholder Vote, if required, to consummate the Transactions. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the Transactions have been duly and validly authorized by all necessary corporate action, and no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or to consummate the Transactions (other than, with respect to the Merger, the Required Shareholder Vote, if and to the extent required by applicable Law, and the filing and recordation of appropriate merger documents as required by the DGCL). This Agreement has been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery by Parent and Purchaser, constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that (i) such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, affecting creditors' rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(b) The Company Board, at a meeting duly called and held on June 3, 2009, at which all of the directors of the Company were present, unanimously (i) determined that this Agreement and the transactions contemplated hereby, including each of the Offer and the Merger (collectively, the "**Transactions**"), are advisable, fair to, and in the best interests of the holders of Company Shares, (ii) approved and adopted this Agreement and the Transactions (such approval and adoption having been made in accordance with the DGCL), (iii) recommended that the holders of Company Shares accept the Offer and tender Company Shares pursuant to the Offer, and to the extent required by applicable Law, approve and adopt this Agreement, the Stockholder Agreement and the Transactions, (iv) adopted a resolution causing none of the Company, any of the Transactions or this Agreement or the Stockholder Agreement to be subject to any restriction set forth in any state takeover Law or similar Law that might otherwise apply, and (v) amended the Rights Agreement as contemplated herein, which actions and resolutions have not been subsequently rescinded, modified or withdrawn in any way.

4.5 No Conflict; Required Filings and Consents.

(a) The execution and delivery of this Agreement by the Company do not, and the performance of this Agreement by the Company will not, (i) conflict with or violate the Certificate of Incorporation or By-laws or equivalent organizational documents of the Company or any Company Subsidiary, (ii) subject to obtaining the Company Required Approvals and, in the case of the Merger, the Required Shareholder Vote, if required, conflict with or violate any U.S. or non-U.S. law (statutory, common or otherwise), including any statute, ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order of a Governmental Authority ("**Law**") applicable to the Company or any Company Subsidiary or by which any property or asset of the Company or any Company Subsidiary is bound or affected, or (iii) subject to obtaining the consents that are required to be listed in Section 4.5(a) of the Disclosure Schedule, result in any breach of or constitute a default (or an event that, with notice or lapse of time or both, would become a default or breach) under, or give to others any right of termination, amendment, acceleration or cancellation of, or result in the creation of a Lien on any property or asset of the Company or any Company Subsidiary pursuant to, or result in the loss of a material benefit under any Company Material Contract or material Permit to which the Company or any Company Subsidiary is a party or by which the Company or any Company Subsidiary or any property or asset of any of them is bound or affected, except, with respect to clauses (ii) and (iii), for any such conflicts, violations, breaches, defaults or other occurrences that, individually or in the aggregate, would not prevent or materially delay consummation of the Offer or the Merger and would not have a Material Adverse Effect.

(b) The execution and delivery of this Agreement by the Company do not, and the performance of this Agreement by the Company will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority, except (i) for (x) applicable requirements, if any, of the Exchange Act and state securities or "blue sky" laws ("**Blue Sky Laws**"), (y) the pre-merger notification requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "**HSR Act**"), and similar requirements in foreign countries regarding antitrust or competition matters, and (z) filing and recordation of appropriate merger documents as required by the DGCL (collectively, the "**Company Required Approvals**"), and (ii) where the failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, individually or in the aggregate, would not prevent or materially delay consummation of the Offer or the Merger and would not have a Material Adverse Effect.

4.6 Permits; Compliance. Each of the Company and the Company Subsidiaries is in possession of all franchises, grants, authorizations, licenses, permits, easements, variances, exceptions, consents, certificates, approvals and orders of any Governmental Authority necessary for each of the Company or the Company Subsidiaries to own, lease and operate its properties or to carry on its business as it is now being conducted (the "**Permits**"), except where the failure to have, or the suspension or cancellation of, any of the Permits, individually or in the aggregate, would not prevent or materially delay consummation of the Offer or the Merger and would not have a Material Adverse Effect. No suspension or cancellation of any of the Permits is pending or, to the knowledge of the Company, threatened, and there have occurred no defaults under, violations of, or events giving rise to a right of termination, amendment or cancellation of any such Permits (with or without notice, the lapse of time or both), except where the failure to have, or the suspension or cancellation of, any of the Permits, individually or in the aggregate, would not prevent or materially delay consummation of the Offer or the Merger and would not have a Material Adverse Effect. Neither the Company nor any Company Subsidiary is, and neither the Company nor any Company Subsidiary since February 1, 2007 has been, in conflict with, or in default, breach or violation of, (i) any Law applicable to the Company or any Company Subsidiary or by which any property or asset of the Company or any Company Subsidiary is bound or affected, or (ii) any Company Material Contract or material Permit to which the Company or any Company Subsidiary is a party or by which the Company or any Company Subsidiary or any property or asset of the Company or any Company Subsidiary is bound, except for any such conflicts, defaults, breaches or violations that, individually or in the aggregate, would not prevent or materially delay consummation of the Offer or the Merger and would not have a Material Adverse Effect. Neither the Company nor any of the Company Subsidiaries has, since February 1, 2007, received any written notice from any Governmental Authority alleging that it is not in compliance in all material respects with any Law.

4.7 SEC Filings; Financial Statements.

(a) The Company has filed all forms, reports and other documents required to be filed by it with the SEC since February 1, 2006 (such documents filed since February 1, 2006, and those filed by the Company with the SEC subsequent to the date of this Agreement, if any, including any amendments thereof, the "**SEC Reports**"). Each SEC Report (x) complied, or if filed subsequent to the date of the Agreement will comply, as to form in all material respects with the applicable requirements of the Securities Act of 1933, as amended (the "**Securities Act**"), or the Exchange Act, as the case may be, and the Sarbanes-Oxley Act of 2002 ("**SOX**") and the applicable rules and regulations promulgated thereunder, and (y) did not, at the time it was filed (or, if amended prior to the date hereof, as of the date of such amendment), contain, or if filed after the date hereof at the time of filing will not contain, any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. No Company Subsidiary has been or is required to file any form, report or other document with the SEC.

(b)(i) Each of the consolidated financial statements contained in the SEC Reports (collectively, the "**Audited Company Financial Statements**") (A) have been, or will be, as the case may be, prepared from and in accordance with and accurately reflect the books and records of the Company and its consolidated Company Subsidiaries in all material respects, (B) complied, or will comply, as the case may be, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, (C) was, or will be, as the case may be, prepared in accordance with U.S. generally accepted accounting principles ("**GAAP**") applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto), and (D) fairly presents, or will fairly present, as the case may be, in all material respects the consolidated financial position, results of operations and cash flows of the Company and its consolidated Company Subsidiaries as at the respective dates thereof and for the respective periods indicated therein (subject, in the case of unaudited interim statements, to normal and recurring year-end adjustments). (ii) The unaudited financial information contained in the Company's earnings release set forth in Section 4.7(b) of the Disclosure Schedule for the quarter ended April 30, 2009 (such unaudited financial information together with the Audited Company Financial Statements, the "**Company Financial Reports**") (A) has been prepared from and in accordance with and accurately reflect the books and records of the Company and its consolidated Company Subsidiaries in all material respects, (B) was prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as noted therein), and (C) fairly presents, in all material respects the consolidated financial position and results of operations of the Company and its consolidated Company Subsidiaries as at the respective dates thereof and for the respective periods indicated therein (subject to normal and recurring year-end adjustments).

(c) Except as and to the extent set forth on the consolidated balance sheet of the Company and its consolidated Company Subsidiaries as at January 31, 2009, including the notes thereto (the "**2009 Balance Sheet**"), neither the Company nor any Company Subsidiary has any liability or obligation of any nature (whether accrued, absolute, contingent or otherwise), and there is no existing condition, situation or set of circumstances that could reasonably be expected to result in such a liability or obligation, except for (x) liabilities and obligations incurred in the ordinary course of business in amounts consistent with past practice since the date of the 2009 Balance Sheet that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (y) liabilities and obligations incurred in connection with the preparation and negotiation of this Agreement or as required by this Agreement. Section 4.7(c)-1 of the Disclosure Schedule sets forth a description of all indebtedness for borrowed money of the Company and the Company Subsidiaries greater than $500,000 individually or in the aggregate (other than any indebtedness owed to the Company or a Company Subsidiary). Section 4.7(c)-2 of the Disclosure Schedule lists all obligations of the Company and the Company Subsidiaries in respect of interest rate and currency obligation, swaps, hedges or similar arrangements.

(d) Each of the principal executive officer of the Company and the principal financial officer of the Company (and each former principal executive officer of the Company and each former principal financial officer of the Company, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act or Sections 302 and 906 of SOX and the rules and regulations of the SEC promulgated thereunder with respect to the

SEC Reports, and the statements contained in such certifications are true and correct. For purposes of this Section 4.7(d), "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in SOX. Neither the Company nor any of the Company Subsidiaries has outstanding, or has arranged any outstanding, "extensions of credit" to directors or executive officers within the meaning of Section 402 of SOX. The Company is in compliance in all material respects with SOX.

(e) Neither the Company nor any of the Company Subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar contract or arrangement (including any contract or arrangement relating to any transaction or relationship between or among the Company and any of the Company Subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K of the SEC)), where the result, purpose or intended effect of such contract or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, the Company or any of the Company Subsidiaries in the Company's or such Company Subsidiary's published financial statements or other of the SEC Reports.

(f) The Company maintains a system of internal controls over financial reporting and accounting designed to provide reasonable assurances regarding the reliability of financial reporting and the preparation of financial statements for external purposes, including to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets that could have a material effect on the Company's financial statements is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(g) The Company has in place "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) that are designed to ensure that material information that is required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and made known to its principal executive officer and principal financial officer as appropriate to allow timely decisions regarding required disclosure.

(h) The Company's management has completed an assessment of the effectiveness of the Company's internal controls over financial reporting in compliance with the requirements of Section 404 of SOX for the fiscal year ended January 31, 2009, and such assessment concluded that such controls were effective. Since February 1, 2006, the Company has disclosed to the Company's outside auditors and the audit committee of the Company (and made copies of such disclosures available to Parent) (A) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) that are reasonably likely to adversely affect in any material respect the Company's ability to record, process, summarize and report financial data, (B) any

fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting, and (C) any claim or allegation of any of the foregoing. Since February 1, 2006, the Company has not received from its independent auditors any oral or written notification of a (i) "reportable condition" or (ii) "material weakness" in the Company's internal controls. For purposes of this Agreement, the terms "reportable condition" and "material weakness" shall have the meanings assigned to them in the Statements of Auditing Standards 60, as in effect on the date hereof.

(i) The Company has furnished Parent with copies of all comment letters received by the Company from the SEC since February 1, 2006, relating to the Company's SEC Reports and all responses of the Company thereto. There are no outstanding unresolved issues with respect to the Company or the SEC Reports noted in comment letters or other correspondence received by the Company or its attorneys from the SEC, and there are no pending (i) formal or, to the knowledge of the Company, informal investigations of the Company by the SEC or (ii) inspection of an audit of the Company's financial statements by the Public Company Accounting Oversight Board. Since February 1, 2006 there has been no material complaint, allegation, assertion or claim that the Company or any Company Subsidiary has engaged in improper or illegal accounting or auditing practices or maintains improper or inadequate internal accounting controls. Since February 1, 2006, no current or former attorney representing the Company or any of the Company Subsidiaries has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation by the Company or any of its officers, directors, employees or agents to the Company Board or any committee thereof or to any director or executive officer of the Company.

(j) To the knowledge of the Company, no employee of the Company or any of the Company Subsidiaries has provided or is providing information to any law enforcement agency regarding the possible commission of any crime or the violation or possible violation of any applicable legal requirements of the type described in Section 806 of SOX. Neither the Company nor any of the Company Subsidiaries nor, to the knowledge of the Company, any director, officer, employee, contractor, subcontractor or agent of the Company or any such Company Subsidiary has discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against an employee of the Company or any of the Company Subsidiaries in the terms and conditions of employment because of any lawful act of such employee described in Section 806 of SOX.

(k) The Company has heretofore furnished to Parent complete and correct copies of all amendments and modifications that have not been filed by the Company with the SEC to all Contracts, documents and other instruments that previously had been filed by the Company with the SEC and are currently in effect.

4.8 Absence of Certain Changes or Events. Since the date of the 2009 Balance Sheet, except as contemplated by this Agreement, the Company and the Company Subsidiaries have conducted their businesses only in the ordinary course and in a manner consistent with past practice. Since the date of the 2009 Balance Sheet (i) there has not been any event, condition, circumstance, development, change or effect, having, or that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (ii) none of the Company or any of the Company Subsidiaries has taken any action that if taken between the date hereof and the Effective Time would constitute a breach of Section 6.1.

4.9 Absence of Litigation. There is (A) no litigation, suit, claim, action, hearing, proceeding, arbitration or mediation pending, or (B) to the knowledge of the Company, (x) no inquiry or investigation pending or (y) threatened against the Company or any Company Subsidiary, or any property or asset of the Company or any Company Subsidiary, that (i) (w) involves (individually or collectively with all other Actions) an amount in controversy in excess of $500,000, (x) seeks material injunctive relief, (y) seeks to impose any legal restraint on or prohibition against or limit the Surviving Corporation's ability to operate the business of the Company and the Company Subsidiaries substantially as it was operated prior to the date of this Agreement or (z) otherwise individually or in the aggregate would be material to the Company or any Company Subsidiary, (ii) seeks to materially delay or prevent the consummation of any Transaction, or (iii) will cause or require (or purports to cause or require) Parent or any of its Affiliates to (1) grant to any Third Party any license, covenant not to sue, immunity or other right with respect to or under any of the Intellectual Property Rights owned by or licensed by or to Parent or any of its Affiliates, or (2) be obligated to pay any royalties or other amounts, or offer any discounts, to any Third Party. To the Company's knowledge, there is no existing allegation, condition, situation or set of circumstances that would reasonably be expected to give rise to an Action of the type enumerated in the foregoing clauses (i)-(iii). Neither the Company nor any Company Subsidiary nor any property or asset of the Company or any Company Subsidiary is subject to any continuing order of, consent decree, settlement agreement or similar written agreement with, or, to the knowledge of the Company, continuing investigation by, any Governmental Authority, or any order, writ, judgment, injunction, decree, determination or award of any Governmental Authority that would prevent or materially delay consummation of the Offer or the Merger or reasonably be expected to be material to the Company or any Company Subsidiary. There are not currently pending, nor have there been since February 1, 2007, any internal investigations or inquiries conducted by the Company, the Company Board (or any committee thereof) or, to the knowledge of the Company, any third party at the request of any of the foregoing concerning any financial, accounting, tax, conflict of interest, illegal activity, fraudulent or deceptive conduct or other misfeasance or malfeasance involving the Company, any of the Company Subsidiaries or their respective officers or employees. As of the date hereof, there is no material Action that the Company or any Company Subsidiary intends to initiate.

4.10 Employee Benefit Plans.

(a) Section 4.10(a) of the Disclosure Schedule lists (i) all employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**")) and all bonus, stock option, stock purchase, restricted stock, incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance or other material benefit plans, programs or arrangements, and all employment, termination, severance or other Contracts to which the Company or any ERISA Affiliate is a party (except for (i) offer letters that provide for employment that is terminable at will and without cost or liability to the Company or its Subsidiaries and (ii) employment contracts for employees hired and based in locations outside the U.S., in which case only forms of such Contracts shall be scheduled,

unless such individual Contract is a Company Material Contract), with respect to which the Company or any ERISA Affiliate has or could have any obligation or that are maintained, contributed to or sponsored by the Company or any ERISA Affiliate for the benefit of any current or former employee, officer or director of the Company or any ERISA Affiliate, (ii) each employee benefit plan for which the Company or any Company Subsidiary could incur liability under Section 4069 of ERISA in the event such plan has been or were to be terminated, (iii) any plan in respect of which the Company or any Company Subsidiary could incur liability under Section 4212(c) of ERISA, and (iv) any consulting contracts, arrangements or understandings between the Company or any Company Subsidiary and any consultant of the Company or any Company Subsidiary except for consulting agreements for consultants engaged and based in locations outside of the United States, in which case only forms of such agreements shall be scheduled, unless such agreement constitutes a Company Material Contracts (collectively, the "**Plans**" and all Plans, excluding Plans not subject to U.S. Law, the "**US Plans**"). The Company has made available to Purchaser a true and complete copy of each Plan and has made available to Purchaser a true and complete copy of each material document, if any, prepared in connection with each such Plan (except for individual written Company Stock Option and Company RSU agreements, in which case only forms of such agreements have been made available, unless such individual agreements materially differ from such forms), including as applicable (i) a copy of each trust or other funding arrangement, (ii) each most recent summary plan description and summary of material modifications, (iii) annual reports on Internal Revenue Service ("**IRS**") Form 5500 for the most recent three (3) plan years, (iv) the most recently received IRS determination letter for each such Plan, and (v) the most recently prepared actuarial report and financial statement in connection with each such Plan. There are no oral Plans. Neither the Company nor any Company Subsidiary has any express or implied commitment (i) to create, incur liability with respect to or cause to exist any other material employee benefit plan, program or arrangement, (ii) to enter into any Contract to provide compensation or benefits to any individual other than in the ordinary course of business, or (iii) to modify, change or terminate any Plan, other than with respect to a modification, change or termination required by ERISA, the Code or other applicable law.

(b) None of the Plans is a multiemployer plan (within the meaning of Section 3(37) or 4001(a)(3) of ERISA) (a "**Multiemployer Plan**"), a "multiple employer plan" (within the meaning of Section 413(c) of the Code) (a "**Multiple Employer Plan**"), a "multiple employer welfare arrangement" (within the meaning of Section 3(40) of ERISA) or a plan that is subject to Title IV of ERISA or Section 412 of the Code. None of the Plans (i) provides for the payment of separation, severance, termination or similar-type benefits to any person, (ii) obligates the Company or any Company Subsidiary to pay separation, severance, termination or similar-type benefits solely or partially as a result of any Transaction, or (iii) obligates the Company or any Company Subsidiary to make any payment or provide any benefit in connection with a "change in ownership or effective control", within the meaning of such term under Section 280G of the Code, or in connection with an event directly or indirectly related to such a change. Neither the Company nor any Company Subsidiary has become obligated to make, or will as a result of any event connected directly or indirectly with any transaction contemplated herein become obligated to make, any "excess parachute payment" as defined in Section 280G of the Code. There is no written or unwritten Contract, plan, arrangement or other contract by which the Company or any Company Subsidiary is bound to compensate any individual for excise taxes paid pursuant to Section 4999 of the Code. None of the Plans provides for or

promises retiree medical, disability or life insurance benefits to any current or former employee, officer or director of the Company or any Company Subsidiary, except as required by Section 4980B of the Code, Part 6 of Title I of ERISA or similar applicable state law.

(c) Each Plan is now and always has been operated in all material respects in accordance with its terms and the requirements of all applicable Laws including ERISA and the Code. The Company and the Company Subsidiaries have performed all material obligations required to be performed by them under and are not in default under or in violation of, and there is no default or violation by any party to, any Plan. No Action is pending or, to the knowledge of the Company, threatened with respect to any Plan (other than routine claims for benefits in the ordinary course of business) and to the knowledge of the Company, no fact or event exists that could give rise to any such Action.

(d) Each US Plan that is intended to be qualified under Section 401(a) of the Code or Section 401(k) of the Code has timely received a favorable determination letter from the IRS covering all of the provisions applicable to the US Plan for which determination letters are currently available that the US Plan is so qualified, has a remaining period of time under applicable Treasury Regulations or IRS pronouncements in which to apply for such letter and to make any amendments necessary to obtain a favorable determination, or may rely upon an opinion letter for a prototype plan, and each trust established in connection with any US Plan that is intended to be exempt from federal income taxation under Section 501(a) of the Code has received a determination letter from the IRS that it is so exempt, has a remaining period of time under applicable Treasury Regulations or IRS pronouncements in which to apply for such letter and to make any amendments necessary to obtain a favorable determination, or may rely upon an opinion letter for a prototype plan, and no fact or event has occurred since the date of such determination letter or letters from the IRS (or in the preceding seven (7) years if no favorable determination letter exists) that could be expected to adversely affect the qualified status of any such US Plan or the exempt status of any such trust.

(e) There has not been any prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code and not otherwise exempt under Section 408 of ERISA) with respect to any US Plan. Neither the Company nor any ERISA Affiliate has incurred any liability under, arising out of or by operation of Title IV of ERISA (other than liability for premiums to the Pension Benefit Guaranty Corporation arising in the ordinary course), including any liability in connection with (i) the termination or reorganization of any employee benefit plan subject to Title IV of ERISA, or (ii) the withdrawal from any Multiemployer Plan or Multiple Employer Plan, and, to the knowledge of the Company, no fact or event exists that could give rise to any such liability.

(f) All contributions, premiums or payments required to be made with respect to any US Plan have been made on or before their due dates. All such contributions are or were fully deductible for federal income tax purposes and no such deduction has been challenged or disallowed by any Governmental Authority and no fact or event exists that could be expected to give rise to any such challenge or disallowance.

(g) Section 4.10(g) of the Disclosure Schedule sets forth each Plan that provides any compensation that could be deemed deferred compensation within the meaning of

Section 409A of the Code, and each such Plan is in compliance with Section 409A of the Code. No event has occurred that would be treated by Section 409A(b) as a transfer of property for purposes of Section 83 of the Code.

(h) The parties acknowledge that certain payments have been made or are to be made and certain benefits have been granted or are to be granted according to employment compensation, severance and other employee benefit plans of the Company and the Company Subsidiaries or pursuant to other arrangements with the Company and the Company Subsidiaries, including the Plans, to holders of Company Common Stock and other securities of the Company (the "**Covered Securityholders**") (with all such plans and arrangements being collectively referred to as the "**Company Arrangements**"). All such amounts payable under the Company Arrangements (i) have been or are being paid or granted as compensation for past services performed, future services to be performed, or future services to be refrained from performing, by the Covered Securityholders (and matters incidental thereto) and (ii) were not, and are not, calculated based on the number of shares tendered or to be tendered into the Offer by the applicable Covered Securityholder. The adoption, approval, amendment or modification of each Company Arrangement has been approved as an employment compensation, severance or other employee benefit arrangement solely by independent directors of the Company in accordance with the requirements of Rule 14d-10(d)(2) under the Exchange Act and the instructions thereto and the "safe harbor" provided pursuant to Rule 14d-10(d)(2) is otherwise applicable thereto as a result of the taking prior to the execution of this Agreement of all necessary actions by the Company Board, the Compensation Committee of the Company Board (the "**Company Compensation Committee**") or its independent directors. A true and complete copy of any resolutions of any committee of the Company Board reflecting any approvals and actions referred to in the preceding sentence and taken prior to the date of this Agreement has been made available to Parent prior to the execution of this Agreement.

(i) In addition to the foregoing, with respect to each plan, program or arrangement described in Section 4.10(a) that is not subject to U.S. law (a "**Non-U.S. Benefit Plan**"):

(i) all employer and employee contributions to each Non-U.S. Benefit Plan required by law or by the terms of such Non-U.S. Benefit Plan have been made, or, if applicable, accrued in accordance with normal accounting practices, and a pro rata contribution for the period prior to and including the date of this Agreement has been made or accrued;

(ii) the fair market value of the assets of each funded Non-U.S. Benefit Plan, the liability of each insurer for any Non-U.S. Benefit Plan funded through insurance or the book reserve established for any Non-U.S. Benefit Plan, together with any accrued contributions, is sufficient to procure or provide for the benefits determined on an ongoing basis accrued to the date of this Agreement with respect to all current and former participants under such Non-U.S. Benefit Plan according to the actuarial assumptions and valuations most recently used to determine employer contributions to such Non-U.S. Benefit Plan, and no Transaction shall cause such assets or insurance obligations to be less than such benefit obligations; and

(iii) each Non-U.S. Benefit Plan required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities and is

approved by any applicable taxation authorities to the extent such approval is available. Each Non-U.S. Benefit Plan is now and always has been operated in material compliance with all applicable Laws.

4.11 Labor and Employment Matters.

(a) The Company represents and warrants that:

(i) There are no material controversies pending or, to the knowledge of the Company, threatened between the Company or any Company Subsidiary and any of their respective present or former employees.

(ii) Neither the Company nor any Company Subsidiary is a named party to any collective bargaining agreement, work council agreement, work force agreement or any other labor union contract applicable to persons employed by the Company or any Company Subsidiary except for those collective bargaining agreements, work council agreements, work force agreements or labor union contracts set forth on Section 4.11(a)(ii)(1) of the Disclosure Schedule; to the knowledge of the Company none of the employees of the Company or any Company Subsidiary is represented by any union, works council, or any other labor organization except as set forth on Section 4.11(a)(ii)(2) of the Disclosure Schedule; and, to the knowledge of the Company, there are no activities or proceedings of any labor union to organize any such employees.

(iii) There are no grievances filed pursuant to any collective bargaining agreement, work council agreement or other labor contract currently pending against the Company or any Company Subsidiary; nor are there any unfair labor practice complaints pending, or, to the knowledge of the Company, threatened, against the Company or any Company Subsidiary before the National Labor Relations Board or any court, tribunal or other Governmental Authority, or any current union representation questions involving employees of the Company or any Company Subsidiary.

(iv) All individuals who are or were performing consulting or other services for the Company or any Company Subsidiary have been correctly classified by the Company or the Company Subsidiary in all material respects as either "independent contractors" (or comparable status in the case of a foreign Company Subsidiary) or "employees" as the case may be.

(v) There is no strike, slowdown, work stoppage or lockout, or, to the knowledge of the Company, threat thereof, by or with respect to any employees of the Company or any Company Subsidiary. No consent of any labor union is required to consummate any of the Transactions. There is no obligation to inform, consult or obtain consent in advance of or simultaneously with the Transactions of any works council, employee representatives or other representative bodies in order to consummate the Transactions, except as set forth on Disclosure Schedule 4.11(a)(v).

(b) The Company and the Company Subsidiaries are in compliance in all material respects with all applicable Laws relating to the employment of labor, including those related to wages, hours, collective bargaining, equal employment opportunity, occupational

health and safety, immigration, individual and collective consultation, notice of termination, and redundancy, and are not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any of the foregoing. There is no charge or other Action pending or, to the knowledge of the Company, threatened before the U.S. Equal Employment Opportunity Commission, any court, or any other Governmental Authority with respect to the employment practices of the Company or any Company Subsidiary, other than charges or Actions, individually or in the aggregate, that would not (i) prevent or materially delay consummation of the Offer or the Merger or (ii) if adversely determined, result in material liability to the Company or any Company Subsidiary. The employment of those employees of the Company and the Company Subsidiaries hired and based in the U.S. is terminable at will without cost or liability to the Company or its Subsidiaries, except for amounts earned prior to the time of termination and except as set forth in Disclosure Schedule 4.11(b).

(c) The Company has made available to Purchaser a list, as of the date hereof, of (i) each employee and consultant that provides services to the Company or any Company Subsidiary and the country (and state, for those located in the U.S.) in which each such employee and consultant is based and primarily performs his or her duties or services (except where the disclosure of such information would be prohibited by data privacy laws without the employee's or consultant's consent); and (ii) each such person's position or title, annual base salary or wages, and date of hire. Section 4.11(c) of the Disclosure Schedule contains a list of the countries, which does not include the United States, in which data privacy laws prohibit the disclosure of information in this Section without the employee's or consultant's consent. The Company has made available to Purchaser a true and correct copy of all written employment and consulting contracts of each employee and consultant that provides services to the Company or any Company Subsidiary (except for (i) offer letters that provide for employment in the U.S. that is terminable at will and without cost or liability to the Company or its Subsidiaries and (ii) employment and consulting contracts for employees and consultants hired and based in locations outside the U.S., in which case only forms of such contracts shall be scheduled, unless such individual contract is a Company Material Contract). Such contracts or forms have been made completely anonymous for those employees based in jurisdictions where this is required under applicable data privacy/protection Laws. As of the date hereof, no officer or employee holding the position of vice president or above has terminated or has advised the Company or any Company Subsidiary of his or her intention to terminate his or her relationship or status as an employee or consultant of the Company or the Subsidiary for any reason, including because of the consummation of the transactions contemplated by this Agreement and, except as set forth on Section 4.11(c)-1 of the Disclosure Schedule, the Company and the Subsidiary have no plans or intentions as of the date hereof to terminate any such employee or consultant. Section 4.11(c)-2 of the Disclosure Schedule sets forth a complete and accurate list of all offers of employment that are outstanding to any person from the Company or any Company Subsidiary. This list of offers of employment has been made completely anonymous with regard to those offerees based in jurisdictions where this is required under applicable data privacy/protection laws.

4.12 Offer Documents; Schedule 14D-9; Proxy Statement. Neither the Schedule 14D-9 nor any information supplied by the Company for inclusion in the Offer Documents shall, at the times the Schedule 14D-9, the Offer Documents or any amendments or supplements thereto are filed with the SEC or are first published, sent or given to stockholders of the Company, as the case may be, contain any untrue statement of a material fact or omit to state

any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Neither the proxy statement to be sent to the stockholders of the Company in connection with the Stockholders' Meeting nor the information statement to be sent to such stockholders, as appropriate (such proxy statement or information statement, as amended or supplemented, being referred to herein as the "**Proxy Statement**"), shall, at the date the Proxy Statement (or any amendment or supplement thereto) is first mailed to stockholders of the Company and at the time of the Stockholders' Meeting, contain any untrue statement of material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading. The Schedule 14D-9 and the Proxy Statement and all documents required to be filed by the Company with the SEC or disseminated to Company stockholders in connection with this Agreement and the Transactions shall comply in all material respects as to form with the requirements of the Exchange Act and the rules and regulations thereunder. Notwithstanding the foregoing, the Company makes no representation or warranty with respect to any information supplied by Parent or Purchaser or any of their Representatives for inclusion in any of the foregoing documents or the Offer Documents.

4.13 Property and Leases.

(a) The Company or one of the Company Subsidiaries owns, and has good title to, each of the tangible assets reflected as owned by the Company or the Company Subsidiaries on the 2009 Balance Sheet (except for tangible assets sold or disposed of since that date in the ordinary course of business and sales after the date of the 2009 Balance Sheet of assets no longer required for the conduct of the Business as presently conducted) free of any Liens other than Permitted Title Exceptions; provided, that no representation is made under this Section 4.13 with respect to Intellectual Property Rights. The Company and the Company Subsidiaries have sufficient title to all their properties and assets to conduct their respective businesses as currently conducted, with only such exceptions as, individually or in the aggregate, would not have a Material Adverse Effect. All of the machinery, equipment and other tangible personal property and assets owned or used by the Company and the Company Subsidiaries are in the condition and repair sufficient to conduct their respective businesses as currently conducted, with only such exceptions as, individually or in the aggregate, would not have a Material Adverse Effect.

(b) Section 4.13(b) of the Disclosure Schedule sets forth a complete and accurate list of all real property owned by the Company or any of the Company Subsidiaries ("**Company Owned Real Property**"). The Company and/or the Company Subsidiaries have good, valid and marketable title in fee simple to all Company Owned Real property, free and clear of all Liens of any nature whatsoever except (i) Liens for current Taxes, payments of which are not yet delinquent or are being disputed in good faith, (ii) such imperfections in title and easements and encumbrances, if any, as are not substantial in character, amount or extent and do not materially detract from the value, or interfere with the present use of the property subject thereto or affected thereby, or otherwise materially impair the Company's or any of the Company Subsidiaries' business operations (in the manner presently carried on by the Company or such Company Subsidiaries), and (iii) for such matters that would not, individually or in the aggregate, have a Material Adverse Effect (collectively with the matter disclosed in the

Disclosure Schedule, the "**Permitted Title Exceptions**"). The Company Owned Real Property is not subject to any special assessment, condemnation, eminent domain, zoning or other land-use regulation proceeding, nor any change in any Law or Permit that would prevent or materially delay consummation of the Offer or the Merger or reasonably be expected to be material to the Company or any Company Subsidiary or that seeks to impose any material legal restraint on or prohibition against or limit the Surviving Corporation's ability to operate the business of the Company and the Company Subsidiaries substantially as it was operated prior to the date of this Agreement with respect to the Company Owned Real Property. Neither the Company nor any Company Subsidiary has leased or otherwise granted to any other person any rights to occupy or possess any part of the Company Owned Real Property, except for any such leases or grants that have previously terminated and leases of excess space that do not materially and adversely effect the conduct of the Company's business as presently conducted. There are no outstanding options or other contractual rights to purchase, lease or use, or rights of first refusal to purchase, the Company Owned Real Property or any portion thereof or interests therein or contracts relating to the right to receive any portion of the income or profits from the sale, operation or development thereof. To the knowledge of the Company, all utility systems situated on and serving the Company Owned Real Property are adequate and suitable in all material respects for the purpose of conducting the Company's business as presently conducted.

(c) Section 4.13(c) of the Disclosure Schedule sets forth a complete and accurate list of all material leases of real property ("**Company Leased Real Property**") to which the Company or any Company Subsidiary is a party. All such leases of real property to which the Company or any Company Subsidiary is a party, and all amendments and modifications thereto, are in full force and effect and have not been modified or amended, and there exists no default under any such lease by the Company or any Company Subsidiary, nor any event which, with notice or lapse of time or both, would constitute a default thereunder by the Company or any Company Subsidiary, except as would not prevent or materially delay consummation of the Offer or the Merger and as, individually or in the aggregate, would not have a Material Adverse Effect. Except in compliance in all material respects with the term of the applicable lease, neither the Company nor any Company Subsidiary has made any material alterations, additions or improvements to the leased property that are required to be removed (or of which any landlord or sublandlord could require removal) at the termination of the applicable lease term. The Company Leased Real Property is not subject to any special assessment, condemnation, eminent domain, zoning or other land-use regulation proceeding, nor any change in any Law or Permit that would prevent or materially delay consummation of the Offer or the Merger or reasonably be expected to be material to the Company or any Company Subsidiary or that seeks to impose any material legal restraint on or prohibition against or limit the Surviving Corporation's ability to operate the business of the Company and the Company Subsidiaries substantially as it was operated prior to the date of this Agreement.

4.14 Intellectual Property.

(a) *Schedule of Registered IP*. Section 4.14(a) of the Disclosure Schedule contains a complete and accurate list of all Registered Company Intellectual Property, in each case listing, as applicable, (i) the name of the applicant/registrant and current owner, (ii) the jurisdiction where the application/registration is located (or, for Domain Names, the applicable registrar), (iii) the application or registration number, (iv) the filing date and

issuance/registration/grant date, and (v) the prosecution status. Company and/or one of the Company Subsidiaries is listed in the records of the appropriate Governmental Authority as the sole owner of each item of Registered Company Intellectual Property.

(b) *USPTO and Governmental Authority Actions.* The Company is current in the payment of all registration, maintenance and renewal fees with respect to the Registered Company Intellectual Property. The Company has filed all currently or previously required affidavits, responses, recordations, certificates and other documents and taken all currently or previously required actions for the purposes of obtaining, maintaining, perfecting, preserving and renewing the Registered Company Intellectual Property and its validity and enforceability. Except as set forth in Section 4.14(b) of the Disclosure Schedule, there are no actions that must be taken for the purposes of obtaining, maintaining, perfecting, preserving or renewing any Registered Company Intellectual Property within one hundred twenty (120) days following the date of this Agreement, including the payment of any registration, maintenance or renewal fees or the filing of any affidavits, responses, recordations, certificates or other documents. Company and its Subsidiaries have complied with all applicable rules, policies, and procedures of the United States Patent and Trademark Office, United States Copyright Office, and any applicable foreign Governmental Authorities with respect to each item of Registered Company Intellectual Property, to the extent that compliance affects the enforceability or validity of such Registered Company Intellectual Property. To the knowledge of the Company, each item of Registered Company Intellectual Property has been prosecuted in compliance with such rules, policies, and procedures.

(c) *Trademarks.* All Trademarks included in the Registered Company Intellectual Property have been in continuous use sufficient to maintain the registrability of such Trademarks in the form appearing in, and in connection with the goods and services listed in, the applicable registration certificates or renewal certificates, as the case may be. The Company and Company Subsidiaries have taken commercially reasonable actions to police all registered Trademarks and all material unregistered Trademarks included in the Owned Company Intellectual Property against third party infringement.

(d) *Rights to IP Ordered or Awarded.* Except to the extent set forth in Section 4.14(d) of the Disclosure Schedule, neither the Company nor any Company Subsidiary is a party to or bound by any decree, judgment, order, or arbitral award that would or could reasonably be expected to require the Company or any Company Subsidiary to grant to any Third Party any license, covenant not to sue, immunity or other right with respect to any Intellectual Property Rights.

(e) *No Proceedings.* Since June 1, 2006, no Registered Company Intellectual Property is or has been involved in any interference, reissue, reexamination, opposition, cancellation or other proceeding, including any proceeding regarding invalidity or unenforceability, in the United States or any foreign jurisdiction, and, to the knowledge of the Company, no such action has been threatened.

(f) *Trade Secrets.* The Company and Company Subsidiaries have, in accordance with the applicable Law of each relevant jurisdiction, taken commercially reasonable steps to protect their rights in and to their Trade Secrets, including by not making any disclosure

of Trade Secrets except under written confidentiality obligations (other than former Trade Secrets intentionally publicly disclosed by the Company without confidentiality obligations in its reasonable business judgment). To the knowledge of the Company, there has been no misappropriation or unauthorized disclosure of any material Trade Secret included in the Owned Company Intellectual Property, which material Trade Secrets include all Trade Secret embodied or used in Company Products. The Company and Company Subsidiaries are in compliance in all material respects with and have not breached in any material respect any contractual obligations to protect the Trade Secrets of Third Parties in accordance with the terms of any Contracts relating to such Third Party Trade Secrets.

(g) *Employees, Consultants, & Contractors*

(i) The Company and Company Subsidiaries have and enforce policies requiring each employee, consultant and contractor who is involved in the development of any Company Products to execute proprietary information, confidentiality and assignment agreements appropriate for the jurisdiction in which such employees, officers, consultants, and contractors reside and provide development services that, to extent permitted by applicable Law, assign to the Company and/or a Company Subsidiary all Intellectual Property and Intellectual Property Rights that are developed by the employees, and, with respect to consultants or contractors, all Intellectual Property and Intellectual Property Rights that are developed by the consultants or contractors in the course of performing services for the Company or any Company Subsidiaries, and that otherwise appropriately protect the Intellectual Property and Intellectual Property Rights of the Company and any Company Subsidiary and the Trade Secrets of Third Parties (each, a "**Employee IP Agreement**"). All present and former employees, officers, consultants and contractors of the Company or any Company Subsidiary who are involved in the development of any Company Products have signed an appropriate Employee IP Agreement, in a form substantially similar to, or with provisions with substantially similar legal effect as the provisions of, the forms attached to Section 4.14(g)(i) of the Disclosure Schedule with respect to proprietary information, confidentiality, and assignment and licensing of Intellectual Property and Intellectual Property Rights, and Section 4.14(g)(i) lists any present and former employees, officers, consultants or contractors of the Company or Company Subsidiaries involved in the development of any Company Products who have not signed such agreements. No current employee, officer, consultant or contractor of the Company or any Company Subsidiary involved in the development of any Company Products and, to the knowledge of Company, no former employee, officer, consultant or contractor of the Company or any Company Subsidiary involved in the development of any Company Products is in default or breach of any term of any Employee IP Agreement or other, employment or contractor agreement, non-disclosure agreement, assignment agreement, or similar Contract relating to Intellectual Property or Intellectual Property Rights entered into between such employee, officer, consultant or contractor and the Company or any Company Subsidiary in connection with such individual's employment or other engagement with Company or any Company Subsidiary. Neither the Company nor any Company Subsidiaries has exclusively licensed any Registered Company Intellectual Property from any Third Party. All assignments of Registered Company Intellectual Property to Company or any Company Subsidiary have been duly executed and recorded with the appropriate Governmental Authorities. No present or former employee, officer, consultant or contractor of the Company or any Company Subsidiary has any ownership, license or other right, title or interest, directly or indirectly, in whole or in part, in any Owned Company Intellectual

Property (other than to the extent any such individual has a non-exclusive license to use Company Products granted by Company or a Company Subsidiary in the ordinary course of business). Section 4.14(g)(i) of the Disclosure Schedule contains a complete and accurate list of all limitations of, exceptions to, and exclusions and carve-outs from any employee assignment of Intellectual Property or Intellectual Property Rights contained in any Employee IP Agreement to the extent any such limitation, exception, and exclusion or carve-out would reasonably be expected to be related to any Company Product or other aspect of the business of the Company or any Company Subsidiary (collectively, the "**Employee Retained IP**"). No Employee Retained IP is included in (or claimed or purported to be included in) any Intellectual Property or Intellectual Property Rights included in any Company Products (other than Employee Retained IP that is generally available to the public under Open Source license terms).

(ii) There are no Contracts to which Company or any Company Subsidiary is a party, or by which Company or any Company Subsidiary is otherwise bound, that (a) prohibit or restrict (or purport to prohibit or restrict) the free movement of any current employee, contractor or other personnel of Company or any Company Subsidiary who is involved in the development of any Company Products within or among Company's or any Company Subsidiary's organization or business units, or between Company or any Company Subsidiary and any affiliate of Company or any Company Subsidiary, (b) prohibit or restrict (or purport to prohibit or restrict) any current employee, contractor or other personnel of Company or any Company Subsidiary who is involved in the development of any Company Products from performing any services for or working with any Third Party, or (c) prohibit or restrict (or purport to prohibit or restrict) any current employee, contractor or other personnel of Company or any Company Subsidiary who is involved in the development of any Company Products from engaging in any activities or performing any work related to any particular technology, product or other subject matter.

(h) *Enforceability, Validity of IP.* To the knowledge of the Company, there are no facts, circumstances, or information, Intellectual Property, or Intellectual Property Rights that would reasonably be expected to limit or render invalid or unenforceable any of the Intellectual Property Rights included in the Owned Company Intellectual Property (or provide any grounds therefor). To the knowledge of the Company, there are no facts, circumstances, or information, Intellectual Property, or Intellectual Property Rights that would reasonably be expected to adversely affect, limit, restrict, impair, or impede the ability of Surviving Corporation and the Company and the Company Subsidiaries to use and practice the Company Intellectual Property from and after the Effective Date in substantially the same manner in which it was used prior to the Effective Time. Since June 1, 2004, neither the Company nor any Company Subsidiary has received any Claim challenging or questioning the validity or enforceability of any of the Registered Company Intellectual Property or the Owned Copyrights, or indicating an intention on the part of any person to bring a Claim that any of the foregoing is invalid, is unenforceable or has been misused, other than any Claim finally resolved prior to June 1, 2006. The Intellectual Property Rights included in the Owned Company Intellectual Property are subsisting and in full force and effect, are valid and enforceable, and have not been abandoned or passed into the public domain.

(i) *No Infringement or Misappropriation of Company IP.* To the knowledge of the Company, no person is infringing, misappropriating, using or disclosing without

authorization, or otherwise violating any Intellectual Property Rights owned or exclusively licensed by Company or any Company Subsidiary, except to the extent such violation consists only of a breach of a customer agreement by the applicable customers exceeding the number of permitted licensed users or licensed copies or other underpayment of license fees (a "**Compliance Violation**"). Since June 1, 2006, neither Company nor any Company Subsidiary has made any Claim with respect to infringement or misappropriation of any Intellectual Property Rights owned by or exclusively licensed to Company or any Company Subsidiary against any person, nor has Company or any Company Subsidiary issued any written communication inviting any person to take a license, authorization, covenant not to sue or the like with respect to any such Intellectual Property Rights at any time since June 1, 2006 (other than in connection with Compliance Violations). Since June 1, 2004, neither the Company nor any Company Subsidiary has received any notice or Claim challenging the Company's or any Company Subsidiary's exclusive ownership of any Intellectual Property Rights included in the Owned Company Intellectual Property or suggesting that any other person has any claim of legal or beneficial ownership with respect thereto (other than any Claim finally resolved prior to June 1, 2006).

(j) *Infringement by Company.* None of the Company, any Company Subsidiary, or any Company Product, infringes, misappropriates, uses or discloses without authorization, or otherwise violates any Intellectual Property Rights of any person or constitutes unfair competition or trade practices under the Law of any jurisdiction. Since June 1, 2004, Company and its Subsidiaries have not received any Claim or notice of any related Action relating to any of the foregoing and, to the knowledge of Company, there are no facts, circumstances or information that would reasonably be expected to be the basis for such a Claim (other than any Claim finally resolved prior to June 1, 2006). Since June 1, 2004, neither the Company nor any Company Subsidiaries has received any written communication inviting the Company of its Subsidiaries to take a license, authorization, covenant not to sue or the like with respect to Intellectual Property Rights, other than in connection with licenses granted to Company or the Company Subsidiaries in the ordinary course of business and not related to any infringement or other violation by the Company or any Company Subsidiary (other than any Claim finally resolved prior to June 1, 2006).

(k) *Ownership; Licenses*. Company and the Company Subsidiaries solely and exclusively own all right, title and interest (including the sole right to enforce) in and to the Owned Company Intellectual Property free and clear of all Liens, and have not exclusively licensed (under any Contract in effect as of the date of this Agreement) any such Owned Company Intellectual Property, or any other Company Intellectual Property, to any person, and are under no obligation to grant any such licenses. All of the Intellectual Property and Intellectual Property Rights used (or held for use) by the Company or any Company Subsidiary that are not Owned Company Intellectual Property and are used in any Company Products or in the development of any Company Products are duly and validly licensed to Company or the applicable Company Subsidiary pursuant to a valid and enforceable Contract, or Company and Company Subsidiaries otherwise have a valid and enforceable right with respect to such Intellectual Property and Intellectual Property Rights, for use in the manner in which such Intellectual Property and Intellectual Property Rights are used in the conduct of the Company's and the Company Subsidiaries' businesses. Following the Effective Time, the Surviving Corporation will own or have (pursuant to the Company Intellectual Property Agreements and

Company's and the Company Subsidiaries' other Contracts) the same rights as Company and the Company Subsidiaries had immediately prior to the Effective Time with respect to all Company Intellectual Property and all other Intellectual Property and Intellectual Property Rights used in any Company Products or in the development of any Company Products.

(l) *Scheduled IP Agreements.* Section 4.14(l) of the Disclosure Schedule contains a complete and accurate list of:

(i) all material Contracts to which the Company or any Company Subsidiary is a party, or by which the Company or any Company Subsidiary is otherwise bound, that relate to any Intellectual Property Rights under which the Company or any Company Subsidiary has granted or agreed to grant to any Third Party any license, covenant, release, immunity, assignment, or other right with respect to any Intellectual Property Rights (whether now existing or existing in the future);

(ii) all material Contracts to which the Company or any Company Subsidiary is a party, or by which the Company or any Company Subsidiary is otherwise bound, that relate to any Intellectual Property Rights under which any Third Party has granted or agreed to grant to Company or any Company Subsidiary any license, covenant, release, immunity, assignment, or other right with respect to Intellectual Property Rights;

(iii) all material Contracts to which the Company or any Company Subsidiary is a party, or by which the Company or any Company Subsidiary is otherwise bound, that relate to any Intellectual Property Rights and are not otherwise included in subsection (i) or (ii) above; and

(iv) all other Contracts to which the Company or any Company Subsidiary is a party that contain any license, covenant, release, immunity, assignment, or other right with respect to (1) any Patent, whether now existing or existing in the future, except Contracts entered into in the ordinary course of business pursuant to which Company or a Company Subsidiary has granted a license with respect to Patents only for the limited use of a Company Product, or (2) any Software (or Owned Copyrights related to Software) included in the Owned Company Intellectual Property, whether now existing or existing in the future, except Contracts entered into in the ordinary course of business pursuant to which Company or a Company Subsidiary has granted a license with respect to Software only as incorporated into or for use in connection with a Company Product, and (the Contracts in (i), (ii), (iii), and (iv), collectively, the "**Company Intellectual Property Agreements**"). All Company Intellectual Property Agreements are in full force and effect, and enforceable in accordance with their terms (subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting the rights and remedies of creditors generally). The Company and each Company Subsidiary is in material compliance with, and has not materially breached any term of, any such Company Intellectual Property Agreements and, to the knowledge of Company, all other parties to such Company Intellectual Property Agreements are in material compliance with, and have not materially breached any term of, such Company Intellectual Property Agreements. There are no pending disputes regarding such Company Intellectual Property Agreements, including disputes with respect to the scope thereof, performance thereunder, or payments made or received in connection therewith. Correct and complete copies of all Company Intellectual Property Agreements have been made available to Parent.

(m) *Effect of Transaction.* Neither the execution, delivery and performance of this Agreement or any Contracts, documents, or instruments to be executed by the Company or any Company Subsidiary after the date of this Agreement, nor the consummation of the Transactions, will violate or result in the breach, material modification, cancellation, termination or suspension of, or acceleration of any payments under, the Company Intellectual Property Agreements (or give rise to any right with respect to any of the foregoing). Following the Effective Time, the Surviving Corporation will have and be permitted to exercise all of Company's and the Company Subsidiaries' rights under the Company Intellectual Property Agreements (and will have the same rights with respect to the Intellectual Property and Intellectual Property Rights of Third Parties under the Company Intellectual Property Agreements) to the same extent that Company and the Company Subsidiaries would have had, and been able to exercise, had this Agreement or any Contracts, documents, or instruments to be executed by Company or its Subsidiaries after the date of this Agreement not been entered into, and the Transactions not occurred, without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments which Company and Company Subsidiaries would otherwise have been required to pay anyway pursuant to the Company Intellectual Property Agreements. Neither the execution, delivery and performance of this Agreement or any Contracts, documents, or instruments to be executed by Company or its Subsidiaries after the date of this Agreement nor the consummation of the Transactions, nor any Contract to which Company or any Company Subsidiary is a party or otherwise bound, will cause or require (or purports to cause or require) the Surviving Corporation or Parent or any of its Affiliates to (i) grant to any Third Party any license, covenant not to sue, immunity or other right with respect to or under any Intellectual Property Rights of Parent or any of its Affiliates; or (ii) be obligated to pay any royalties or other amounts, or offer any discounts, to any Third Party (except, in each of (i) and (ii), with respect to Surviving Corporation only, royalties, other amounts, discounts, licenses, covenants not to sue, immunities or other rights that Surviving Corporation would have had to pay, offer or grant had this Agreement not been entered into and the Transaction not been consummated).

(n) *Open Source.* Section 4.14(n) of the Disclosure Schedule contains (i) a complete and accurate list of all Open Source that is incorporated into, integrated or bundled with, linked to or otherwise used in or with any Company Product licensed to customers under non-Open Source license terms (a "**Company Run Time Product**"), (ii) a general description of the manner in which any Copyleft Open Source is incorporated into, integrated or bundled with, linked to, used in the development or compilation of, or otherwise used in or with any Company Run Time Product, and (iii) the Open Source license terms (and version, if applicable) under which such Open Source is licensed or otherwise obligated. No Company Run Time Product incorporates, is integrated or bundled with, links to or is otherwise used with any Copyleft Open Source. Company has complied with all Open Source license terms applicable to the Company Products. Company and the Company Subsidiaries have used commercially reasonable efforts to (a) identify all Open Source in any Company Product; and (b) regulate the use and distribution of Open Source in compliance with the applicable Open Source licenses. Any written Open Source policies of Company and the Company Subsidiaries are listed in Section 4.14(n) of the Disclosure Schedule, and complete and accurate copies thereof have been made available to

Parent. There has been no material deviation from or violation of Company's policies with respect to Open Source. Correct and complete copies of all audits and other reviews regarding Open Source by Company and its Subsidiaries (whether performed by Company, any Subsidiary, or by a Third Party), to the extent such audits and other reviews are in the Company's possession as of the date of this Agreement have been made available to Parent.

(o) *Standards, SIGs.* Section 4.14(o) of the Disclosure Schedule contains a list of all standards-setting organization, university or industry bodies and consortia, and other multi-party special interest groups and activities in which Company or any Company Subsidiary is currently participating, or in which Company or any Company Subsidiary has participated in the past to the extent that such past participation imposes or purports to impose any continuing obligations on Company or any Company Subsidiary (or, following the Effective Time, on Parent, the Surviving Corporation or any other Affiliate) with respect to licensing or granting of any other Intellectual Property Rights (other than licenses that survive with respect to the copyright in contributions made during such past participation), and a description of, or reference to, the membership agreements and other Contracts, bylaws, policies, rules and similar materials relating to such organizations, bodies and other activities.

(p) *Company Products.* "**Company Products**" means all services and products of the Company and Company Subsidiaries that are currently offered commercially or under development. Section 4.14(p) of the Disclosure Schedule sets forth a summary list of all Company Products.

(q) *Contaminants.* The Software included in the Company Products is substantially free of any material defects, bugs and errors in accordance with generally accepted industry standards, and does not contain or make available any disabling codes or instructions, spyware, Trojan horses, worms, viruses or other software routines that permit or cause unauthorized access to, or disruption, impairment, disablement, or destruction of, Software, data or other materials ("**Contaminants**").

(r) *Systems.* The computer, information technology and data processing systems, facilities and services used by the Company and Company Subsidiaries, including all Software, hardware, networks, communications facilities, platforms and related systems and services in the custody or control of the Company and Company Subsidiaries (collectively, "**Systems**"), are reasonably sufficient for the existing and currently anticipated future needs of the Company and Company Subsidiaries, including as to capacity, scalability and ability to process current and anticipated peak volumes in a timely manner. The Systems are in good working condition to effectively perform all computing, information technology and data processing operations necessary for the operation of the Company and Company Subsidiaries. The Company and the Company Subsidiaries have taken commercially reasonable steps and implemented commercially reasonable safeguards to protect the Systems from Contaminants. The Systems, the Company's and Company Subsidiaries' procedures and processes for developing, supporting and maintaining the Systems, and the applications programming interfaces, protocols, data structures, command structures and other interfaces with respect to the Systems are documented in a commercially reasonable manner that would permit persons generally skilled in the subject matter of such Systems (including applications therefor) (e.g., personnel experienced in the support of Software, maintenance of network equipment, etc.) to

develop, support and maintain such Systems (including applications therefor) in accordance with industry standards and without material disruption or interruption or effect on performance. Except as set forth in Section 4.14(r) of the Disclosure Schedule, all Systems, other than Software that is duly and validly licensed to the Company and Company Subsidiaries pursuant to a valid and enforceable Contract, are owned and operated by and are under the control of Company and the Company Subsidiaries. From and after the Effective Time, the Surviving Corporation will have and be permitted to exercise the same rights (whether ownership, license or otherwise) with respect to the Systems as Company and the Company Subsidiaries would have had and been able to exercise had this Agreement and such other Contracts, documents and instruments to be executed and delivered after the date of this Agreement not been entered into and the Transactions not occurred, without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments which Company and Company Subsidiaries would otherwise have been required to pay anyway (other than with respect to any Systems that are generally commercially available on reasonable terms pursuant to "shrinkwrap" or "clickwrap" license agreements).

4.15 Taxes.

(a) Each of the Company and the Company Subsidiaries has filed all federal Income Tax Returns and all other material Tax Returns that it was required to file under applicable laws and regulations. All such Tax Returns as so filed disclose all material Taxes required to be paid for the periods covered thereby. All material Taxes due and owing by Company or the Company Subsidiaries (whether or not shown on any Tax Return) have been paid. There are no Liens for Taxes (other than Taxes not yet due and payable or Taxes that are currently being contested in good faith and that have been reserved for on the 2009 Balance Sheet in accordance with GAAP) upon any assets of the Company or any of the Company Subsidiaries. Each of the Company and the Company Subsidiaries has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party and all material Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

(b) There is no material dispute or claim concerning any Tax liability of the Company or any of the Company Subsidiaries either (A) claimed or raised by any authority in writing or (B) as to which there is any knowledge of the Company.

(c) Section 4.15(c) of the Disclosure Schedule lists all income Tax Returns filed with respect to the Company or any Company Subsidiaries for taxable periods ended on or after January 31, 2007, in material jurisdictions, as that latter term was defined for purposes of Footnote 7 to the Company's consolidated financial statements as set forth in Form 10-K for the period ended January 31, 2009. Section 4.15(c) also indicates those income Tax Returns with respect to taxable periods ended on or after January 31, 2003 filed in material jurisdictions that have been audited, and indicates those income Tax Returns filed in material jurisdictions that currently are the subject of audit. The Company has made available to Purchaser correct and complete copies of all federal Income Tax Returns, examination reports, and statements of deficiencies assessed against, or agreed to by the Company and any of the Company Subsidiaries since January 31, 2006. Neither the Company nor any of the Company Subsidiaries has waived

any statutes of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency. Neither the Company nor any Company Subsidiary has received written notice of any claim made by a Governmental Authority in a jurisdiction in which the Company or any Company Subsidiary does not file Tax Returns, that the Company or a Company Subsidiary is or may be required to file Tax Returns or to pay Taxes to that jurisdiction.

(d) The Transactions (including the Offer and Merger) will not result in the payment or series of payments by the Company or any of the Company Subsidiaries to any person of an "excess parachute payment" within the meaning of Section 280G of the Code, or any similar payment, that is not deductible for federal, state, local or foreign Tax purposes. Additionally, there is no contract to which the Company or any of the Company Subsidiaries is a party that, individually or collectively, (i) could give rise to the payment of any amount that would not be deductible pursuant to Section 162(m) or Section 280G of the Code, (ii) is subject to Section 409A of the Code, or (iii) could require the Company, the Company Subsidiaries or Parent or its subsidiaries to gross up a payment to any employee of the Company or any of the Company Subsidiaries for Tax related payments or cause a penalty tax under Section 409A of the Code.

(e) The accruals and reserves for Taxes reflected in the 2009 Balance Sheet are adequate to cover all Taxes accruable through such date in accordance with GAAP. Since the date of the 2009 Balance Sheet, neither the Company nor any of the Company Subsidiaries has incurred any liability for Taxes arising from extraordinary gains or losses, as that term is used in GAAP, outside the ordinary course of business consistent with past custom and practice, and the reserve set forth on the face of the 2009 Balance Sheet (rather than in any notes thereto), as adjusted for the passage of time through the Effective Time in accordance with the past custom and practice of the Company and the Company Subsidiaries, is adequate to cover all Taxes accruable through the Effective Time in accordance with GAAP, excluding in each case any Taxes arising from the Transactions.

(f) None of the Company or the Company Subsidiaries has been included in any "consolidated," "unitary" or "combined" Tax Return (other than Tax Returns for which the Company is the common parent) provided for under the laws of the U.S., any foreign jurisdiction or any state or locality with respect to Taxes for any taxable year and neither Company nor any Company Subsidiary has any obligation to contribute to the payment of any Tax of any person other than the Company or a Company Subsidiary under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), as transferee, successor, by contract or otherwise.

(g) None of the Company or any of the Company Subsidiaries has constituted either a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A) of the Code in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code in the two years prior to the date of this Agreement (or will constitute such a corporation in the two years prior to the Effective Time) or that otherwise constitutes part of a "plan" or "series of related transactions" within the meaning of Section 355(e) of the Code in conjunction with the Offer and the Merger.

(h) The Company has not been a U.S. Real Property Holding Corporation ("**USRPHC**") within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(i) None of the Company nor any Company Subsidiary is a party to or bound by any Tax allocation or sharing agreement.

(j) Neither the Company nor any Company Subsidiary has engaged in a "reportable transaction" as defined in Section 6707A(c)(1) of the Code and Treasury Regulation Section 1.6011-4(b).

(k) Neither the Company nor any of the Company Subsidiaries will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Effective Time as a result of any (A) change in the method of accounting for a taxable period ending on or prior to the Effective Time, (B) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) executed on or prior to the Effective Time, (C) intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 (or any corresponding or similar provision of state, local, or non-U.S. income Tax law) executed on or prior to the Effective Time, (D) installment sale or open transaction disposition made on or prior to the Effective Time, or (E) prepaid amount received on or prior to the Effective Time.

4.16 Environmental Matters. (a) The Company and each Company Subsidiary is and for the past five years has been in material compliance with all applicable Environmental Laws; (b) to the knowledge of the Company, none of the properties currently or formerly owned, leased or operated by the Company or any Company Subsidiary (including soils and surface and ground waters) are contaminated with any Hazardous Substance for which the Company or a Company Subsidiary is legally responsible for any unperformed investigation or remediation costing in excess of $500,000 required by applicable law or any Contract; (c) the Company and each Company Subsidiary possesses and is in material compliance with all permits, licenses and other authorizations required under any Environmental Law for the conduct of its operations in the manner presently carried on by the Company or such Company Subsidiaries) ("**Environmental Permits**"); (e) to the knowledge of the Company, neither the execution of this Agreement nor the consummation of the Transactions will require any investigation, remediation, or other action with respect to Hazardous Substances, or any notice to or consent of Governmental Authorities or Third Parties, pursuant to any applicable Environmental Laws or Environmental Permit. The Company has made available to Parent any and all notice letters, written requests for information, and any other written communication with or documentation from any Governmental Authorities regarding the presence of Hazardous Materials on any properties currently or formerly owned, leased or operated by the Company or any Company Subsidiary. The Company also has made available to Parent all material assessments, reports, data, results of investigations or audits, and other similar information that is in the possession of or reasonably available to the Company or the Company Subsidiaries regarding environmental matters pertaining to the environmental condition of the business of the Company and the Company Subsidiaries, or the compliance (or noncompliance) by the Company and the Company Subsidiaries with any Environmental Laws.

4.17 Material Contracts.

(a) Subsections (i) through (xvii) of Section 4.17(a) of the Disclosure Schedule contain lists of the following respective types of Contracts (together with all amendments) to which the Company or any Company Subsidiary is a party (such Contracts as are required to be set forth in Section 4.17(a) of the Disclosure Schedule being the "**Company Material Contracts**"):

(i) each Contract other than a Plan set forth in Section 4.10(a) of the Disclosure Schedule) that involved consideration of more than $500,000, in the aggregate, during the twelve (12) months ended April 30, 2009, and that cannot be canceled by the Company or any Company Subsidiary without penalty or further payment and without more than 90 days' notice;

(ii) all material broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing, consulting and advertising Contracts except any such contract that can be canceled by the Company or a Company Subsidiary without penalty or further payment and without more than 90 days' notice;

(iii)(A) all employment Contracts of those employees and managers and that receive from the Company or any Company Subsidiary annual compensation (including base salary, commissions, MBO payments, and annual or other periodic or project bonuses) in excess of $45,000 for those individuals based in China, Romania, and India; $90,000 for those individuals based in Israel and Korea; and $150,000 for those individuals based in the United States, Canada, Japan, and European countries (other than Romania) and (B) all consulting Contracts for those consultants that receive from the Company or any Company Subsidiary annual compensation in excess $200,000 (provided that references to such Contracts have been made completely anonymous for those employees, managers or consultants based in jurisdictions where this is required under applicable data privacy/protection laws);

(iv) all material Contracts involving the payment of royalties or other amounts payable by the Company or a Company Subsidiary calculated based upon the revenues or income of the Company or a Company Subsidiary or income or revenues related to any product of the Company or a Company Subsidiary (other than Contracts involving compensation in connection with the sale and distribution of any product of the Company or a Company Subsidiary entered into in the ordinary course of business);

(v) all Contracts evidencing indebtedness for borrowed money in excess of $500,000;

(vi) Company Intellectual Property Agreements;

(vii) all Contracts pursuant to which the Company or any Company Subsidiary provides professional services to a Third Party that involved consideration of more than $500,000 during the twelve (12) months ended April 30, 2009 or that commits the Third Party receiving such professional services to pay consideration of more than $500,000 during the remaining term of the Contract;

(viii) all material Contracts with any Governmental Authority;

(ix) all material Contracts involving joint ventures (but excluding any Customer Optimization Arrangements);

(x) all Contracts that grant to a Third Party any right of first refusal or first offer or similar right or that limit in material respects, or purport to limit, the ability of the Company or any Company Subsidiary or, upon the consummation of the Offer or any other Transaction, Parent or any of its subsidiaries to compete in any line of business or with any person or entity or in any geographic area or during any period of time;

(xi) all material Contracts or arrangements that result in any person or entity holding a power of attorney from the Company or, any Company Subsidiary that relates to the Company, any Company Subsidiary or their respective businesses;

(xii) any Contract providing for indemnification, contribution or any guaranty other than any customer Contract providing for indemnification, contribution or guaranty entered into in connection with the distribution, sale or license of products in the ordinary course of business;

(xiii) any Contract (A) relating to the disposition or acquisition by the Company or any of the Company Subsidiaries of assets or equity ownership interests for consideration in excess of $500,000 other than in the ordinary course of business since February 1, 2007, or (B) pursuant to which the Company or any of the Company Subsidiaries will acquire any interest in any other person or other business enterprise other than the Company Subsidiaries;

(xiv) for any customer required to be specified in Section 4.21 of the Disclosure Schedule, all material Contracts with such Customers, including any material amendments thereto;

(xv) all Contracts (other than Plans disclosed on Section 4.10(a) of the Disclosure Schedule) that would obligate the Company or any Company Subsidiary to make any payment in connection with the Offer, the Merger or this Agreement;

(xvi) all other Contracts, whether or not made in the ordinary course of business, the absence of which would have a Material Adverse Effect; and

(xvii) any mortgages, indentures, guarantees, loans or credit agreements, security agreements or other Contracts relating to the borrowing of money or extension of credit, in each case in excess of $500,000, other than (A) accounts receivables and payables, and (B) loans to or guarantees for direct or indirect wholly-owned Company Subsidiaries, in each case in the ordinary course of business consistent with past practice.

(b)(i) Each Company Material Contract is a legal, valid and binding agreement and is in full force and effect and enforceable in accordance with its terms (subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting the rights and remedies of creditors generally); the Company or the Company

Subsidiary, as applicable, is not in default under any Company Material Contract, has not committed or failed to perform any act that, with or without notice, lapse of time, or both, would constitute a default under the Company Material Contract; and none of the Company Material Contracts has been canceled by the other party; (ii) to the knowledge of the Company, no other party is in breach or violation of, or default under, any Company Material Contract; (iii) the Company and the Company Subsidiaries have not received any claim of default under any Company Material Contract, has not committed or failed to perform any act that, with or without notice, the lapse of time, or both, could constitute a breach or violation of, or default under any such Contract, which has not been cured in accordance with the cure provisions such Contract; and (iv) neither the execution of this Agreement nor the consummation of any Transaction shall constitute a default, give rise to cancellation rights, or otherwise adversely affect any of the Company's or the Company Subsidiaries' rights under any Company Material Contract. The Company has made available to Purchaser true and complete copies of all Company Material Contracts, including any amendments thereto.

4.18 Insurance.

(a) As of the date hereof, the Company and the Company Subsidiaries are, and continually since the later of January 1, 2005 or the date of acquisition by the Company have been, insured by insurers reasonably believed by the Company to be of recognized financial responsibility and solvency, against such losses and risks and in such amounts as are customary in the businesses in which they are engaged.

(b) With respect to each such insurance policy: (i) the policy is legal, valid, binding and enforceable in accordance with its terms and, except for policies that have expired under their terms in the ordinary course, is in full force and effect; (ii) neither the Company nor any Company Subsidiary is in material breach or default (including any such breach or default with respect to the payment of premiums or the giving of notice or both), and no event has occurred that, with notice or the lapse of time, would constitute such a breach or default, or permit termination or modification, under the policy; and (iii) to the knowledge of the Company, no insurer on the policy has been declared insolvent or placed in receivership, conservatorship or liquidation.

(c) Other than with respect to any Plans disclosed on Section 4.10(a) of the Disclosure Schedule pursuant to which benefits are provided through insurance contracts at no time subsequent to January 1, 2005 has the Company or any Company Subsidiary (i) been denied any insurance or indemnity bond coverage that it has requested, (ii) made any material reduction in the scope or amount of its insurance coverage, or (iii) received notice from any of its insurance carriers that any insurance premiums will be subject to increase in an amount materially disproportionate to the amount of the increases in the amount of coverage with respect thereto (or with respect to similar insurance) in prior years or that any current insurance coverage will not be available in the future, other than as a result of the Transactions, substantially on the same terms as are now in effect. There is no pending material claim by the Company or any of the Company Subsidiaries under any insurance policy.

4.19 Brokers and Expenses.

(a) No broker, finder or investment banker (other than Goldman Sachs & Co.) is entitled to any brokerage, finder's or other fee or commission in connection with the Transactions based upon arrangements made by or on behalf of the Company or any Company Subsidiary. The Company has heretofore furnished to Parent a complete and correct copy of all Contracts between the Company and Goldman Sachs & Co. pursuant to which such firm would be entitled to any payment relating to the Transactions.

(b) Section 4.19(b) of the Disclosure Schedule sets forth (i) all out-of-pocket fees and expenses (including fees and expenses payable to investment banking firms and fees and expenses of counsel, accountants, experts and consultants, and all printing, filing and other expenses) actually paid, incurred or accrued by or on behalf of the Company or any Company Subsidiary in connection with this Agreement or the Transactions (including in connection with any proposals or announcements made by Parent or its affiliates in respect of a transaction with the Company), including all negotiations and all due diligence and other investigations, and (ii) a good faith estimate of all such fees and expenses that will be, or will be required to be, paid, incurred or accrued by or on behalf of the Company or any Company Subsidiary after the date hereof.

4.20 Takeover Laws. The Company Board has approved this Agreement and the Transactions and Stockholder Agreement for all purposes of Section 203 of the DGCL and has taken all action necessary to ensure that Section 203 of the DGCL will not impose any additional procedural, voting, approval, fairness or other restrictions on the timely consummation of the Transactions or restrict, impair or delay the ability of Parent or Purchaser to engage in any Transaction or to vote or otherwise exercise all rights as a stockholder of the Company. No other "fair price," "moratorium," "control share acquisition" or other anti-takeover statute or regulation of any Governmental Authority is applicable to the Company or the Transactions.

4.21 Customers and Suppliers. Section 4.21 of the Disclosure Schedule sets forth the top ten (10) suppliers (based on expenditures for the twelve (12) months ended April 30, 2009) of products or services to the Company and the Company Subsidiaries and the top twenty (20) customers of the Company and the Company Subsidiaries (based on revenues during the twelve (12) months ended April 30, 2009), and the top ten (10) distributors (based on revenues during the twelve (12) months ended January 31, 2009) of the Company and the Company Subsidiaries (on a consolidated basis). Since February 1, 2009, there has not been any material adverse change in the business relationship of the Company or any of the Company Subsidiaries with any such customer, supplier or distributor or any change or development that is reasonably likely to give rise to any such material adverse change, and neither the Company nor any of the Company Subsidiaries has received any written or oral communication or notice from any such customer, supplier or distributor to the effect that, or otherwise has knowledge that, any such customer, supplier or distributor (a) has changed, modified, amended or reduced, or is reasonably likely to change, modify, amend or reduce, its business relationship with the Company or any of the Company Subsidiaries in a manner that is, or is reasonably likely to be, materially adverse to the Company or any of the Company Subsidiaries, or (b) will fail to perform, or is reasonably likely to fail to perform, its obligations under any contract with the Company or any of the Company Subsidiaries in any manner that is, or is reasonably likely to be, materially adverse to the Company or any of the Company Subsidiaries.

4.22 Certain Business Practices. Neither the Company, any Company Subsidiary nor any director, officer, employee or agent of the Company or any Company Subsidiary acting on behalf of the Company or any Company Subsidiary has (a) used any funds for unlawful contributions, gifts, entertainment or other unlawful payments relating to political activity, (b) made any unlawful payment to any foreign or domestic government official or employee or to any foreign or domestic political party or campaign or violated any provision of the Foreign Corrupt Practices Act of 1977, as amended or any comparable Law, or (c) made any other unlawful payment.

4.23 Affiliate Transactions. There are no existing contracts, transactions, indebtedness or other arrangements, or any related series thereof, between the Company or any of the Company Subsidiaries, on the one hand, and any of the directors, officers or other affiliates of the Company and the Company Subsidiaries, on the other hand.

4.24 Vote Required. The affirmative vote on the adoption of this Agreement of the holders of a majority of the Company Shares outstanding on the record date for the meeting of stockholders of Company described in Section 7.1 (the "**Required Shareholder Vote**") is the only vote of the holders of any class or series of Company's capital stock necessary to adopt this Agreement or approve the Merger or otherwise in connection with any Transaction.

4.25 Amendment to Rights Agreement.

(a) The Company Board has taken all necessary action to irrevocably amend the Rights Agreement so that none of the execution or delivery of this Agreement, the making of the Offer or the acceptance for payment or payment for Company Shares by Purchaser pursuant to the Offer will cause (i) the Rights to become exercisable under the Rights Agreement, (ii) Parent or Purchaser or any of their affiliates to be deemed an "**Acquiring Person**" (as defined in the Rights Agreement) or (iii) the "**Shares Acquisition Date**" (as defined in the Rights Agreement) to occur upon any such event.

(b) The "**Distribution Date**" (as defined in the Rights Agreement) has not occurred.

4.26 Opinion of Financial Advisor. Prior to the execution of this Agreement, the Company Board received an opinion from Goldman Sachs & Co. (the "**Company Financial Advisor**") to the effect that, as of the date thereof and based upon and subject to the various qualifications and assumptions set forth therein, the $11.50 per Company Share in cash to be received by the holders of Company Shares in the Offer and the Merger is fair to the stockholders of the Company from a financial point of view.

4.27 Data Protection. (a) Company and the Company Subsidiaries have (i) materially complied with their respective published privacy policies and internal privacy policies and guidelines and all applicable Laws relating to data privacy, data protection and data security, including with respect to the collection, storage, transmission, transfer (including cross-border transfers), disclosure and use of personally identifiable information (including personally identifiable information of employees, contractors, and Third Parties who have provided information to Company or Company Subsidiaries); and (ii) taken commercially reasonable

measures to ensure that personally identifiable information is protected against loss, damage, and unauthorized access, use, modification, or other misuse. There has been no material loss, damage, or unauthorized access, use, modification, or other misuse of any such information by Company or any Company Subsidiary (or any of their respective employees or, to the knowledge of the Company, contractors). Since February 1, 2006, to the knowledge of the Company, no person (including any Governmental Authority) has made any Claim or commenced any Action with respect to loss, damage, or unauthorized access, use, modification, or other misuse of any such personally identifiable information by Company or any Company Subsidiary (or any of their respective employees or contractors) (and to the knowledge of the Company, there is no reasonable basis for any such Claim or Action). The execution, delivery and performance of this Agreement and the consummation of the Transactions complies (and the disclosure to and use by Surviving Corporation and Parent and its Affiliates of such information after the Effective Time will comply) with Company's and the Company Subsidiaries' applicable privacy policies and in all material respects with all applicable Laws relating to privacy and data security (including any such Laws in the jurisdictions where the applicable information is collected). Company and the Company Subsidiaries have at all times made all disclosures to, and obtained any necessary consents from, users, customers, employees, contractors and other applicable persons required by applicable Laws related to privacy and data security and have filed any required registrations with the applicable data protection authority (and a list of those registrations is listed in Section 4.27 of the Disclosure Schedule).

(b) Before the Effective Time, none of the parties shall use any disclosed personably identifiable information for any purposes other than those related to the performance of this Agreement and the completion of the transactions contemplated by this Agreement.

4.28 Information Technology. In the twelve (12) month period prior to the date hereof, there has been no failure, breakdown or continued substandard performance of any Systems that has caused a material disruption or interruption in or to any customer's use of the Systems or the operation of the business of Company or any Company Subsidiary. Company and the Company Subsidiaries have taken commercially reasonable steps to provide for the remote-site back-up of data and information critical to the Company and Company Subsidiaries (including such data and information that is stored on magnetic or optical media in the ordinary course of business) in a commercially reasonable attempt to avoid material disruption or interruption to the business of Company and the Company Subsidiaries. The Company and Company Subsidiaries have in place industry standard (and, in any event, not less than commercially reasonable) disaster recovery and business continuity plans and procedures.

4.29 Minute Books. The Company has made available to Purchaser true and correct copies of the minute books of the Company since February 1, 2006. The minute books of the Company contain true and complete originals or copies of all minutes of meetings of and actions by the stockholders and the Board of Directors of the Company and all committees of the Board of Directors of the Company, and accurately reflect all corporate actions of the Company which are required by applicable Law, the Certificate of Incorporation, the Bylaws or other governing documents to be passed upon by the Board of Directors or stockholders of the Company.

4.30 Export Control Laws. The Company and each of the Company Subsidiaries has conducted its export transactions in accordance in all material respects with applicable provisions of U.S. export laws and regulations, and other export laws of the countries where it conducts business. Without limiting the foregoing:

(a) the Company and each of the Company Subsidiaries has obtained all export licenses and other approvals required for its exports of products, software and technologies from the U.S.;

(b) the Company and each of the Company Subsidiaries is in compliance in all material respects with the terms of such applicable export licenses or other approvals;

(c) there are no pending or, to the knowledge of the Company, threatened claims against the Company or any Company Subsidiary with respect to such export licenses or other approvals; and

(d) to the knowledge of the Company, there are no actions, conditions or circumstances pertaining to the Company's or any Company Subsidiaries' export transactions that would reasonably be expected to give rise to any material future claims.

5. REPRESENTATIONS AND WARRANTIES OF PARENT AND PURCHASER

Parent and Purchaser hereby, jointly and severally, represent and warrant to the Company that:

5.1 Corporate Organization. Each of Parent and Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted. Each of Parent and Purchaser is duly qualified or licensed as a foreign corporation to do business, and is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification or licensing necessary, except where the failure to be so duly qualified or licensed and in good standing, individually or in the aggregate, would not prevent or materially delay consummation of the Transactions or otherwise prevent Parent and Purchaser from performing any of their material obligations under this Agreement.

5.2 Authority Relative to this Agreement. Each of Parent and Purchaser has all necessary corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the Transactions. The execution, delivery and performance of this Agreement by Parent and Purchaser and the consummation by Parent and Purchaser of the Transactions have been duly and validly authorized by all necessary corporate action, and no other corporate proceedings on the part of Parent or Purchaser are necessary to authorize this Agreement or to consummate the Transactions (other than, with respect to the Merger, the filing and recordation of appropriate merger documents as required by the DGCL). This Agreement has been duly and validly executed and delivered by Parent and Purchaser and, assuming due authorization, execution and delivery by the Company, constitutes a legal, valid and binding obligation of each of Parent and Purchaser, enforceable against each of Parent and Purchaser in accordance with its terms, except that (i) such enforcement may be subject to

applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, affecting creditors' rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

5.3 No Conflict; Required Filings and Consents.

(a) The execution and delivery of this Agreement by Parent and Purchaser do not, and the performance of this Agreement by Parent and Purchaser will not, (i) conflict with or violate the Certificate of Incorporation or By-laws of either Parent or Purchaser, (ii) assuming that all consents, approvals, authorizations and other actions described in Section 5.3(b) have been obtained and all filings and obligations described in Section 5.3(b) have been made, conflict with or violate any Law applicable to Parent or Purchaser or by which any property or asset of either of them is bound or affected, or (iii) result in any breach of, or constitute a default (or an event that, with notice or lapse of time or both, would become a default or breach) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of a Lien on any property or asset of Parent or Purchaser pursuant to, or result in the loss of a material benefit under any Contract, permit, franchise or other instrument or obligation to which Parent or Purchaser is a party or by which Parent or Purchaser or any property or asset of either of them is bound or affected, except, with respect to clauses (ii) and (iii), for any such conflicts, violations, breaches, defaults or other occurrences that, individually or in the aggregate, would not prevent or materially delay consummation of the Transactions or otherwise prevent Parent and Purchaser from performing any of their material obligations under this Agreement.

(b) The execution and delivery of this Agreement by Parent and Purchaser do not, and the performance of this Agreement by Parent and Purchaser will not, require any consent, approval, authorization or permit of, or filing with, or notification to, any Governmental Authority, except (i) for applicable requirements, if any, of (x) the Exchange Act and Blue Sky Laws, (y) the HSR Act and similar requirements in foreign countries where a merger filing will be necessary or advisable and (z) the filing and recordation of appropriate merger documents as required by the DGCL, and (ii) where the failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, individually or in the aggregate, would not prevent or materially delay consummation of the Transactions or otherwise prevent Parent or Purchaser from performing their material obligations under this Agreement.

5.4 Financing. At the expiration of the Offer and at the Effective Time, either Purchaser will have available or Parent will make available or cause one or more of its affiliates to make available the funds necessary to purchase all of the Company Shares pursuant to the Offer and the Merger and to pay all fees and expenses in connection therewith.

5.5 Offer Documents; Proxy Statement; Schedule 14D-9. The Offer Documents shall not, at the time the Offer Documents are filed with the SEC or are first published, sent or given to stockholders of the Company, as the case may be, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The information supplied by Parent for inclusion in the Schedule 14D-9

and Proxy Statement, if any, shall not, at the date first mailed to stockholders of the Company, and at the time of the Stockholders' Meeting, contain any untrue statement of a material fact, or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not false or misleading, or necessary to correct any statement in any earlier communication with respect to the solicitation of proxies for the Stockholders' Meeting that shall have become false or misleading. Notwithstanding the foregoing, Parent and Purchaser make no representation or warranty with respect to any information supplied by the Company or any of its representatives for inclusion in any of the foregoing documents or the Offer Documents. The information supplied by Parent for inclusion in the Schedule 14D-9 and Proxy Statement, if any, and the Offer Documents shall comply in all material respects as to form with the requirements of the Exchange Act and the rules and regulations thereunder.

5.6 Absence of Litigation. Except as disclosed in Section 5.6 of the Parent Disclosure Schedule dated the date hereof and delivered by Parent to the Company (the "**Parent Disclosure Schedule**"), there is no Action pending or, to the knowledge of Parent or Purchaser, threatened against Parent, any subsidiary of Parent, or any property or asset of Parent or any subsidiary of Parent, before any Governmental Authority that is reasonably likely to prevent the consummation of any Transaction or otherwise prevent Parent or Purchaser from performing their material obligations under this Agreement. Neither Parent nor any subsidiary of Parent nor any property or asset of Parent or any subsidiary of Parent is subject to any continuing order of, consent decree, settlement agreement or similar written agreement with, or, to the knowledge of Parent or Purchaser, continuing investigation by, any Governmental Authority, or any order, writ, judgment, injunction, decree, determination or award of any Governmental Authority that is reasonably likely to prevent consummation of the Offer or the Merger or otherwise prevent Parent or Purchaser from performing their material obligations under this Agreement.

5.7 Purchaser. All of the outstanding capital stock of Purchaser is owned directly by Parent. Except for obligations or liabilities incurred in connection with its incorporation or organization or the negotiation and consummation of this Agreement, the Offer, the Merger and the Transactions, Purchaser has not incurred any obligations or liabilities, and has not engaged in any business or activities of any type or kind whatsoever or entered into any Contracts or arrangements with any person or entity.

5.8 Vote Required. No vote of the holders of any of the outstanding shares of capital stock of Parent is necessary to approve this Agreement and the Transactions.

6. Conduct of Business Pending the Merger

6.1 Conduct of the Business Pending the Merger. Between the date of this Agreement and the earlier of (1) the Effective Time and (2) the date upon which Purchaser's designees constitute a majority of the members on the Company Board pursuant to Section 7.3 (the "**Control Date**"), (i) the Company shall, and shall cause the Company Subsidiaries to, conduct the businesses of the Company and the Company Subsidiaries only in the ordinary course of business and in a manner consistent with past practice and in compliance in all material respects with all applicable Laws; (ii) the Company shall use reasonable best efforts to preserve substantially intact the business organization of the Company and the Company Subsidiaries, to

keep available the services of the current officers, employees and consultants of the Company and the Company Subsidiaries and to preserve the current relationships of the Company and the Company Subsidiaries with its customers, suppliers, distributors, licensors, licensees and other persons with which the Company or any of the Company Subsidiaries has business relations; (iii) the Company shall, and shall cause the Company Subsidiaries to, maintain the Company Owned Real Property and Company Leased Real Property in substantially the same condition as the same exist on the date of this Agreement (reasonable wear and tear excepted), (iv) upon reasonable request by Purchaser, the Company shall, or shall cause the Company Subsidiaries to, deliver any written notice necessary to exercise a renewal option with respect to those leases of Company Leased Real Property that require that such notice of renewal be delivered prior to the Effective Time, and (v) the Company shall not, and shall cause the Company Subsidiaries not to, take any action that would adversely affect or delay in any material respect the ability of either Parent or the Company to obtain any necessary approvals of any regulatory agency or other Governmental Authority required for the Transactions. In addition, and not in limitation of the foregoing, except as (x) expressly contemplated by this Agreement, (y) set forth in Section 6.1 of the Disclosure Schedule or (z) as required in compliance with all applicable Laws, neither the Company nor any of the Company Subsidiaries shall, between the date of this Agreement and the Effective Time, directly or indirectly, do, or propose to do, any of the following without the prior written consent of Parent (which shall not be unreasonably withheld or delayed):

(a) amend or otherwise change its Certificate of Incorporation or By-laws or equivalent organizational documents;

(b) issue, sell, pledge, dispose of, grant or encumber, or authorize the issuance, sale, pledge, disposition, grant or encumbrance of, any shares of any class of capital stock of the Company or any of the Company Subsidiaries, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of such capital stock, or any other ownership interest (including any phantom interest and including any Company RSUs or voting securities), of the Company or any of the Company Subsidiaries, except for (i) the issuance in the ordinary course of business of Company Stock Options for the purchase of up to 25,000 Company Shares and Company RSUs for the issuance of up to 10,000 Company Shares for employees hired after the date hereof, (ii) the issuance of Company Shares pursuant to exercises of the Company Stock Options or vesting of Company RSUs outstanding on the date hereof as disclosed in Section 4.3(b) in accordance with the terms of those options or Company RSUs on the date of this Agreement) and (iii) subject to Section 3.7, issuance of Company Shares pursuant to the Company ESPP;

(c) transfer, lease, sell, pledge, license, dispose of or encumber any material assets or properties of the Company or any of the Company Subsidiaries, except in the ordinary course of business and in a manner consistent with past practice;

(d) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (other than dividends or distributions made by a Company Subsidiary to the Company or another Company Subsidiary);

(e) reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any of its capital stock;

(f)(i) acquire, directly or indirectly (including by merger, consolidation, or acquisition of stock or assets or any other business combination), any corporation, partnership, other business organization or any division thereof or any other business, or any equity interest in any person or any material amount (individually or collectively) of assets; (ii) incur any indebtedness for borrowed money or issue any debt securities, or assume, guarantee or endorse, or otherwise become responsible for (contingently or otherwise), the obligations of any person, in the aggregate in excess of $500,000; (iii) make any loans, advances or capital contributions, except for employee loans or advances for travel expenses and extended payment terms for customers, in each case subject to applicable Law and only in the ordinary course of business; (iv) make, authorize, or make any commitment with respect to (A) any single capital expenditure or other expenditure that is, individually, in excess of $500,000 or (B) collectively, in the aggregate for the Company and the Company Subsidiaries taken as a whole in excess of $2,000,000; (v) make or direct to be made any capital investments or equity investments in any entity, other than investments in any wholly-owned Company Subsidiary; or (vi) enter into or amend any Contract, commitment or arrangement with respect to any matter set forth in this Section 6.1(f);

(g)(i) increase the compensation payable or to become payable (including bonus grants) or increase or accelerate the vesting of any benefits provided, or pay or award any payment or benefit not required as of the date hereof by a Plan as existing on the date hereof and disclosed in Section 4.10(a) of the Company Disclosure Schedule, to its directors, officers or employees or other service providers, (ii) grant any severance or termination pay or benefits to, or enter into any employment, severance, retention, change in control, consulting or termination Contract with, any director, officer or other employee or other service providers of the Company or of any Company Subsidiary, subject to sub-Section 6.1(g)(v) below, other than offer letters, employment agreements, or consulting agreements entered into in the ordinary course of business that are terminable at will and without liability to the Company or any Company Subsidiary, (iii) establish, adopt, enter into or amend any collective bargaining, bonus, profit-sharing, thrift, compensation, stock option, restricted stock, pension, retirement, deferred compensation, employment, termination, severance or other plan, Contract, trust, fund, policy or arrangement for the benefit of any director, officer or employee or other service providers, (iv) pay or make, or agree to pay or make, any accrual or other arrangement for, or take, or agree to take, any action to fund or secure payment of, any severance pension, indemnification, retirement allowance, or other benefit, or (v) hire, elect or appoint any officer, director or employee holding a position of vice president or above;

(h) except as publicly announced prior to the date hereof, announce, implement or effect any reduction in labor force greater than five percent (5%) of the total Company headcount, lay-off, early retirement program, severance program or other program or effort concerning the termination of employment of employees of the Company or any Company Subsidiary, other than routine employee terminations;

(i) enter into a new line of business that (A) is material to the Company and the Company Subsidiaries taken as a whole, or (B) represents a category of revenue that is not discussed in Item 1 of the Company's Annual Report on Form 10-K for the fiscal year ended January 31, 2009;

(j) take any action, other than reasonable actions in the ordinary course of business and consistent with past practice, with respect to accounting policies or procedures (including procedures with respect to the payment of accounts payable and collection of accounts receivable, and the revaluation of any assets);

(k) make or change any election, change an annual accounting period, adopt or change any accounting period, adopt or change any accounting method, file any amended Tax Return, enter into any closing agreement, settle any Tax claim or assessment relating to the Company or any of the Company Subsidiaries, surrender any right to claim a refund of Taxes, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Company or any of the Company Subsidiaries, destroy or dispose of any books and records with respect to Tax matters relating to periods beginning before the Effective Time and for which the statute of limitations is still open or under which a record retention agreement is in place with a Governmental Authority if such election, adoption, change, amendment, agreement, settlement, surrender, consent, waiver, destruction or disposal would have the effect of materially increasing the Tax liability of the Company or any of the Company Subsidiaries for any period ending after the Effective Time or materially decreasing any Tax attribute of the Company or any of the Company Subsidiaries existing on the Effective Time;

(l) settle, pay, discharge or satisfy any claim, liability or obligation (absolute, accrued, asserted or unasserted, contingent or otherwise), including any litigation, arbitration or other Action, other than (i) the payment, discharge or satisfaction, in the ordinary course of business and consistent with past practice, of liabilities reflected or reserved against in the 2009 Balance Sheet or subsequently incurred in the ordinary course of business and consistent with past practice, (ii) those that involve only the payment or receipt of money (and not the assumption of any liability or obligation, including, the grant to any Third Party of any license, covenant not to sue, immunity or other right with respect to or under any of the Owned Company Intellectual Property) in an amount less than $500,000; provided, that in connection with such payment the Company shall have received a complete and unconditional release against the Company and the Company Subsidiaries, or (iii) settlements in connection with routine customer audits that involve (x) the receipt of $500,000 or less by the Company and (y) the granting of continued use rights with respect to Company Products or products or services of the Company or any Company Subsidiary;

(m) enter into any Contract or amendment that would be a Company Material Contract, amend or modify in any material respect or consent to the termination of any Company Material Contract, or amend or modify in any material respect, waive or consent to the termination of the Company's or any Company Subsidiary's rights thereunder or waive, release, or consent to the termination of any claims or rights of material value to the Company or any Company Subsidiary; provided, however, that for all purposes of this Section 6.1(m), the definition of "Material Contract:"

(i) shall not include the category of Contracts referenced in Section 4.17(a)(xvi);

(ii) shall not include Contracts entered into with customers of the Company on terms consistent with the Company's past contracting practices with similarly situated customers; and

(iii) all references to $500,000 in Section 4.17(a)(i) and Section 4.17(a)(vii) with respect to any customer contracts shall be deemed to refer to $2,000,000;

(n) enter into (i) any material Contract with new or existing suppliers or customers with a term of greater than thirty-six (36) months, (ii) any Contract with existing suppliers or customers other than on terms consistent with the Company's or the applicable Company Subsidiary's existing Contracts with such suppliers or customers, as applicable, as disclosed to Parent prior to the date hereof, or (iii) any Contract with new suppliers or customers other than on terms that are consistent with the Company's past contracting practices with similarly situated suppliers or customers, as applicable;

(o) enter into any Contracts (i) under which Company or any Company Subsidiary grants or agrees to grant to any Third Party any assignment, license, covenant, release, immunity or other right with respect to any Intellectual Property or Intellectual Property Rights (other than non-exclusive licenses of Software granted to customers in the ordinary course of business consistent with Company's past practice), (ii) under which Company or any Company Subsidiary establishes with any Third Party a joint venture, strategic relationship, or partnership pursuant to which Company agrees to develop or create any Intellectual Property, products or services; (iii) under which Company or any Company Subsidiary agrees to create or develop any Intellectual Property, products, or services with any Third Party that designs, develops, or manufactures or has manufactured microprocessors, microprocessor cores, netbooks, or personal computers; (iv) that will cause or require (or purport to cause or require) the Surviving Corporation or Parent or any of its Affiliates to (A) grant to any Third Party any license, covenant not to sue, immunity or other right with respect to or under any of the Intellectual Property or Intellectual Property Rights of Parent or any of its Affiliates; or (B) be obligated to pay any royalties or other amounts, or offer any discounts, to any Third Party (other than, with respect to the Surviving Corporation only, in connection with non-exclusive licenses of Software entered into in the ordinary course of business consistent with past practice);

(p) enter into or amend any Contract pursuant to which any other party is granted, or that otherwise constrains or subjects the Company or any Company Subsidiary or Parent or any of its Subsidiaries to, any non-competition, "most-favored nation", exclusive marketing or other exclusive rights of any type or scope or that otherwise restricts the Company or any Company Subsidiary or, upon completion of the Offer or any other Transaction, Parent or any of its subsidiaries, from engaging or competing in any line of business or in any location; or enter into or amend any Contract with respect to joint ventures, partnerships or material strategic alliances; or, other than in the ordinary course of business consistent with past practices, enter into or amend any Contract with respect to future services requirements;

(q) enter into any lease, sublease or license for real property or material operating lease other than the entry into leases with respect to real property spaces of less than 8,000 square feet and a term of less than two (2) years;

(r) terminate, cancel, amend or modify any insurance coverage policy maintained by Company or any of the Company Subsidiaries that is not promptly replaced by a comparable amount of insurance coverage;

(s) enter into or amend or otherwise modify any Contract or arrangement with persons that are affiliates or are executive officers or directors of the Company;

(t) commence any material Action;

(u) enter into, participate in, establish or join any new standards-setting organization, university or industry bodies or consortia, or other multi-party special interest groups or activities;

(v) incur any non-employee expense (travel, facilities, other) that was not previously budgeted in the FY 2010 Annual Operating Plan set forth in Section 6.1(v) of the Disclosure Schedule; or

(w) announce an intention, enter into any formal or informal Contract or otherwise make a commitment to do any of the foregoing.

7. ADDITIONAL AGREEMENTS

7.1 Stockholders' Meeting.

(a) If required by applicable Law in order to consummate the Merger, the Company, acting through the Company Board, shall, in accordance with applicable Law and the Company's Certificate of Incorporation and By-laws, (i) duly call, give notice of, convene and hold an annual or special meeting of its stockholders as promptly as practicable following consummation of the Offer (or, if later, following the termination of the subsequent offering period, if any) for the purpose of considering and taking action on this Agreement and the Transactions (the "**Stockholders' Meeting**"), and (ii) subject to the terms of this Agreement, (A) include in the Proxy Statement, and not subsequently withdraw or modify in any manner adverse to Purchaser or Parent, the unanimous recommendation of the Company Board that the stockholders of the Company approve and adopt this Agreement and the Transactions and (B) use its reasonable best efforts to obtain such approval and adoption. The Company shall ensure that the Stockholders' Meeting is called, noticed, convened, held and conducted, and that all parties solicited in connection with the Stockholders' Meeting are solicited, in compliance with all applicable Law. At the Stockholders' Meeting, Parent and Purchaser shall cause all Company Shares then owned by them and their subsidiaries to be voted in favor of the approval and adoption of this Agreement and the Transactions.

(b) Without limiting the generality of the foregoing, the Company agrees that its obligations pursuant to this Section 7.1, including its obligation to duly call, give notice of, convene and hold the Stockholders' Meeting after the Acceptance Date shall not be affected by the commencement, public proposal, public disclosure or communication to the Company of any Superior Proposal.

(c) Notwithstanding the foregoing, in the event that Purchaser shall acquire at least 90 percent of the then outstanding Company Shares, the parties hereto agree, at the request of Purchaser, subject to Article 8, to take all necessary and appropriate action to cause the Merger to become effective in accordance with Section 253 of the DGCL, as soon as reasonably practicable after such acquisition, without a meeting of the stockholders of the Company.

7.2 Proxy Statement. If approval of the Company's stockholders is required by applicable Law to consummate the Merger, then, promptly following consummation of the Offer (or, if later, following the termination of the subsequent offering period, if any), the Company shall file the Proxy Statement with the SEC under the Exchange Act, and shall use its reasonable best efforts to have the Proxy Statement cleared by the SEC. Parent, Purchaser and the Company shall cooperate with each other in the preparation of the Proxy Statement, and the Company shall promptly notify Parent of the receipt of any comments of the SEC with respect to the Proxy Statement and of any requests by the SEC for any amendment or supplement thereto or for additional information and shall promptly provide to Parent copies of all correspondence and summaries of all oral exchanges between the Company or any representative of the Company and the SEC. The Company shall promptly provide Parent and its counsel the opportunity to review the Proxy Statement, including all amendments and supplements thereto, prior to its being filed with the SEC, and shall give Parent and its counsel the opportunity to review all responses to requests for additional information and replies to comments prior to their being filed with, or sent to, the SEC. Each of the Company, Parent and Purchaser agrees to use its reasonable best efforts, after consultation with the other parties hereto, to respond promptly to all such comments of and requests by the SEC and to cause the Proxy Statement and all required amendments and supplements thereto to be mailed to the holders of Company Shares entitled to vote at the Stockholders' Meeting at the earliest practicable time.

7.3 Company Board Representation; Section 14(f).

(a) Upon the Acceptance Date and from time to time thereafter, Purchaser shall be entitled to designate up to such number of directors, rounded up to the next whole number, on the Company Board as shall give Purchaser representation on the Company Board equal to the product of (x) the total number of directors on the Company Board (giving effect to the directors elected pursuant to this sentence) multiplied by (y) the percentage that the aggregate number of Company Shares beneficially owned by Purchaser and any affiliate of Purchaser following such acceptance for purchase bears to the total number of Company Shares then outstanding, and the Company shall, at such time, promptly take all actions reasonably necessary to cause Purchaser's designees to be elected as directors of the Company, including, at Parent's election, increasing the size of the Company Board or securing the resignations of incumbent directors, or both. At such times, the Company shall cause persons designated by Purchaser to constitute the same percentage (rounded up, if necessary) as persons designated by Purchaser constitute of the Company Board of (i) each committee of the Company Board, (ii) the board of directors of each Company Subsidiary, and (iii) each committee of each such board. The provisions of this Section 7.3 are in addition to, and shall not limit, any right that Purchaser, Parent or any affiliate of Purchaser or Parent may have (with respect to the election of directors or otherwise) under applicable Law as a holder or beneficial owner of shares of Company Common Stock.

(b) The Company shall promptly take all actions required to fulfill its obligations under this Section 7.3, including all such actions required pursuant to Section 14(f) of the Exchange Act and Rule 14f-1 promulgated thereunder, and shall include in the Schedule 14D-9 such information with respect to the Company and its officers and directors as is required under Section 14(f) and Rule 14f-1 to fulfill such obligations. Parent or Purchaser shall supply to the Company any information with respect to either of them and their nominees, officers, directors and affiliates required by such Section 14(f) and Rule 14f-1.

(c) Notwithstanding anything in this Agreement to the contrary, in the event that Purchaser's designees are elected or designated to the Company Board, then until the Effective Time, the Company shall cause the Company Board to have at least two (2) directors who are directors on the date of this Agreement, including at least two (2) directors who are (i) selected by such current directors and (ii) independent directors for purposes of the continued listing requirements of the NASDAQ Global Stock Market (such directors, the "**Independent Directors**"), provided, that, if any Independent Director is unable to serve due to death or disability or any other reason, the remaining Independent Director(s) shall be entitled to elect or designate another individual (or individuals) who serve(s) as a director (or directors) on the date of this Agreement (provided that no such individual is an employee of the Company or the Company Subsidiaries) to fill the vacancy, and such director (or directors) shall be deemed to be an Independent Director (or Independent Directors) for purposes of this Agreement. If no Independent Director then remains, the other directors shall designate two (2) individuals, provided, that such individuals shall not be employees, officers, directors or affiliates of the Company, Parent or Purchaser (or, in the event that there shall be less than two (2) directors available to fill the vacancies as a result of such individuals' deaths, disabilities or refusals to serve, such smaller number of individuals who are directors on the date of this Agreement) to fill the vacancies and such directors shall be deemed Independent Directors for purposes of this Agreement. Following the Control Date and prior to the Effective Time or termination of this Agreement by the Company, the approval of a majority of the Independent Directors shall be required to authorize (and such authorization shall constitute the authorization of the Board of Directors and no other action on the part of the Company, including any action by any other director of the Company, shall be required to authorize) any amendment or termination of this Agreement on behalf of the Company, any extension by the Company of the time for the performance of any of the obligations of Parent or Purchaser under this Agreement, or any waiver of compliance with any of the agreements or conditions contained herein for the benefit of the Company, and any amendment of the articles of incorporation or bylaws of the Company that would adversely affect the ability of the Company to consummate any of the Transactions. The Independent Directors shall have the authority to retain counsel (which may include current counsel to the Company) at the expense of the Company for the purpose of fulfilling their obligations hereunder, and shall have the authority, after the Acceptance Date, to institute any action on behalf of the Company to enforce the performance of this Agreement in accordance with its terms.

7.4 Access to Information; Confidentiality.

(a) From the date hereof until the Effective Time, the Company shall, and shall cause the Company Subsidiaries and the officers, directors, employees, auditors and agents of the Company and the Company Subsidiaries to, afford the officers, employees and other Representatives of Parent and Purchaser reasonable access at all reasonable times to the officers, employees, agents, properties, offices, plants and other facilities, books and records of the Company and each Company Subsidiary, including the Owned Company Intellectual Property, and shall furnish Parent and Purchaser with such financial, operating and other data and information (including the work papers of the Company's accountants) as Parent or Purchaser, through their officers, employees and other Representatives, may reasonably request as long as these actions are in compliance with all applicable data privacy/protection Laws. Without limiting the generality of the foregoing, the Company shall and shall cause each Company Subsidiary to, make available to Parent by posting and making accessible to Parent within the Project Williamsburg 2009 workspace on the Merrill Corporation DataSite related to this transaction (the "Data Room") a copy of each material internal or external report prepared by, or on behalf of, the Company or any Company Subsidiary as long as these actions are in compliance with all applicable data privacy/protection Laws.

(b) All information obtained by Parent or Purchaser pursuant to this Section 7.4 shall be held confidential in accordance with the confidentiality agreement, dated February 11, 2009 (the "**Confidentiality Agreement**"), between Parent and the Company.

(c) The Company shall consult with Parent in good faith on a regular basis as requested by Parent to report material (individually or in the aggregate) operational developments, the status of relationships with customers and potential customers, the status of ongoing operations and other matters reasonably requested by Parent.

(d) No investigation or consultation pursuant to this Section 7.4 or otherwise shall affect any representation warranty, covenant or other agreement in this Agreement of any party hereto or any condition to the obligations of the parties hereto or any condition to the Offer.

7.5 No Solicitation of Transactions.

(a) Except as set forth in this Section 7.5, until the earlier of the Control Date or the termination of this Agreement in accordance with the terms hereof, the Company and the Company Subsidiaries shall not, nor shall they authorize or knowingly permit any of their respective Representatives to, directly or indirectly (i) solicit, initiate, knowingly encourage or knowingly facilitate any Acquisition Proposal or the making thereof, (ii) enter into, continue or otherwise participate in any discussions or negotiations regarding, or furnish any information to, or otherwise cooperate in any way with, any person (other than Parent, Purchaser and their Representatives) with respect to any Acquisition Proposal, or (iii) waive, terminate, modify or fail to enforce any provision of any contractual "standstill" or similar obligation of any person other than Parent or its affiliates.

The Company immediately shall, and shall cause the Company Subsidiaries and shall instruct each of their respective Representatives immediately to, cease and cause to be terminated any

and all discussions or negotiations with any person that may be ongoing with respect to any Acquisition Proposal and request the prompt return or destruction of all confidential information provided to any such party prior to the date of this Agreement and use its commercially reasonable efforts to ensure compliance with such request.

Notwithstanding anything to the contrary herein, prior to the Acceptance Date, in response to a bona fide written Acquisition Proposal that the Company Board determines in good faith (after consultation with outside counsel and a financial advisor of nationally recognized reputation) is, or is reasonably likely to result in, a Superior Proposal, and which Acquisition Proposal did not result from or arise in connection with a breach of this Section 7.5(a) and was made after the date hereof, the Company may, subject to compliance with Section 7.5(c), (x) furnish information regarding the Company and the Company Subsidiaries to the person making such Acquisition Proposal (and its Representatives) pursuant to a confidentiality agreement (which shall permit the Company to comply with the terms of Section 7.5(c)) containing confidentiality and standstill provisions not less restrictive to such person than the provisions of the Confidentiality Agreement are to Parent; provided that all such information has previously been provided to Parent or is provided to Parent prior to or concurrent with the time it is provided to such person, and (y) participate in discussions or negotiations with the person making such Acquisition Proposal (and its Representatives) regarding such Acquisition Proposal, but only if and to the extent that in connection with the foregoing clauses (x) and (y), the Company Board determines in good faith (after consultation with outside legal counsel and a financial advisor of nationally recognized reputation) that such action is necessary to comply with its fiduciary duties under applicable Law, and provided, the Company shall not take any of the actions referred to in the foregoing clauses (x) and (y) unless the Company shall have notified Parent in writing at least three (3) business days prior to taking such action that it intends to take such action and the basis hereunder therefor. In addition, notwithstanding the foregoing, prior to the Acceptance Date, the Company may, to the extent the Company Board determines in good faith (after consultation with outside legal counsel and a financial advisor of nationally recognized reputation) that such action is necessary to comply with its fiduciary duties under applicable Law, not enforce any confidentiality, standstill or similar agreement to which the Company or any Company Subsidiary is a party for the sole purpose of allowing the other party to such agreement to submit an Acquisition Proposal, or with respect to another party that has submitted an Acquisition Proposal, solely with respect to such submission, that will constitute, or is reasonably likely to lead to, a Superior Proposal, that did not, in each case, result from a breach by the Company of this Section 7.5.

For purposes of this Agreement, "**Superior Proposal**" means any bona fide written proposal, which did not result from or arise in connection with a breach of this Section 7.5, made by a Third Party that, if consummated, would result in such Third Party's (or its stockholders') owning, directly or indirectly, 100% of the equity securities of the Company (or of the shares of the surviving entity in a merger or the direct or indirect parent of the surviving entity in a merger) or all or substantially all of the assets of the Company and that (i) the Company Board determines in good faith (in accordance with written advice of a financial advisor of nationally recognized reputation and its outside legal counsel) to be (1) more favorable from a financial point of view to the Company's stockholders than the Offer and the Merger (taking into account all terms and conditions of such proposal and of this Agreement (including any changes to the terms of this Agreement proposed by Parent in response to such offer or otherwise)),

(2) reasonably capable of being completed by such Third Party (taking into account, among other things, the expectation of obtaining required regulatory approvals without undue cost or delay), and (3) otherwise reasonably likely to be completed (taking into account all legal, financial, regulatory, and other aspects of the proposal and the person making the proposal), and (ii) is not subject to any due diligence or financing condition (and if financing is required, such financing is then fully committed to the Third Party).

(b) Except as set forth in this Section 7.5, until the earlier of the Acceptance Date and the termination of this Agreement in accordance with the terms hereof, neither the Company Board nor any committee thereof shall: (i) (A) fail to make, or withdraw, modify, amend or qualify or publicly propose to withdraw, modify, amend or qualify, in any manner adverse to Parent or Purchaser, the approval or recommendation by the Company Board or any committee thereof of this Agreement, the Offer or the Merger (the "**Company Board Recommendation**"), (B) make any public statement inconsistent with the Company Board Recommendation (provided, however, that a public statement limited solely to a brief factual description of an Acquisition Proposal received after the date hereof that did not result from a breach by the Company of this Section 7.5 shall not be deemed to constitute a Change in Recommendation), (C) fail to recommend against acceptance of any tender offer or exchange offer other than the Offer for the Company Common Stock within ten (10) business days of the commencement of such offer, (D) approve or recommend, or publicly propose to approve or recommend, any Acquisition Proposal (any of the foregoing in clauses (A)-(D), a "**Change in Recommendation**"), or (ii) adopt or recommend, or publicly propose to adopt or recommend, or allow the Company or any of the Company Subsidiaries to execute or enter into, any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement, joint venture agreement, partnership agreement or other similar Contract constituting or related to, any Acquisition Proposal (other than a confidentiality agreement referred to in Section 7.5(a)) (any of the foregoing, an "**Acquisition Agreement**").

Notwithstanding anything to the contrary contained in this Agreement, at any time prior to the Acceptance Date, the Company Board may in response to an Acquisition Proposal that the Company Board determines in good faith (after consultation with outside legal counsel and a financial advisor of nationally recognized reputation) constitutes a Superior Proposal and that was unsolicited and made after the date of this Agreement and did not result from or arise in connection with a breach of this Section 7.5, (A) make a Change in Recommendation if the Company Board has concluded in good faith (after consultation with its outside legal counsel) that, in light of the receipt of such Superior Proposal, such Change in Recommendation is necessary to comply with its fiduciary duties to the Company's stockholders under applicable Law, or (B) cause the Company to terminate this Agreement pursuant to Section 9.1(f) and concurrently with such termination enter into an Acquisition Agreement if the Company Board has concluded in good faith, after consultation with its outside legal counsel, that, in light of the receipt of such Superior Proposal, such termination is necessary to comply with its fiduciary duties to the Company's stockholders under applicable Law; provided, that the Company shall not be entitled to terminate this Agreement pursuant to the foregoing clause (B), and any purported termination pursuant to the foregoing clause (B) shall be void and of no force or effect, unless prior to such termination the Company pays by wire transfer of immediately available funds the Fee in accordance with Section 9.1(f); provided, further, that the Company shall not be entitled to exercise its right to make a Change in Recommendation or terminate this Agreement

pursuant to Section 9.1(f), and any purported termination pursuant to the foregoing clause (B) shall be void and of no force or effect, unless the Company has:

(A) provided to Parent five (5) business days' prior written notice written notice that it intends to take a such action (a "**Notice of Designated Superior Proposal**"), which notice shall describe the terms and conditions of any Superior Proposal that is the basis of the proposed action by the Company Board (a "**Designated Superior Proposal**") and attach the most current form or draft of any written agreement providing for the transaction contemplated by such Designated Superior Proposal (it being understood and agreed that any amendment to the financial terms or any other material term of such Superior Proposal shall require a new Notice of Designated Superior Proposal and a new five (5) business day period),

(B) during such five (5) business day period, if requested by Parent, engaged in good faith negotiations with Parent to amend this Agreement in such a manner that the Acquisition Proposal that was determined to constitute a Superior Proposal no longer is a Superior Proposal, and

(C) at the end of such five (5) business day period, such Acquisition Proposal has not been withdrawn and the Company Board determines in good faith that such Acquisition Proposal continues to constitute a Superior Proposal (taking into account any changes to the terms of this Agreement agreed to or proposed by Parent in response to a Notice of Designated Superior Proposal, as a result of the negotiations required by clause (B) or otherwise).

(c) The Company shall promptly (and in any event within twenty-four (24) hours of learning of the relevant information) advise Parent orally and in writing of the receipt of any Acquisition Proposal (including for the avoidance of doubt any request for information or other inquiry in connection with or which reasonably could be expected to lead to any Acquisition Proposal), including the material terms and conditions of such Acquisition Proposal (including any changes thereto) and the identity of the person making such Acquisition Proposal and attaching a copy of any such written Acquisition Proposal, or if such Acquisition Proposal is provided orally to the Company, the Company shall summarize in writing the terms of such Acquisition Proposal (including for the avoidance of doubt any such request or other inquiry). The Company shall keep Parent fully informed in all material respects of the status and details (including any change or proposed change to the terms thereof) of any Acquisition Proposal. The Company shall provide Parent with 48 hours prior notice (or such lesser prior notice as is provided to the members of the Company Board) of any meeting of the Company Board at which the Company Board is expected to consider any Acquisition Proposal or any such inquiry or to consider providing information to any person or group in connection with an Acquisition Proposal or any such inquiry. The Company shall publicly reaffirm the Company Board Recommendation within ten (10) business days of the commencement of any tender or exchange offer or public announcement or public notice of an Acquisition Proposal from a Third Party, after receipt of a written request by Parent to provide such reaffirmation, unless a Change in Recommendation is permitted by Section 7.5(b).

(d) Nothing contained in this Section 7.5 shall prohibit the Company or the Company Board (i) from taking and disclosing to its stockholders a position contemplated by

Rule 14e-2(a) under the Exchange Act or making a statement required under Rule 14d-9 under the Exchange Act; provided, that any such disclosure, other than a "stop, look and listen" communication of the type contemplated by Section 14d-9(f) of the Exchange Act, shall be deemed to be in a Change in Recommendation unless the Company Board expressly publicly reaffirms the Company Board Recommendation in such communication; or (ii) disclosing information to the stockholders of the Company to the extent that the Board of Directors determines in good faith (after consultation with its outside legal counsel) that such disclosure is necessary to comply with its fiduciary duties to the Company's stockholders under applicable Law.

(e) Unless such actions are taken in connection with a termination of this Agreement in accordance with Section 9.1(f), the Company shall not take any action to exempt any person from the Rights Agreement or otherwise cause the Rights Agreement not to apply to any person or to approve any Transaction under, or any third party becoming an "interested stockholder" under, Section 203 of the DGCL other than as contemplated by Section 4.25 of this Agreement.

7.6 Employee Benefits Matters.

(a) If so directed by Parent, the Company Board, at least ten (10) business days prior to the initial scheduled expiration of the Offer, will adopt resolutions terminating any and all Plans intended to qualify as a qualified cash or deferred arrangement under Section 401(k) of the Code, effective no later than the day immediately preceding the date the Company becomes a member of the same controlled group of corporations (as defined in Section 414(b) of the Code) as Parent. The Company Board shall in any case adopt resolutions effective at the Effective Time eliminating Company stock as the funding vehicle for matching contributions under any such Plan. The form and substance of such resolutions shall be subject to the reasonable approval of Parent, and the Company shall provide Parent evidence that such resolutions have been adopted by the Company Board or the board of directors of the Company Subsidiaries, as applicable. The Company shall take such other actions in furtherance of terminating any such 401(k) plans as Parent may reasonably request.

(b) Nothing in this Agreement shall (x) create any third-party beneficiary rights in any employee or former employee (including any beneficiary or dependent thereof) of the Company or any Company Subsidiary in any respect, including in respect of continued employment (or resumed employment), or create any such rights in any such persons in respect of any benefits that may be provided, directly or indirectly, under any Plan or any employee program or arrangement of Parent or any of its subsidiaries (including any Plan of the Company prior to the Effective Time), or (y) constitute or be construed to constitute an amendment to any of the compensation or benefit plans maintained for or provided to employees or other persons prior to or following the Effective Time. Nothing in this Agreement shall constitute a limitation on the rights to amend, modify or terminate any such plans or arrangements of Parent or any of its subsidiaries (including any Plan of the Company prior to the Effective Time).

(c) If the Company or any of the Company Subsidiaries enters into, adopts, amends, modifies or terminates any Company Arrangement, all such amounts payable under such Company Arrangement shall (i) be paid or granted as compensation for past services

performed, future services to be performed, or future services to be refrained from performing, by the Covered Securityholders (and matters incidental thereto) and (ii) shall not be calculated based on the number of shares tendered or to be tendered into the Offer by the applicable Covered Securityholder. Moreover, the Company shall take all actions necessary so that, prior to the Expiration Date: (i) the adoption, approval, amendment or modification of each such Company Arrangement shall be approved as an employment compensation, severance or other employee benefit arrangement solely by independent directors of the Company in accordance with the requirements of Rule 14d-10(d)(2) under the Exchange Act and the instructions thereto and (ii) the "safe harbor" provided pursuant to Rule 14d-10(d)(2) is otherwise applicable thereto as a result of the taking prior to the Expiration Date of all necessary actions by the Company Board, the Company Compensation Committee or its independent directors.

(d) The Company shall, to the extent permitted by applicable Laws and in accordance with applicable Laws, amend the Executive Officers' Change of Control Incentive and Severance Benefit Plan and the Vice Presidents' Severance Benefit Plan effective immediately prior to the Acceptance Date to provide that (a) from and after the Acceptance Date no compensation will be payable, and no benefits will be triggered under such plans, in connection with the termination of employment of any participant for "good reason," "constructive termination" or any term of similar import, and (b) no provision of such plans shall result in the acceleration of vesting, exercisability or settlement of any stock option, restricted stock unit or other equity based award that is not outstanding at the Effective Time. The Company may also (a) amend the Executive Officers' Change of Control Incentive and Severance Benefit Plan to include commissions and MBO payments in the definition of "compensation" used to calculate benefits payable under such plan**,** and (b) amend the Executive Officers' Change in Control Incentive and Severance Benefit Plan to provide that from the Effective Time until the first anniversary of the Effective Time Parent may not, and may not cause the Surviving Company to, terminate the Executive Officers' Change of Control Incentive and Severance Benefit Plan or to amend such plan to reduce the benefits payable or potentially payable to eligible employees employed at the Effective Time under the terms of such plan in effect as of immediately prior to the Effective Time. The form and substance of these amendments (which shall be the exclusive amendments to the plans without the further consent of Parent) shall be subject to the reasonable approval of Parent, and the Company shall provide Parent evidence that such amendments have been adopted by the Company Board, the compensation committee of the Company Board, or the board of directors of the Company Subsidiaries, as applicable. Section 7.6(d) of the Disclosure Schedule contains a list of the countries, which do not include the United States, in which applicable Laws prohibit or limit the Company's ability to make the amendments described in this Section 7.6(d) and describes the nature of the prohibition or limitation in each such country.

7.7 Directors' and Officers' Indemnification and Insurance.

(a) For six years after the Acceptance Date, Parent shall cause the Surviving Corporation to indemnify and hold harmless each person who is now or was prior to the Effective Date an officer or director of the Company or the Company Subsidiaries and each person who is now or was prior to the Effective Date an officer or director of the Company or the Company Subsidiaries who served as a fiduciary under or with respect to any employee benefit plan of the Company or the Company Subsidiaries (within the meaning of Section 3(3) of

ERISA) (each, an "**Indemnified Person**") against any costs or expenses (including advancing attorneys' fees and expenses in advance of the final disposition of any claim, suit, proceeding or investigation to each Indemnified Person to the fullest extent permitted by applicable Law; provided, that such advance shall be conditioned upon the Surviving Company's receipt of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall be ultimately determined by final judgment of a court of competent jurisdiction that the Indemnified Person is not entitled to be indemnified pursuant to this Section 7.7(a)), judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any actual or threatened claim, action, suit, arbitration, proceeding or investigation in respect of or arising out of acts or omissions occurring or alleged to have occurred at or prior to the Effective Time, based in whole or in part on or arising in whole or in part out of the fact that such person is or was an officer or director of the Company and the Company Subsidiaries or a fiduciary under or with respect to any employee benefit plan of the Company or the Company Subsidiaries. In the event of any such action, Parent and the Surviving Corporation shall cooperate with the Indemnified Person in the defense of any such action.

(b) From and after the Effective Time, Parent shall cause the Surviving Corporation to fulfill and honor in all respects the obligations of the Company pursuant to any indemnification agreements of the Company or the Company Subsidiaries set forth in Section 7.7(b) of the Disclosure Schedule (the "**Indemnification Agreements**") (and all other indemnification agreements of the Company that are on terms substantially similar to the Indemnification Agreements) and any indemnification, exculpation or advancement of expenses provisions under the certificates of incorporations or bylaws (or comparable organizational documents) as in effect immediately prior to the Effective Time; provided, that such obligations shall be subject to any limitation imposed from time to time under applicable Law.

(c) For six (6) years after the Effective Time, Parent shall cause the Surviving Corporation to provide officers' and directors' liability, fiduciary liability and similar insurance (collectively, "**D&O Insurance**") in respect of acts or omissions occurring prior to the Effective Time covering each Indemnified Person covered as of the date of this Agreement by the Company's D&O Insurance policies on terms with respect to coverage and amount no less favorable than those of such policy in effect on the date of this Agreement as well as covering claims brought against each Indemnified Person under ERISA; provided, that, in satisfying its obligation under this Section 7.7(c), the Surviving Corporation shall not be obligated to pay annual premiums in the aggregate in excess of 200% of the amount per annum the Company paid in its last full fiscal year, which amount the Company has disclosed to Parent prior to the date of this Agreement. Notwithstanding the foregoing, at any time Parent or the Surviving Corporation may, and prior to the Acceptance Date, the Company may, with the prior written consent of Parent (which shall not be unreasonably withheld, delayed or conditioned), purchase a "tail" directors' and officers' liability insurance policy, covering the same persons and providing the same terms with respect to coverage and amount as aforesaid, and that by its terms shall provide coverage until the sixth annual anniversary of the Effective Time, and upon the purchase of such insurance Parent's and the Surviving Corporation's obligations pursuant to the first sentence of this Section 7.7(c) shall be deemed satisfied for so long as such insurance is in full force and effect.

(d) The rights of each Indemnified Person under this Section 7.7 shall survive consummation of the Merger and are intended to benefit, and shall be enforceable by, each Indemnified Person.

(e) If Parent, the Surviving Corporation or any of its successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or the surviving corporation or entity of such consolidation or merger, or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of Parent or the Surviving Corporation, as the case may be, shall assume the obligations set forth in this Section 7.7.

7.8 Takeover Laws and Rights. If any "fair price," "moratorium," "control share acquisition" or other anti-takeover statute or regulation ("**Takeover Law**") is or may become applicable to this Agreement, the Stockholder Agreement, the Company Shares, the Offer, the Merger or any of the other Transactions, the Company and the Company Board shall grant such approvals and take such actions as are necessary so that such Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise act to eliminate or minimize the effects of such Takeover Law on this Agreement, the Stockholder Agreement, the Company Shares, the Offer, the Merger or such other Transactions.

7.9 Notification of Certain Matters. The Company shall give prompt notice to Parent, and Parent shall give prompt notice to the Company, of (a) the Company or Parent, as the case may be, becoming aware that any representation or warranty made by it in this Agreement is untrue or inaccurate in any material respect, (b) the occurrence, or non-occurrence, of any event, the occurrence, or non-occurrence, of which reasonably could be expected to cause any representation or warranty contained in this Agreement to be untrue or inaccurate in any material respect or cause any covenant, condition or agreement of the Company or Parent, as the case may be, under this Agreement not to be complied with or satisfied and (c) any failure of the Company, Parent or Purchaser, as the case may be, to comply with or satisfy any covenant or agreement to be complied with or satisfied by it hereunder; and the Company shall give prompt notice to Parent of any notice or other communication from any person alleging that the consent of such person is or may be required in connection with any of the Transactions; provided, that the delivery of any notice pursuant to this Section 7.9 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice.

7.10 Litigation. Each party hereto shall promptly notify the other parties of any action, suit, proceeding or investigation that shall be instituted or threatened against such party to restrain, prohibit or otherwise challenge the legality of or seek damages in connection with this Agreement or any Transaction. Each party hereto shall promptly notify the others of any action, suit, proceeding or investigation that may be threatened or asserted in writing, brought or commenced against the Company, any of the Company Subsidiaries, Purchaser or Parent, as the case may be, that would have been listed in Section 4.9 of the Disclosure Schedule or Section 5.6 of the Parent Disclosure Schedule, as the case may be, if such action, suit, proceeding or investigation had arisen prior to the date hereof. The Company shall give Parent the opportunity to participate at Parent's expense in the defense or settlement of any stockholder litigation or claims against the Company or any of its directors relating to the Offer or the Merger. The

Company shall not settle or make an offer to settle any litigation against the Company or any director by any stockholder relating to this Agreement, the Offer or the Merger without the prior written consent of Parent.

7.11 Consents and Approvals.

(a) The parties hereto shall cooperate with each other and, subject to the terms and conditions of this Agreement, each use its reasonable best efforts to promptly (x) prepare and file all necessary documentation and (y) effect all applications, notices, petitions and filings (including, to the extent necessary, any notification required by the HSR Act, as more specifically addressed in Section 7.12) and (y) obtain all permits, consents, approvals and authorizations of all third parties and Governmental Authorities that are necessary or advisable to consummate the Transactions. The Company shall also use its reasonable best efforts to obtain all consents required to be listed on Section 4.5(a) of the Disclosure Schedule. The parties hereto shall consult with each other with respect to the obtaining of all such permits, consents, approvals and authorizations, and each party will keep the other apprised of the status of matters relating to completion of the Transactions. Parent and the Company shall each, subject to the terms and conditions of this Agreement, use its reasonable best efforts to resolve any objections that may be asserted by any Governmental Authority with respect to this Agreement or the Transactions. Parent and the Company, with respect to any threatened or pending preliminary or permanent injunction or other order, decree or ruling or statute, rule, regulation or executive order that would adversely affect the ability of the parties hereto to consummate the transactions contemplated hereby, shall use reasonable best efforts to prevent the entry, enactment or promulgation thereof, as the case may be.

(b) Parent and the Company shall promptly advise each other upon receiving any communication from any Governmental Authority whose consent or approval is required for consummation of any of the Transactions relating to any such consent or approval.

7.12 HSR Act Filing and International Antitrust Notifications.

(a) As promptly as possible after the date of this Agreement, if required by any Law, each of Parent and the Company (i) shall file with the Federal Trade Commission (the "**FTC**") and the Antitrust Division of the U.S. Department of Justice (the "**Antitrust Division**") a pre-merger notification in accordance with the HSR Act with respect to the Offer and the Merger pursuant to this Agreement, and (ii) shall file an antitrust notification in any other jurisdiction if required by any Law. Each of Parent and the Company shall furnish promptly to the FTC, the Antitrust Division and any other requesting Governmental Authority any additional information requested by either of them pursuant to the HSR Act or any other antitrust notification in connection with such filings. To the extent permitted by Law, each of Parent and the Company shall consult and cooperate with one another, and consider in good faith the views of one another, in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any party hereto in connection with proceedings under or relating to the HSR Act or any foreign or other antitrust Law. Parent and the Company shall cooperate fully with each other in connection with the making of all such filings or responses.

(b) Notwithstanding anything to the contrary herein, nothing in this Agreement shall require Parent or any of its subsidiaries or affiliates to, and, except with the prior written consent of Parent, the Company shall not take any action to and shall not allow any of the Company Subsidiaries to, consent or proffer to divest, hold separate, or enter into any license or similar Contract with respect to, or agree to restrict the ownership or operation of, any business or assets of Parent, the Company or any of their respective subsidiaries. Notwithstanding anything to the contrary herein, in no event shall Parent or any of its subsidiaries or affiliates be obligated to litigate or participate in the litigation of any Action, whether judicial or administrative, brought by any Governmental Authority or appeal any order (i) challenging or seeking to make illegal, delaying materially or otherwise directly or indirectly restraining or prohibiting the consummation of the Offer or the Merger or seeking to obtain from Parent or any of its subsidiaries any damages in connection therewith, (ii) seeking to prohibit or limit in any respect, or place any conditions on, the ownership or operation by the Company, Parent or any of their respective affiliates of all or any portion of the business or assets of Parent or the Company or any of their respective subsidiaries or to require any such person to dispose of, license (whether pursuant to an exclusive or nonexclusive license) or hold separate all or any portion of the business or assets of Parent, the Company or any of their respective subsidiaries, in each case as a result of or in connection with the Offer or the Merger, (iii) seeking, directly or indirectly, to impose or confirm limitations on the ability of Parent or any of its affiliates to acquire or hold, or exercise full rights of ownership of, any Company Shares or any shares of capital stock of the Surviving Corporation on all matters properly presented to the stockholders of the Company or the Surviving Corporation, respectively, (iv) seeking to require divestiture by Parent, the Company or any of their respective subsidiaries of any Company Shares or any business or assets of the Company or the Company Subsidiaries or Parent or its subsidiaries, or (v) that would reasonably be expected to impede, interfere with, prevent or materially delay the Offer or the Merger or that would reasonably be expected to dilute materially the benefits to Parent of the Transactions.

7.13 Rule 16b-3. Prior to the Acceptance Date, (i) Parent shall take such actions as may be required to cause the transactions contemplated by Section 3.7 with respect to the assumption and conversion of any Company Stock Options or other convertible securities by each individual who is a director or officer of the Company to be exempt under Rule 16b-3 promulgated under the Exchange Act and (ii) the Company shall take such actions as may be required to cause the transactions contemplated by Section 3.7 and any other dispositions of equity securities of the Company by each individual who is a director or officer of the Company to be exempt under Rule 16b-3 promulgated under the Exchange Act.

7.14 Delisting. Each party hereto agrees to cooperate with the other party in taking, or causing to be taken, all actions necessary to (i) delist the Company Common Stock from the Nasdaq Stock Market LLC and (ii) to terminate the registration of the Company Common Stock under the Exchange Act; provided, that such delisting or termination shall not be effective until after the Effective Time.

7.15 Further Assurances. Each of the parties to this Agreement shall use its reasonable best efforts to effect the Transactions. Each party hereto, at the reasonable request of another party hereto, shall execute and deliver such other instruments and do and perform such other acts and things as may be necessary or desirable for effecting the consummation of this Agreement and the Transactions.

7.16 Public Announcements. No press release or public announcement, statement or disclosure concerning the Offer, the Merger or any other Transaction shall be issued by either party without the prior consent of the other party (which consent shall not be unreasonably withheld), except as such release or announcement may be required by Law, including the rules or regulations of any U.S. or non-U.S. securities exchange, in which case the party required to make the release or announcement shall use its reasonable efforts to allow the other party reasonable time to comment on such release or announcement in advance of such issuance.

7.17 Obligations of Purchaser. Parent shall take all action necessary to cause Purchaser to perform its obligations under this Agreement and to consummate the Offer and the Merger on the terms and conditions set forth in this Agreement.

7.18 Voting of Shares. Parent shall vote (or cause to be voted) all Company Shares beneficially owned by it or any of its Subsidiaries in favor of approval of the Merger at the Company Stockholder Meeting, unless the DGCL does not require a vote of stockholders of the Company for consummation of the Merger.

8. CONDITIONS TO THE MERGER

8.1 Conditions to the Merger. The obligations of each party to effect the Merger shall be subject to the satisfaction, at or prior to the Effective Time, of the following conditions:

(a) *Stockholder Approval*. This Agreement and the Transactions shall have been approved and adopted by the affirmative vote of the stockholders of the Company to the extent required by the DGCL and the Certificate of Incorporation of the Company;

(b) *No Order; Illegality*. No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal or regulatory restraint or prohibition preventing the consummation of the Merger shall be in effect; nor shall there be any statute, rule, regulation or order enacted, entered, enforced by any Governmental Authority that prevents or prohibits the consummation of the Merger. In the event an injunction or other order shall have been issued, each party agrees to use its reasonable to have such injunction or other order lifted; and

(c) *Offer*. Purchaser or its permitted assignee shall have purchased all Company Shares validly tendered and not withdrawn pursuant to the Offer**.**

9. TERMINATION

9.1 Termination. This Agreement may be terminated and the Offer and Merger may be abandoned at any time prior to (i) the Effective Time for Section 9.1(a), subject to the approval of the Independent Directors pursuant to Section 7.3(c), and Section 9.1(b)(ii), (ii) the Control Date for Section 9.1(b)(i), and Sections 9.1(c) through (f), notwithstanding any requisite approval and adoption of this Agreement and the Transactions by the stockholders of the Company:

(a) By mutual written consent of Parent and the Company; or

(b) By either Parent, Purchaser or the Company, if:

(i) if (x) the Offer shall have expired or been terminated without Parent or Purchaser having accepted for payment any Company Shares pursuant to the Offer or (y) the acceptance of Company Shares pursuant to the Offer shall not have occurred on or before October 31, 2009 (the "**Outside Date**"); provided, however, that the Outside Date shall be automatically extended to November 30, 2009 if none of the conditions or events set forth in Annex A hereto (other than Sections (i) and (ii)) shall have occurred and be continuing for such period of time necessary to permit the condition in Section (ii) of Annex A hereto to be satisfied; provided, further, that the Outside Date may be extended beyond November 30, 2009 at the option of Parent or Purchaser if none of the conditions or events set forth in Annex A hereto (other than Sections (i) and (ii)) shall have occurred and be continuing as of November 30, 2009 for such period of time necessary to permit the condition in Section (ii) of Annex A hereto to be satisfied, provided that any extension pursuant to this proviso shall not extend beyond January 29, 2010 (for all purposes under this Agreement the term "**Outside Date**" shall mean the latest time and date as this Agreement, as so extended, may expire pursuant to this Section 9.1(b)(i)); provided, further, that the right to terminate this Agreement under this Section 9.1(b)(i) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of such acceptance to occur on or before such date; or,

(ii) any Governmental Authority shall have enacted, issued, promulgated, enforced or entered any injunction, order, decree or ruling or other Law that (x) makes acceptance for payment of, or payment for, the Company Shares or consummation of the Merger illegal or otherwise prohibited, or (y) enjoins Purchaser from accepting for payment, or paying for, the Company Shares pursuant to the Offer or Parent and the Company from consummating the Merger and, in respect of an order, injunction, judgment, judicial decision, decree or ruling under clause (x) or (y) above, that shall have become final and non-appealable; or

(c) By either Parent or Purchaser, if there is an inaccuracy in the Company's representations herein, or a breach by the Company of its covenants herein, in either case such that Purchaser's related conditions to the consummation of the Offer as set forth in Annex A would fail to be satisfied, and such inaccuracy or breach is not cured within thirty (30) days after notice thereof; or

(d) By either Parent or Purchaser, if following the execution and delivery of this Agreement, there shall have occurred a Material Adverse Effect that is continuing (whether or not events or circumstances occurring prior to the execution and delivery of this Agreement caused or contributed to the occurrence of such Material Adverse Effect); or

(e) By either Parent or Purchaser, if any of the following shall have occurred: (i) the Company Board or any committee thereof shall have made a Change in Recommendation; (ii) the Company Board shall have failed to reconfirm the Company Board Recommendation within ten (10) business days after the commencement of a tender or exchange offer or public announcement or public notice of an Acquisition Proposal from a Third Party after written

request from Parent to do so; (iii) the Company shall have failed to include the Company Board Recommendation in the Schedule 14D-9 or to permit Parent to include the Company Board Recommendation in the Offer Documents; or (iv) the Company shall have materially breached any of the covenants set forth in Section 7.5; or

(f) By the Company in order to enter into an Acquisition Agreement with respect to a Superior Proposal in accordance with Section 7.5; provided, however, that with respect to a Superior Proposal that is an Equity Consideration Acquisition Proposal, the Company may only terminate this Agreement pursuant to this Section 9.1(f) to enter into such Acquisition Agreement beginning after the fifth business day following the occurrence of a Termination Trigger Date if the Acceptance Date has not previously occurred; provided, further, that in the event of any termination of this Agreement by the Company pursuant to this Section 9.1(f) the Company shall pay to Parent the Fee payable under Section 9.3(a)(iv) prior to such termination. Any purported termination pursuant to this Section 9.3(f) that is not in strict compliance with the requirements of this Section 9.1(f) shall be null and void and of no effect.

9.2 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 9.1, this Agreement shall forthwith become void, and there shall be no liability on the part of Parent, Purchaser, the Company or their respective officers, directors, stockholders, or affiliates; provided, that, (a) the provisions of Section 2.1(d) (Related to Continuation of the Offer Upon Termination of this Agreement), the last sentence of Section 2.2(c) (Regarding Certain Company Actions), Section 7.4(b) (Confidentiality), Section 7.16 (Public Announcements), Section 9.3 (Fees), Section 10 (General Provisions) and this Section 9.2 shall remain in full force and effect and survive any termination of this Agreement, and (b) such termination shall not relieve any party from liability for any fraud or willful breach of its representations or warranties or covenants hereunder. A termination of this Agreement shall not cause a termination of the Confidentiality Agreement or any other agreement between the parties.

9.3 Fees.

(a) In the event that this Agreement is terminated:

(i) by Parent, Purchaser or the Company pursuant to Section 9.1(b)(i) and (x) an Acquisition Proposal by a Third Party shall have been publicly announced after the date hereof and prior to such termination and (y) within 12 months after such termination the Company enters into a definitive agreement with respect to an Acquisition Proposal, or an Acquisition Proposal is consummated;

(ii) by Parent or Purchaser pursuant to Section 9.1(c) and (x) an Acquisition Proposal by a Third Party shall have been received by the Company after the date hereof and prior to such termination and (y) within 12 months after such termination the Company enters into a definitive agreement with respect to an Acquisition Proposal, or an Acquisition Proposal is consummated**;**

(iii) by Parent or Purchaser pursuant to Section 9.1(e); or

(iv) by the Company pursuant to Section 9.1(f);

then, in any such event, the Company shall pay Parent a fee of Thirty Million Dollars ($30,000,000) (the "**Fee**"), which amount shall be payable by wire transfer of immediately available funds. The Fee shall be paid (x) in the circumstances described in clause (i) or (ii) above, promptly (but in no event later than one (1) business day) following the first to occur of the entry into of such definitive agreement and consummation of such Acquisition Proposal, (y) in the circumstances described in clause (iii) above, promptly (but in no event later than one (1) business day) following termination, and (z) in the circumstances described in clause (iv) above, prior to and as a condition to the termination.

(b) Subject to Section 9.3(c), all costs and expenses incurred in connection with this Agreement, the Stockholder Agreement and the Transactions shall be paid by the party incurring such expenses, whether or not any Transaction is consummated.

(c) If this Agreement is terminated by Parent pursuant to Section 9.1(c) and neither Parent nor Purchaser is in material breach of their respective agreements contained in this Agreement or their respective representations and warranties contained in this Agreement, the Company shall, reimburse each of Parent and Purchaser and their affiliates for all out-of-pocket expenses and fees (including fees and expenses payable to all banks, investment banking firms, other financial institutions and other persons and their respective agents and counsel, for arranging, committing to provide or providing any financing for the Transactions or structuring the Transactions and all fees and expenses of counsel, accountants, experts and consultants to Parent and Purchaser, and all printing and advertising expenses) actually incurred or accrued by either of them or on their behalf in connection with the Transactions, including the financing thereof, and actually incurred or accrued by banks, investment banking firms, other financial institutions and other persons and assumed by Parent or Purchaser in connection with the negotiation, preparation, execution and performance of this Agreement, the structuring and financing of the Transactions and any financing commitments or agreements relating thereto in an amount not to exceed Four Million Dollars ($4,000,000) (all the foregoing being referred to herein collectively as the "**Expenses**"). The Expenses shall be paid by wire transfer of immediately available funds promptly following submission of statements therefor.

(d) Notwithstanding anything to the contrary in this Agreement, each of Parent and Purchaser acknowledges and agrees on behalf of itself and its affiliates that the Fee is not a penalty, but rather is liquidated damages in a reasonable amount that will compensate Parent and Purchaser in the circumstances in which the Fee is payable for the efforts and resources expended and opportunity forgone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated hereby, which amount would otherwise be impossible to calculate with precision. The Company acknowledges and hereby agrees that the provisions of this Section 9.3 are an integral part of the Transactions, and that, without such provisions, Parent would not have entered into this Agreement. Accordingly, if the Company shall fail to pay the Fee or the Expenses when due, the terms "**Fee**" and "**Expenses**", as applicable, shall be deemed to include the costs and expenses incurred or accrued by Parent and Purchaser (including fees and expenses of counsel) in connection with the collection under and enforcement of this Section 9.3, together with interest on such unpaid Fee and Expenses, commencing on the date that the Fee and Expenses became due, at a rate equal to the rate of interest publicly announced by Citibank, N.A from time to time, in the City of New York, as such bank's Base Rate plus 5%.

10. GENERAL PROVISIONS

10.1 No Survival of Representations and Warranties. The representations and warranties of the Company, Parent and Purchaser contained in this Agreement shall terminate at the Effective Time.

10.2 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given and shall be deemed to have been duly given if delivered personally (notice deemed given upon receipt), telecopied (notice deemed given upon confirmation of receipt), sent by a nationally recognized overnight courier service such as Federal Express (notice deemed given upon receipt of proof of delivery) or mailed by registered or certified mail, return receipt requested (notice deemed given upon receipt) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.2):

if to Parent or Purchaser:

Intel Corporation
22200 Mission College Blvd.
Santa Clara, California 95054
Facsimile No: (408) 765-6038
Attention: President, Intel Capital Corporation

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

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Facsimile No: (415) 268-7522
Attention: Robert Townsend, Esq.

if to the Company:

Wind River Systems, Inc.
500 Wind River Way
Alameda, California 94501
Facsimile No: 510-749-2010
Attention: Kenneth Klein

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

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304
Facsimile No: (650) 493-6811
Attention: Aaron Alter, Esq.
Robert T. Ishii, Esq.

10.3 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Transactions is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the Transactions be consummated as originally contemplated to the fullest extent possible.

10.4 Entire Agreement; Assignment. This Agreement, the Confidentiality Agreement and the Stockholder Agreement constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof. This Agreement shall not be assigned (whether pursuant to a merger, by operation of law or otherwise), except that Parent and Purchaser may assign all or any of their rights and obligations hereunder to any affiliate of Parent.

10.5 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, other than, (i) following the Acceptance Date, the rights of holders of Company Shares to receive payment for the Company Shares validly tendered and accepted for payment in the Offer or converted into cash pursuant to the Merger and the rights of holders of Company Stock Options and other convertible securities to receive payment pursuant to Section 3.7, and (ii) after the Effective Time, Section 7.7 (which is intended to be for the benefit of the persons covered thereby and may be enforced by such persons).

10.6 Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms hereof, in addition to any other remedy at law or equity.

10.7 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to contracts executed in and to be performed in that State. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined in any Delaware state or federal court thereof. The parties hereto hereby (a) submit to the exclusive jurisdiction of any state or federal court sitting in the State of Delaware for the purpose of any Action arising out of or relating to this Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the Transactions may not be enforced in or by any of the above-named courts.

10.8 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS. Each of the parties hereto (a) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce that foregoing waiver and (b) acknowledges that it and the other hereto have been induced to enter into this Agreement and the Transactions, as applicable, by, among other things, the mutual waivers and certifications in this Section 10.8.

10.9 General Interpretation.

(a) The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

(b) Unless otherwise indicated, all references herein to Sections, Articles, Annexes, Exhibits or Schedules shall be deemed to refer to Sections, Articles, Annexes, Exhibits or Schedules of or to this Agreement, as applicable.

(c) Unless otherwise indicated, the words "**include,**" "**includes**" and "**including,**" when used herein, shall be deemed in each case to be followed by the words "**without limitation**."

(d) When reference is made herein to a person, such reference shall be deemed to include all direct and indirect subsidiaries of such person unless otherwise indicated or the context otherwise requires.

(e) The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

(f) The phase "**made available to Parent**" when used herein, shall mean that true, correct and complete copies of the subject document were uploaded to the Data Room prior to the date of this Agreement or, in the case certain special documents, otherwise provided to Parent.

10.10 Amendment. Subject to Section 7.3, this Agreement may be amended by the parties hereto by action taken by or on behalf of their respective Boards of Directors at any time prior to the Effective Time; provided, that, after the approval and adoption of this Agreement and the Transactions by the stockholders of the Company, no amendment may be made that would reduce the amount or change the type of consideration into which each Company Share shall be converted upon consummation of the Merger. This Agreement may not be amended except by an instrument in writing signed by each of the parties hereto.

10.11 Waiver. Subject to Section 7.3, at any time prior to the Effective Time, any party hereto may (a) extend the time for the performance of any obligation or other act of any other party hereto, (b) waive any inaccuracy in the representations and warranties of any other party contained herein or in any document delivered pursuant hereto and (c) waive compliance with any agreement of any other party or any condition to its own obligations contained herein. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby.

10.12 Counterparts. This Agreement may be executed and delivered (including by facsimile or other form of electronic transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Parent, Purchaser and the Company have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

INTEL CORPORATION

By /s/ Arvind Sodhani
Name: Arvind Sodhani
Title: Executive Vice President
Intel Corporation and President
Intel Capital Corporation

Legal OK
6/4/09
/s/ Rose Deggendorf

APC II ACQUISITION CORPORATION

By /s/ Trina Van Pelt
Name: Trina Van Pelt
Title: Vice President

WIND RIVER SYSTEMS, INC.

By /s/ Kenneth R. Klein
Name: Kenneth R. Klein
Title: President and Chief Executive Officer

Conditions to the Offer

Notwithstanding any other provision of the Offer, and in addition to (and not in limitation of) Purchaser's right to extend or amend the Offer at any time (subject to the provisions of this Agreement), neither Parent nor Purchaser shall be required to accept for payment or pay for any Company Shares tendered pursuant to the Offer, and, only after complying with all obligations to extend the Offer pursuant to Section 2.1, may extend, terminate or amend the Offer, if:

(i) immediately prior to the expiration of the Offer, the Minimum Condition shall not have been satisfied (and such Minimum Condition shall not be waived or amended by Parent or Purchaser),

(ii) any applicable waiting period under the HSR Act shall not have expired or been terminated prior to the expiration of the Offer or any other required waiting periods, clearances, consents or approvals of any Governmental Authority that are set forth on Section 7.12 of the Disclosure Schedule or any other material consents or approvals of any Governmental Authority shall not have expired, been obtained or been terminated, as the case may, or

(iii) immediately prior to the expiration of the Offer, any of the following conditions shall exist:

(a) there shall have been instituted or be pending, or be threatened in writing, any Action (other than an inquiry or an investigation) by any Governmental Authority:

(i) challenging or seeking to make illegal, materially delay, or otherwise, directly or indirectly, restrain or prohibit, the acceptance for payment, payment for or purchase of any Company Shares by Parent or Purchaser, or the consummation of the Merger;

(ii) seeking to prohibit or limit the ownership or operation by the Company, Parent or any of their subsidiaries of all or any of the business or assets of the Company, Parent or any of their subsidiaries, or to compel the Company, Parent or any of their subsidiaries, to dispose of, license or to hold separate all or any portion of the business or assets of the Company, Parent or any of their subsidiaries, in any such case (individually or in the aggregate with all other such cases) in a manner that has or would reasonably be expected to have a materially detrimental effect on the Company or Parent or on the benefits expected to be derived by Parent from the Transactions;

(iii) seeking to impose or confirm any limitation on the ability of Parent, Purchaser or any other affiliate of Parent to acquire, hold or exercise effectively full rights of ownership of any Company Shares, including the right to vote any Company Shares acquired by Purchaser pursuant to the Offer or otherwise on all matters properly presented to the Company's stockholders;

(iv) seeking to require divestiture by Parent, Purchaser or any other affiliate of Parent of any Company Shares; or

(v) that otherwise (individually or in the aggregate with all other such Actions) would have a Material Adverse Effect;

(b) there shall have been any action taken, or any Law or interpretation enacted, entered, enforced, promulgated, amended, issued or deemed applicable to (i) Parent, the Company or any subsidiary or affiliate of Parent or the Company or (ii) the Offer or the Merger by any Governmental Authority, that is reasonably likely to result, directly or indirectly, in any of the consequences referred to in paragraph (a) above;

(c) any Material Adverse Effect shall have occurred and be continuing;

(d)(i) any representation or warranty of the Company set forth in this Agreement (other than in Section 4.3, Section 4.4, Section 4.7(b), the third sentence of Section 4.10(h), Section 4.19, Section 4.20 and Section 4.24) shall not be true and correct (without giving effect to any qualification as to "materiality" or "Material Adverse Effect" set forth therein) as of the date of this Agreement and as of immediately prior to the expiration of the Offer as though made on or as of such date, except, in each case, (A) those representations and warranties that address matters only as of a particular date or only with respect to a specified period of time, that need only be true and correct as of such date or with respect to such period, or (B) where the failure of such representations and warranties to be true and correct, individually or in the aggregate, has not had and would not have a Material Adverse Effect, (ii) any representation or warranty of the Company set forth in Section 4.4, the third sentence of Section 4.10(h), Section 4.19, Section 4.20 and Section 4.24 shall not be true and correct (in all material respects) as of the date of this Agreement and as of immediately prior to the expiration of the Offer as though made on or as of such date except, in each case, those representations and warranties that address matters only as of a particular date or only with respect to a specified period of time, that need only be true and correct as of such date or with respect to such period (iii) any representation or warranty of the Company set forth in Section 4.7(b) shall not be true and correct in a manner resulting in a restatement of any of the Company Financial Reports, the basis of which restatement would be reasonably likely to result in a material diminution in value of the Company for Parent as of immediately prior to the expiration of the Offer, or (iv) any representation or warranty of the Company set forth in Section 4.3 shall not be true and correct in a manner that could result in Parent or Purchaser becoming obligated under the terms of this Agreement to pay consideration for or assume an aggregate of 250,000 or more Company Shares, Company Options, Company RSUs or any other securities of the Company more than the number of Company Shares, Company Options, Company RSUs or any other securities of the Company contemplated by Section 4.3 to be purchased or assumed by Purchaser or Parent pursuant to the Offer and the Merger as of the date of this Agreement and as of immediately prior to the expiration of the Offer as though made on or as of such date, except, in each case, those representations and warranties that address matters only as of a particular date or only with respect to a specified period of time, that need only be true and correct as of such date or with respect to such period;

(e) the Company shall have failed to comply with or perform in any material respect any covenant, obligation or agreement of the Company under this Agreement;

(f) the Company shall not have furnished Parent with a certificate dated as of the date of determination signed on its behalf by the chief executive officer and chief financial officer of the Company to the effect that the conditions set forth in clauses (c), (d) and (e) of this Annex A shall not have occurred;

(g) the Agreement shall have been terminated in accordance with its terms; or

(h) the closing price of the Standard & Poor's 500 Stock Index, as reported in the Wall Street Journal, shall be below 737 each trading day during the Applicable Lookback Period.

The foregoing conditions are for the sole benefit of Purchaser and Parent and may be asserted by Purchaser or Parent regardless of the circumstances giving rise to any such condition or may be waived by Purchaser or Parent in whole or in part at any time and from time to time in their sole discretion, provided, that the Minimum Condition may not be waived to reduce the maximum shares sought to be purchased in the Offer. The failure by Parent or Purchaser at any time to exercise any of the foregoing rights shall not be deemed a waiver of any such right; the waiver of any such right with respect to particular facts and other circumstances shall not be deemed a waiver with respect to any other facts and circumstances; and each such right shall be deemed an ongoing right that may be asserted at any time and from time to time.

Exhibit (d)(2)

TENDER AND SUPPORT AGREEMENT

TENDER AND SUPPORT AGREEMENT (this "**Agreement**") dated as of June 4, 2009 between Intel Corporation, a Delaware corporation ("**Parent**"), APC II Acquisition Corporation, a Delaware corporation and wholly-owned subsidiary of Parent ("**Purchaser**"), and certain stockholders of Wind River Systems, Inc., a Delaware corporation (the "**Company**"), listed on Annex I (each, a "**Stockholder**"), each an owner of Company Shares.

RECITALS

WHEREAS, as of the date hereof, each Stockholder on Annex I is the holder of the number of Company Shares set forth opposite such Stockholder's name (all such directly owned Company Shares that are outstanding as of the date hereof, together with any Company Shares that are hereafter issued to or otherwise acquired or owned by any Stockholder prior to the termination of this Agreement (including pursuant to any exercise of Company Stock Options, acquisition by purchase, or stock dividend, distribution, split-up, recapitalization, combination or similar transaction, the "**Subject Shares**"));

WHEREAS, as a condition to their willingness to enter into the Agreement and Plan of Merger (the "**Merger Agreement**") dated as of the date hereof among Parent, Purchaser and the Company, Parent and Purchaser have required that each Stockholder, and in order to induce Parent and Purchaser to enter into the Merger Agreement each Stockholder has agreed to, enter into this Agreement; and

WHEREAS, capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Merger Agreement, and the other definitional and interpretative provisions set forth in Section 1.1 of the Merger Agreement shall apply hereto as if such provisions were set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth below, the parties hereto agree as follows:

ARTICLE 1
AGREEMENT TO TENDER

Section 1.1. *Agreement to Tender*. (a) Each Stockholder shall validly tender or cause to be tendered in the Offer all of such Stockholder's Subject Shares pursuant to and in accordance with the terms of the Offer. As promptly as practicable after receipt by such Stockholder of all documents or instruments

required to be delivered pursuant to the terms of the Offer, including but not limited to the letter of transmittal, each Stockholder shall (i) deliver to the depositary designated in the Offer (the "**Depositary**") (A) a letter of transmittal with respect to its Subject Shares complying with the terms of the Offer, (B) a certificate or certificates representing such Subject Shares or an "agent's message" (or such other evidence, if any, of transfer as the Depositary may reasonably request) in the case of a book-entry transfer of any uncertificated Subject Shares and (C) all other documents or instruments required to be delivered by other stockholders of the Company pursuant to the terms of the Offer, and/or (ii) instruct its broker or such other person that is the holder of record of any Subject Shares beneficially owned by such Stockholder to tender such Subject Shares pursuant to and in accordance with the terms of the Offer. Each Stockholder agrees that once its Subject Shares are tendered such Stockholder will not withdraw any of such Subject Shares from the Offer, unless and until this Agreement shall have been terminated in accordance with Section 5.3.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES OF THE STOCKHOLDERS

Each Stockholder represents and warrants to Parent and Purchaser as to itself, severally and not jointly, that:

Section 2.1. *Authorization; Binding Agreement.* If such Stockholder is not a natural person, such Stockholder is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and the execution, delivery and performance by such Stockholder of this Agreement and the consummation of the transactions contemplated hereby are within such Stockholder's corporate or organizational powers and have been duly authorized by all necessary corporate or organizational actions on the part of such Stockholder. If such Stockholder is a natural person, the execution, delivery and performance by such Stockholder of this Agreement and the consummation of the transactions contemplated hereby are within his or her legal capacity and requisite powers, and if this Agreement is being executed in a representative or fiduciary capacity, the person signing this Agreement has full power and authority to execute, deliver and perform this Agreement. This Agreement constitutes a valid and binding agreement of such Stockholder enforceable against such Stockholder in accordance with its terms, except (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar applicable Law, now or hereafter in effect, affecting creditors' rights generally and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

Section 2.2. *Non-Contravention.* The execution, delivery and performance by such Stockholder of this Agreement and the consummation of the transactions contemplated hereby do not and will not (i) violate any certificate of incorporation, bylaws or other organizational documents of such Stockholder, (ii) violate any applicable Law applicable to such Stockholder, (iii) require any consent or other action by any person under, constitute a default under, or give rise to any right of termination, cancellation or acceleration or to a loss of any benefit to which such Stockholder is entitled under any provision of any material agreement or material permit binding on such Stockholder or (iv) result in the imposition of any Lien on any asset of such Stockholder, in the case of each of clauses (ii) through (iv) such as, individually or in the aggregate, would not prevent or materially delay such Stockholder's ability to perform its obligations hereunder. No governmental licenses, authorizations, permits, consents or approvals are required in connection with the execution and delivery of this Agreement by such Stockholder or the consummation by such Stockholder of the transactions contemplated hereby, except for applicable requirements, if any, under the Exchange Act and any other applicable U.S. state or federal securities laws and for such licenses, authorizations, permits, consents or approvals the absence of which, individually or in the aggregate, would not prevent or materially delay such Stockholder's ability to perform its obligations hereunder.

Section 2.3. *Ownership of Subject Shares; Total Shares.* Such Stockholder is the record or beneficial owner of its Subject Shares and, as of the date of Purchaser's acceptance of the Tender Shares in the Offer, such Subject Shares will be free and clear of any Lien and any other limitation or restriction (including any restriction on the right to vote or otherwise transfer such Subject Shares), except as provided hereunder or pursuant to any applicable restrictions on transfer under the Securities Act. As of the date hereof, such Stockholder does not own, beneficially or otherwise, any Company Securities other than (x) as set forth opposite such Stockholder's name in Annex I and (y) the Company Stock Options, Company Restricted Stock, and Company RSUs set forth opposite such Stockholder's name on Section 4.3(e) of the Disclosure Schedule.

Section 2.4. *Voting Power.* Such Stockholder has full voting power, with respect to its Subject Shares, and full power of disposition, full power to issue instructions with respect to the matters set forth herein, and full power to agree to all of the matters set forth in this Agreement, in each case with respect to all of its Subject Shares. None of such Stockholder's Subject Shares are subject to any voting trust or other agreement or arrangement with respect to the voting of such shares, except as provided hereunder.

Section 2.5. *Finder's Fees.* Except as provided in the Merger Agreement, no investment banker, broker, finder or other intermediary is entitled to a fee or commission from the Company or any of its Subsidiaries in connection with the transactions contemplated by the Merger Agreement or this Agreement based solely upon any arrangement or agreement made by or on behalf of such Stockholder.

Section 2.6. *Reliance by Parent.* Such Stockholder understands and acknowledges that Parent is entering into the Merger Agreement in reliance upon such Stockholder's execution and delivery of this Agreement.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF PARENT AND PURCHASER

Each of Parent and Purchaser hereby, jointly and severally, represents and warrants to the Stockholders as follows:

Section 3.1 *Authorization; Binding Agreement*. Each of Parent and Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and the execution, delivery and performance by Parent and Purchaser of this Agreement and the consummation of the transactions contemplated hereby are within Parent's and Purchaser's corporate powers and have been duly authorized by all necessary corporate actions on the part of Parent and Purchaser. This Agreement constitutes a valid and binding agreement of Parent and Purchaser enforceable against Parent and Purchase in accordance with its terms, except (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar applicable Law, now or hereafter in effect, affecting creditors' rights generally and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

Section 3.2 *Non-Contravention*. The execution, delivery and performance by Parent and Purchaser of this Agreement and the consummation of the transactions contemplated hereby do not and will not (i) violate any certificate of incorporation, bylaws or other organizational documents of Parent or Purchaser, (ii) violate any applicable Law applicable to Parent or Purchaser, (iii) require any consent or other action by any person under, constitute a default under, or give rise to any right of termination, cancellation or acceleration or to a loss of any benefit to which Parent or Purchaser are entitled under any provision of any material agreement or material permit binding on Parent or Purchaser or (iv) result in the imposition of any Lien on any asset of Parent or Purchaser, in the case of each of clauses (ii) through (iv) such as, individually or in the aggregate, would not prevent or materially delay Parent's or Purchaser's ability to perform its obligations hereunder. No governmental licenses, authorizations, permits, consents or approvals are required in connection with the execution and delivery of this Agreement by Parent and Purchaser or the consummation by Parent and Purchaser of the transactions contemplated hereby, except for applicable

requirements, if any, under the Exchange Act and any other applicable U.S. state or federal securities laws and for such licenses, authorizations, permits, consents or approvals the absence of which, individually or in the aggregate, would not prevent or materially delay Parent's or Purchaser's ability to perform its obligations hereunder

ARTICLE 4
ADDITIONAL COVENANTS OF THE STOCKHOLDERS

Subject to Section 5.14, each Stockholder hereby covenants and agrees as to itself, severally and not jointly, that:

Section 4.1. *Voting of Subject Shares*. (a) At every meeting of the stockholders of the Company called, and at every adjournment or postponement thereof, such Stockholder shall, or shall cause the holder of record on any applicable record date to, vote its Subject Shares (to the extent that any of such Stockholder's Subject Shares are not purchased in the Offer) (i) in favor of the adoption of the Merger Agreement and the transactions contemplated thereby, (ii) against (A) any agreement or arrangement related to any Acquisition Proposal, (B) any liquidation, dissolution, recapitalization, extraordinary dividend or other significant corporate reorganization of the Company or any Company Subsidiary or (C) any other transaction the consummation of which would reasonably be expected to impede, interfere with, prevent or materially delay the Offer or the Merger and (iii) in favor of any other matter necessary for consummation of the transactions contemplated by the Merger Agreement, which is considered at any such meeting of stockholders, and in connection therewith to execute any documents reasonably requested by Parent which are necessary or appropriate in order to effectuate the foregoing.

Section 4.2. *Irrevocable Proxy.* In order to secure the performance of such Stockholder's obligations under this Agreement, by entering into this Agreement, such Stockholder hereby irrevocably grants a proxy appointing each executive officer of Purchaser as such Stockholder's attorney-in-fact and proxy, with full power of substitution, for and in its name, to vote, express consent or dissent, or otherwise to utilize such voting power in the manner contemplated by Section 4.1. The proxy granted by such Stockholder pursuant to this Section 4.2 shall be revoked automatically, without any notice or other action by any person, upon termination of this Agreement in accordance with its terms. Such Stockholder hereby revokes any and all previous proxies granted with respect to its Subject Shares.

Section 4.3. *No Transfers; No Inconsistent Arrangements.* (a) Except as provided hereunder or under the Merger Agreement, such Stockholder shall not, directly or indirectly, (i) transfer (which term shall include any sale, assignment, gift, pledge, hypothecation or other disposition), or consent to or permit any such

transfer of, any or all of its Subject Shares, or any interest therein, or create or permit to exist any Lien, other than any restrictions imposed by applicable Law or pursuant to this Agreement, on any such Subject Shares, other than a transfer to a charitable organization or a trust for the benefit of the Stockholder or relatives thereof where such charitable organization or trustee of such trust has agreed in writing with the Parent to be bound by the terms and conditions of this Agreement prior to such transfer, (ii) enter into any Contract with respect to any transfer of such Subject Shares or any interest therein, (iii) grant or permit the grant of any proxy, power of attorney or other authorization in or with respect to such Subject Shares, (iv) deposit or permit the deposit of such Subject Shares into a voting trust or enter into a voting agreement or arrangement with respect to such Subject Shares or (v) take or permit any other action that would in any way restrict, limit or interfere with the performance of its obligations hereunder or the transactions contemplated hereby or otherwise make any representation or warranty of each Stockholder herein untrue or incorrect.

(b) Any attempted transfer of Subject Shares, or any interest therein, in violation of this Section 4.3 shall be null and void. In furtherance of this Agreement, such Stockholder shall and hereby does authorize the Company to notify the Company's transfer agent that there is a stop transfer restriction with respect to all of its Subject Shares (and that this Agreement places limits on the voting and transfer of its Subject Shares); provided that any such stop transfer restriction shall terminate automatically, without any notice or other action by any person, upon the termination of this Agreement in accordance with Section 5.3 and, upon such event, Parent and the Company shall promptly notify the Company's transfer agent of such termination.

Section 4.4 *No Exercise of Appraisal Rights.* Such Stockholder agrees not to exercise any appraisal rights or dissenter's rights in respect of its Subject Shares which may arise with respect to the Merger.

Section 4.5. *Legends.* If so requested by Parent, such Stockholder agrees that its Subject Shares shall bear a legend stating that they are subject to this Agreement; *provided* that the Company shall remove such legend upon the Termination Date.

Section 4.6. *Documentation and Information.* Such Stockholder (i) subject to reasonable prior notice to such Stockholder, consents to and authorizes the publication and disclosure by Parent of its identity and holding of Subject Shares, the nature of its commitments and obligations under this Agreement (including, for the avoidance of doubt, the disclosure of this Agreement) and any other information, in each case, that Parent reasonably determines is required to be disclosed by applicable Law in any press release, the Offer Documents, or any other disclosure document in connection with the Offer, the Merger and any transactions contemplated by the Merger Agreement and (ii) agrees promptly to give to Parent any information it may reasonably require for the preparation of

any such disclosure documents. Such Stockholder agrees to promptly notify Parent of any required corrections with respect to any written information supplied by it specifically for use in any such disclosure document, if and to the extent that any shall have become false or misleading in any material respect.

ARTICLE 5
MISCELLANEOUS

Section 5.1. *Notices.* All notices, requests and other communications to any party hereunder shall be in writing (including facsimile transmission) and shall be given,

if to Parent or Purchaser:

Intel Corporation
2200 Mission College Blvd.
Santa Clara, California 95054
Facsimile No: (408) 765-6038
Attention: President, Intel Capital Corporation

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

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Facsimile No: (415) 268-7522
Attention: Robert Townsend, Esq.

if to any Stockholder, to it at that address specified on Schedule A, with copies to the persons identified therein,

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

Wind River Systems, Inc.
500 Wind River Way
Alameda, California 94501
Facsimile No: 510-749-2010
Attention: Kenneth Klein

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

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304
Facsimile No: (650) 493-6811
Attention: Aaron Alter, Esq.
Robert T. Ishii, Esq.

or to such other address or facsimile number as such party may hereafter specify for the purpose by notice to each other party hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. on a business day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed to have been received on the next succeeding business day in the place of receipt.

Section 5.2. *Further Assurances.* (a) Each Stockholder shall, from time to time, execute and deliver, or cause to be executed and delivered, such additional or further transfers, assignments, endorsements and other instruments as Parent or Purchaser may reasonably request to carry out the transactions expressly set forth in this Agreement.

(b) Parent and Purchaser shall, from time to time, execute and deliver, or cause to be executed and delivered, such additional or further consents and other instruments as any other party may reasonably request to carry out the transactions contemplated by this Agreement.

Section 5.3. *Termination.* This Agreement shall terminate automatically, without any notice or other action by any person, upon the later of (i) the termination of the Merger Agreement in accordance with its terms and (ii) the termination of the Offer by Parent. Notwithstanding the foregoing, nothing set forth in this Section 5.3 or elsewhere in this Agreement shall relieve either party hereto from liability, or otherwise limit the liability of either party hereto, for any breach of this Agreement.

Section 5.4. *Amendments and Waivers.* (a) Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

(b) No failure or delay by any party 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 thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by applicable Law.

Section 5.5. *Expenses.* Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement shall be paid by the party incurring such cost or expense.

Section 5.6. *Binding Effect; Benefit; Assignment.* (a) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. No provision of this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any person other than the parties hereto and their respective successors and assigns.

(b) No party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of each other party hereto, except that each of Parent and Purchaser may transfer or assign its rights and obligations under this Agreement, in whole or from time to time in part, to one or more direct or indirect wholly owned subsidiaries of Parent at any time; provided that such transfer or assignment shall not relieve Parent or Purchaser of any of its obligations hereunder.

Section 5.7. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such State.

Section 5.8. *Jurisdiction.* The parties hereto agree that any action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in any federal court located in the State of Delaware or any Delaware state court, and each of the parties hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 5.1 shall be deemed effective service of process on such party.

Section 5.9. *Waiver of Jury Trial.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 5.10. *Counterparts; Effectiveness.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by all of the other parties hereto. Until and

unless each party has received a counterpart hereof signed by each other party hereto, this Agreement shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication).

Section 5.11. *Entire Agreement.* This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to its subject matter.

Section 5.12. *Severability.* If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other Governmental Authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 5.13. *Specific Performance.* The parties hereto agree that each of Parent and Purchaser would be irreparably damaged if for any reason any Stockholder fails to perform any of its obligations under this Agreement, and that each of Parent and Purchaser would not have an adequate remedy at law for money damages in such event. Accordingly, each of Parent and Purchaser shall be entitled to specific performance and injunctive and other equitable relief to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof in any federal court located in the State of Delaware or any Delaware state court, in addition to any other remedy to which they are entitled at law or in equity.

Section 5.14. *Stockholder Capacity.* Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall (or shall require any Stockholder to attempt to) limit, restrict or otherwise affect any Stockholder who is a director or officer of the Company or any of its Subsidiaries from acting in such capacity (it being understood that this Agreement shall apply to each Stockholder solely in each Stockholder's capacity as a holder of the Subject Shares) or from fulfilling the obligations and responsibilities of such office (including the performance of obligations required by the fiduciary obligations and responsibilities under applicable Law of such Stockholder acting solely in his or her capacity as a director or officer).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

Intel Corporation

Legal O.K.
6/04/09
/s/ Rose Deggendorf

By: /s/ Arvind Sodhani
Name: Arvind Sodhani
Title: Executive Vice President
Intel Corporation and President,
Intel Capital Corporation

APC II Acquisition Corporation

By /s/ Trina Van Pelt
Name: Trina Van Pelt
Title: Vice President

[Signature Page to Tender and Support Agreement]

STOCKHOLDERS

JERRY FIDDLER

/s/ Jerry Fiddler

FIDDLER AND ALDEN FAMILY TRUST

By: /s/ Jerry Fiddler, TTE
Jerry Fiddler, Trustee

JAZEN I FAMILY PARTNERS LP – FUND 5

By: /s/ Jerry Fiddler, GP
Jerry Fiddler, General Partner

JAZEN II FAMILY PARTNERS LP – FUND 5

By: /s/ Jerry Fiddler, GP
Jerry Fiddler, General Partner

JAZEN III FAMILY PARTNERS LP – FUND 5

By: /s/ Jerry Fiddler, GP
Jerry Fiddler, General Partner

JAZEN IV FAMILY PARTNERS LP – FUND 5

By: /s/ Jerry Fiddler, GP
Jerry Fiddler, General Partner

[Signature Page to Tender and Support Agreement]

STOCKHOLDERS

NARENDRA GUPTA

/s/ Narendra Gupta

NARENDRA AND VINITA GUPTA
LIVING TRUST DATED 12/2/94

By: /s/ Narendra Gupta
Narendra Gupta, Trustee

GUPTA IRREVOCABLE CHILDREN TRUST

By: /s/ Narendra Gupta
Narendra Gupta, Trustee

[Signature Page to Tender and Support Agreement]

STOCKHOLDERS

KENNETH KLEIN

/s/ Kenneth Klein

[Signature Page to Tender and Support Agreement]

ANNEX I

Stockholder	Subject Shares
Jerry Fiddler (1)	2,035
Fiddler and Alden Family Trust	2,442,554
Jazen I Family Partners LP – Fund 5	276,563
Jazen II Family Partners LP – Fund 5	508,125
Jazen III Family Partners LP – Fund 5	247,953
Jazen IV Family Partners LP – Fund 5	276,563
Narendra Gupta (2)	563
Narendra and Vinita Gupta Living Trust dated 12/2/94	3,483,236
Gupta Irrevocable Children Trust	920,000
Kenneth Klein (3)	173,644

(1) Includes shares held in Mr. Fiddler's 401(k) plan account.
(2) Includes shares held in Mr. Gupta's ESPP and 401(k) plan accounts.
(3) Includes shares held by Mr. Klein and held in his 401(k) plan account.

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement (the "Agreement"), dated June 4, 2009 (the "Agreement Date"), is entered into by and among Wind River Systems, Inc., a Delaware corporation (the "Company"), Intel Corporation, a Delaware corporation ("Parent"), and Kenneth R. Klein ("Executive") (collectively, the "parties").

RECITALS

WHEREAS, pursuant to the Agreement and Plan of Merger (the "Merger Agreement"), dated June 4, 2009 among Parent, APC II Acquisition Corporation, a Delaware corporation and a wholly owned subsidiary of Parent ("Merger Sub"), and the Company, Merger Sub shall be merged with and into the Company, and the Company shall continue as the surviving corporation and a wholly owned subsidiary of Parent (the "Transaction");

WHEREAS, the parties wish to provide for Executive's employment with Company following the Transaction;

WHEREAS, as a condition and material inducement for Parent to enter into the Merger Agreement and consummate the Transaction, Executive is entering into this Agreement concurrently with the execution of the Merger Agreement;

WHEREAS, subject to Executive's prior completion of a background check to Parent's satisfaction, this Agreement shall become effective upon the Acceptance Date, as defined in the Merger Agreement (the "Effective Date"); and

WHEREAS, the Company and Executive have entered into that certain Employment Agreement, originally dated November 5, 2003, as amended through January 30, 2009 (the "Prior Employment Agreement"), which, effective as of the Effective Date, shall be terminated and replaced in its entirety by this Agreement. This Agreement shall govern the employment relationship between Executive and the Company from and after the Effective Date and supersedes and negates all previous agreements with respect to such relationship, including, without limitation, the Prior Employment Agreement.

NOW, THEREFORE, in consideration of the covenants, promises and representations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. POSITION AND RESPONSIBILITIES

A. Position. As of the Effective Date, Executive shall be employed by the Company for the Period of Employment (as defined in Section I.D) to render services to the Company in the position of President of the Company (a subsidiary of Parent), reporting to the Software Group of Parent. During the Period of Employment, Executive shall perform such duties and responsibilities of the subsidiary operations as are normally related to such position in accordance with the standards of the industry and any additional duties commensurate with such position now or hereafter assigned to Executive by the Company or Parent. Executive shall abide

by the verbal or written directions of Executive's direct supervisor at Parent and the written rules, regulations, and practices as adopted or modified from time to time in the Company's sole discretion that have been made available to Executive.

B. Other Activities. Except upon the prior written consent of the Company, Executive will not, during the term of this Agreement, (i) accept any other employment, or (ii) engage, directly or indirectly, in any other business activity (whether or not pursued for pecuniary advantage) that might interfere with Executive's duties and responsibilities hereunder or create a conflict of interest with the Company; provided, however, that Executive may also serve in any capacity with any civic, educational or charitable organization. Executive's service on the boards of directors (or similar body) of other business entities is subject to Parent policy and, accordingly, is subject to the approval of Parent; provided, however, that Executive shall be permitted to remain a member of the board of directors (and committees thereof) of Amberpoint and Big Fix (where Executive is lead director), subject to the successful conclusion of Parent's conflict of interest review. The Company shall have the right to require Executive to resign from any board or similar body which he may then serve if the Company or Parent reasonably determines in writing that Executive's service on such board or body interferes with the effective discharge of Executive's duties and responsibilities to the Company or that any business related to such service is then in competition with any business of the Company or any of its affiliates, successors or assigns.

C. No Conflict. Executive represents and warrants that Executive's execution of this Agreement, employment with the Company, and the performance of Executive's proposed duties under this Agreement shall not violate any obligations Executive may have to any other employer, person or entity, including any obligations with respect to proprietary or confidential information of any other person or entity.

D. Period of Employment. Provided this Agreement becomes effective, the "Period of Employment" shall be a period of two (2) years commencing on the Effective Date and ending at the close of business on the second (2nd) anniversary of the Effective Date. Notwithstanding the foregoing, the Period of Employment is subject to earlier termination as provided below in this Agreement.

II. COMPENSATION AND BENEFITS

A. Base Salary. In consideration of the services to be rendered under this Agreement, during the Period of Employment, the Company shall pay Executive a salary at the rate of five hundred thousand Dollars ($500,000) per year ("Base Salary"). The Base Salary shall be paid in accordance with the Company's regularly established payroll practice. During the Period of Employment, Executive's Base Salary will be reviewed from time to time in accordance with the established procedures of the Company or Parent for increasing salaries for similarly situated employees and may be increased, but not decreased, in the sole discretion of Parent.

B. Bonus. During the Period of Employment, Executive shall be eligible to receive an annual incentive bonus (the "Bonus"). The annual target amount of the Bonus shall be

$500,000, subject to a minimum amount of $185,000, which latter amount shall be paid quarterly in four (4) equal installments. The amount of the Bonus paid shall be determined by Executive's supervisors in their sole discretion, based on performance objectives established for the Company in consultation with Executive for the relevant period. Any amount of the Bonus that is not paid quarterly as provided above will be paid no later than two and one-half (2-1/2) months following the first and second anniversary of the Effective Date, respectively.

C. Benefits. During the Period of Employment, Executive shall be eligible to participate in the benefits made generally available by the Company to similarly-situated executives, in accordance with the benefit plans established by the Company, and as may be amended from time to time in Parent's sole discretion.

D. Expenses. The Company shall reimburse Executive for reasonable business expenses incurred in the performance of Executive's duties hereunder in accordance with the Company's expense reimbursement guidelines.

E. Prior Plans. Prior to the Effective Date, Executive was a participant in the Company's Executive Officers' Change of Control Incentive and Severance Benefit Plan (the "CIC Plan"), and was eligible for participation in the Company's Vice Presidents' Severance Benefit Plan (the "Severance Plan"). Effective as of immediately prior to the Effective Date, Executive shall no longer be eligible to participate in the CIC Plan or the Severance Plan.

F. Equity Awards.

1. If Executive holds any outstanding Equity Awards at the Effective Date, the vesting schedule for such outstanding Equity Awards, other than the Performance Shares (as defined in Section II.G.), to the extent not already vested, shall be accelerated by a period of two (2) years, and shall thereafter continue vesting at the same rate as immediately prior to the Effective Date, subject to Executive's continuous service with the Company.

2. As used herein, **"**Equity Awards**"** shall mean all incentive or non-statutory stock options, restricted stock, restricted stock units, stock appreciation rights, performance shares, performance units, deferred stock units, or other equity or equity award granted to Executive pursuant to an equity incentive plan of the Company and which were outstanding on the Effective Date.

G. Performance Shares. Pursuant to the Notice and Grant of Performance Shares, dated March 20, 2009 (the "Performance Share Award Agreement"), Executive was previously awarded 200,000 Company Performance Shares (the "Performance Shares"). Executive hereby agrees that, effective as of the Effective Date, the vesting conditions applicable to the Performance Shares shall be as set forth in Appendix A, which shall supersede the vesting terms of the Performance Share Award Agreement in their entirety.

III. AT-WILL EMPLOYMENT; TERMINATION OF EMPLOYMENT

A. At-Will Termination by Company. Executive's employment with the Company shall be "at-will" at all times. The Company may terminate Executive's employment with the

Company at any time, without any advance notice, for any reason or no reason at all, notwithstanding anything to the contrary contained in or arising from any statements, policies or practices of the Company relating to the employment, discipline or termination of its employees. Upon and after such termination, all obligations of the Company under this Agreement shall cease, except as otherwise provided herein.

B. Termination by the Company or by Death. Executive's employment by the Company, and the Period of Employment, may be terminated at any time by the Company: (i) with Cause (as defined in Section III.F), (ii) without Cause, or (iii) in the event that the Company determines in good faith that Executive has a Disability (as defined in Section III.F). Executive's employment, and the Period of Employment, shall terminate automatically upon Executive's death.

C. Termination by Executive. Executive's employment by the Company, and the Period of Employment, may be terminated by Executive with no less than thirty (30) days advance notice to the Company.

D. Benefits upon Termination. If Executive's employment by the Company is terminated during the Period of Employment for any reason by the Company or by Executive, or upon or following the expiration of the Period of Employment (in any case, the date that Executive's employment by the Company terminates is referred to as the "Severance Date"), the Company shall have no further obligation to make or provide to Executive, and Executive shall have no further right to receive or obtain from the Company, any payments or benefits except as follows:

1. The Company shall pay Executive (or, in the event of his death, Executive's estate) any Accrued Obligations (as defined in Section III.F);

2. If, during the Period of Employment, Executive's employment with the Company terminates as a result of an Involuntary Termination or is terminated voluntarily by Executive for Good Reason (both as defined herein), Executive shall be entitled to the following benefits:

a. The Company shall pay Executive (in addition to the Accrued Obligations), subject to tax withholding and other authorized deductions, an amount equal to the sum of (i) an amount equal to the base salary actually paid to Executive for the eighteen month period prior to the Severance Date (which amount shall not be less than $750,000), (ii) the difference between (x) one hundred fifty percent (150%) of the target Bonus for the fiscal year in which the termination occurs and (y) any amount of the Bonus already received by Executive during the fiscal year in which the termination occurs on account of such fiscal year (e.g., quarterly bonus amounts already paid), and (iii) an amount equal to the actual Bonus paid for the fiscal year prior to the fiscal year in which the termination occurs, pro-rated according to the number of months Executive is employed by the Company during the year in which the termination occurs, including in the numerator the month in which the termination occurs.

b. Any Equity Awards outstanding on the Severance Date shall become fully vested and exercisable as of the Severance Date.

c. The Company shall continue to make available to Executive, to the extent required under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") or similar state law, group health insurance coverage. If Executive timely elects continuation of such coverage, the Company will reimburse Executive for the total applicable premium cost paid for medical, dental and vision coverage under COBRA for a period of eighteen (18) months following the Severance Date. Such reimbursement shall be made within thirty (30) days of the premium payment.

d. If such termination of employment occurs prior to the First Retention Date (as defined in Section III.G.1), Executive shall be entitled to receive the First Retention Bonus (as defined in Section III.G.1), determined based on the actual achievement of the applicable performance goals through the First Retention Date, pro-rated by multiplying such amount by a fraction, the numerator of which is the number of full months of Executive's employment with the Company prior to the First Retention Date, and the denominator of which is twelve (12).

e. If such termination of employment occurs after the First Retention Date, but prior to the Second Retention Date (as defined in Section III.G.2), Executive shall be entitled to receive the Second Retention Bonus (as defined in Section III.G.2), determined based on the actual achievement of the applicable performance goals through the Second Retention Date, pro-rated by multiplying such amount by a fraction, the numerator of which is the number of full months of Executive's employment with the Company after the First Retention Date, and the denominator of which is twelve (12).

Notwithstanding the foregoing provisions of this Section III.D, if Executive breaches any obligations pursuant to Section V at any time, and any such breach that is susceptible to cure remains uncured by Executive five (5) days after receiving written notice from the Company of such breach and specifying the purported grounds for such breach, from and after the date of the lapse of such cure period, or from the date of the breach with respect to an incurable breach, Executive will no longer be entitled to, and the Company will no longer be obligated to pay, any remaining unpaid severance benefits otherwise payable pursuant to this Section III.D (other than the Accrued Obligations).

E. Release; Payment of Severance; Exclusive Remedy.

1. This Section III.E shall apply notwithstanding anything else contained in this Agreement or any stock option or other equity-based award agreement to the contrary. As a condition precedent to any Company obligation to Executive pursuant to Section III.D (other than an obligation to pay the Accrued Obligations), Executive shall, upon or promptly following his last day of employment with the Company, provide the Company with a valid, executed general release agreement (the "Release") (a form of which is attached hereto as Exhibit B), and the Release shall have not been revoked by Executive pursuant to any revocation rights afforded by applicable law.

2. Subject to the prior effectiveness of the Release and the nonexistence of any cure period under Section III.D following a breach of Section V, payment of the severance benefits provided in Section III.D.2(a) shall be made in a lump sum upon a regularly scheduled Company payroll date, as soon as practicable following and in no event later than sixty (60) days following the Severance Date, subject to any delay required to avoid additional tax under Section 409A.

3. Subject to the prior effectiveness of the Release and the nonexistence of any cure period under Section III.D following a breach of Section V, payment of the severance benefits provided in Sections III.D.2(d) and (e) shall be made in a lump sum upon a regularly scheduled Company payroll date, as soon as practicable following the determination of the degree to which the applicable performance targets were achieved, but in any event shall be made no later than two and one-half (2.5) months following the end of the calendar year in which falls the First Retention Date or the Second Retention Date, as applicable, subject to any delay required to avoid additional tax under Section 409A.

4. Executive agrees that the payments and benefits contemplated by Section III.D (including the Accrued Obligations) shall constitute the exclusive and sole remedy for any termination of his employment and Executive covenants not to assert or pursue any other remedies, at law or in equity, with respect to any termination of employment.

F. Certain Defined Terms.

1. As used herein, "Accrued Obligations" means:

a. any Base Salary that had accrued but had not been paid (including accrued and unpaid vacation time) on or before the Severance Date; and

b. any reimbursement due to Executive pursuant to Section II.D for expenses incurred by Executive on or before the Severance Date.

2. As used herein, "Cause" shall mean, as reasonably determined by the Company or Parent, (i) Executive's willful, repeated or grossly negligent failure to perform his duties hereunder or to comply with any reasonable or proper direction given by or on behalf of Executive's direct supervisor(s), including the board of directors or chief executive officer of Parent, or Executive's gross negligence in the performance of his duties hereunder, which failure remains uncured for greater than thirty (30) days after Executive's receipt of formal written notice of such failure; (ii) Executive's conviction of, or plea of guilty or no contest to, a felony or other crime involving moral turpitude, or any act of fraud, theft or dishonesty against the Company or Parent; or (iii) Executive's violation of any of the material terms, covenants, representations or warranties contained in this Agreement, which violation remains uncured for greater than thirty (30) days after Executive's receipt of formal written notice of such violation.

3. As used herein, "Disability" shall mean a physical or mental impairment which, as reasonably determined by the Company, renders Executive unable to perform the essential functions of his employment with the Company, even with reasonable accommodation

that does not impose an undue hardship on the Company, for more than ninety (90) consecutive days or more than one hundred eighty (180) days in any twelve- (12-) month period, unless a longer period is required by federal or state law, in which case that longer period would apply.

4. As used herein, "Involuntary Termination" shall mean a termination of Executive by the Company without Cause. For purposes of clarity, the term Involuntary Termination does not include a termination of Executive's employment due to Executive's death or Disability.

5. As used herein, "Good Reason" shall mean the occurrence of any of the following events or circumstances without Executive's consent: (i) Executive being required to report to another Company employee; (ii) a material breach by the Company or Parent of the terms of this Agreement; or (iii) the relocation of Executive's worksite to a place outside of a 35-mile radius from his prior worksite. In order to establish a "Good Reason" for terminating employment, Executive must provide written notice to the Company and Parent of the existence of the condition giving rise to the Good Reason, which notice must be provided within thirty (30) days of the initial existence of such condition, the Company or Parent must fail to cure the condition within thirty (30) days thereafter, and Executive's termination of employment must occur no later than ninety (90) days following the initial existence of the condition giving rise to Good Reason.

G. Retention Payments.

1. In the event the Executive's employment with the Company has not terminated on or prior to the first (1st) anniversary of the Effective Date (the "First Retention Date"), Executive shall be eligible to receive a retention bonus (the "First Retention Bonus"). The target amount of the First Retention Bonus shall be $1,000,000. The actual amount of the First Retention Bonus paid shall be determined by Executive's supervisors in their sole discretion based on the achievement of predetermined EBIT goals established for the Company in consultation with Executive for the relevant period, and shall be subject to a maximum amount of $2,000,000.

2. In the event the Executive's employment with the Company has not terminated on or prior to the second (2nd) anniversary of the Effective Date (the "Second Retention Date"), Executive shall be eligible to receive a retention bonus (the "Second Retention Bonus"). The target amount of the Second Retention Bonus shall be $1,500,000. The actual amount of the Second Retention Bonus paid shall be determined by Executive's supervisors in their sole discretion based on the achievement of predetermined EBIT goals established for the Company in consultation with Executive for the relevant period, and shall be subject to a maximum amount of $3,000,000.

3. Payment of the retention bonuses provided in this Section III.G shall be made in a lump sum, subject to tax withholding and other authorized deductions, upon a regularly scheduled Company payroll date, as soon as practicable following the determination of the degree to which the applicable performance targets were achieved, but in any event shall be made no later than two and one-half (2.5) months following the end of the calendar year in which falls the First Retention Date or the Second Retention Date, as applicable.

IV. TERMINATION OBLIGATIONS

A. Return of Property. Executive agrees that all property (including without limitation all equipment, tangible proprietary information, documents, records, notes, contracts and computer-generated materials) furnished to or created or prepared by Executive incident to Executive's employment belongs to the Company and shall be promptly returned to the Company upon termination of Executive's employment.

B. Resignation and Cooperation. Upon termination of Executive's employment, Executive shall be deemed to have resigned from all offices and directorships then held with the Company. Following any termination of employment, Executive shall cooperate with the Company in the winding up of pending work on behalf of the Company and the orderly transfer of work to other employees. Executive shall also cooperate with the Company in the defense of any action brought by any third party against the Company that relates to Executive's employment by the Company.

V. INVENTIONS AND PROPRIETARY INFORMATION; PROHIBITION ON THIRD PARTY INFORMATION

A. Employee Confidentiality, Intellectual Property and Computer Privacy Agreement. Executive agrees to sign and be bound by the terms of the Parent's Employee Confidentiality, Intellectual Property and Computer Privacy Agreement that is attached as Exhibit A ("CIPCP Agreement").

B. Non-Solicitation. Executive acknowledges that because of Executive's position in the Company, Executive will have access to material intellectual property and confidential information. During the term of Executive's employment and for one year thereafter, in addition to Executive's other obligations hereunder or under the CIPCP Agreement, Executive shall not, for Executive or any third party, directly or indirectly (i) solicit, induce, recruit or encourage any person employed by the Company or Parent to terminate his or her employment; provided, however, that this provision shall not apply to Executive's assistant Jana Wilson-Wade, or (ii) divert or attempt to divert from the Company or Parent any business with any customer, client, member, business partner or supplier about which Executive obtained confidential information during his employment with the Company, by using the Company's or Parent's trade secrets or by otherwise engaging in conduct that amounts to unfair competition. Nothing in this Section V.B shall alter or diminish Executive's obligations pursuant to the CIPCP Agreement, the Non-Competition Agreement by and among the Company, Parent, and Executive, dated June 4, 2009, or any other restrictive covenants between or among Executive and the Company and/or Parent.

VI. AMENDMENTS; WAIVERS; REMEDIES

This Agreement may not be amended or waived except by a writing signed by Executive and by a duly authorized representative of the Company other than Executive. Failure to exercise

any right under this Agreement shall not constitute a waiver of such right. Any waiver of any breach of this Agreement shall not operate as a waiver of any subsequent breaches. All rights or remedies specified for a party herein shall be cumulative and in addition to all other rights and remedies of the party hereunder or under applicable law.

VII. ASSIGNMENT; BINDING EFFECT

A. Assignment. The performance of Executive is personal hereunder, and Executive agrees that Executive shall have no right to assign and shall not assign or purport to assign any rights or obligations under this Agreement. This Agreement may be assigned or transferred by the Company; and nothing in this Agreement shall prevent the consolidation, merger or sale of the Company or a sale of any or all or substantially all of its assets.

B. Binding Effect. Subject to the foregoing restriction on assignment by Executive, this Agreement shall inure to the benefit of and be binding upon each of the parties; the affiliates, officers, directors, agents, successors and assigns of the Company; and the heirs, devisees, spouses, legal representatives and successors of Executive.

VIII. NOTICES

All notices or other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered: (a) by hand; (b) by a nationally recognized overnight courier service; or (c) by United States first class registered or certified mail, return receipt requested, to the principal address of the other party, as set forth below. The date of notice shall be deemed to be the earlier of (i) actual receipt of notice by any permitted means, or (ii) five business days following dispatch by overnight delivery service or the United States Mail. Executive shall be obligated to notify the Company in writing of any change in Executive's address. Notice of change of address shall be effective only when done in accordance with this paragraph.

Company's Notice Address:

Wind River Systems, Inc.
c/o Intel Corporation
2200 Mission College Boulevard
Santa Clara, CA 95054
Telecopier: (408) 765-1859
Attention: General Counsel

Executive's Notice Address:

The last personal address provided to the Company.

IX. SEVERABILITY

If any provision of this Agreement shall be held by a court or arbitrator to be invalid, unenforceable, or void, such provision shall be enforced to the fullest extent permitted by law, and the remainder of this Agreement shall remain in full force and effect. In the event that the time period or scope of any provision is declared by a court or arbitrator of competent jurisdiction to exceed the maximum time period or scope that such court or arbitrator deems enforceable, then such court or arbitrator shall reduce the time period or scope to the maximum time period or scope permitted by law.

X. TAXES

All amounts paid under this Agreement shall be paid less all applicable state and federal tax withholdings (if any) and any other withholdings required by any applicable jurisdiction or authorized by Executive. Notwithstanding any other provision of this Agreement whatsoever, the Company, in its sole discretion, shall have the right to provide for the application and effects of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the final regulations and any guidance promulgated thereunder ("Section 409A") (relating to deferred compensation arrangements) and any related administrative guidance issued by the Internal Revenue Service. Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A at the time of Executive's termination (other than due to death), then the cash severance benefits payable to Executive under this Agreement, if any, and any other severance payments or separation benefits that may be considered deferred compensation under Section 409A (together, the "Deferred Compensation Separation Benefits") otherwise due to Executive on or within the six (6) month period following Executive's termination shall accrue during such six (6) month period and shall become payable in a lump sum payment on the date six (6) months and one (1) day following the date of Executive's termination of employment. All subsequent payments, if any, shall be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following his termination but prior to the six (6) month anniversary of his termination, then any payments delayed in accordance with this Section shall be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Compensation Separation Benefits shall be payable in accordance with the payment schedule applicable to each payment or benefit.

It is the intent of this Agreement to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder shall be subject to the additional tax imposed under Section 409A, and any ambiguities herein shall be interpreted to so comply.

Without any negative inference to other compensation paid or payable to Executive, the Company and Parent agree that Executive's Base Salary, Bonus, the First Retention Bonus and Second Retention Bonus that may be paid to Executive hereunder, ongoing active employee benefits and any equity grants to Executive made by the Parent or the Company to Executive on or after the Effective Time, except to the extent such payments or benefits are made pursuant to Section III.D other than on a pro-rated basis, constitute reasonable compensation for services rendered following the Effective Time under Internal Revenue Code Sections 280G and 4999 and the Treasury Regulations thereunder and to report and withhold accordingly.

XI. PARACHUTE PAYMENTS

In the event that the severance and other benefits provided for in this Agreement or otherwise payable or provided to Executive (i) constitute "parachute payments" within the meaning of Section 280G of the Code, and (ii) but for this Section XI, would be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then the Executive's benefits shall be either (a) delivered in full, or (b) delivered as to such lesser extent which would result in no portion of such benefits being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the Excise Tax, results in the receipt by the Executive on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code.

Unless the Company and Executive otherwise agree in writing, any determination required under this Section XI will be made in writing by a national "Big Four" accounting firm selected by the Company or such other person or entity to which the parties mutually agree (the "Accountants"), whose determination will be conclusive and binding upon the Executive and the Company for all purposes. For purposes of making the calculations required by this Section XI, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section XI. Any reduction in payments and/or benefits required by this Section XI shall occur in the following order: (1) reduction of cash payments; and (2) reduction of equity acceleration (full-value awards first, then stock options), and (3) other benefits paid to Executive. In the event that acceleration of vesting of equity awards is to be reduced, such acceleration of vesting shall be cancelled in the reverse order of the date of grant for Executive's equity awards.

The Accountants shall provide their calculations, together with detailed supporting documentation, to the Company and Executive within thirty (30) calendar days after the date on which the Accountants have been engaged to make such determinations or such other time as requested by the Company or Executive. If the Accountants determine that no Excise Tax is payable with respect to a payment or benefit, it shall furnish the Company and Executive with an opinion reasonably acceptable to Executive that no Excise Tax will be imposed with respect to such payment or benefit. Any good faith determinations of the Accountants made hereunder shall be final, binding and conclusive upon the Company and Executive.

XII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

XIII. INTERPRETATION

Each party recognizes that this is a legally binding contract and acknowledges and agrees that they have had the opportunity to consult with legal counsel of their choice. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. Executive agrees and acknowledges that he has read and understands this Agreement, is entering into it freely and voluntarily, and has been advised to seek counsel prior to entering into this Agreement and has had ample opportunity to do so. Sections and section headings contained in this Agreement are for reference purposes only, and shall not affect in any manner the meaning or interpretation of this Agreement. Whenever the context requires, references to the singular shall include the plural and the plural the singular.

XIV. OBLIGATIONS SURVIVE TERMINATION OF EMPLOYMENT

Executive agrees that any and all of Executive's obligations under this agreement, including but not limited to Exhibit A, shall survive the termination of employment and the termination of this Agreement.

XV. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement, but all of which together shall constitute one and the same instrument.

XVI. AUTHORITY

Each party represents and warrants that such party has the right, power and authority to enter into and execute this Agreement and to perform and discharge all of the obligations hereunder; and that this Agreement constitutes the valid and legally binding agreement and obligation of such party and is enforceable in accordance with its terms.

XVII. ENTIRE AGREEMENT

This Agreement is intended to be the final, complete, and exclusive statement of the terms of Executive's employment by the Company and may not be contradicted by evidence of any prior or contemporaneous statements or agreements, except for agreements specifically referenced herein (including the Merger Agreement and CIPCP Agreement attached as Exhibit A). This Agreement supersedes all prior and contemporaneous agreements of the parties hereto that directly or indirectly bears upon the subject matter hereof (including, without limitation, the Prior Employment Agreement, and, with respect to participation by Executive, the CIC Plan and the Severance Plan). To the extent that the practices, policies or procedures of the Company, now or in the future, apply to Executive and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control. Any subsequent change in Executive's duties, position, or compensation will not affect the validity or scope of this Agreement.

XVIII. EXECUTIVE ACKNOWLEDGEMENT

EXECUTIVE ACKNOWLEDGES EXECUTIVE HAS HAD THE OPPORTUNITY TO CONSULT LEGAL COUNSEL CONCERNING THIS AGREEMENT, THAT EXECUTIVE HAS READ AND UNDERSTANDS THE AGREEMENT, THAT EXECUTIVE IS FULLY AWARE OF ITS LEGAL EFFECT, AND THAT EXECUTIVE HAS ENTERED INTO IT FREELY BASED ON EXECUTIVE'S OWN JUDGMENT AND NOT ON ANY REPRESENTATIONS OR PROMISES OTHER THAN THOSE CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

WIND RIVER SYSTEMS, INC.

/s/ Ian Halifax
Signature

Title: Senior Vice President, Finance and Administration, Chief Financial Officer and Secretary

Date: 6/04/09

KENNETH R. KLEIN

/s/ Kenneth R. Klein
Signature

Date: 6/04/09

INTEL CORPORATION

/s/ Arvind Sodhani
Signature

Arvind Sodhani
Executive Vice President,
Intel Corporation and President,
Intel Capital Corporation

Date: 6/04/09

[SIGNATURE PAGE TO EXECUTIVE EMPLOYMENT AGREEMENT]

APPENDIX A

PERFORMANCE SHARE VESTING

50% of the Performance Shares shall vest on March 20, 2010, subject to Executive's continuous employment with the Company through such date.

50% of the Performance Shares shall vest on March 20, 2011, subject to Executive's continuous employment with the Company through such date.

EXHIBIT A

EMPLOYEE CONFIDENTIALITY, INTELLECTUAL PROPERTY AND COMPUTER PRIVACY AGREEMENT

In exchange for being employed by Intel Corporation ("Intel") or any of its subsidiaries, affiliates or successors (collectively, the "Intel Group"), I agree that:

1. General Conduct. While working for any company in the Intel Group, I will perform my assigned duties and comply with all Intel Group policies, procedures, guidelines, rules, and instructions, including Intel's Corporate Code of Conduct. The company within the Intel Group that is my employer is referred to in this Agreement as "Employer."

2. Prior Third Party Information. I represent that I do not possess, have not brought, and will not bring to the Intel Group, nor use in the course of the performance of my duties at the Intel Group, any proprietary or confidential information of any former employer or third party without their written authorization.

3. Confidential Information. At all times, both during and after my employment with any company in the Intel Group, I will not use (except for the benefit and at the direction of the Intel Group) and will hold in confidence and not disclose (without written authorization from a company in the Intel Group, except to the extent I am authorized to do so in the course of my duties) any proprietary information or trade secret (technical, marketing, planning, financial, personnel or otherwise) of the Intel Group or any third party to which I gain access pursuant to my employment, until such information becomes generally and rightfully known outside the Intel Group without non-disclosure restriction, or for the maximum period of time for maintaining trade secrets as permitted by law in the jurisdiction in which I am employed if such period is shorter. I agree not to make unauthorized copies of such confidential information and to return to the Intel Group immediately upon my termination or upon request by my Employer or any other company in the Intel Group all tangible forms of such confidential information, including but not limited to drawings, computerized data or programs, specifications, documents, devices, models, employee lists, customer lists or phone books, or any other Intel Group confidential information. I will, at all times, treat third parties' confidential information, to which I have access during my employment by any company in the Intel Group, as if it were Intel confidential information unless I have been advised of the need to treat that third parties' confidential information differently, in which event I agree to treat such third parties' confidential information in the manner to which I have been advised. I agree that any breach, violation or evasion of this provision will result in immediate and irreparable injuries and harm to the Intel Group, and I agree that any company in the Intel Group seeking to enforce this Agreement shall have recourse to the remedies of injunction and specific performance, or either of such remedies, as well as all other legal or equitable remedies to which such company may be entitled.

4. Ownership of Proprietary Developments. I acknowledge and agree to disclose to the Intel Group, promptly and in confidence, all patents, trade secrets, copyrights, mask works, trademarks, inventions, discoveries, designs, formulae, processes, methods, manufacturing techniques, improvements, ideas, copyrightable works, and other intellectual property which I create, invent or discover alone or with others during my employment with any company in the Intel Group ("Proprietary Developments"). I agree that all Proprietary Developments (i) that were created at least in part not during my own time or (ii) that were created using Employer or other Employer or other Intel Group equipment, supplies, facilities or trade secrets or (iii) that relate at the time of conception or reduction to practice of the invention or creation or discovery to Employer's or other Intel Group companies' business, or to actual or demonstrably anticipated research or development of Employer or other Intel Group companies or (iv) that result from any work performed by me for Employer or other Intel Group companies are, from the moment of their creation, invention or discovery, the sole property of Employer or Employer's designee ("Intel Proprietary Developments"). I acknowledge and agree that Employer or such other entity within the Intel Group that Employer designates has and shall for all time have sole legal and equitable title to all Intel Proprietary Developments. Without additional compensation, I (a) agree promptly to disclose and (b) to the full extent allowed by law but only to the extent not already owned by Employer pursuant to this Agreement and applicable law, hereby assign to Employer (or such other company in the Intel Group as may be designated by Employer), all rights in the Intel Proprietary Developments. I further agree that, both during and after my employment with any company in the Intel Group, I will provide all assistance reasonably requested by Employer at Employer's (or its designee's) reasonable expense, to secure and enforce its rights throughout the world with respect to the Intel Proprietary Developments. I agree to execute any and all documents (including assignment agreements) reasonably requested by Employer or its designee to memorialize the ownership of the

Intel Proprietary Developments by Employer or its designee ("Ownership Documents"). To the extent that I fail or refuse to execute Ownership Documents, or cannot be located by Employer through the exercise of reasonable diligence, I hereby irrevocably appoint Employer or its designee as my attorney in fact to execute Ownership Documents in my name. I hereby waive any pre-emptive or other rights that I may have in all Intel Proprietary Developments and, to the extent that such waiver is ineffective under applicable law until such an Intel Proprietary Development is created, invented or discovered, I hereby agree to waive such pre-emptive or other rights immediately upon the creation, invention or discovery of such Intel Proprietary Development.

Notwithstanding anything else in this agreement, I have been notified and further understand that Intel Proprietary Developments do not include inventions which I developed entirely on my own time without using Intel Group equipment, supplies, facilities, or trade secret information, except for inventions which either: (i) relate at the time of conception or reduction to practice of the invention to the Intel Group's business, or actual or demonstrably anticipated research or development of the Intel Group or (ii) result from any work performed by me for the Intel Group.

5. Licensed Employee Intellectual Property. The purpose of this section 5 is to enable the Intel Group to determine their rights and risks as to any intellectual property rights, whether vested or pending, which I own or control in whole or in part, prior to joining any company in the Intel Group ("Preexisting Employee Intellectual Property"). Unless identified on Appendix A with sufficient particularity to allow the Intel Group to identify the subject matter of the Preexisting Employee Intellectual Property, I hereby grant Employer (or its designee within the Intel Group) a non-exclusive, non-transferable (except within the Intel Group), perpetual, irrevocable, royalty-free, world-wide license, with the right to sublicense, to make, have made, use, sell, offer to sell, import, reproduce, have reproduced, prepare derivative works of, distribute, and otherwise dispose of any product or document, under all patents, trade secrets, copyrights, mask works, trademarks, inventions, discoveries, designs, formulae, processes, methods, manufacturing techniques, improvements, ideas, copyrightable works, and other Preexisting Employee Intellectual Property. To be clear, the license to Preexisting Employee Intellectual Property excludes Proprietary Developments as defined in section 4, or Preexisting Employee Intellectual Property identified as required above in Appendix A at the time of my execution of this Agreement and submitted directly by me to Intel Legal such that it is actually received by Intel Legal within five working days of my hiring. If I fail to make any required disclosure or breach any term of sections 4 and 5, I agree that any applicable limitations periods shall be tolled and shall not run as to any claim, right, or cause of action Employer may have relating to such disclosure or breach that would have been discovered had the required disclosure been made, until such time as Employer obtains actual knowledge of the facts giving rise to its claim. Nothing contained in this section shall in any way limit or be exclusive of other remedies otherwise available in law or equity to the Intel Group.

6. Computer Communications are Not Private. I understand that although the companies within the Intel Group permit reasonable personal use of networked computer equipment, these resources and all information contained on them are the sole property of companies within the Intel Group. Computer use is not private or confidential, and someone other than the intended addressee may receive the message. I understand and consent to my Employer's and/or the Intel Group's interception and review of both incoming and outgoing email, internet and all computer information, including any password-protected employee communications.

7. Miscellaneous. I understand that if Intel is not my Employer, Intel is signing this Agreement as agent for the Intel Group company that is my Employer.

The terms and conditions stated herein are severable. If any paragraph, provision, or clause in this Agreement is found or held to be invalid, unenforceable or void in any jurisdiction in which this Agreement is being performed, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement and such provision as applied to other persons, places or circumstances shall remain in full force and effect.

This Agreement: (a) survives my employment with any company or companies in the Intel Group; (b) inures to the benefit of successors and assigns of my Employer (including successors within the Intel Group); and (c) is binding upon my heirs, assigns, and legal representatives. To the best of my information and belief, I am not a party to any other agreement which will interfere with my full compliance with this Agreement, except as specifically identified herein.

This Agreement may not be modified or amended except in a writing signed by the parties. Only the Vice President of Human Resources, Intel Corporation, or his or her delegate, or the General Counsel of Intel Corporation, or his or her delegate, has the authority to modify this agreement on behalf of the Intel Group.

This Agreement is effective as of my first day of employment with any company in the Intel Group, remains in effect if I become employed by any other company in the Intel Group (which shall then become my Employer hereunder) and supersedes any prior Employee Agreement signed by me with any company in the Intel Group (excluding the Executive Employment Agreement and the Non-Competition Agreement entered into between me, Wind River Systems, Inc., and Intel dated June 4, 2009).

I have carefully read all of the provisions of this Agreement and I understand and will fully and faithfully comply with such provisions.

Intel Corporation

Signature
Name:
Title:

Employee

Signature

Date

/

Printed Name & WWID # (please print clearly)

Social Security Number

Appendix A to Employee Confidentiality, Intellectual Property and Computer Privacy Agreement
Non-Licensed Intellectual Property (IP)

List only IP that you own or control. Do not list patents that your former employer owns, even if you are named as an inventor.

Employee Name (please print) _____ Date _____

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

16. _____

Attach additional sheets as necessary. Number of additional sheets attached: _____

EXHIBIT B

GENERAL RELEASE

Kenneth R. Klein ("Executive") and Wind River Systems, Inc. (the "Company") have agreed to enter into this General Release ("Release") on the following terms:

Effective **[Separation Date]**, Executive's employment at the Company shall be terminated. Subject to the effectiveness of this Release and any delay required to avoid the imposition of additional taxes under Internal Revenue Code Section 409A, Executive will begin receiving the severance benefits set forth in Section III.D.2 of the Executive Employment Agreement dated June 4, 2009 ("Agreement"), in accordance with the terms of that Agreement.

In exchange for the foregoing Severance, Executive completely releases the Company, its affiliated, related, parent or subsidiary corporations, and its and their present and former directors, officers, and employees from, and agrees not to file, cause to be filed, or otherwise pursue, any and all claims Executive may now have or has ever had against any of them, including but not limited to claims for compensation, bonuses, severance pay, equity, and all claims arising from Executive's employment or the termination of that employment (including, without limitation, any claims arising under the Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the WARN Act or any state counterpart, the California Fair Employment and Housing Act, or any other claims for violation of any federal, state, or municipal statutes), and any and all claims for attorneys' fees and costs. This release does not extend to any severance obligations or Accrued Obligations due Executive under the Agreement. Nothing in this Agreement waives Executive's rights to indemnification or any payments under any fiduciary insurance policy, if any, provided by any act or agreement of the Company or Parent, state or federal law or policy of insurance.

Executive agrees that because this Release specifically covers known and unknown claims, Executive waives any rights under Section 1542 of the California Civil Code, or under any comparable law of any other jurisdiction. Section 1542 states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Executive acknowledges that Executive has 21 days to consider this Release (but may elect to sign it at any time beforehand), and may consult an attorney in doing so. Executive also acknowledges that he or she may revoke this Release within 7 days of signing it by sending a certified letter to that effect to **[name and address]**. Executive understands and agrees that this Release shall not become effective or enforceable and no payments or benefits will be provided until the 7-day revocation period has expired.

Executive acknowledges that the Agreement and this Release represent the entire agreement and understanding between the parties, supersede and replace any and all prior agreements and understandings between them, and shall not be modified in any way except in writing executed by both parties. Executive also agrees that if any term or portion contained

herein shall be found to be unenforceable under applicable law, such finding shall not invalidate the whole Release, but the Release shall be construed as not containing the particular term or portion held to be invalid and the rights and obligations of the parties shall be construed and enforced accordingly.

Executive acknowledges that Executive has read this Release, fully understands all of its provisions and the consequences of signing it, and agrees to all of its conditions.

Kenneth R. Klein	[Name of Company Signatory] Wind River Systems, Inc.
Date: _____	Date: _____

Exhibit (d)(4)

NON-COMPETITION AGREEMENT

THIS NON-COMPETITION AGREEMENT (this "**Agreement**") is made and entered into as of June 4, 2009, by and among Intel Corporation, a Delaware corporation, its subsidiaries, affiliates, successors, or assigns (collectively, the "**Buyer**"), Wind River Systems, Inc., a Delaware corporation (the "**Company**"), and Kenneth R. Klein (the "**Shareholder**").

RECITALS

A. The Shareholder owns 173,644 shares of common stock of the Company, such amount representing .2258% of the Company's outstanding capital shares.

B. The Buyer and the Company are parties to that certain Agreement and Plan of Merger dated as of the date hereof (the "**Merger Agreement**"), pursuant to which the Buyer has agreed to purchase all outstanding securities of the Company (the "**Transaction**").

C. The Shareholder will receive substantial consideration as a result of the consummation of the Transaction, which consideration reflects the goodwill associated with the Company's business.

D. The parties acknowledge that the Company is currently engaged in the development of technologies, services and products relating to selling or licensing (and associated developing, marketing, servicing, supporting and consulting on) operating systems, middleware and software development tools for use in or with non-enterprise products, such non-enterprise products including but not limited to consumer, handheld, cellular, automotive, aerospace, industrial control and networking/network infrastructure products (the "**Business**"), and the life expectancy of such technologies and the services and products to be developed based on such technologies is expected to be at least five (5) years.

E. The parties acknowledge that the relevant market for the technologies that the Company is developing, and the relevant market for the products and services the Company is proposing or has targeted to develop, is worldwide in scope and that intense worldwide competition exists for such technologies.

F. As a condition and material inducement for the Buyer to the enter into the Merger Agreement and consummate the Transaction, and to preserve the value and good will of the business being acquired by the Buyer pursuant thereto, the Merger Agreement contemplates, among other things, that the Shareholder will enter into this Agreement concurrently with the execution of the Merger Agreement and that this Agreement will become effective as of the Acceptance Date.

G. The parties intend this Agreement to be in compliance with California Business and Professions Code Section 16601 and further intend for it to be fully enforceable.

NOW, THEREFORE, in consideration of the foregoing premises, and the covenants, agreements, representations and warranties set forth herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged and accepted, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

1. Effective Time. This Agreement shall be effective only at and as of the Acceptance Date.

2. Defined Terms. All capitalized terms that are used but not defined herein shall have the respective meanings ascribed thereto in the Merger Agreement. For all purposes of and under this Agreement, the following capitalized terms shall have the following respective meanings:

(a) "**Restricted Period**" shall mean the period beginning at and as of the Acceptance Date and ending on the third (3rd) anniversary of the Shareholder's termination of employment with the Company for any reason.

(b) "**Restricted Territory**" shall mean each and every country, province, state, city, or other political subdivision of the world in which the Company is currently engaged in business or otherwise proposing to or targeting to distribute, license or sell its products, services or technologies.

3. Covenant Not to Compete.

(a) The Shareholder acknowledges that during the course of the Shareholder's employment with the Company, the Shareholder has received and has been privy to confidential information and trade secrets of the Company and will continue to receive and be privy to confidential information and trade secrets of the Company and the Buyer during the course of the Shareholder's employment following the Transaction. The Shareholder further acknowledges that the Buyer has a legitimate interest in ensuring that such confidential information and trade secrets remain confidential and are not disclosed to third parties. Thus, to avoid the actual or threatened misappropriation of such confidential information and trade secrets, and to preserve the value and good will of the business being acquired by the Buyer pursuant to the Merger Agreement, the Shareholder agrees that, at all times during the Restricted Period, the Shareholder shall not, directly or indirectly:

(i) engage or participate in the development of any technologies, products or services relating to the Business (whether as an employee, agent, consultant, advisor, independent contractor, proprietor, principal, partner, stockholder, trustee, officer or director) or have an ownership or financial interest (except for ownership of one percent (1%) or less of any publicly held entity or two percent (2%) or less in any privately-held entity) in any person (as defined in the Merger Agreement) engaged in the Business, anywhere in the Restricted Territory. The phrase "directly or indirectly" as used herein, includes, for purposes of clarification, but is not limited to, (A) engaging in, participating in, or having an ownership or financial interest in a person engaged in the Business through one or more intermediaries under circumstances where the Shareholder provides advice or guidance on behalf of or for the benefit of such intermediary or intermediaries or any portfolio company of such intermediary or intermediaries, in either case, that engages in or participates in the Business, (B) forming any entity in order to engage in or participate in the Business, and (C) contacting marketing, channel or technology partners of the Company on behalf of any person engaged in the Business; or

(ii) take any action with the objective of interfering with the business of the Company or solicit any customers of the Company for any products or services competitive with the Business.

(b) The covenants set forth in Section 3(a) hereof shall be construed as a series of separate covenants, one for each country, province, state, city or other political subdivision of the Restricted Territory. Except for geographic coverage, each such separate covenant shall be deemed identical in terms to the covenants set forth in Section 3(a) hereof. If, in any judicial proceeding, a court refuses to enforce any of such separate covenants (or any part thereof), then such unenforceable covenant (or such part) shall be eliminated from this Agreement to the extent necessary to permit the remaining separate covenants (or portions thereof) to be enforced. To the extent that the provisions of Section 3(a) hereof are deemed to exceed the time, geographic or scope limitations permitted by applicable law, then such provisions shall be reformed to the maximum time, geographic or scope limitations, as the case may be, permitted by applicable laws.

(c) The Shareholder acknowledges that:

(i) the Shareholder is familiar with the foregoing covenant not to compete; (ii) the covenant set forth in Section 3(a) hereof represents only a limited restraint and allows the Shareholder to pursue the Shareholder's livelihood and occupation without unreasonable or unfair restrictions; (iii) the Shareholder is an officer, key employee, and/or key member of the management of the Company; (iv) the goodwill associated with the existing business, customers and assets of the Company prior to the Transaction is an integral component of the value of the Company to the Buyer and is reflected in any consideration payable in connection with the Transaction, including such consideration received by the Shareholder; and (v) the Shareholder's agreement as set forth herein is necessary to preserve the value and good will of the Company for the Buyer following the Transaction. The Shareholder represents that the Shareholder is fully aware of the Shareholder's obligations hereunder, and acknowledges that the limitations of length of time, geography and scope of activity agreed to in this Agreement are reasonable because, among other things: (A) the Company and the Buyer are engaged in a highly competitive industry, (B) the Shareholder has unique access to, and will continue to have access to, the trade secrets and know-how of the Company and the Buyer, including, without limitation, the plans and strategy (and, in particular, the competitive strategy) of the Company and the Buyer, (C) in the event the Shareholder's employment with the Company ended, the Shareholder would be able to obtain suitable and satisfactory employment without violation of this Agreement, and (E) this Agreement provides no more protection than is necessary to protect the Buyer's interests in the Company's goodwill, trade secrets and confidential information.

(d) The Shareholder acknowledges that the Shareholder is subject to Buyer's confidential information and trade secret protection policies and agrees to comply with such policies. Shareholder acknowledges that upon the Closing he will execute and deliver and will be bound by Buyer's standard Employee Confidentiality, Intellectual Property and Computer Privacy Agreement (the "**CIPCP**") governing the disclosure and use of Buyer's trade secrets and other proprietary and confidential information. Shareholder agrees that any breach by Shareholder during the Restricted Period of his obligations under the CIPCP shall also be deemed a breach of this Agreement.

(e) The Shareholder's obligations under this Agreement shall remain in effect if the Shareholder's employment with the Company is terminated for any or no reason.

(f) The Shareholder agrees that during the Restricted Period, prior to becoming an employee or partner of or consultant to any person (as defined in the Merger Agreement), the Shareholder shall (i) provide written notice of such employment, partnership or consultancy to the Buyer, and (ii) provide such person with an executed copy of this Agreement.

4. Covenant Not to Solicit. At all times during the Restricted Period, the Shareholder shall not, directly or indirectly, solicit, encourage or take any other action which is intended to induce or encourage any employee of the Company to (a) terminate such employee's employment with the Company (provided, however, that this provision shall not apply to the Shareholder's assistant Jana Wilson-Wade), or (b) engage in any action in which the Shareholder would, under the provisions of Section 3 hereof, be prohibited from engaging.

5. Miscellaneous.

(a) Notices. Unless otherwise provided herein, all notices and other communications hereunder shall be in writing and shall be deemed given if (i) delivered in person, (ii) transmitted by facsimile (with written confirmation of transmission), (iii) mailed by certified or registered mail (return receipt requested) (in which case such notice shall be deemed given on the third (3rd) day after such mailing) or (iv) delivered by an express courier (with written confirmation of receipt) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to the Buyer to:	Intel Corporation 2200 Mission College Boulevard Santa Clara, CA 95054 Telecopier: (408) 765-1859 Attention: General Counsel
If to the Shareholder to:	The personal address last provided to the Company

(b) Governing Law; Consent to Personal Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof. Each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of any court within Santa Clara County, California in connection with any matter based upon or arising out of this Agreement or the matters contemplated herein, agrees that process may be served upon him in any manner authorized by the laws of the State of California for such persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction, venue and such process.

(c) Remedies. The parties to this Agreement agree that (i) if the Shareholder breaches this Agreement, the damage to the Buyer may be substantial and money damages will not afford the Buyer an adequate remedy, and (ii) if the Shareholder is in breach of any provision

of this Agreement, or threatens a breach of this Agreement (by initiating a course of action that would reasonably be expected to lead to a breach), the Buyer shall be entitled, in addition to all other rights and remedies as may be provided by law, the Merger Agreement or otherwise, to seek specific performance and injunctive and other equitable relief to prevent or restrain a breach of any provision of this Agreement.

(d) Severability. In the event that any portion of this Agreement becomes or is held by a court of competent jurisdiction to conflict with any federal, state or local law, or to be otherwise illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and be construed as if such portion had not been included in this Agreement.

(e) No Assignment. Because the nature of the Agreement is specific to the actions of the Shareholder, the Shareholder may not assign this Agreement. This Agreement shall inure to the benefit of the Buyer and its successors and assigns.

(f) Entire Agreement. Except for any employment agreement or confidential information and trade secret protection agreement that may be signed by the Shareholder and the Company or Buyer, this Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous discussions, agreements and understandings, written or oral, between the parties with respect to the subject matter hereof.

(g) Waiver of Breach. No delay or omission by the Buyer in exercising any right under this Agreement shall operate as a waiver of that right or any other right under this Agreement. The waiver of a breach of any term or provision of this Agreement, which must be in writing, shall not operate as or be construed to be a waiver of any other previous or subsequent breach of this Agreement.

(h) Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more 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.

(i) Amendments and Modification. This Agreement may not be modified, amended, altered or supplemented except by the execution and delivery of a written agreement executed by the parties hereto.

(j) Interpretation. The words *"include," "includes"* and *"including"* when used herein shall be deemed in each case to be followed by the words *"without limitation."*

(k) Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(l) Other Obligations. The Shareholder expressly consents to be bound by the provisions of this Agreement for the benefit of the Buyer or any subsidiary, affiliate, successor, or assign thereof without the necessity of the separate execution of this Agreement in favor of any such subsidiary, affiliate, successor, or assign.

(m) Independent Review and Advice. The Shareholder represents and warrants that the Shareholder (i) has carefully read this Agreement, (ii) executes this Agreement with full knowledge of the contents of this Agreement, the legal consequences thereof, and any and all rights which each party may have with respect to the matters set forth in this Agreement and with respect to the rights and asserted rights arising out of such matters, (iv) has been advised to, and has had the opportunity to, consult with the Shareholder's personal attorney prior to entering into this Agreement, and (v) is entering into this Agreement of the Shareholder's own free will. The Shareholder expressly agrees that he has no expectations or understandings contrary to the Agreement and no usage of trade or regular practice in the industry shall be used to modify this Agreement. The parties agree that this Agreement shall not be construed for or against either party in any interpretation.

(n) Integration. This Agreement, including all recitals contained hereof, contain the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede all prior negotiations, agreements and understandings with respect thereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first above written.

INTEL CORPORATION

By: /s/ Arvind Sodhani
Arvind Sodhani
Executive Vice President, Intel Corporation and President, Intel Capital Corporation

WIND RIVER SYSTEMS, INC.

By: /s/ Ian Halifax
Name: Ian Halifax
Title: Senior Vice President, Finance and Administration, Chief Financial Officer and Secretary

SHAREHOLDER

Signature: /s/ Kenneth R. Klein
Printed Name: Kenneth R. Klein

[SIGNATURE PAGE TO NON-COMPETITION AGREEMENT]

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement (the "Agreement"), dated June 4, 2009 (the "Agreement Date"), is entered into by and among Wind River Systems, Inc., a Delaware corporation (the "Company"), Intel Corporation, a Delaware corporation ("Parent"), and Ian Halifax ("Executive") (collectively, the "parties").

RECITALS

WHEREAS, pursuant to the Agreement and Plan of Merger (the "Merger Agreement"), dated June 4, 2009 among Parent, APC II Acquisition Corporation, a Delaware corporation and a wholly owned subsidiary of Parent ("Merger Sub"), and the Company, Merger Sub shall be merged with and into the Company, and the Company shall continue as the surviving corporation and a wholly owned subsidiary of Parent (the "Transaction");

WHEREAS, the parties wish to provide for Executive's employment with Company following the Transaction;

WHEREAS, as a condition and material inducement for Parent to enter into the Merger Agreement and consummate the Transaction, Executive is entering into this Agreement concurrently with the execution of the Merger Agreement;

WHEREAS, subject to Executive's prior completion of a background check to Parent's satisfaction, this Agreement shall become effective upon the Acceptance Date, as defined in the Merger Agreement (the "Effective Date"); and

WHEREAS, the Company and Executive have entered into that certain Offer Letter, originally dated January 30, 2007, as amended through October 16, 2008 (the "Prior Employment Agreement"), which, effective as of the Effective Date, shall be terminated and replaced in its entirety by this Agreement. This Agreement shall govern the employment relationship between Executive and the Company from and after the Effective Date and supersedes and negates all previous agreements with respect to such relationship, including, without limitation, the Prior Employment Agreement.

NOW, THEREFORE, in consideration of the covenants, promises and representations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. POSITION AND RESPONSIBILITIES

A. Position. As of the Effective Date, Executive shall be employed by the Company for the Period of Employment (as defined in Section I.D) to render services to the Company in the position of Transition Executive of the Company (which is a subsidiary of Parent). During the Period of Employment, Executive shall perform such duties and responsibilities of the subsidiary operations as are normally related to such position in accordance with the standards of the industry and any additional duties commensurate with such position now or hereafter assigned to Executive by the President of the Company, the Company or Parent. Executive shall

abide by the verbal or written directions of his direct manager, as well as the General Manager of the Software Group and the Software Group Controller, and written rules, regulations, and practices as adopted or modified from time to time in the Company's sole discretion that have been made available to Executive.

B. Other Activities. Except upon the prior written consent of the Company, Executive will not, during the term of this Agreement, (i) accept any other employment, or (ii) engage, directly or indirectly, in any other business activity (whether or not pursued for pecuniary advantage) that might interfere with Executive's duties and responsibilities hereunder or create a conflict of interest with the Company. Executive's service on the boards of directors (or similar body) of other business entities is subject to the approval of the Parent. The Company shall have the right to require Executive to resign from any board or similar body which he may then serve if the Company or Parent reasonably determines in writing that Executive's service on such board or body interferes with the effective discharge of Executive's duties and responsibilities to the Company or that any business related to such service is then in competition with any business of the Company or any of its affiliates, successors or assigns.

C. No Conflict. Executive represents and warrants that Executive's execution of this Agreement, employment with the Company, and the performance of Executive's proposed duties under this Agreement shall not violate any obligations Executive may have to any other employer, person or entity, including any obligations with respect to proprietary or confidential information of any other person or entity.

D. Period of Employment. Provided this Agreement becomes effective, the "Period of Employment" shall be a period of one (1) year commencing on the Effective Date and ending at the close of business on the first (1st) anniversary of the Effective Date. Notwithstanding the foregoing, the Period of Employment is subject to earlier termination as provided below in this Agreement.

II. COMPENSATION AND BENEFITS

A. Base Salary. In consideration of the services to be rendered under this Agreement, during the Period of Employment, the Company shall pay Executive a salary at the rate of four hundred thousand Dollars ($400,000) per year ("Base Salary"). The Base Salary shall be paid in accordance with the Company's regularly established payroll practice. During the Period of Employment, Executive's Base Salary will be reviewed from time to time in accordance with the established procedures of the Company or Parent for increasing salaries for similarly situated employees and may be increased, but not decreased in the sole discretion of Parent.

B. Bonus. During the Period of Employment, Executive shall be eligible to receive an annual incentive bonus (the "Bonus"). The annual target amount of the Bonus shall be $200,000, payable in two (2) installments. The amount of each installment of the Bonus paid shall be determined by Executive's supervisors in their sole discretion, based on performance objectives established for the Company for the relevant period. The Bonus installments will be paid no later than two and one-half (2-1/2) months following the six- (6-) month anniversary, and the one- (1) year anniversary of the Effective Date, respectively.

C. Benefits. During the Period of Employment, Executive shall be eligible to participate in the benefits made generally available by the Company to similarly-situated executives, in accordance with the benefit plans established by the Company, and as may be amended from time to time in Parent's sole discretion.

D. Expenses. The Company shall reimburse Executive for reasonable business expenses incurred in the performance of Executive's duties hereunder in accordance with the Company's expense reimbursement guidelines.

E. Prior Plans. Prior to the Effective Date, Executive was a participant in the Company's Executive Officers' Change of Control Incentive and Severance Benefit Plan (the "CIC Plan") and the Company's Vice Presidents' Severance Benefit Plan (the "Severance Plan"). Effective as of immediately prior to the Effective Date, Executive shall no longer be eligible to participate in the CIC Plan or the Severance Plan.

F. Equity Awards.

1. If Executive holds any outstanding Equity Awards at the Effective Date, the vesting schedule for such outstanding Equity Awards, to the extent not already vested, shall be accelerated by a period of one (1) year and shall thereafter continue vesting at the same rate as immediately prior to the Effective Date, subject to Executive's continuous service with the Company.

2. As used herein, "Equity Awards" shall mean all incentive or non-statutory stock options, restricted stock, restricted stock units, stock appreciation rights, performance shares, performance units, deferred stock units, or other equity or equity award granted to Executive by the Company and which were outstanding on the Effective Date, including any non-plan grants.

III. RETENTION PAYMENTS; AT-WILL EMPLOYMENT; TERMINATION OF EMPLOYMENT

A. Retention Payments.

1. In the event Executive's employment with the Company has not terminated on or prior to the six- (6-) month anniversary of the Effective Date (the "First Retention Date"), Executive shall receive the following benefits:

a. A cash payment equal to the sum of (i) twelve (12) months' Base Salary as in effect on First Retention Date, and (ii) an amount equal to one hundred percent (100%) of Executive's actual Bonus for the fiscal year prior to the fiscal year in which the termination occurs; and

b. Any Equity Awards outstanding on the First Retention Date shall become fully vested and exercisable as of the First Retention Date.

2. Upon the earlier of (i) the one- (1-) year anniversary of the Effective Date, provided that Executive's employment with the Company has not terminated on or prior to such date, or (ii) the successful completion, following the Effective Date, of an appropriate transition period of the Company in connection with the Transaction, as determined by the Company or Parent (such date, the "Second Retention Date"), the Company shall pay Executive the following:

a. A cash payment equal to the amount of Base Salary earned by Executive from the Effective Date through the Second Retention Date (disregarding any amounts earned pursuant to Section III.A.1); and

b. A bonus payment in the amount of $200,000 (the "Second Retention Date Bonus"). In the event the Second Retention Date occurs prior to the one- (1-) year anniversary of the Effective Date, the amount of such bonus payment shall be pro-rated by multiplying the resulting amount by a fraction, the numerator of which is the number of full months of Executive's employment with the Company following the First Retention Date, and the denominator of which is six (6).

3. Payment of the retention benefits provided in this Section III.A shall be made in a lump sum, subject to tax withholding and other authorized deductions, upon a regularly scheduled Company payroll date, as soon as practicable following the First Retention Date (in the case of benefits under Section III.A.1) or Second Retention Date (in the case of benefits under Section III.A.2), but in any event shall be made no later than two and one-half (2.5) months following the end of the calendar year in which falls the First Retention Date or the Second Retention Date, as applicable.

B. At-Will Termination by Company. Executive's employment with the Company shall be "at-will" at all times. The Company may terminate Executive's employment with the Company at any time, without any advance notice, for any reason or no reason at all, notwithstanding anything to the contrary contained in or arising from any statements, policies or practices of the Company relating to the employment, discipline or termination of its employees. Upon and after such termination, all obligations of the Company under this Agreement shall cease, except as otherwise provided herein.

C. Termination by the Company or by Death. Executive's employment by the Company, and the Period of Employment, may be terminated at any time by the Company: (i) with Cause (as defined in Section III.G), (ii) without Cause, or (iii) in the event that the Company determines in good faith that Executive has a Disability (as defined in Section III.G). Executive's employment, and the Period of Employment, shall terminate automatically upon Executive's death.

D. Termination by Executive. Executive's employment by the Company, and the Period of Employment, may be terminated by Executive with no less than thirty (30) days advance notice to the Company.

E. Benefits upon Termination. If Executive's employment by the Company is terminated during the Period of Employment for any reason by the Company or by Executive, or upon or following the expiration of the Period of Employment (the date that Executive's employment by the Company terminates is referred to as the "Severance Date"), the Company shall have no further obligation to make or provide to Executive, and Executive shall have no further right to receive or obtain from the Company, any payments or benefits except as follows:

1. The Company shall pay Executive (or, in the event of his death, Executive's estate) any Accrued Obligations (as defined in Section III.G);

2. If, prior to the six- (6-) month anniversary of the Effective Date, Executive's employment with the Company, and the Period of Employment, terminates as a result of an Involuntary Termination or is terminated voluntarily by the Executive for Good Reason (both as defined herein), Executive shall be entitled to (a) those benefits set forth in Section III.A.1, and (b) the total Bonus for the year in which the termination occurs, in such amount as determined based on the actual achievement of the applicable performance goals for the period relevant to each Bonus installment, and further pro-rated by multiplying such amount by a fraction, the numerator of which is the number of full months of Executive's employment with the Company, and the denominator of which is 12. In addition, in that event, if Executive timely elects continuation of group health insurance coverage made available to Executive to the extent required under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") or similar state law, the Company will reimburse Executive for the total applicable premium cost paid for medical, dental and vision coverage under COBRA for a period of eighteen (18) months following the Severance Date. Such reimbursement shall be made within thirty (30) days of the premium payment.

3. If, after the First Retention Date, but prior to the Second Retention Date, Executive's employment with the Company, and the Period of Employment, terminates as a result of an Involuntary Termination or is terminated voluntarily by the Executive for Good Reason, Executive shall be entitled to:

a. A cash payment equal to the amount of Base Salary earned by Executive from the Effective Date through the Severance Date (disregarding any amounts earned pursuant to Sections III.A.1 or III.E.2);

b. The Bonus for the year in which the termination occurs, in such amount as determined based on the actual achievement of the applicable performance goals for the relevant period, minus any amount of the Bonus already received, and further pro-rated by multiplying such amount by a fraction, the numerator of which is the number of full months of Executive's employment with the Company, and the denominator of which is six (6); and

c. The Second Retention Date Bonus, pro-rated by multiplying such amount by a fraction, the numerator of which is the number of full months of Executive's employment with the Company following the First Retention Date, and the denominator of which is six (6).

Notwithstanding the foregoing provisions of this Section III.E, if Executive breaches any obligations pursuant to Section V at any time, and any such breach that is susceptible to cure remains uncured by Executive five (5) days after receiving written notice from the Company of such breach and specifying the purported grounds for such breach, from and after the date of the lapse of such cure period, or from the date of the breach with respect to an incurable breach, Executive will no longer be entitled to, and the Company will no longer be obligated to pay, any remaining unpaid severance benefits otherwise payable pursuant to this Section III.E (other than the Accrued Obligations).

F. Release; Payment of Severance; Exclusive Remedy.

1. This Section III.F shall apply notwithstanding anything else contained in this Agreement or any stock option or other equity-based award agreement to the contrary. As a condition precedent to any Company obligation to Executive pursuant to Section III.E (other than an obligation to pay the Accrued Obligations), Executive shall, upon or promptly following his last day of employment with the Company, provide the Company with a valid, executed general release agreement (the "Release") (a form of which is attached hereto as Exhibit B), and the Release shall have not been revoked by Executive pursuant to any revocation rights afforded by applicable law.

2. Subject to the prior effectiveness of the Release and the nonexistence of any cure period under Section III.E following a breach of Section V, payment of the severance benefits provided in Sections III.E.2 and III.E.3 shall be made in a lump sum upon a regularly scheduled Company payroll date, as soon as practicable following and in no event later than sixty (60) days following the Severance Date, subject to any delay required to avoid additional taxes under Section 409A, except with respect to any pro-rated Bonus provided under Section III.E.2 or III.E.3(b), which amounts shall be payable as soon as practicable following the determination of the degree to which the applicable performance targets were achieved, but in any event shall be made no later than two and one-half (2.5) months following the six- (6) month anniversary of the Effective Date (in the case of the first installment of the Bonus) or the one- (1) year anniversary of the Effective Date (in the case of the second installment of the Bonus), subject to any delay required to avoid additional taxes under Section 409A.

3. Executive agrees that the payments and benefits contemplated by Section III.E (including the Accrued Obligations) shall constitute the exclusive and sole remedy for any termination of his employment and Executive covenants not to assert or pursue any other remedies, at law or in equity, with respect to any termination of employment.

G. Certain Defined Terms.

1. As used herein, "Accrued Obligations" means:

a. any Base Salary that had accrued but had not been paid (including accrued and unpaid vacation time) on or before the Severance Date; and

b. any reimbursement due to Executive pursuant to Section II.D for expenses incurred by Executive on or before the Severance Date.

2. As used herein, "Cause" shall mean, as reasonably determined by the Company or Parent, (i) Executive's willful, repeated or grossly negligent failure to perform his duties hereunder or to comply with any reasonable or proper direction given by or on behalf of Executive's direct supervisor(s), including the board of directors or chief executive officer of Parent or the Managing Director of the Company, or Executive's gross negligence in the performance of his duties hereunder, which failure remains uncured for greater than thirty (30) days after Executive's receipt of formal written notice of such failure; (ii) Executive's conviction of, or plea of guilty or no contest to, a felony or other crime involving moral turpitude, or any act of fraud, theft or dishonesty against the Company or Parent; or (iii) Executive's violation of any of the material terms, covenants, representations or warranties contained in this Agreement, which violation remains uncured for greater than thirty (30) days after Executive's receipt of formal written notice of such violation.

3. As used herein, "Disability" shall mean a physical or mental impairment which, as reasonably determined by the Company, renders Executive unable to perform the essential functions of his employment with the Company, even with reasonable accommodation that does not impose an undue hardship on the Company, for more than ninety (90) consecutive days or more than one hundred eighty (180) days in any twelve- (12-) month period, unless a longer period is required by federal or state law, in which case that longer period would apply.

4. As used herein, "Involuntary Termination" shall mean a termination of Executive by the Company without Cause. For purposes of clarity, the term Involuntary Termination does not include a termination of Executive's employment due to Executive's death or Disability.

5. As used herein, "Good Reason" shall mean the occurrence of any of the following events or circumstances without Executive's consent: (i) reporting to someone other than the President of the Company, the General Manager of the Parent Software Group or the Controller of the Parent Software Group, (ii) a material breach by the Company or Parent of the terms of this Agreement; or (iii) the relocation of Executive's worksite to a place outside of a 35-mile radius from his prior worksite. In order to establish a "Good Reason" for terminating employment, Executive must provide written notice to the Company and Parent of the existence of the condition giving rise to the Good Reason, which notice must be provided within thirty (30) days of the initial existence of such condition, the Company or Parent must fail to cure the condition within thirty (30) days thereafter, and Executive's termination of employment must occur no later than ninety (90) days following the initial existence of the condition giving rise to Good Reason.

IV. TERMINATION OBLIGATIONS

A. Return of Property. Executive agrees that all property (including without limitation all equipment, tangible proprietary information, documents, records, notes, contracts and computer-generated materials) furnished to or created or prepared by Executive incident to Executive's employment belongs to the Company and shall be promptly returned to the Company upon termination of Executive's employment.

B. Resignation and Cooperation. Upon termination of Executive's employment, Executive shall be deemed to have resigned from all offices and directorships then held with the Company. Following any termination of employment, Executive shall cooperate with the Company in the winding up of pending work on behalf of the Company and the orderly transfer of work to other employees. Executive shall also cooperate with the Company in the defense of any action brought by any third party against the Company that relates to Executive's employment by the Company.

V. INVENTIONS AND PROPRIETARY INFORMATION; PROHIBITION ON THIRD PARTY INFORMATION

A. Employee Confidentiality, Intellectual Property and Computer Privacy Agreement. Executive agrees to sign and be bound by the terms of the Parent's Employee Confidentiality, Intellectual Property and Computer Privacy Agreement that is attached as Exhibit A ("CIPCP Agreement").

B. Non-Solicitation. Executive acknowledges that because of Executive's position in the Company, Executive will have access to material intellectual property and confidential information. During the term of Executive's employment and for one year thereafter, in addition to Executive's other obligations hereunder or under the CIPCP Agreement, Executive shall not, for Executive or any third party, directly or indirectly (i) solicit, induce, recruit or encourage any person employed by the Company or Parent to terminate his or her employment; provided, however, that this provision shall not apply to Executive's assistant Sylvia Shapiro, or (ii) divert or attempt to divert from the Company or Parent any business with any customer, client, member, business partner or supplier about which Executive obtained confidential information during his employment with the Company, by using the Company's or Parent's trade secrets or by otherwise engaging in conduct that amounts to unfair competition. Nothing in this Section V.B shall alter or diminish Executive's obligations pursuant to the CIPCP Agreement or any other restrictive covenants between or among Executive and the Company and/or Parent.

VI. AMENDMENTS; WAIVERS; REMEDIES

This Agreement may not be amended or waived except by a writing signed by Executive and by a duly authorized representative of the Company other than Executive. Failure to exercise any right under this Agreement shall not constitute a waiver of such right. Any waiver of any breach of this Agreement shall not operate as a waiver of any subsequent breaches. All rights or remedies specified for a party herein shall be cumulative and in addition to all other rights and remedies of the party hereunder or under applicable law.

VII. ASSIGNMENT; BINDING EFFECT

A. Assignment. The performance of Executive is personal hereunder, and Executive agrees that Executive shall have no right to assign and shall not assign or purport to assign any rights or obligations under this Agreement. This Agreement may be assigned or transferred by the Company; and nothing in this Agreement shall prevent the consolidation, merger or sale of the Company or a sale of any or all or substantially all of its assets.

B. Binding Effect. Subject to the foregoing restriction on assignment by Executive, this Agreement shall inure to the benefit of and be binding upon each of the parties; the affiliates, officers, directors, agents, successors and assigns of the Company; and the heirs, devisees, spouses, legal representatives and successors of Executive.

VIII. NOTICES

All notices or other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered: (a) by hand; (b) by a nationally recognized overnight courier service; or (c) by United States first class registered or certified mail, return receipt requested, to the principal address of the other party, as set forth below. The date of notice shall be deemed to be the earlier of (i) actual receipt of notice by any permitted means, or (ii) five business days following dispatch by overnight delivery service or the United States Mail. Executive shall be obligated to notify the Company in writing of any change in Executive's address. Notice of change of address shall be effective only when done in accordance with this paragraph.

Company's Notice Address:

Wind River Systems, Inc.
c/o Intel Corporation
2200 Mission College Boulevard
Santa Clara, CA 95054
Telecopier: (408) 765-1859
Attention: General Counsel

Executive's Notice Address:

The last personal address provided to the Company.

IX. SEVERABILITY

If any provision of this Agreement shall be held by a court or arbitrator to be invalid, unenforceable, or void, such provision shall be enforced to the fullest extent permitted by law, and the remainder of this Agreement shall remain in full force and effect. In the event that the time period or scope of any provision is declared by a court or arbitrator of competent jurisdiction to exceed the maximum time period or scope that such court or arbitrator deems enforceable, then such court or arbitrator shall reduce the time period or scope to the maximum time period or scope permitted by law.

X. TAXES

All amounts paid under this Agreement shall be paid less all applicable state and federal tax withholdings (if any) and any other withholdings required by any applicable jurisdiction or authorized by Executive. Notwithstanding any other provision of this Agreement whatsoever, the Company, in its sole discretion, shall have the right to provide for the application and effects of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the final regulations and any guidance promulgated thereunder ("Section 409A") (relating to deferred compensation arrangements) and any related administrative guidance issued by the Internal Revenue Service. Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A at the time of Executive's termination (other than due to death), then the cash severance benefits payable to Executive under this Agreement, if any, and any other severance payments or separation benefits that may be considered deferred compensation under Section 409A (together, the "Deferred Compensation Separation Benefits") otherwise due to Executive on or within the six (6) month period following Executive's termination shall accrue during such six (6) month period and shall become payable in a lump sum payment on the date six (6) months and one (1) day following the date of Executive's termination of employment. All subsequent payments, if any, shall be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following his termination but prior to the six (6) month anniversary of his termination, then any payments delayed in accordance with this Section shall be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Compensation Separation Benefits shall be payable in accordance with the payment schedule applicable to each payment or benefit.

It is the intent of this Agreement to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder shall be subject to the additional tax imposed under Section 409A, and any ambiguities herein shall be interpreted to so comply.

Without any negative inference to other compensation paid or payable to Executive, the Company and Parent agree that Executive's Base Salary, Bonus, the First Retention Bonus and Second Retention Bonus that may be paid to Executive hereunder, ongoing active employee benefits and any equity grants to Executive made by the Parent or the Company to Executive on or after the Effective Time, except to the extent such payments or benefits are made pursuant to Section III.E other than on a pro-rated basis, constitute reasonable compensation for services rendered following the Effective Time under Internal Revenue Code Sections 280G and 4999 and the Treasury Regulations thereunder and to report and withhold accordingly.

XI. PARACHUTE PAYMENTS

In the event that the severance and other benefits provided for in this Agreement or otherwise payable or provided to Executive (i) constitute "parachute payments" within the

meaning of Section 280G of the Code, and (ii) but for this Section XI, would be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then the Executive's benefits shall be either (a) delivered in full, or (b) delivered as to such lesser extent which would result in no portion of such benefits being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the Excise Tax, results in the receipt by the Executive on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code.

Unless the Company and Executive otherwise agree in writing, any determination required under this Section XI will be made in writing by a national "Big Four" accounting firm selected by the Company or such other person or entity to which the parties mutually agree (the "Accountants"), whose determination will be conclusive and binding upon the Executive and the Company for all purposes. For purposes of making the calculations required by this Section XI, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section XI. Any reduction in payments and/or benefits required by this Section XI shall occur in the following order: (1) reduction of cash payments; and (2) reduction of equity acceleration (full-value awards first, then stock options), and (3) other benefits paid to Executive. In the event that acceleration of vesting of equity awards is to be reduced, such acceleration of vesting shall be cancelled in the reverse order of the date of grant for Executive's equity awards.

The Accountants shall provide their calculations, together with detailed supporting documentation, to the Company and Executive within thirty (30) calendar days after the date on which the Accountants have been engaged to make such determinations or such other time as requested by the Company or Executive. If the Accountants determine that no Excise Tax is payable with respect to a payment or benefit, it shall furnish the Company and Executive with an opinion reasonably acceptable to Executive that no Excise Tax will be imposed with respect to such payment or benefit. Any good faith determinations of the Accountants made hereunder shall be final, binding and conclusive upon the Company and Executive.

XII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

XIII. INTERPRETATION

Each party recognizes that this is a legally binding contract and acknowledges and agrees that they have had the opportunity to consult with legal counsel of their choice. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. Executive agrees and acknowledges that he has read and understands this Agreement, is

entering into it freely and voluntarily, and has been advised to seek counsel prior to entering into this Agreement and has had ample opportunity to do so. Sections and section headings contained in this Agreement are for reference purposes only, and shall not affect in any manner the meaning or interpretation of this Agreement. Whenever the context requires, references to the singular shall include the plural and the plural the singular.

XIV. OBLIGATIONS SURVIVE TERMINATION OF EMPLOYMENT

Executive agrees that any and all of Executive's obligations under this agreement, including but not limited to Exhibit A, shall survive the termination of employment and the termination of this Agreement.

XV. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement, but all of which together shall constitute one and the same instrument.

XVI. AUTHORITY

Each party represents and warrants that such party has the right, power and authority to enter into and execute this Agreement and to perform and discharge all of the obligations hereunder; and that this Agreement constitutes the valid and legally binding agreement and obligation of such party and is enforceable in accordance with its terms.

XVII. ENTIRE AGREEMENT

This Agreement is intended to be the final, complete, and exclusive statement of the terms of Executive's employment by the Company and may not be contradicted by evidence of any prior or contemporaneous statements or agreements, except for agreements specifically referenced herein (including the Merger Agreement and CIPCP Agreement attached as Exhibit A). This Agreement supersedes all prior and contemporaneous agreements of the parties hereto that directly or indirectly bears upon the subject matter hereof (including, without limitation, the Prior Employment Agreement, and, with respect to participation by Executive, the CIC Plan and the Severance Plan). To the extent that the practices, policies or procedures of the Company, now or in the future, apply to Executive and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control. Any subsequent change in Executive's duties, position, or compensation will not affect the validity or scope of this Agreement.

XVIII. EXECUTIVE ACKNOWLEDGEMENT

EXECUTIVE ACKNOWLEDGES EXECUTIVE HAS HAD THE OPPORTUNITY TO CONSULT LEGAL COUNSEL CONCERNING THIS AGREEMENT, THAT EXECUTIVE HAS READ AND UNDERSTANDS THE AGREEMENT, THAT EXECUTIVE IS FULLY AWARE OF ITS LEGAL EFFECT, AND THAT EXECUTIVE HAS ENTERED INTO IT FREELY BASED ON EXECUTIVE'S OWN JUDGMENT AND NOT ON ANY REPRESENTATIONS OR PROMISES OTHER THAN THOSE CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

WIND RIVER SYSTEMS, INC.

/s/ Kenneth R. Klein
Signature

Title: President and Chief Executive Officer

Date: 6/04/09

IAN HALIFAX

/s/ Ian Halifax
Signature

Date: 6/04/09

INTEL CORPORATION

/s/ Arvind Sodhani
Signature

Arvind Sodhani
Executive Vice President, Intel
Corporation and President,
Intel Capital Corporation

Date: 6/04/09

[SIGNATURE PAGE TO EXECUTIVE EMPLOYMENT AGREEMENT]

EXHIBIT A

EMPLOYEE CONFIDENTIALITY, INTELLECTUAL PROPERTY AND COMPUTER PRIVACY AGREEMENT

In exchange for being employed by Intel Corporation ("Intel") or any of its subsidiaries, affiliates or successors (collectively, the "Intel Group"), I agree that:

1. General Conduct. While working for any company in the Intel Group, I will perform my assigned duties and comply with all Intel Group policies, procedures, guidelines, rules, and instructions, including Intel's Corporate Code of Conduct. The company within the Intel Group that is my employer is referred to in this Agreement as "Employer."

2. Prior Third Party Information. I represent that I do not possess, have not brought, and will not bring to the Intel Group, nor use in the course of the performance of my duties at the Intel Group, any proprietary or confidential information of any former employer or third party without their written authorization.

3. Confidential Information. At all times, both during and after my employment with any company in the Intel Group, I will not use (except for the benefit and at the direction of the Intel Group) and will hold in confidence and not disclose (without written authorization from a company in the Intel Group, except to the extent I am authorized to do so in the course of my duties) any proprietary information or trade secret (technical, marketing, planning, financial, personnel or otherwise) of the Intel Group or any third party to which I gain access pursuant to my employment, until such information becomes generally and rightfully known outside the Intel Group without non-disclosure restriction, or for the maximum period of time for maintaining trade secrets as permitted by law in the jurisdiction in which I am employed if such period is shorter. I agree not to make unauthorized copies of such confidential information and to return to the Intel Group immediately upon my termination or upon request by my Employer or any other company in the Intel Group all tangible forms of such confidential information, including but not limited to drawings, computerized data or programs, specifications, documents, devices, models, employee lists, customer lists or phone books, or any other Intel Group confidential information. I will, at all times, treat third parties' confidential information, to which I have access during my employment by any company in the Intel Group, as if it were Intel confidential information unless I have been advised of the need to treat that third parties' confidential information differently, in which event I agree to treat such third parties' confidential information in the manner to which I have been advised. I agree that any breach, violation or evasion of this provision will result in immediate and irreparable injuries and harm to the Intel Group, and I agree that any company in the Intel Group seeking to enforce this Agreement shall have recourse to the remedies of injunction and specific performance, or either of such remedies, as well as all other legal or equitable remedies to which such company may be entitled.

4. Ownership of Proprietary Developments. I acknowledge and agree to disclose to the Intel Group, promptly and in confidence, all patents, trade secrets, copyrights, mask works, trademarks, inventions, discoveries, designs, formulae, processes, methods, manufacturing techniques, improvements, ideas, copyrightable works, and other intellectual property which I create, invent or discover alone or with others during my employment with any company in the Intel Group ("Proprietary Developments"). I agree that all Proprietary Developments (i) that were created at least in part not during my own time or (ii) that were created using Employer or other Employer or other Intel Group equipment, supplies, facilities or trade secrets or (iii) that relate at the time of conception or reduction to practice of the invention or creation or discovery to Employer's or other Intel Group companies' business, or to actual or demonstrably anticipated research or development of Employer or other Intel Group companies or (iv) that result from any work performed by me for Employer or other Intel Group companies are, from the moment of their creation, invention or discovery, the sole property of Employer or Employer's designee ("Intel Proprietary Developments"). I acknowledge and agree that Employer or such other entity within the Intel Group that Employer designates has and shall for all time have sole legal and equitable title to all Intel Proprietary Developments. Without additional compensation, I (a) agree promptly to disclose and (b) to the full extent allowed by law but only to the extent not already owned by Employer pursuant to this Agreement and applicable law, hereby assign to Employer (or such other company in the Intel Group as may be designated by Employer), all rights in the Intel Proprietary Developments. I further agree that, both during and after my employment with any company in the Intel Group, I will provide all assistance reasonably requested by Employer at Employer's (or its designee's) reasonable expense, to secure and enforce its rights throughout the world with respect to the Intel Proprietary Developments. I agree to execute any and all documents (including assignment agreements)

reasonably requested by Employer or its designee to memorialize the ownership of the Intel Proprietary Developments by Employer or its designee ("Ownership Documents"). To the extent that I fail or refuse to execute Ownership Documents, or cannot be located by Employer through the exercise of reasonable diligence, I hereby irrevocably appoint Employer or its designee as my attorney in fact to execute Ownership Documents in my name. I hereby waive any pre-emptive or other rights that I may have in all Intel Proprietary Developments and, to the extent that such waiver is ineffective under applicable law until such an Intel Proprietary Development is created, invented or discovered, I hereby agree to waive such pre-emptive or other rights immediately upon the creation, invention or discovery of such Intel Proprietary Development.

Notwithstanding anything else in this agreement, I have been notified and further understand that Intel Proprietary Developments do not include inventions which I developed entirely on my own time without using Intel Group equipment, supplies, facilities, or trade secret information, except for inventions which either: (i) relate at the time of conception or reduction to practice of the invention to the Intel Group's business, or actual or demonstrably anticipated research or development of the Intel Group or (ii) result from any work performed by me for the Intel Group.

5. Licensed Employee Intellectual Property. The purpose of this section 5 is to enable the Intel Group to determine their rights and risks as to any intellectual property rights, whether vested or pending, which I own or control in whole or in part, prior to joining any company in the Intel Group ("Preexisting Employee Intellectual Property"). Unless identified on Appendix A with sufficient particularity to allow the Intel Group to identify the subject matter of the Preexisting Employee Intellectual Property, I hereby grant Employer (or its designee within the Intel Group) a non-exclusive, non-transferable (except within the Intel Group), perpetual, irrevocable, royalty-free, world-wide license, with the right to sublicense, to make, have made, use, sell, offer to sell, import, reproduce, have reproduced, prepare derivative works of, distribute, and otherwise dispose of any product or document, under all patents, trade secrets, copyrights, mask works, trademarks, inventions, discoveries, designs, formulae, processes, methods, manufacturing techniques, improvements, ideas, copyrightable works, and other Preexisting Employee Intellectual Property. To be clear, the license to Preexisting Employee Intellectual Property excludes Proprietary Developments as defined in section 4, or Preexisting Employee Intellectual Property identified as required above in Appendix A at the time of my execution of this Agreement and submitted directly by me to Intel Legal such that it is actually received by Intel Legal within five working days of my hiring. If I fail to make any required disclosure or breach any term of sections 4 and 5, I agree that any applicable limitations periods shall be tolled and shall not run as to any claim, right, or cause of action Employer may have relating to such disclosure or breach that would have been discovered had the required disclosure been made, until such time as Employer obtains actual knowledge of the facts giving rise to its claim. Nothing contained in this section shall in any way limit or be exclusive of other remedies otherwise available in law or equity to the Intel Group.

6. Computer Communications are Not Private. I understand that although the companies within the Intel Group permit reasonable personal use of networked computer equipment, these resources and all information contained on them are the sole property of companies within the Intel Group. Computer use is not private or confidential, and someone other than the intended addressee may receive the message. I understand and consent to my Employer's and/or the Intel Group's interception and review of both incoming and outgoing email, internet and all computer information, including any password-protected employee communications.

7. Miscellaneous. I understand that if Intel is not my Employer, Intel is signing this Agreement as agent for the Intel Group company that is my Employer.

The terms and conditions stated herein are severable. If any paragraph, provision, or clause in this Agreement is found or held to be invalid, unenforceable or void in any jurisdiction in which this Agreement is being performed, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement and such provision as applied to other persons, places or circumstances shall remain in full force and effect.

This Agreement: (a) survives my employment with any company or companies in the Intel Group; (b) inures to the benefit of successors and assigns of my Employer (including successors within the Intel Group); and (c) is binding upon my heirs, assigns, and legal representatives. To the best of my information and belief, I am not a party to any other agreement which will interfere with my full compliance with this Agreement, except as specifically identified herein.

This Agreement may not be modified or amended except in a writing signed by the parties. Only the Vice President of Human Resources, Intel Corporation, or his or her delegate, or the General Counsel of Intel Corporation, or his or her delegate, has the authority to modify this agreement on behalf of the Intel Group.

This Agreement is effective as of my first day of employment with any company in the Intel Group, remains in effect if I become employed by any other company in the Intel Group (which shall then become my Employer hereunder) and supersedes any prior Employee Agreement signed by me with any company in the Intel Group (excluding the Executive Employment Agreement entered into between me, Wind River Systems, Inc., and Intel dated June 4, 2009).

I have carefully read all of the provisions of this Agreement and I understand and will fully and faithfully comply with such provisions.

Intel Corporation

Signature
Name:
Title:

Employee

Signature

Date

/

Printed Name & WWID # (please print clearly)

SSN

Appendix A to Employee Confidentiality, Intellectual Property and Computer Privacy Agreement
Non-Licensed Intellectual Property (IP)

List only IP that you own or control. Do not list patents that your former employer owns, even if you are named as an inventor.

Employee Name (please print) _____ Date _____

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

16. _____

Attach additional sheets as necessary. Number of additional sheets attached: _____

EXHIBIT B

GENERAL RELEASE

Ian Halifax ("Executive") and Wind River Systems, Inc. (the "Company") have agreed to enter into this General Release ("Release") on the following terms:

Effective **[Separation Date]**, Executive's employment at the Company shall be terminated. Subject to the effectiveness of this Release and any delay required to avoid the imposition of additional taxes under Internal Revenue Code Section 409A, Executive will begin receiving the severance benefits set forth in Section III.E.2 of Executive Employment Agreement dated June 4, 2009 ("Agreement"), in accordance with the terms of that Agreement.

In exchange for the foregoing Severance, Executive completely releases the Company, its affiliated, related, parent or subsidiary corporations, and its and their present and former directors, officers, and employees from, and agrees not to file, cause to be filed, or otherwise pursue, any and all claims Executive may now have or has ever had against any of them, including but not limited to claims for compensation, bonuses, severance pay, equity, and all claims arising from Executive's employment or the termination of that employment (including, without limitation, any claims arising under the Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the WARN Act or any state counterpart, the California Fair Employment and Housing Act, or any other claims for violation of any federal, state, or municipal statutes), and any and all claims for attorneys' fees and costs. This release does not extend to any severance obligations or Accrued Obligations due Executive under the Agreement. Nothing in this Agreement waives Executive's rights to indemnification or any payments under any fiduciary insurance policy, if any, provided by any act or agreement of the Company or Parent, state or federal law or policy of insurance.

Executive agrees that because this Release specifically covers known and unknown claims, Executive waives any rights under Section 1542 of the California Civil Code, or under any comparable law of any other jurisdiction. Section 1542 states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Executive acknowledges that Executive has 21 days to consider this Release (but may elect to sign it at any time beforehand), and may consult an attorney in doing so. Executive also acknowledges that he or she may revoke this Release within 7 days of signing it by sending a certified letter to that effect to **[name and address]**. Executive understands and agrees that this Release shall not become effective or enforceable and no payments or benefits will be provided until the 7-day revocation period has expired.

Executive acknowledges that the Agreement and this Release represent the entire agreement and understanding between the parties, supersede and replace any and all prior agreements and understandings between them, and shall not be modified in any way except in writing executed by both parties. Executive also agrees that if any term or portion contained

herein shall be found to be unenforceable under applicable law, such finding shall not invalidate the whole Release, but the Release shall be construed as not containing the particular term or portion held to be invalid and the rights and obligations of the parties shall be construed and enforced accordingly.

Executive acknowledges that Executive has read this Release, fully understands all of its provisions and the consequences of signing it, and agrees to all of its conditions.

Ian Halifax	[Name of Company Signatory] Wind River Systems, Inc.
Date: _____	Date: _____