

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

VIOLIN MEMORY, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 16-12782 (LSS)

Related D.I. 305, 313, 314, 381, 404

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER CONFIRMING  
SECOND AMENDED PLAN OF REORGANIZATION FOR VIOLIN MEMORY, INC.**

The above-captioned debtor and debtor in possession (the “**Debtor**”) and VM Bidco LLC (the “**Plan Sponsor**,” and together with the Debtor, the “**Proponents**”) having filed the *Second Amended Plan of Reorganization for Violin Memory, Inc.* [D.I. 313] (as amended, modified or supplemented in accordance with its terms, the “**Plan**”); and the Proponents having filed the *Second Amended Disclosure Statement with Respect to the Plan of Reorganization for Violin Memory, Inc.* [D.I. 314] (the “**Disclosure Statement**”); and the Court having approved the Disclosure Statement as containing adequate information and certain solicitation and notice procedures related thereto [D.I. 305] (the “**Solicitation Procedures Order**”);<sup>2</sup> and the Proponents having filed the Plan Supplement, as amended or supplemented [D.I. 381, 396, 406]; and upon the filed affidavits of service and publication documenting compliance with the notice and solicitation requirements of the Solicitation Procedures Order [D.I. 343, 348, 361] (the “**Solicitation Affidavits**”); and upon the *Declaration of Christina Pullo of Prime Clerk LLC Regarding the Solicitation of Votes and Tabulation of Ballots Cast on the Second Amended Plan of Reorganization for Violin Memory, Inc.* [D.I. 400] (the “**Voting Declaration**”); *Declaration of Richard N. Nottenburg in Support of Confirmation of the Second Amended Plan of*

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<sup>1</sup> The Debtor’s tax identification number is 20-3940944 and its business address is 4555 Great America Parkway, Suite #510, Santa Clara, CA 95054.

<sup>2</sup> Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Plan or the Solicitation Procedures Order, as applicable.

*Reorganization for Violin Memory, Inc.* [D.I. 402] (the “**Nottenburg Declaration**”); and upon the *Declaration of Ryan Sandahl in Support of Confirmation of the Second Amended Plan of Reorganization for Violin Memory, Inc.* [D.I. 403] (“**Sandahl Declaration**”); and upon the *Declaration of Nicholas Esayan in Support of Confirmation of the Second Amended Plan of Reorganization for Violin Memory, Inc.* [D.I. \_\_\_\_] (the “**Sponsor Declaration**”); and upon the *Proponents’ Memorandum of Law in Support of Confirmation of Second Amended Plan of Reorganization for Violin Memory, Inc.* [D.I. 404]; and upon no objections having been filed to confirmation of the Plan [, and any other objections or reservations of rights to the Plan having been resolved or overruled by the Bankruptcy Court]; and the Court having conducted a hearing to consider confirmation of the Plan on April 18, 2017 (the “**Confirmation Hearing**”); and upon the evidence adduced and offered and the statements of counsel made at the Confirmation Hearing; and the Bankruptcy Court having reviewed all documents submitted in connection with confirmation and having heard all parties desiring to be heard; and after due deliberation and consideration of all of the foregoing; and upon sufficient cause appearing therefor,

**IT IS HEREBY FOUND AND DETERMINED THAT:**

A. Findings and Conclusions. The findings of fact and conclusions of law set forth herein and on the record of the Confirmation Hearing constitute the Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Jurisdiction and Venue. The Court has jurisdiction over the Bankruptcy Case pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §

157(b). Venue is proper before the Court and in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Case Status. On December 14, 2016, the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtor has continued to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been requested or appointed in this Bankruptcy Case. On December 27, 2016, the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) appointed an official committee of unsecured creditors (the “**Official Committee**”).

D. Notice and Service of Solicitation Materials. The Voting Declaration and the Solicitation Affidavits establish the transmittal and service of the Disclosure Statement, Plan and related solicitation materials and notices (including without limitation notice of all deadlines for objecting to, or voting to accept or reject, the Plan and of the proposed release, discharge, exculpation and injunction provisions of the Plan) in accordance with the Solicitation Procedures Order. Under the circumstances, such transmittal and service constitutes due, adequate and sufficient notice of the Plan and the Confirmation Hearing to all parties entitled to such notice under the Bankruptcy Code and Bankruptcy Rules, and no other or further notice is necessary or required.

E. Solicitation. The Proponents have solicited votes for acceptance and rejection of the Plan in good faith and in compliance with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018, the Solicitation Procedures Order, all applicable provisions of the Bankruptcy Code, and all other applicable rules, laws, and regulations. The Proponents are entitled to the protections of section 1125(e) of the Bankruptcy Code.

F. Vote Certification. All procedures used to tabulate the Ballots were fair and conducted in accordance with the Solicitation Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations. As evidenced by the Voting Declaration, Classes 3 and 4 voted to accept the Plan.

G. Plan Supplement. In accordance with the Solicitation Procedures Order, on April 5, 2017, the Debtor filed the Plan Supplement [D.I. 381]. On April 11, 2017, the Debtor filed a supplement to the Assumption Schedule (Exhibit B of the Plan Supplement) adding one executory contract thereto [D.I. 396]. On April 14, 2017, the Debtor filed a supplement to the disclosures pursuant to section 1129(a)(5) of the Bankruptcy Code (Exhibit C of the Plan Supplement) regarding the individuals, including one insider of the Debtor, proposed to serve as officers of the Reorganized Debtor after the Effective Date [D.I. 406]. The information and documents comprising the Plan Supplement and the amendments or supplements thereto are integral to the Plan. Under the circumstances, the filing and service of such documents as set forth in the Solicitation Procedures Order constitutes due, adequate and sufficient notice thereof to all parties entitled to such notice under the Bankruptcy Code and Bankruptcy Rules, and no other or further notice is necessary or required. Consistent with the terms of the Plan, the Proponents reserve rights to alter, amend, update, or modify the Plan Supplement in accordance with the terms thereof.

H. Bankruptcy Rule 3016. The Plan is dated and identifies its proponents in accordance with Bankruptcy Rule 3016(a). The Plan describes in specific and conspicuous language all acts to be enjoined and identifies the entities subject to such injunction in accordance with Bankruptcy Rule 3016(c).

I. Burden of Proof. The Proponents have met their burden of proving the elements of sections 1129(a) and (b) of the Bankruptcy Code necessary to confirm the Plan by a preponderance of the evidence.

J. Section 1129(a)(1). The Plan satisfies section 1129(a)(1) of the Bankruptcy Code because it complies with all applicable provisions of the Bankruptcy Code, including but not limited to the following:

1. The classification of Claims and Interests under the Plan is proper under the Bankruptcy Code. In addition to Administrative Claims, Priority Tax Claims, and DIP Claims, which need not be classified, the Plan classifies Claims and Interests into seven (7) separate Classes. The Claims or Interests placed in each Class are substantially similar to other Claims or Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for the separate Classes of Claims and Interests established under the Plan. Thus, the Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.
2. Article III of the Plan specifies that Classes 1 and 2 are not impaired under the Plan. Accordingly, the Plan satisfies section 1123(a)(2) of the Bankruptcy Code.
3. Article III of the Plan designates Classes 3 and 4 as impaired and specifies the treatment of Claims in such Classes. Thus, the Plan satisfies the requirements of section 1123(a)(3) of the Bankruptcy Code.
4. Article IV of the Plan provides for the same treatment by the Debtor for each Claim or Interest in each respective Class. Thus, the Plan satisfies section 1123(a)(4) of the Bankruptcy Code.
5. The Plan provides adequate and proper means for its implementation, including without limitation (a) the conversion of the DIP Facility into a tranche of the Exit Facility, (b) the establishment and funding of the Distribution Trust, and (c) the appointment and duties of the Distribution Trustees. Thus, the Plan satisfies the requirements of section 1123(a)(5) of the Bankruptcy Code.
6. The Plan provides that all of the Reorganized Debtor's charter, bylaws and other corporate governance documents will be consistent with section 1123(a)(6) of the Bankruptcy Code. Thus, the Plan satisfies the requirements of section 1123(a)(6) of the Bankruptcy Code.

7. Article VI of the Plan sets forth the manner of selection of the directors and officers of the Reorganized Debtor, and of the trustees for the Distribution Trust. The manner of selection of such individuals is consistent with the interests of Holders of Claims and Interests and with public policy. Thus, the Plan satisfies the requirements of section 1123(a)(7) of the Bankruptcy Code.
8. The Plan's additional provisions are appropriate and consistent with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules, including, without limitation, provisions for (i) the impairment of certain classes of claims, (ii) the disposition of Executory Contracts and Unexpired Leases, (iii) the releases by the Debtor of certain parties, (iv) the consensual releases of certain non-debtor parties by third parties, (v) the exculpations of certain parties, (vi) the injunctions against certain parties, (vii) the retention of, and the right to enforce, sue on, settle, or compromise (or refuse to do any of the foregoing with respect to) certain claims or causes of action against third parties to the extent not waived or released under the Plan or this Order, (viii) the permissible modifications of the rights of Holders of Claims or Interests, (ix) the operations of the Distribution Trust, (x) the distributions to Holders of Claims, (xi) the limited restrictions on claims transfers, (xii) the dissolution of the Official Committee after the Effective Date, and (xiii) the retention of jurisdiction by the Court over certain matters after the Effective Date.

K. Section 1129(a)(2). The Proponents have complied with all applicable provisions of the Bankruptcy Code, including without limitation sections 1122, 1123, 1124, 1125 and 1126 of the Bankruptcy Code, the Bankruptcy Rules, the Solicitation Procedures Order, and other orders of the Court.

L. Section 1129(a)(3). The Plan has been proposed by the Proponents in good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In making this determination, the Court has considered the circumstances and record of the Bankruptcy Case and the process leading to the filing of the Plan and the Confirmation Hearing. The Plan is the result of a market-tested process and of extensive arm's length negotiations among the Debtor and key stakeholders, and has received strong support from creditors. The Plan is proposed to effect a successful reorganization of the Debtor and to

maximize creditor recoveries, and accordingly is consistent with the objectives and purposes of the Bankruptcy Code.

M. Section 1129(a)(4). The payments made or to be made by the Debtor to professionals for services or costs in connection with the Plan or incident to the Bankruptcy Case, either has been approved by or is subject to the approval of the Court as reasonable. Thus, the Plan satisfies section 1129(a)(4) of the Bankruptcy Code.

N. Section 1129(a)(5). The identities and affiliations of the individuals that will serve as directors and officers of the Reorganized Debtor have been adequately disclosed in the Plan Supplement, in satisfaction of section 1129(a)(5)(A)(i) of the Bankruptcy Code. Further, in accordance with section 1129(a)(5)(A)(ii) of the Bankruptcy Code, the appointment of the directors and officers to such offices is consistent with the interests of creditors and with public policy inasmuch as no objection to their appointment was received. Moreover, the identities and affiliations of the Distribution Trustees is disclosed in the Plan Supplement, in satisfaction of section 1129(a)(5)(A)(i) of the Bankruptcy Code. Further, in accordance with section 1129(a)(5)(A)(ii) of the Bankruptcy Code, the appointment of the Distribution Trustees is consistent with the interests of creditors and with public policy on the grounds that the Official Committee has participated in the selection and the negotiation of the compensation of the Distribution Trustees and no objection to the proposed Distribution Trustees has been filed.

O. Section 1129(a)(6). The Plan does not provide for any changes in rates that require regulatory approval of any governmental agency. As such, section 1129(a)(6) of the Bankruptcy Code is inapplicable in this Bankruptcy Case.

P. Section 1129(a)(7). Each holder of an impaired Claim or Interest that has not accepted the Plan will, on account of such Claim or Interest, receive or retain property under the Plan having a value, as of the Effective Date, that is not less than the amount that such holder

would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on such date. In making this determination, the Court finds that the liquidation analysis attached to the Disclosure Statement, the Sandahl Declaration, and other evidence related thereto in support of the Plan introduced at the Confirmation Hearing: (a) are reasonable, credible and persuasive; (b) utilize reasonable and appropriate methodologies and assumptions; and (c) has not been controverted by other evidence. Accordingly, the Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code.

Q. Section 1129(a)(8). Class 1 (Quantum Claims) and Class 2 (Priority Non-Tax Claims) are Unimpaired under the Plan and each is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Class 3 (Quantum Claims) and Class 4 (General Unsecured Claims) have each voted to accept the Plan in accordance with section 1126(c) of the Bankruptcy Code. However, section 1129(a)(8) of the Bankruptcy Code has not been satisfied because Class 5 (Subordinated Claims), Class 6 (Intercompany Claims) and Class 7 (Equity Interests) are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. However, as set forth below, the Plan is confirmable because it satisfies the nonconsensual confirmation requirements pursuant to section 1129(b) of the Bankruptcy Code.

R. Section 1129(a)(9). The treatment of Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims under the Plan satisfies the requirements of section 1129(a)(9) of the Bankruptcy Code.

S. Section 1129(a)(10). Both Class 3 and Class 4 are impaired and have voted to accept the Plan, determined without including any acceptance by any insider. Therefore, the requirements of section 1129(a)(10) of the Bankruptcy Code are satisfied.

T. Section 1129(a)(11). Confirmation of the Plan is not likely to be followed by the liquidation or further financial reorganization of the debtor or any successor to the debtor under



the Plan. Pursuant to the Plan, the Reorganized Debtor will be discharged of prepetition claims and will receive new financing from the Plan Sponsor or its affiliates. Moreover, no distributions to creditors under the Plan are related in any way to the performance of the Reorganized Debtor. Accordingly, the Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.

U. Section 1129(a)(12). The Plan provides for the payment by the Effective Date of all fees required under 28 U.S.C. § 1930(a), and thereby satisfies section 1129(a)(12) of the Bankruptcy Code.

V. Section 1129(a)(13)-(16). The Debtor does not owe retiree benefits (as defined under section 1114 of the Bankruptcy Code), and accordingly section 1129(a)(13) does not apply to the Plan. Additionally, sections 1129(a)(14)-(16) of the Bankruptcy Code apply to individuals or nonprofit entities and are not applicable to the Bankruptcy Case.

W. Section 1129(b). All of the requirements of section 1129(a) of the Bankruptcy Code, other than section 1129(a)(8), are satisfied by the Plan. Class 5 (Subordinated Claims), Class 6 (Intercompany Claims) and Class 7 (Equity Interests) are all deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code (the “**Deemed Rejecting Classes**”). The Plan’s classification scheme, including its treatment of the Deemed Rejecting Classes, is appropriate as similarly situated Claims or Interests receive substantially similar treatment under the Plan and valid business, factual, and legal reasons exist for the separate classification and treatment of the Claims or Interests across the various Classes established under the Plan. In addition, no holder of any Claim or Interest that is junior to the Claims or Interests in any Deemed Rejecting Class will receive or retain any property under the Plan on account of such junior Claim or Interest, and no Class is receiving or retaining property under the Plan with a value greater than the Allowed amount of Claims in such Class. Therefore, the Plan does not

discriminate unfairly, and is fair and equitable, with respect to each of the Deemed Rejecting Classes. Accordingly, the Plan satisfies the requirements of and may be confirmed under section 1129(b) of the Bankruptcy Code and may be confirmed

X. Section 1129(c). The Plan is the only plan that has been filed in the Bankruptcy Case, and accordingly the requirements of section 1129(c) of the Bankruptcy Code are satisfied.

Y. Section 1129(d). The principal purpose of the Plan is neither the avoidance of taxes nor the avoidance of the application of section 5 of the Securities Act of 1933, and no party in interest, including but not limited to any governmental unit, has requested that the Court deny confirmation of the Plan on such grounds. Accordingly, the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

Z. Securities Exempt from Registration. The offering, issuance and distribution of any securities pursuant to the Plan, including without limitation the issuance of the New Equity to Quantum Partners and the distribution of the Distribution Trust Interests to the Distribution Trust Beneficiaries, are subject to, or made in good faith and in reliance on, exemptions from section 5 of the Securities Act of 1933 and any state or local laws requiring registration or licensing for issuers, underwriters or brokers, pursuant to section 1145 of the Bankruptcy Code, section 4(a)(2) of the Securities Act, or any other applicable exemption under the Securities Act.

AA. Executory Contracts and Unexpired Leases. Article VII of the Plan provides for the rejection of all executory contracts or unexpired leases of the Debtor as of the Effective Date, except for those explicitly designated for assumption pursuant to the Assumption Schedule, for certain procedures to amend or modify the Assumption Schedule, for certain procedures by which counterparties may assert objections to the proposed treatment or cure of their respective contract or lease under the Plan, and for certain procedures by which the Assumption Schedule may be amended or modified (including under certain circumstances *nunc pro tunc* to the

Effective Date). Article VII of the Plan is consistent with section 1123(b)(2) of the Bankruptcy Code and satisfies the requirements of section 365 of the Bankruptcy Code. The assumption or rejection of executory contracts and unexpired leases as set forth therein and in the Assumption Schedule, notice of which has been provided in accordance with the Solicitation Procedures Order, is based on sound business judgment by the Debtor and is in the best interests of the Debtor and the Estate. The Debtor has provided adequate assurance that the Reorganized Debtor will cure defaults (if any) and timely perform under each Executory Contract being assumed pursuant to the Plan.

BB. Releases. The releases set forth in sections 9.1 and 9.2 of the Plan are a material element of the settlements and transactions incorporated into and to be effectuated by the Plan; are important to facilitate an overall resolution with respect to the Debtor's reorganization among the parties in interest in the Bankruptcy Case; and are consistent with sections 105, 1123 and 1129 of the Bankruptcy Code and all other applicable law.

CC. Debtor Releases. The releases by the Debtor pursuant to Section 9.1 of the Plan are supported by consideration and are (i) fair, equitable and reasonable, (ii) integral elements of the Debtor's reorganization and resolution of this Bankruptcy Case in accordance with the Plan Sponsor Agreement and the Plan, and without which the Debtor's ability to confirm the Plan would be seriously impaired, and (iii) in the best interests of the Debtor, its estate and creditors.

DD. Third Party Releases. Section 9.2 of the Plan provides for certain releases of non-Debtor parties by creditors who are (i) not impaired under the Plan or (ii) who are entitled to vote on the Plan and (a) have voted to accept the Plan or (b) have rejected or abstained from voting on the Plan and have not returned a ballot marking the "opt-out" box therein. The foregoing was explicitly and conspicuously stated in the ballots sent to creditors entitled to vote in accordance with the Solicitation Procedures Order and served as set forth in the Solicitation Affidavits. The

releases under Section 9.2 of the Plan were also disclosed in the Disclosure Statement, the Plan, the Confirmation Hearing Notice, and in the published notice of the Confirmation Hearing, and were served as set forth in the Solicitation Affidavits. Accordingly, the releases under Section 9.2 of the Plan are consensual and binding on all creditors to the extent set forth therein.

EE. Exculpation. The exculpation set forth in Section 9.4 of the Plan, is an integral element of the Plan Sponsor Agreement and the Plan. The parties to be so exculpated have participated in good faith in formulating and negotiating the Plan, and have substantially contributed thereto, and accordingly such exculpation is reasonable and appropriate under the circumstances.

FF. Injunction. The injunctions set forth in Sections 9.3 and 9.6 of the Plan are necessary to implement, preserve and enforce the Debtor's discharge, and the releases and exculpation of Article IX of the Plan, and are narrowly tailored to achieve this purpose.

GG. Plan Conditions to Confirmation. Any and all conditions to confirmation set forth in the Plan have been satisfied or waived in accordance with the terms of the Plan.

HH. Plan Conditions to Consummation. Each of the conditions to the Effective Date under the Plan, as set forth in Section 11.3 therein, is reasonably likely to be satisfied or waived in accordance with the terms of the Plan.

II. Waiver of Stay. Under the circumstances, good cause exists to waive the stay imposed by Bankruptcy Rule 3020(e).

JJ. Capital Structure of Reorganized Debtor. Pursuant to the Plan, all of the equity of the Reorganized Debtor will be distributed to Holders of Claims in Class 3 in full and final satisfaction of their Claims. The Reorganized Debtor will have outstanding indebtedness under the Exit Facility, reflecting the portion distributed in satisfaction of the DIP Claims and the portion issued to the Plan Sponsor for the funding of the Plan.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. Confirmation. The Plan, in the form attached as Exhibit A and including all documents of the Plan Supplement, as modified by this Order, is hereby approved and confirmed pursuant to section 1129 of the Bankruptcy Code. All objections or reservations of rights pertaining to confirmation of the Plan that have not been withdrawn, waived or otherwise resolved are hereby overruled on the merits and denied.

2. Amendments, Modifications or Alterations. To the extent the Plan has been amended, modified or supplemented subsequent to solicitation, then to the extent that such revisions do not materially and adversely affect the treatment of any Claims or Interests pursuant to the Plan and otherwise are consistent with Section 11.6 of the Plan, pursuant to Bankruptcy Rule 3019, such revisions, if any, do not require additional disclosure under section 1125 of the Bankruptcy Code or re-solicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that holders of Claims or Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

3. Implementation. The Proponents, the Reorganized Debtor, and the Distribution Trustees are hereby authorized to take all actions as necessary, appropriate, or desirable to enter into, implement, and consummate the transactions contemplated by the Plan and the contracts, instruments, releases, leases, agreements, or other documents created or executed in connection with the Plan Documents. Pursuant to this Order, the Debtor is hereby authorized and empowered, without action by its stockholders or further action by its board of directors, to take any and all actions as are consistent with the Plan and as are reasonably determined by any of their executive officers to be necessary or appropriate to implement, effectuate or consummate any and all instruments, documents or transactions contemplated by the Plan or this Order. Without further order or authorization of the Court, the Proponents, the Reorganized Debtor, and

the Distribution Trustees are authorized to make all modifications to all Plan Documents in accordance with the Plan. Execution versions of the Plan Documents, where applicable, shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms.

4. Effective Date. The Effective Date of the Plan shall occur on the date, as determined by the Proponents, when the conditions set forth in Section 11.3 of the Plan have been satisfied or waived in accordance with the Plan.

5. Binding Effect. Subject to the occurrence of the Effective Date, the provisions of the Plan and this Order shall be binding upon: (a) the Reorganized Debtor; (b) the Distribution Trustees and any professionals or other parties assisting and supporting the Distribution Trustee; (c) all Professionals; (d) any and all non-Debtor parties to judicial or administrative proceedings in which the Debtor is a party; (e) any and all Holders of Claims or Interests (irrespective of (i) whether such Claims or Interests are impaired under the Plan, (ii) whether the Holders of such Claims or Interests accepted, rejected, or are deemed to have accepted or rejected the Plan, or (iii) whether such Claims or Interests have been asserted in a filed proof of claim, proof of interest, request for administrative expense payment or other pleading or filing); (f) any and all non-Debtor parties to executory contracts or unexpired leases with the Debtor; (g) any Person that received or may be deemed to have received notice of the Plan and the Confirmation Hearing; and (h) the respective heirs, executors, administrators, trustees, affiliates, officers, directors, agents, representatives, attorneys, beneficiaries, guardians, successors or assigns, if any, of any of the foregoing. All settlements, compromises, releases, waivers, exonerations, and injunctions set forth in the Plan shall be, and hereby are, effective and binding on all Persons who may have had standing to assert any settled, released, exculpated, or enjoined causes of

authorizing the Debtor's abandonment  
of the Non-Debtor Equity Interests (as defined)\* ←

action, and no other Person or entity shall possess such standing to assert such causes of action after the Effective Date. \*below (the "Abandonment Order"),

6. Vesting of Estate Property; Transfers. On the Effective Date, the Distribution Trust Assets shall vest in the Distribution Trust free and clear of all Claims, Liens, charges, encumbrances, rights and Interests. <sup>Subject to Further order of the Court</sup> Notwithstanding anything in this Order or the Plan to the contrary, pursuant to section 1141(b) of the Bankruptcy Code, the Debtor's equity or other ownership interests in the following entities shall not vest in the Reorganized Debtor: Violin Memory EMEA Ltd., an entity organized under the laws of England and Wales; Violin Memory Singapore Pte. Ltd., an entity organized under the laws of Singapore; Violin Memory KK, an entity organized under the laws of Japan; Violin Memory Rus Limited Liability Company, an entity organized under the laws of Russia; and Beijing Violin Memory Data Storage Systems Co., Ltd., an entity organized under the laws of China (collectively, the "Non-Debtor Equity Interests"). Except for the Distribution Trust Assets and the Non-Debtor Equity Interests (which ~~shall not vest in the Reorganized Debtor and which~~ shall not vest in the Distribution Trust) <sup>→ and which, subject to entry of the Abandonment Order, ①</sup> or as otherwise explicitly provided for in the Plan, all of the property and assets of the <sup>① shall not vest in the Reorganized Debtor</sup> Debtor shall vest on the Effective Date in the Reorganized Debtor, free and clear of all Claims, <sup>②</sup> Liens, charges, encumbrances, rights and Interests. <sup>1</sup> For the avoidance of doubt, except to the extent expressly waived, relinquished, released, or compromised in the Plan, all Claims and Causes of Action of the Debtor (including, without limitation, all Avoidance Actions and all causes of action in all other litigation presently pending in other forums) are preserved for the benefit of the Reorganized Debtor or the Distribution Trust in accordance with the Plan. Without limiting the foregoing, the right of the Reorganized Debtor on behalf of the Debtor to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a defendant or an interested party, <sup>Equity Interests</sup> against any entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits,

<sup>15</sup> ② For the avoidance of doubt, in no event shall the Distribution Trust be responsible for any costs associated with the wind-down of the Non-Debtor.

are preserved. On or before the Effective Date, the Plan Sponsor shall transfer or cause to be transferred the Consideration Balance to the Distribution Trust.

7. Exemption from Transfer Taxes. The issuance, transfer or exchange of a security under the Plan, or the making or delivery of an instrument of transfer of property under the Plan, shall not be subject to any stamp or similar tax to the fullest extent provided by section 1146(a) of the Bankruptcy Code, whether such action is taken by the Debtor, Reorganized Debtor, or any other Person.

8. Securities Exempt from Registration. Pursuant to section 1145 of the Bankruptcy Code, the issuance of the New Equity pursuant to the Plan, and any issuance of Distribution Trust Interests pursuant to the Plan, will be exempt from registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and any state or local law requiring registration prior to the offering, issuance, distribution, or sale of securities. The issuance of the New Equity to Quantum Partners is or was in exchange for Claims against the Debtor within the meaning of section 1145(a)(1) of the Bankruptcy Code.

9. Authorization in Furtherance of Plan. Each federal, state, commonwealth, local, foreign, or other governmental agency is hereby authorized to accept any and all documents, mortgages, filings and instruments necessary or appropriate to effectuate, implement, or consummate the transactions contemplated by the Plan and this Order.

10. Releases by Debtor. Section 9.1 of the Plan is hereby approved in its entirety, incorporated into this Order as if set forth in full herein, and, subject to the occurrence of the Effective Date, is immediately effective and binding in accordance with its terms.

11. Releases by Holders. Section 9.2 of the Plan is hereby approved in its entirety, incorporated into this Order as if set forth in full herein, and, subject to the occurrence of the Effective Date, is immediately effective and binding in accordance with its terms.



12. Exculpation. Section 9.4 of the Plan is hereby approved, is incorporated into this Order as if set forth in full herein, and, subject to the occurrence of the Effective Date, is immediately effective and binding in accordance with its terms.

13. Discharge; Injunction. Section 9.3 of the Plan is hereby approved in its entirety, incorporated into this Order as if set forth in full herein, and, subject to the occurrence of the Effective Date, is immediately effective and binding in accordance with its terms. Without limiting the foregoing, effective as of the Effective Date, all existing Claims against and Interests in the Debtor shall be, and shall be deemed to be, discharged and terminated, and all Liens against or security interests in any Estate property shall be, and shall be deemed to be, released and discharged. Upon the Effective Date, except with respect to the DIP Claims (which shall be satisfied in full by conversion of the DIP Facility into the DIP Tranche of the Exit Facility), the Reorganized Debtor shall have no liability on account of any and all Claims against the Debtor except to the extent required by Article VII of the Plan. The Debtor, Reorganized Debtor or an authorized representative thereof are authorized to and may issue, execute, deliver, file or record a power of attorney or any other instrument as may be necessary or appropriate to effectuate and implement the release of such Liens and/or security interests.

14. Existing Injunctions or Stays. The restrictions imposed by the Court's final order establishing certain notification procedures and trading restrictions with respect to Equity Interests in the Debtor [D.I. 301], shall remain effective and binding with respect to all Equity Interests in the Debtor.

15. No Successor Liability. Pursuant to section 1141 of the Bankruptcy Code, paragraph 6 of this Order and Article VI of the Plan, the property of the Debtor's estate that vests in the Reorganized Debtor shall vest free and clear of all claims and interests of creditors and equity holders of the Debtor. Moreover, pursuant to section 1141(d) of the Bankruptcy Code, the

effect of confirmation of the Plan shall be to discharge the Debtor from any debt that arose before the date confirmation, and any debt of a kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code. The issuance of New Equity or transfer of assets through the Plan shall not result in the Reorganized Debtor (a) having any liability or responsibility for any Claim against or Equity Interest in the Debtor, the Debtor's estate, or Insider of the Debtor, or (b) having any liability or responsibility to the Debtor, each except as expressly set forth in the Plan. Without limiting the effect or scope of the foregoing, and to the fullest extent permitted by applicable laws, the issuance of the New Equity or transfer of assets contemplated in the Plan shall not subject the Reorganized Debtor, its respective properties or assets or respective affiliates, successors, or assigns to any liability for Claims against the Debtor's interests in such assets by reason of such issuance of New Equity or transfer of assets under any applicable laws, including, without limitation, any successor liability.

16. Executory Contracts and Unexpired Leases. The executory contract and unexpired lease provisions of Article VII of the Plan, including without limitation the rejection of executory contracts and unexpired leases pursuant to section 7.2 of the Plan unless specifically assumed in accordance with sections 7.1 and 7.3 of the Plan, are specifically approved in all respects. Pursuant to section 365 of the Bankruptcy Code and subject to the occurrence of the Effective Date, (a) the assumption of each executory contract and unexpired lease specified in the Assumption Schedule is hereby approved (subject to any rights to remove such contracts or leases from such schedule in accordance with the terms of the Plan) and (b) the rejection of all other executory contracts and unexpired leases of the Debtor is hereby approved. For the avoidance of doubt, all executory contracts entered into by the Debtor postpetition are assumed by the Reorganized Debtor.

17. Bar Date for Rejection Claims. All claims arising out of the rejection of an executory contract or unexpired lease pursuant to Article VII of the Plan must be filed with Prime Clerk LLC, the Debtor's claims and noticing agent, and served on the Distribution Trust by the Rejection Claims Bar Date, which shall be 30 days after the Effective Date. Any such Claims not timely filed shall be forever barred. Any objections to any rejection damages claim must be filed and served on such claimant no later than the Claims Objection Deadline.

18. Administrative Claim Bar Date Provisions. Unless previously filed or as otherwise governed by a bar date order or in another order of the Court, requests for payment of Administrative Claims must be included within an application (setting forth the amount of, and basis for, such Administrative Claims, together with documentary evidence) filed with the Court and served on the the Reorganized Debtor, the Plan Sponsor, and the Distribution Trust by the Administrative Claims Bar Date, which shall be 30 days after the Effective Date. Holders of Administrative Claims that are required to file and serve a request for payment of such Administrative Claims and that do not file and serve such a request by the Administrative Claims Bar Date shall be forever barred from asserting such Administrative Claims against the Debtor, the Estate, the Reorganized Debtor, the Distribution Trust, or their respective property. Any objections to any request for payment of Administrative Claims must be filed and served on such claimant no later than the Claims Objection Deadline.

19. Professional Compensation. Each Professional shall file an application for allowance of final compensation and reimbursement of expenses in the Bankruptcy Case, for the period through the Effective Date, no later than thirty (30) days after the Effective Date. Objections to applications of professionals for compensation or reimbursement of expenses must be filed and served on the Reorganized Debtor, the Distribution Trust, the U.S. Trustee, and the professionals to whose application the objections are addressed no later than twenty-one (21)

days after the date the application is filed, or the Bankruptcy Court may enter an order approving and authorizing the fees and expenses subject to the application without a hearing. Any professional fees and reimbursements or expenses incurred by the Reorganized Debtor subsequent to the Effective Date may be paid without application to the Bankruptcy Court. Notwithstanding anything to the contrary herein, upon the Effective Date, the Debtor shall transfer the Professional Fee Reserve to a trust account of Pillsbury Winthrop Shaw Pittman LLP to be disbursed in satisfaction of Professional Fee Claims as and when Allowed in accordance with further orders of the Court.

20. 28 U.S.C. § 1930 Fees. Fees payable pursuant to 28 U.S.C. § 1930 constitute Administrative Claims under the Plan and shall be paid pursuant to sections 4.1 and 11.15 of the Plan.

21. Approval of Distribution Trustees. Sheon Karol and Cory J. Sindelar are hereby approved as the initial Distribution Trustees in accordance with this Order, the Plan, and the Distribution Trust Agreement. The Distribution Trustees shall be compensated from, and all other costs of administration of the Distribution Trust shall be paid from, the Distribution Trust Assets. The Distribution Trustee shall not be required to post a bond or other security in connection with its obligations under this Distribution Trust Agreement.

22. Distributions. On and after the Effective Date, the Distributions on account of Allowed Claims and the resolution and treatment of Disputed Claims pursuant to Article VIII of the Plan are authorized and, without limiting any other provisions of the Plan and this Order concerning the powers, duties, and authority of the Distribution Trustees, the Distribution Trustees shall be authorized to effectuate such Distributions, resolution, and treatment in accordance with the terms of the Plan and the Distribution Trust Agreement.

23. Insurance. Except as explicitly set forth in the Plan in connection with the Runoff Policy, nothing in the Plan or this Order alters the rights and obligations of the Debtor and the Debtor's insurers (and third party claims administrators) under applicable insurance policies (and the agreements related thereto) or modifies the coverage provided thereunder or the terms and conditions thereof. Any such rights and obligations shall be determined under the applicable insurance policies, any related agreement of the parties and applicable law.

24. Committee Dissolution. On the Effective Date, the Official Committee will dissolve, and the members of the Official Committee and the Official Committee's Professionals will cease to have any duty, obligation, or role arising from or related to the Bankruptcy Case, except for the filing of applications for compensation in accordance with the Plan and that the Official Committee shall have the right to be heard with respect to final applications for compensation. The Distribution Trust shall be deemed the successor of the Official Committee with respect to any motions seeking to enforce the Plan, the transactions contemplated thereunder, this Order, or any pending appeals and related proceedings.

25. Prior Orders; Agreements. Pursuant to section 1141 of the Bankruptcy Code, effective as of the Confirmation Date, but subject to the occurrence of the Effective Date and subject to the terms of the Plan and this Order, all prior orders entered in the Bankruptcy Case, all documents and agreements executed by the Debtor as authorized and directed thereunder, and all motions or requests for relief by the Debtor pending before the Court as of the Effective Date shall be binding upon and shall inure to the benefit of the Reorganized Debtor and the Distribution Trust in accordance with the Plan.

26. Notice of Confirmation and Effective Date. Promptly following the occurrence of the Effective Date, pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c)(2), the Reorganized Debtor is directed to serve a notice of the entry of this Order, the establishment hereunder of bar

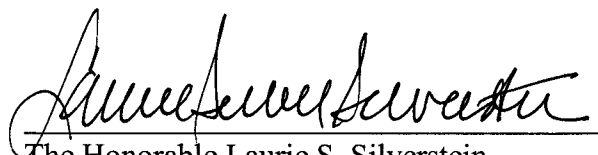
dates for certain Claims (including the Administrative Claims Bar Date and the Rejection Claims Bar Date) and the occurrence of the Effective Date, substantially in the form of Exhibit B attached hereto, on all parties that received the Confirmation Hearing Notice.

27. Construction; Interpretation. The failure to specifically describe or include any particular provision of the Plan or any related document in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Plan (including any exhibits thereto and the Plan Supplement) be approved and confirmed in its entirety. Except as expressly provided by this Order, each provision of the Plan is valid and enforceable in accordance with its terms and is nonseverable and mutually dependent. In the event of any conflict between the Plan and any other agreement, instrument, or document intended to implement the provisions of the Plan, on the other, the provisions of the Plan shall govern (unless otherwise expressly provided for in such agreement, instrument, or document). In the event of any conflict between this Order and the Plan or any other agreement, instrument, or document intended to implement the provisions of the Plan, the terms of this Order shall govern.

28. Final Order. Notwithstanding Bankruptcy Rule 3020(e), this Order shall be effective and enforceable immediately upon entry. This Order is a final order, and the period in which an appeal must be filed shall commence immediately upon the entry hereof.

29. Jurisdiction. The assets and affairs of the Debtor shall remain subject to the jurisdiction of this Court until the Effective Date. Notwithstanding the entry of this Order, from and after the Effective Date, the Court shall retain jurisdiction over the Bankruptcy Case to the fullest extent that is legally permissible.

Dated: April 18, 2017  
Wilmington, Delaware

  
The Honorable Laurie S. Silverstein  
United States Bankruptcy Judge