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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA

17 v.

18 HITACHI-LG DATA STORAGE, INC.,

19 Defendant.

No. CR 11-00724-RS

PLEA AGREEMENT

20 The United States of America and Hitachi-LG Data Storage, Inc. ("HLDS" or
21 "defendant") hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(C) of the
22 Federal Rules of Criminal Procedure ("Fed. R. Crim. P."):

RIGHTS OF DEFENDANT

- 23 1. The defendant understands its rights:
- 24 (a) to be represented by an attorney;
 - 25 (b) to be charged by Indictment;
 - 26 (c) as a corporation organized and existing under the laws of Japan, to decline
27 to accept service of the Summons in this case, and to contest the jurisdiction of the
28 United States to prosecute this case against it in the United States District Court for the
Northern District of California;

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1 (d) to plead not guilty to any criminal charge brought against it;

2 (e) to have a trial by jury, at which it would be presumed not guilty of the
3 charges and the United States would have to prove every essential element of the charged
4 offenses beyond a reasonable doubt for it to be found guilty;

5 (f) to confront and cross-examine witnesses against it and to subpoena
6 witnesses in its defense at trial;

7 (g) to appeal its convictions if it is found guilty; and

8 (h) to appeal the imposition of sentence against it.

9 **AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS**

10 2. The defendant knowingly and voluntarily waives the rights set out in Paragraph
11 1(b)-(g) above. The defendant also knowingly and voluntarily waives the right to file any
12 appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal
13 under 18 U.S.C. § 3742, that challenges the sentence imposed by the Court if that sentence is
14 consistent with or below the recommended sentence in Paragraph 12 of this Plea Agreement,
15 regardless of how the sentence is determined by the Court. This agreement does not affect the
16 rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b) and (c). Nothing in
17 this paragraph, however, shall act as a bar to the defendant perfecting any legal remedies it may
18 otherwise have on appeal or collateral attack respecting claims of ineffective assistance of
19 counsel or prosecutorial misconduct. The defendant agrees that there is currently no known
20 evidence of ineffective assistance of counsel or prosecutorial misconduct. The defendant also
21 knowingly and voluntarily waives any objection or defense it may have to the prosecution of the
22 charged offenses based on statutes of limitation or venue. The defendant further states that the
23 waivers in this paragraph are made after fully conferring with, and on the advice of, defendant's
24 counsel, and are made for the defendant's benefit.

25 3. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead
26 guilty to a fifteen-count Information to be filed in the United States District Court for the
27 Northern District of California. Counts One through Fourteen of the Information charge the
28 defendant with participating in conspiracies to suppress and eliminate competition by rigging

1 optical disk drive ("ODD") procurement events hosted by Dell, Inc. ("Dell") or Hewlett-Packard
2 Company ("HP") at various times between approximately June 2004 and approximately
3 September 2009, or by fixing the prices of ODDs sold to the Microsoft Corporation
4 ("Microsoft") from approximately June 2007 to approximately March 2008, all in violation of
5 the Sherman Antitrust Act, 15 U.S.C. § 1. Count Fifteen of the Information charges the
6 defendant with devising a scheme and artifice to defraud HP in connection with HP's
7 procurement of ODDs in or about April 2009, in violation of 18 U.S.C. § 1343.

8 4. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to
9 the criminal charges described in Paragraph 3 above and will make a factual admission of guilt to
10 the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraphs 5 and 6 below.

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FACTUAL BASIS FOR SHERMAN ACT OFFENSES CHARGED

5. The defendant is charged in Counts One through Fourteen of the Information as summarized below:

Information Count	Violation	Event Date	ODD Product
One	15 U.S.C. § 1 (Bid Rigging)	June 2004 (Dell)	48x Combo Drives
Two	15 U.S.C. § 1 (Bid Rigging)	August 2004 (Dell)	HH CD-RW
Three	15 U.S.C. § 1 (Bid Rigging)	September 2004 (Dell)	Slim 24x Combo Drive
Four	15 U.S.C. § 1 (Bid Rigging)	November 2004 (Dell)	HH DVD-ROM
Five	15 U.S.C. § 1 (Bid Rigging)	March 2005 (Dell)	Slim CD-ROM
Six	15 U.S.C. § 1 (Bid Rigging)	February 2009 (Dell)	HH SATA Tray DVD-RW
Seven	15 U.S.C. § 1 (Bid Rigging)	May 2009 (Dell)	HH DVD-RW and 12.7mm Tray DVD-RW
Eight	15 U.S.C. § 1 (Price Fixing)	June 2007 (Microsoft)	DVD-RW
Nine	15 U.S.C. § 1 (Bid Rigging)	November 2005 (HP)	CD-ROM, CD-RW, DVD-ROM, and Combo Drives
Ten	15 U.S.C. § 1 (Bid Rigging)	August 2006 (HP)	HH PATA and SATA DVD-ROM
Eleven	15 U.S.C. § 1 (Bid Rigging)	August 2007 (HP)	Lightscribe DVD-RW
Twelve	15 U.S.C. § 1 (Bid Rigging)	May, August, and November 2008 & February 2009 (HP)	HH SATA DVD-RW
Thirteen	15 U.S.C. § 1 (Bid Rigging)	July & October 2008 (HP)	12.7mm SATA DVD-RW
Fourteen	15 U.S.C. § 1 (Bid Rigging)	Supplemental October 2008 (HP)	12.7mm SATA DVD-RW

Had this case gone to trial, the United States, would have presented evidence sufficient to prove the following facts for each Sherman Act offense:

(a) For purposes of this Plea Agreement, the "relevant periods" are time

periods that fall between approximately June 2004 and approximately September 2009.

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1 (b) During the relevant periods, the defendant was a corporation organized
2 and existing under the laws of Japan. The defendant has its principal place of business in
3 Tokyo, Japan. The defendant is a joint venture between Hitachi, Ltd., an entity organized
4 and existing under the laws of Japan, and LG Electronics, Inc., an entity organized and
5 existing under the laws of the Republic of Korea. During the relevant periods, the
6 defendant was engaged in the sale of ODDs in the United States and elsewhere and
7 employed 200 or more individuals. ODDs are devices that use laser light or
8 electromagnetic waves to read and/or write data.

9 (c) During the relevant periods, the defendant, through its officers and
10 employees, including high-level personnel of the defendant, participated in a series of
11 conspiracies with other persons and entities engaged in the sale of ODDs. The primary
12 purpose of each conspiracy was to rig ODD procurement events hosted by Dell, rig ODD
13 procurement events hosted by HP, or fix the prices of ODDs sold to Microsoft. In
14 furtherance of these conspiracies, the defendant, through its officers and employees,
15 engaged in discussions and attended meetings with representatives of other major sellers
16 of ODDs. During these discussions and meetings, agreements were reached to rig ODD
17 procurement events hosted by Dell or HP, or fix the prices of ODDs sold to Microsoft.

18 (d) During the relevant periods, ODDs sold by one or more of the conspirator
19 firms, and equipment and supplies necessary to the production and distribution of ODDs,
20 as well as payments for ODDs, traveled in interstate and foreign commerce. The
21 business activities of the defendant and co-conspirators in connection with the sale of
22 ODDs that were the subjects of the conspiracies were within the flow of, and
23 substantially affected, interstate and foreign trade and commerce.

24 **FACTUAL BASIS FOR WIRE FRAUD OFFENSE CHARGED**

25 6. Had this case gone to trial, the United States would have presented evidence
26 sufficient to prove the following facts for the wire fraud offense charged in Count Fifteen of
27 the Information:
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1 (a) For purposes of this Plea Agreement, as it relates to Count Fifteen of the
2 Information, the "relevant period" is that period in or about April 2009.

3 (b) Paragraph 5(b) of this Plea Agreement is repeated, realleged, and
4 incorporated as if fully set forth in this paragraph.

5 (c) During the relevant period, the defendant, through its officers and
6 employees, including high-level personnel of the defendant, devised a scheme and
7 artifice to defraud HP, the primary purpose of which was to submit collusive,
8 noncompetitive, and rigged bids in connection with an ODD procurement event hosted
9 by HP in April 2009. In furtherance of the scheme, on or about April 22, 2009, the
10 defendant transmitted and caused to be transmitted an e-mail communication from an
11 HLDS employee in Houston, Texas to other participants in the fraudulent scheme who
12 were located in San Jose, California and the Republic of Korea. The e-mail
13 communication, sent in preparation for HLDS's second round bid, reported on first round
14 bidding results of HP's April 2009 ODD procurement event and conveyed non-public,
15 competitively sensitive information provided by competitors that participated in the
16 procurement event.

17 **POSSIBLE MAXIMUM SENTENCE FOR SHERMAN ACT OFFENSES**

18 7. The defendant understands that the statutory maximum penalty that may be
19 imposed against it upon conviction for a violation of Title 15, Section 1 is a fine in an amount
20 equal to the greatest of: (a) \$100 million (15 U.S.C. § 1); (b) twice the gross pecuniary gain the
21 conspirators derived from the crime (18 U.S.C. §§ 3571(c) and (d)); or (c) twice the gross
22 pecuniary loss caused to the victims of the crime by the conspirators (18 U.S.C. § 3571(c) and
23 (d)).

24 8. In addition, the defendant understands that, upon conviction for each violation of
25 Title 15, Section 1:

26 (a) pursuant to 18 U.S.C. § 3561(c)(1), the Court may impose a term of
27 probation of at least one year, but not more than five years;

28 (b) pursuant to §8B1.1 of the United States Sentencing Guidelines

1 (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) or 18 U.S.C. § 3563(b)(2) or
2 3663(a)(3), the Court may order it to pay restitution to the victims of the offense; and

3 (c) pursuant to 18 U.S.C. § 3013(a)(2)(B), the Court is required to order the
4 defendant to pay a \$400 special assessment for each count of conviction for the charged
5 crime.

6 **POSSIBLE MAXIMUM SENTENCE FOR WIRE FRAUD OFFENSE**

7 9. The defendant understands that the statutory maximum penalty that may be
8 imposed against it upon conviction for a violation of Title 18, Section 1343 is a fine in an
9 amount equal to the greatest of: (a) \$500,000 (18 U.S.C. § 3571(c)(3)); (b) twice the gross
10 pecuniary gain any person derived from the offense (18 U.S.C. §§ 3571(c) and (d)); or (c) twice
11 the gross pecuniary loss caused to a person other than the defendant from the offense (18 U.S.C.
12 §§ 3571(c) and (d)).

13 10. In addition, the defendant understands that, upon conviction for a violation of
14 Title 18, Section 1343:

15 (a) pursuant to 18 U.S.C. § 3561(c)(1), the Court may impose a term of
16 probation of at least one year, but not more than five years;

17 (b) pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664, the Court shall impose
18 an order of restitution to the victims of the offense unless the court finds, from facts on
19 the record, that determining complex issues of fact related to the cause or amount of the
20 victims’ losses would complicate or prolong the sentencing process to a degree that the
21 need to provide restitution to any victim is outweighed by the burden on the sentencing
22 process; and

23 (c) pursuant to 18 U.S.C. § 3013(a)(2)(B), the Court is required to order the
24 defendant to pay a \$400 special assessment upon conviction for the charged crime.

25 **SENTENCING GUIDELINES**

26 11. The defendant understands that the Sentencing Guidelines are advisory, not
27 mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing,
28 along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing

1 sentence. The defendant understands that the Guidelines determinations will be made by the
2 Court by a preponderance of the evidence standard. The defendant understands that although the
3 Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its
4 sentence must be reasonable based upon consideration of all relevant sentencing factors set forth
5 in 18 U.S.C. § 3553(a). Pursuant to U.S.S.G. §1B1.8, the United States agrees that self-
6 incriminating information that the defendant provides to the United States pursuant to this Plea
7 Agreement will not be used in determining the defendant's applicable Guidelines range, except
8 to the extent provided in U.S.S.G. §1B1.8(b).

9 SENTENCING AGREEMENT

10 12. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and the defendant
11 agree that the appropriate disposition of this case is, and agree to recommend jointly that the
12 Court impose, a sentence requiring the defendant to pay to the United States a criminal fine of
13 \$21.1 million payable in installments as set forth below with interest accruing under 18 U.S.C.
14 §§ 3612(f)(1)-(2) and no order of restitution ("the recommended sentence"). The parties agree
15 that there exists no aggravating or mitigating circumstance of a kind, or to a degree, not
16 adequately taken into consideration by the U.S. Sentencing Commission in formulating the
17 Sentencing Guidelines justifying a departure pursuant to U.S.S.G. §5K2.0. The parties agree not
18 to seek or support any sentence outside of the Guidelines range nor any Guidelines adjustment
19 for any reason that is not set forth in this Plea Agreement. The parties further agree that the
20 recommended sentence set forth in this Plea Agreement is reasonable.

21 (a) The United States and the defendant agree to recommend, in the interest of
22 justice pursuant to 18 U.S.C. § 3572(d)(1) and U.S.S.G. §8C3.2(b), that the fine be paid
23 in the following installments: within thirty (30) days of imposition of sentence – \$6.1
24 million (plus any accrued interest); at the one-year anniversary of imposition of sentence
25 ("anniversary") – \$5 million (plus any accrued interest); at the two-year anniversary – \$5
26 million (plus any accrued interest); and at the three-year anniversary – \$5 million (plus
27 any accrued interest); provided, however, that the defendant shall have the option at any
28 time before the three-year anniversary of prepaying the remaining balance (plus any

1 accrued interest) then owing on the fine.

2 (b) The defendant understands that the Court will order it to pay a \$400
3 special assessment for each count of conviction, pursuant to 18 U.S.C. § 3013(a)(2)(B),
4 in addition to any fine imposed.

5 (c) In light of the availability of civil causes of action, including *In Re:*
6 *Optical Disk Drive Products Antitrust Litigation*, Case No. M:10-2143 RS, consolidated
7 in the United States District Court, Northern District of California before Judge Richard
8 Seeborg, which potentially provide for a recovery of a multiple of actual damages for
9 violations of the Sherman Act (15 U.S.C. § 15, *et seq.*), and because determining
10 complex issues of fact related to the causes or amount of the victims' losses for the
11 charged offenses would complicate or prolong the sentencing process to a degree that the
12 need to provide restitution to any victim is outweighed by the burden on the sentencing
13 process (18 U.S.C. § 3663A(c)(3)(B) and U.S.S.G. §8B1.1(b)(2)), the recommended
14 sentence does not include a restitution order for the offenses charged in the Information.

15 (d) Both parties will recommend that no term of probation be imposed, but the
16 defendant understands that the Court's denial of this request will not void this Plea
17 Agreement.

18 (e) The United States and the defendant jointly submit that this Plea
19 Agreement, together with the record that will be created by the United States and the
20 defendant at the plea and sentencing hearings, and the further disclosure described in
21 Paragraph 14, will provide sufficient information concerning the defendant, the crimes
22 charged in this case, and the defendant's role in the crimes to enable the meaningful
23 exercise of sentencing authority by the Court under 18 U.S.C. § 3553. The United States
24 and defendant agree to request jointly that the Court accept the defendant's guilty plea
25 and impose sentence on an expedited schedule as early as the date of arraignment, based
26 upon the record provided by the defendant and the United States, under the provisions of
27 Fed. R. Crim. P. 32(c)(1)(A)(ii), U.S.S.G. §6A1.1, and Rule 32-1(b) of the Criminal
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1 Local Rules. The Court's denial of the request to impose sentence on an expedited
2 schedule will not void this Plea Agreement.

3 13. The United States and the defendant agree that the applicable Guidelines fine
4 range exceeds the fine contained in the recommended sentence set out in Paragraph 12 above.
5 Subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph
6 16 of this Plea Agreement, and prior to sentencing in this case, the United States agrees that it
7 will make a motion, pursuant to U.S.S.G. §8C4.1, for a downward departure from the Guidelines
8 fine range and will request that the Court impose the recommended sentence set out in Paragraph
9 12 of this Plea Agreement because of the defendant's substantial assistance in the government's
10 investigation and prosecutions of violations of federal criminal law in the ODD industry.

11 14. Subject to the full, truthful, and continuing cooperation of the defendant, and
12 before sentencing in this case, the United States will fully advise the Court and the Probation
13 Office of the fact, manner, and extent of the defendant's cooperation and its commitment to
14 prospective cooperation with the United States's investigation and prosecutions, all material facts
15 relating to the defendant's involvement in the charged offenses, and all other relevant conduct.

16 15. The United States and the defendant understand that the Court retains complete
17 discretion to accept or reject the recommended sentence provided for in Paragraph 12 of this Plea
18 Agreement.

19 (a) If the Court does not accept the recommended sentence, the United States
20 and the defendant agree that this Plea Agreement, except for Paragraph 15(b) below, shall
21 be rendered void.

22 (b) If the Court does not accept the recommended sentence, the defendant will
23 be free to withdraw its guilty pleas (Fed. R. Crim. P. 11(c)(5) and (d)). If the defendant
24 withdraws its pleas of guilty, this Plea Agreement, the guilty pleas, and any statement
25 made in the course of any proceedings under Fed. R. Crim. P. 11 regarding the guilty
26 pleas or this Plea Agreement or made in the course of plea discussions with an attorney
27 for the government shall not be admissible against the defendant in any criminal or civil
28 proceeding, except as otherwise provided in Fed. R. Evid. 410. In addition, the defendant

1 agrees that, if it withdraws its guilty pleas pursuant to this subparagraph of this Plea
2 Agreement, the statute of limitations period for any offense referred to in Paragraph 19 of
3 this Plea Agreement shall be tolled for the period between the date of the signing of this
4 Plea Agreement and the date the defendant withdrew its guilty pleas or for a period of
5 sixty (60) days after the date of the signing of this Plea Agreement, whichever period is
6 greater.

7 DEFENDANT'S COOPERATION

8 16. The defendant will cooperate fully and truthfully with the United States in the
9 prosecution of this case, the conduct of the current federal investigation of violations of federal
10 antitrust and related criminal laws involving the sale of ODDs in the United States and
11 elsewhere, any other federal investigation resulting therefrom, and any litigation or other
12 proceedings arising or resulting from any such investigation to which the United States is a party
13 ("Federal Proceeding"). The full, truthful, and continuing cooperation of the defendant shall
14 include, but not be limited to:

15 (a) producing to the United States all non-privileged documents, information,
16 and other materials, wherever located (and with translations into English), in the
17 possession, custody, or control of the defendant, requested by the United States in
18 connection with any Federal Proceeding;

19 (b) securing the full, truthful, and continuing cooperation, as defined in
20 Paragraph 18 of this Plea Agreement of Son Hyun Chul, Choi Jin Sung (aka Luke Choi),
21 and Kim Hyun Soo (aka Jason Kim), including making such persons available in the
22 United States and at other mutually agreed-upon locations, at the defendant's expense, for
23 interviews and the provision of testimony in grand jury, trial, and other judicial
24 proceedings in connection with any Federal Proceeding; and

25 (c) using its best efforts to secure the full, truthful, and continuing
26 cooperation, as defined in Paragraph 17 of this Plea Agreement, of the current and former
27 directors, officers, and employees of the defendant, in addition to those specified in
28 subparagraph (b) above, as may be requested by the United States -- but excluding Young

1 Keun Park, Sang Hun Kim, Sik Hur (aka Daniel Hur), and Woo Jin Yang (aka Eugene
2 Yang) – including making these persons available in the United States and at other
3 mutually agreed-upon locations, at the defendant’s expense, for interviews and the
4 provision of testimony in grand jury, trial, and other judicial proceedings in connection
5 with any Federal Proceeding.

6 17. The full, truthful, and continuing cooperation of each person described in either
7 Paragraph 16(b) or 16(c) above will be subject to the procedures and protections of this
8 paragraph, and shall include, but not be limited to:

9 (a) producing in the United States and at other mutually agreed-upon
10 locations all non-privileged documents, including claimed personal documents, and other
11 materials, wherever located (and with translations into English), requested by attorneys
12 and agents of the United States;

13 (b) making himself or herself available for interviews in the United States and
14 at other mutually agreed-upon locations, not at the expense of the United States, upon the
15 request of attorneys and agents of the United States;

16 (c) responding fully and truthfully to all inquiries of the United States in
17 connection with any Federal Proceeding, without falsely implicating any person or
18 intentionally withholding any information, subject to the penalties of making false
19 statements (18 U.S.C. § 1001) and obstruction of justice (18 U.S.C. § 1503, *et seq.*);

20 (d) otherwise voluntarily providing the United States with any non-privileged
21 material or information not requested in (a)-(c) of this paragraph that he may have that is
22 related to any Federal Proceeding;

23 (e) when called upon to do so by the United States in connection with any
24 Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings in the
25 United States, fully, truthfully, and under oath, subject to the penalties of perjury (18
26 U.S.C. § 1621), making false statements or declarations in grand jury or court
27 proceedings (18 U.S.C. § 1623), contempt (18 U.S.C. §§ 401-402), and obstruction of
28 justice (18 U.S.C. § 1503, *et seq.*); and

1 (f) agreeing that, if the agreement not to prosecute him or her in this Plea
2 Agreement is rendered void under Paragraph 19(c), the statute of limitations period for
3 any Relevant Offenses as defined in Paragraph 19(a) shall be tolled as to him or her for
4 the period between the date of the signing of this Plea Agreement and six (6) months after
5 the date that the United States gave notice of its intent to void its obligations to that
6 person under this Plea Agreement.

7 **GOVERNMENT'S AGREEMENT**

8 18. Upon acceptance of the guilty plea called for by this Plea Agreement and the
9 imposition of the recommended sentence, and subject to the cooperation requirements of
10 Paragraph 16 of this Plea Agreement, the United States will not bring further criminal charges
11 against the defendant for any act or offense committed before the date of this Plea Agreement
12 that was undertaken in furtherance of any antitrust conspiracy involving the sale of ODDs or the
13 scheme to defraud charged in Count Fifteen of the Information. The nonprosecution terms of
14 this paragraph do not apply to civil matters of any kind, to any violation of the federal tax or
15 securities laws, or to any crime of violence.

16 19. The United States agrees to the following:

17 (a) Upon the Court's acceptance of the guilty plea called for by this Plea
18 Agreement and the imposition of the recommended sentence and subject to the
19 exceptions noted in Paragraph 19(c), the United States will not bring criminal charges
20 against any current or former director, officer, or employee of the defendant for any act
21 or offense committed before the date of this Plea Agreement and while that person was
22 acting as a director, officer, or employee of the defendant that was undertaken in
23 furtherance of an antitrust conspiracy or scheme to defraud involving the sale of ODDs
24 ("Relevant Offenses"), except that the protections granted in this paragraph shall not
25 apply to Young Keun Park, Sang Hun Kim, Sik Hur (aka Daniel Hur), and Woo Jin
26 Yang (aka Eugene Yang).

27 (b) Should the United States determine that any current or former director,
28 officer, or employee of the defendant may have information relevant to any Federal

1 Proceeding, the United States may request that person's cooperation under the terms of
2 this Plea Agreement by written request delivered to counsel for the individual (with a
3 copy to the undersigned counsel for the defendant) or, if the individual is not known by
4 the United States to be represented, to the undersigned counsel for the defendant;

5 (c) If any person requested to provide cooperation under Paragraph 19(b) fails
6 to comply with his or her obligations under Paragraph 17, then the terms of this Plea
7 Agreement as they pertain to that person, and the agreement not to prosecute that person
8 granted in this Plea Agreement, shall be rendered void;

9 (d) Except as provided in Paragraph 19(e), information provided by a person
10 defined in Paragraph 19(b) to the United States under the terms of this Plea Agreement
11 pertaining to any Relevant Offenses, or any information directly or indirectly derived
12 from that information, may not be used against that person in a criminal case, except in a
13 prosecution for perjury (18 U.S.C. § 1621), making a false statement or declaration (18
14 U.S.C. §§ 1001, 1623), or obstruction of justice (18 U.S.C. § 1503, *et seq.*);

15 (e) If any person who provides information to the United States under this
16 Plea Agreement fails to comply fully with his or her obligations under Paragraph 17 of
17 this Plea Agreement, the agreement in Paragraph 19(d) not to use that information or any
18 information directly or indirectly derived from it against that person in a criminal case
19 shall be rendered void;

20 (f) The nonprosecution terms of this paragraph do not apply to civil matters
21 of any kind, to any violation of the federal tax or securities laws, or to any crime of
22 violence; and

23 (g) Documents provided under Paragraphs 16(a) and 17(a) shall be deemed
24 responsive to outstanding grand jury subpoenas issued to the defendant.

25 20. The United States agrees that when any person travels to the United States for
26 interviews, grand jury appearances, or court appearances pursuant to this Plea Agreement, or for
27 meetings with counsel in preparation therefor, the United States will take no action, based upon
28 any Relevant Offenses, to subject such person to arrest, detention, or service of process, or to

1 prevent such person from departing the United States. This paragraph does not apply to an
2 individual's commission of perjury (18 U.S.C. § 1621), making false statements (18 U.S.C. §
3 1001), making false statements or declarations in grand jury or court proceedings (18 U.S.C. §
4 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), or contempt (18 U.S.C. §§ 401 - 402) in
5 connection with any testimony or information provided or requested in any Federal Proceeding.

6 21. The defendant understands that it may be subject to administrative action by
7 federal or state agencies other than the United States Department of Justice, Antitrust Division,
8 based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in
9 no way controls whatever action, if any, other agencies may take. However, the Antitrust
10 Division agrees that, if requested, it will advise the appropriate officials of any governmental
11 agency considering such administrative action of the fact, manner, and extent of the cooperation
12 of the defendant as a matter for that agency to consider before determining what administrative
13 action, if any, to take.

14 **REPRESENTATION BY COUNSEL**

15 22. The defendant has been represented by counsel and is fully satisfied that its
16 attorneys have provided competent legal representation. The defendant has thoroughly reviewed
17 this Plea Agreement and acknowledges that counsel has advised it of the nature of the charges,
18 any possible defenses to the charges, and the nature and range of possible sentences.

19 **VOLUNTARY PLEA**

20 23. The defendant's decision to enter into this Plea Agreement and to tender guilty
21 pleas is freely and voluntarily made and is not the result of force, threats, assurances, promises,
22 or representations other than the representations contained in this Plea Agreement. The United
23 States has made no promises or representations to the defendant as to whether the Court will
24 accept or reject the recommendations contained within this Plea Agreement.

25 **VIOLATION OF PLEA AGREEMENT**

26 24. The defendant agrees that, should the United States determine in good faith,
27 during the period that any Federal Proceeding is pending, that the defendant has failed to provide
28 full, truthful, and continuing cooperation, as defined in Paragraph 16 of this Plea Agreement, or

1 has otherwise violated any provision of this Plea Agreement, the United States will notify
2 counsel for the defendant in writing by personal or overnight delivery or facsimile transmission
3 and may also notify counsel by telephone of its intention to void any of its obligations under this
4 Plea Agreement (except its obligations under this paragraph), and the defendant shall be subject
5 to prosecution for any federal crime of which the United States has knowledge including, but not
6 limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement.
7 The defendant may seek Court review of any determination made by the United States under this
8 Paragraph to void any of its obligations under this Plea Agreement. The defendant agrees that, in
9 the event that the United States is released from its obligations under this Plea Agreement and
10 brings criminal charges against the defendant for any offense referred to in Paragraph 18 of this
11 Plea Agreement, the statute of limitations period for such offense shall be tolled for the period
12 between the date of the signing of this Plea Agreement and six (6) months after the date the
13 United States gave notice of its intent to void its obligations under this Plea Agreement.

14 25. The defendant understands and agrees that in any further prosecution of it
15 resulting from the release of the United States from its obligations under this Plea Agreement
16 based on the defendant's violation of this Plea Agreement, any documents, statements,
17 information, testimony, or evidence provided by it or current or former directors, officers, or
18 employees of it to attorneys or agents of the United States, federal grand juries, or courts, and
19 any leads derived therefrom, may be used against it in any such further prosecution. In addition,
20 the defendant unconditionally waives its right to challenge the use of such evidence in any such
21 further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

22 ENTIRETY OF AGREEMENT


23 26. This Plea Agreement constitutes the entire agreement between the United States
24 and the defendant concerning the disposition of the criminal charges in this case. This Plea
25 Agreement cannot be modified except in writing, signed by the United States and the defendant.

26 27. The undersigned is authorized to enter this Plea Agreement on behalf of the
27 defendant as evidenced by the Resolution of the Board of Directors of the defendant attached to,
28 and incorporated by reference in, this Plea Agreement.

PLEA AGREEMENT
U.S. v. HLDS, CR 11-00724-RS

1 28. The undersigned attorneys for the United States have been authorized by the
2 Attorney General of the United States to enter this Plea Agreement on behalf of the United
3 States.

4 29. A facsimile or PDF signature shall be deemed an original signature for the
5 purpose of executing this Plea Agreement. Multiple signature pages are authorized for the
6 purpose of executing this Plea Agreement.

7
8 BY: 

BY: _____

9 Hyun Namkung
10 General Counsel
11 Hitachi-LG Data Storage, Inc.

Sidney A. Majalya
Jacklin Chou Lem
Manish Kumar
Trial Attorneys
U.S. Department of Justice
Antitrust Division

12
13 Dated: October 18, 2011

Dated: _____

14
15
16 BY: _____

17 Cristina C. Arguedas
18 Laurel Headley
19 Counsel for Hitachi-LG Data Storage, Inc.
20 Arguedas, Cassman & Headley LLP
21 803 Hearst Avenue
22 Berkeley, CA 94710
23 Telephone: (510) 845-3000
24 Fax: (510) 845-3003
25 arguedas@achlaw.com

26
27 Dated: _____
28

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3 States.

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8 BY: _____

9 Hyun Namkung
10 General Counsel
11 Hitachi-LG Data Storage, Inc.

8 BY: _____



9 Sidney A. Majalya
10 Jacklin Chou Lem
11 Manish Kumar
12 Trial Attorneys
13 U.S. Department of Justice
14 Antitrust Division

13 Dated: _____

13 Dated: October 27, 2011

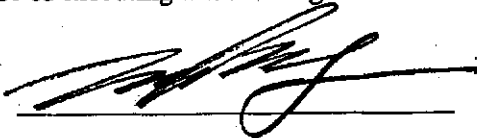
16 BY: _____

17 Cristina C. Arguedas
18 Laurel Headley
19 Counsel for Hitachi-LG Data Storage, Inc.
20 Arguedas, Cassman & Headley LLP
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8 BY: 


9 Hyun Namkung
10 General Counsel
11 Hitachi-LG Data Storage, Inc.

BY: _____

Sidney A. Majalya
Jacklin Chou Lem
Manish Kumar
Trial Attorneys
U.S. Department of Justice
Antitrust Division

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13 Dated: October 18, 2011

Dated: _____

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16 BY: 

17 Cristina C. Arguedas
18 Laurel Headley
19 Counsel for Hitachi-LG Data Storage, Inc.
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21 803 Hearst Avenue
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26
27
28 Dated: October 26, 2011