

LICENSE AGREEMENT FOR SDA MEMORY CARD SPECIFICATIONS OR “LAMS”

This LICENSE AGREEMENT FOR SDA MEMORY CARD SPECIFICATIONS OR “LAMS” is made by and between _____ (“Licensee,” also including the entities listed in Schedule C) a _____ corporation, having its principal place of business at _____, and SD Card Association (“Licensor”), a California non-profit membership corporation having its principal place of business at 719 San Benito Street, Suite C, Hollister, California 95023, U.S.A. (“Licensor”), and is effective as of the later of the two (2) signature dates below (the “Effective Date”).

WHEREAS, Licensor owns certain specifications that are valuable to the production and use of SD Memory Cards (as defined below), and has obtained know-how, trade secret and technical information and copyrights embodied therein or the right to license the same; and

WHEREAS, Licensee desires to have access and a license to such specifications to make, use or sell SD Memory Cards.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Definitions

Except as otherwise defined in this Agreement, capitalized terms not defined herein shall have the meaning set forth in the CLA (as defined below). Licensee acknowledges and agrees that it has obtained a copy of the CLA as of the Effective Date and has read and understood the terms thereof. For purposes hereof, the following capitalized terms shall have the respective meanings provided below:

1.1 **“3C Specifications”** shall mean those specifications for the production and use of SD Memory Cards and associated intellectual property rights licensed by the SD-3C LLC pursuant to the CLA.

1.2 **"Agreement"** shall mean this License Agreement for SDA Memory Card Specifications, including all Schedules attached hereto, and any and all amendments to the Agreement and/or such Schedules.

1.3 **“CLA”** shall mean that SD Memory Card License Agreement entered into between the SD-3C LLC and Licensee.

1.4 **“SD Association Compliance Committee”** shall mean a committee appointed or approved by Licensor to verify an SD Memory Card’s compliance with the SDA Specifications, as further described in Schedule D.

1.5 **"SDA Specifications"** shall mean the specifications established by the Licensor for SD Memory Cards as of the Effective Date of this Agreement, as set forth in Schedule A and amended from time to time by the Licensor. All SDA Specifications are included in Confidential Information.

1.6 **"SDA Logo Guideline"** shall mean the logo guideline set forth in Schedule B-1 that sets forth the standards for using the SDA Logos.

1.7 **"SDA Logos"** shall mean the trademark rights, copyrights and other rights in and to certain logos of SD Products as set forth in Schedule B-2.

1.8 **"Schedule A"** shall mean Schedule A attached to this Agreement, as such schedule may amended from time to time by Licensor.

1.9 **"Schedule B"** shall mean Schedule B attached to this Agreement, as such schedule may be amended from time to time by Licensor.

1.10 **"Schedule C"** shall mean Schedule C attached to this Agreement, as such schedule may be amended from time to time by Licensee upon written notice to Licensor.

1.11 **"Schedule D"** shall mean Schedule D attached to this Agreement, as such schedule may be amended from time to time by Licensor, but only upon the reasonable request of the SD Association Compliance Committee.

1.12 **"Schedule E"** shall mean Schedule E attached to this Agreement, as such schedule may be amended from time to time by Licensor.

2. SDA Specifications License

2.1 Upon the terms and conditions and with the limitations and exceptions hereafter set forth, Licensor hereby grants to Licensee a non-exclusive and non-transferable license, on a worldwide basis during the term hereof, to use the SDA Specifications, including the technical information, know-how and trade secrets contained therein, solely to make, design, have made, use, offer for sale, sell, import, export, lease or otherwise dispose of SD Memory Cards.

2.2 Licensee hereby agrees that in the event Licensee has SD Memory Cards made, developed, designed or otherwise manufactured by a third party on a subcontract basis pursuant to Section 2.1 of this Agreement using SDA Specifications, Licensee shall ensure that such third party has entered into this Agreement directly with the Licensor prior to contracting with such third party. Licensee shall, however, have the option to contract to have SD Memory Cards made, developed, designed or otherwise manufactured by a third party on a subcontract basis using SDA Specifications, without the requirement that the third party execute such Agreement, provided that Licensee hereby agrees that Licensee has not, and will not, disclose the Confidential Information, to such third party unless (i) such third party has agreed, in writing, to comply with confidentiality obligations at least as restrictive as those in this Agreement; and (ii) Licensee is responsible and financially liable for such third party's compliance with the applicable terms and conditions of this Agreement.

2.3 Licensor shall provide Licensee, upon request and payment by Licensee of the fees stated in this Agreement, or if already paid promptly after the Effective Date, a copy of the current version of the SDA Specifications necessary for the development and manufacture of SD Memory Cards, which may not be reproduced in whole or in part.

2.4 Licensee acknowledges and agrees that the right to use the SDA Specifications licensed hereunder does not extend to Licensee's use of the same in connection with any product that does not comply with the applicable SDA Specifications as required herein, or that is incompatible with products that comply with the SDA Specifications.

2.5 Licensee acknowledges and agrees that making, having made, designing, using, offering for sale, selling, importing, exporting, leasing or disposition by other means SD Memory Cards may require Licensee to enter into a separate licenses for CPRM from the applicable third-party licensors.

2.6 Licensee acknowledges and agrees that making, having made, designing, using, offering for sale, selling, importing, exporting, leasing or disposing by other means SD Memory Cards requires Licensee to enter into the CLA.

2.7 Licensee acknowledges and agrees that making, having made, designing, using, offering for sale, selling, importing, exporting, leasing or disposing by other means of SD Host Products or SD Ancillary Products requires Licensee to enter into a separate joint license agreement titled the SD Host/Ancillary Products License Agreement with Licensor and the SD-3C LLC (the "HALA").

3. SDA Logo License and Trademark

3.1 Upon the terms and conditions and with the limitations and exceptions hereafter set forth, if and when Licensor creates an SDA Logo(s) for use on SD Memory Cards and makes such SDA Logo(s) available to licensees of the SDA Specifications, Licensor hereby grants to Licensee a non-exclusive, non-transferable license to use the SDA Logos solely on SD Memory Cards, and accompanying packing materials, and in related advertising and other sales and marketing literature, including catalogues or brochures, and user manuals for such SD Memory Cards, in the form and manner specified in the SDA Logo Guideline, on a worldwide basis during the term hereof. In the event that Licensee has SD Memory Cards made, developed, designed or otherwise manufactured by a third party on a subcontract basis pursuant to Section 2.1 of this Agreement, Licensee shall be responsible for such third party's compliance with the applicable terms and conditions of this Agreement and Licensee shall make sure that such third party uses SDA Logos with SD Memory Cards manufactured for, and sold by, Licensee under the terms and conditions of this Agreement.

3.2 Licensee is strictly prohibited from using the SDA Logos in any other form than that which is specifically set forth in the SDA Logo Guideline, if and when Licensor makes such guideline available to licensee in conjunction with any SDA Logos.

3.3 Licensee shall place the SDA Logo on all SD Memory Cards and accompanying user manuals.

3.4 Licensee shall ensure that there is imprinted legibly and irremovably on all materials and things on or with which the SDA Logos appear in any form, the legends and notices required by the SDA Logo Guideline.

3.5 Licensee shall not co-join or combine any other logo, trademark, trade name or other designation with the SDA Logos and shall use the SDA Logos only as commercially separate and distinct from any other logo, trademark, trade name or other designation. Licensee shall not use the SDA Logos in a manner which impairs any of Licensor's rights in the SDA Logos.

3.6 Licensee shall use reasonable efforts to ensure that distributors' and retailers' usage of the SDA Logos in advertising, promotional materials, catalogues or brochures offering Licensee's SD Memory Cards for sale shall comply with the terms and conditions of this Agreement.

3.7 In cases where Licensee sells SD Memory Cards to a purchaser on an OEM basis, Licensee shall use reasonable efforts to ensure that such purchaser's usage of the SDA Logos in advertising, promotional materials, catalogues or brochures offering such SD Memory Cards for sale shall comply with the terms and conditions of this Agreement.

3.8 Licensee shall not use the combination of letters "SD" in the name or logo of any memory card other than an SD Memory Card, provided however, that such restriction is not intended to prohibit Licensee from using the combination of the letters "SD" in its product identification or service name itself, whether or not, used for SD Product or other products.

3.9 Licensee shall be afforded a reasonable period of time (not less than three (3) months) subsequent to any changes to the SDA Logo Guideline or the SDA Logos to implement the new requirements of the SDA Logo Guideline and SDA Logos. Licensee shall have the right to sell remaining inventory stock and complete and sell manufacturing work in process which becomes non-compliant as a direct result of such change to the SDA Logo Guideline or the SDA Logos.

4. Verification

4.1 Licensee agrees that all products bearing or marketed under the SDA Logos or otherwise claiming to be compatible with SD Products shall conform to the applicable SDA Specifications. Licensee further agrees that in case Licensee sells any SD Memory Cards on an OEM basis to third parties, Licensee shall cause, and bear responsibility for causing, such third parties to comply with the requirements that all products bearing or marketed

under the SDA Logos or otherwise claiming to be compatible with SD Products and sold by the third parties shall conform to the applicable SDA Specifications.

4.2 Licensee hereby agrees not to make, have made, design, use, offer for sale, sell, import, export, lease or otherwise dispose of a purported SD Memory Card bearing or marketed under the SDA Logos other than in full compliance with the applicable SDA Specifications and the procedures set forth below and in Schedule D.

4.3 If, at any time during the term hereof, the SD Association Compliance Committee determines, in its sole reasonable judgment, that Licensee may be manufacturing (except for prototypes), selling, marketing, promoting or distributing SD Memory Cards bearing or marketed under SDA Logos or otherwise claiming to be compatible with SD Products that are not in full compliance with the applicable SDA Specifications, then at the request of the SD Association Compliance Committee, such Licensee shall submit sample SD Memory Cards (except a prototype) to a Designated Laboratory (as defined in Schedule D) for verification in accordance with the procedures set forth in Schedule D.

4.4 If Final Failure (as defined in Schedule D) is declared for an SD Memory Card by the SD Association Compliance Committee in accordance with Schedule D, then Licensor shall have the right to terminate the rights relating to the SDA Logos granted to Licensee under this Agreement with respect to such SD Memory Cards that have been declared the Final Failure, upon thirty (30) days' prior written notice to Licensee.

4.5 The right of termination set forth in Section 4.4 above shall not be exclusive of any other remedies or means of redress to which Licensor may be lawfully entitled, and all such remedies shall be cumulative. Upon termination pursuant to Section 4.4, all rights of Licensee granted hereunder, relating to the SDA Logos with respect to the SD Memory Cards that failed to meet the verification standards, shall cease.

4.6 NO NOTICE OR STATEMENT OF ANY KIND SENT BY LICENSOR SHALL BE CONSTRUED AS A REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE SD MEMORY CARD IDENTIFIED IN SUCH NOTICE OR STATEMENT, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR INTERCHANGEABILITY OR INTEROPERABILITY WITH OTHER SD PRODUCTS.

5. Services by Third Party

5.1 Licensee agrees that a third party ("Licensor's Agent") may act as the agent of Licensor and perform license administration for this Agreement on behalf of Licensor, including but not limited to making and delivering of copies of the SDA Specifications provided in Section 2.3 above.

5.2 Licensee agrees that SD Association acting through the SD Association Compliance Committee has the right to request sample SD Memory Cards (except a prototype) from Licensee pursuant to Section 4.3 in order to perform verification in accordance with the procedures set forth in Schedule D. Licensee further agrees that the SD Association Compliance Committee may in its sole reasonable judgment request Licensor to amend Schedule D from time to time.

5.3 Licensor may not disclose the identity of a licensee to the SDA Specifications, except to TPHALs and TPCLs via the licensee-only section of the Licensor's web site, or as may be required by law or government agent with applicable jurisdiction.

6. Fees

6.1 In consideration of Licensor's administration of the SDA Specifications, Licensee agrees to pay to Licensor, an annual administration fee of one thousand US dollars (US\$1,000.00), unless Licensee is also a current licensee under the HALA and Licensee has already paid this administration fee to Licensor pursuant to the HALA. The administration fee paid hereunder shall cover Licensee and Licensee's Affiliates and shall not be returnable or refundable in any event.

6.2 The annual fee indicated in Section 6.1 shall be due January 1st of each calendar year for the term of this Agreement. Licensee agrees to pay the amounts due to Licensor within forty-five (45) days after receipt of an invoice from the Licensor each calendar year for the term of this Agreement. The annual fee will be pro-rated on a quarterly basis for the initial year of this Agreement. For example, if the Effective Date of this Agreement is in August, then the annual fee will be pro-rated by fifty percent (50%) to account for the two (2) full quarters during which this Agreement was not in effect.

6.3 Payments for verification costs and fees shall be governed by Schedule D hereto.

6.4 All payments made by Licensee to Licensor under this Agreement shall be made without any deduction for any taxes, except any income or withholding taxes that are required to be withheld under any law of any applicable jurisdiction on any payments by Licensee to Licensor under this Agreement, which taxes shall be withheld by Licensee to the extent required by law and actually paid to the appropriate taxing authority. Licensee shall within forty-five (45) days following payment of any such taxes provide proof to Licensor of payment of such taxes (including, but not limited to, official receipts in the name of Licensor and photocopies of all forms filed by Licensee with the appropriate taxing authorities) together with certified English translations of such documentation (if not in the English language). Licensee shall indemnify and hold harmless Licensor for any penalties and interest that may be payable as a result of Licensee's failure to timely pay all taxes or other assessments of Licensor that Licensee is obligated to withhold. All other taxes imposed on payments by Licensee to Licensor including but not limited to value added taxes, consumption taxes, and sales taxes, which may be imposed now or in the future or under the laws of any applicable jurisdiction shall be Licensee's sole responsibility and Licensee shall promptly transmit such taxes to the appropriate authorities as and when they become due. Such taxes shall not affect Licensee's obligation to make payments to Licensor as required under this Agreement.

7. Ownership of the SDA Specifications and SDA Logos; Reservation of Rights

7.1 Licensee acknowledges and agrees that this Agreement does not transfer or convey to Licensee ownership of or any rights in any of the SDA Specifications, the SDA Logos or other intellectual property of Licensor, except as expressly set forth herein. Licensee's use of the SDA Logos shall inure solely to the benefit of the owner of the SDA Logos, as owner of all rights in and to the SDA Logos. Upon termination of this Agreement, no monetary amounts shall be assigned as attributable to any goodwill associated with such Licensee's use of the the SDA Specifications or the SDA Logos.

7.2 Licensor hereby reserves all rights not herein expressly granted to Licensee. Such reserved rights are the sole and exclusive property of the Licensor.

8. Confidentiality

8.1 Licensee agrees that Licensee shall use Confidential Information pursuant to the terms and conditions of this Agreement only for the purposes expressly identified in Section 2.1 of this Agreement. Licensee further agrees that Licensee shall not disclose to any party Confidential Information pursuant to the terms and conditions of this Agreement, except to those certain employees and independent contractors who require such access to carry out the purpose of this Agreement and who have agreed, in writing, to the confidentiality obligations hereunder. Licensee shall not copy, alter, modify, disassemble or reverse engineer any of the Confidential Information. Licensee shall use the same degree of care, but no less than reasonable care under the circumstances, in keeping Confidential Information confidential as it uses for its own confidential information of a similar nature.

8.2 The obligations under this Agreement shall not extend to information that (a) was generally available to the public at the time it was disclosed; (b) becomes generally available to the public after disclosure, which is not a result of any improper inaction or action of Licensee, or breach of its obligations hereunder; (c) was known to Licensee, other than under an obligation of confidentiality, at the time of disclosure; (d) is disclosed to Licensee without confidential obligation by third party with rightful authority to do so; (e) is independently developed by Licensee, through a person or persons who have not had access to the Confidential Information; (f) is approved in writing by Licensor for release; or (g) is disclosed by Licensor to a third party without restrictions on such third party's rights to disclose or use the same; provided however that the confidentiality obligations under this

Agreement shall always extend to any next generation memory card technology specifications disclosed by Licensor to Licensee regardless of whether the disclosure occurred before Licensee's execution of this Agreement.

8.3 Licensee shall comply with all applicable rules and regulations of the United States, Japan and other countries and jurisdictions relating to the export or re-export of any Confidential Information or SD Memory Card. Notwithstanding the licenses granted in this Agreement, Licensee shall further be responsible for obtaining any export license or authorization as may be required under such laws or regulations with respect to the export of any Confidential Information or any of SD Memory Card manufactured under the licenses granted in this Agreement.

8.4 Notwithstanding anything to the contrary contained herein, Licensee may disclose Confidential Information if required by any judicial or governmental request, requirement or order, or by operation of law, provided, however, that Licensee shall promptly inform Licensor of such request, requirement or order and take steps necessary to obtain a protective order.

8.5 All of the confidentiality and limited use obligations contained herein shall survive for ten (10) years after receipt of the Confidential Information.

8.6 All Confidential Information shall remain the property of Licensor or the party which gave the Licensor the authority to license such Confidential Information. At the reasonable request of Licensor, upon termination or expiration of this Agreement, all Confidential Information furnished to Licensee hereunder and all copies thereof, if any, shall be, at the discretion of Licensor, returned to Licensor or destroyed, with a written representation, by Licensee.

9. SD Specifications Change

Licensee agrees to abide by the terms and conditions of the Licensor's "Intellectual Property Policy", set forth as Schedule E (the "IP Policy"). The term "Member" shall be read to include Licensee where applicable, and the term "participate in the SDA" shall be read to include entering into this Agreement.

10. Indemnification

Licensee hereby agrees to indemnify, hold harmless and defend Licensor and Licensor's agent with respect to any third party claim arising out of, or relating to, Licensee's making, having made, designing, using, offering for sale, selling, importing, exporting, leasing or disposing by other means of or distribution of SD Memory Cards except to the extent that (i) such claim arises from a negligent act or willful misconduct of the Licensor, or (ii) such claim is independently attributable to the SDA Specifications; provided, however, that Licensee receives prompt notice of any such claim and has the right to control the defense and settlement of such claim. Licensor hereby agrees, at Licensee's written request and at Licensee's expense, to provide reasonable technical assistance in the defense of any such third party claim.

11. Warranty and Disclaimer

11.1 Licensor represents, warrants and covenants that it has the right to enter into this Agreement and to license the SDA Specifications and SDA Logos to Licensee pursuant to the terms contained herein.

11.2 Licensee represents, warrants and covenants that it has the right to enter into this Agreement.

11.3 EXCEPT AS EXPRESSLY STATED IN SECTION 11.1 ABOVE, NEITHER LICENSOR NOR LICENSEE MAKE ANY REPRESENTATION OR WARRANTY AS TO THE VALUE OR UTILITY OF THE INFORMATION TO BE SUPPLIED PURSUANT TO THIS AGREEMENT, SUCH AS BUT NOT LIMITED TO THE SDA SPECIFICATIONS, THE SDA LOGOS, AND TECHNICAL INFORMATION AND SUPPORT, IF ANY, OR THE ABILITY OF LICENSEE TO MAKE USE THEREOF TO SECURE INTERCHANGEABILITY WITH OTHER SD PRODUCTS. NEITHER LICENSOR NOR LICENSEE MAKE ANY WARRANTY WHATSOEVER THAT THE USE OF THE INFORMATION, INCLUDING BUT NOT LIMITED TO THE SDA

SPECIFICATIONS, SUPPLIED PURSUANT TO THIS AGREEMENT DOES NOT INFRINGE OR WILL NOT CAUSE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT OWNED OR CONTROLLED BY ANY PERSON. EACH PARTY UNDERSTANDS AND AGREES THAT NEITHER THE LICENSOR NOR LICENSEE MAKE ANY WARRANTY WHATSOEVER THAT ANY MAKING, HAVING MADE, DESIGNING, USING, OFFERING FOR SALE, SELLING, IMPORTING, EXPORTING, LEASING OR DISPOSING BY OTHER MEANS OF SD MEMORY CARDS WILL BE FREE FROM INFRINGEMENT OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS. NEITHER LICENSOR NOR LICENSEE MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIM IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION THAT MIGHT ARISE FROM ANY ACTIVITIES OR INFORMATION DISCLOSURES RELATING TO THIS AGREEMENT.

12. Limitation of Liability

12.1 NEITHER LICENSOR NOR ANY AFFILIATE, DIRECTOR, OFFICER, AGENT, MEMBERS, REPRESENTATIVES, EQUIVALENT CORPORATE OFFICIAL, OR EMPLOYEE ACTING IN THEIR CAPACITIES AS SUCH (COLLECTIVELY THE "LICENSOR AFFECTED PARTIES") SHALL BE LIABLE TO LICENSEE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS OR PERSONAL PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, OR ARISING OUT OF LICENSEE'S MAKING, HAVING MADE, DESIGNING, USING, OFFERING FOR SALE, SELLING, IMPORTING, EXPORTING, LEASING OR DISPOSING BY OTHER MEANS OF ANY PRODUCTS THAT IMPLEMENT THE SDA SPECIFICATIONS OR USE THE SDA LOGOS WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, PRODUCT LIABILITY OR OTHERWISE, EVEN IF THE LICENSOR AFFECTED PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.2 NEITHER LICENSEE NOR ANY AFFILIATE, DIRECTOR, OFFICER, AGENT, MEMBERS, REPRESENTATIVES, EQUIVALENT CORPORATE OFFICIAL, OR EMPLOYEE ACTING IN THEIR CAPACITIES AS SUCH (COLLECTIVELY THE "LICENSEE AFFECTED PARTIES") SHALL BE LIABLE TO LICENSOR FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS OR PERSONAL PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT WHETHER UNDER A THEORY OF CONTRACT, TORT, INDEMNITY, PRODUCT LIABILITY OR OTHERWISE, EXCEPT IN THE CASE OF BREACH OF THE CONFIDENTIALITY PROVISIONS OF THIS AGREEMENT, EVEN IF THE LICENSEE AFFECTED PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING AND SUBJECT TO SECTION 12.4 BELOW, LICENSEE AFFECTED PARTIES SHALL REMAIN LIABLE TO LICENSOR FOR ANY CLAIMS ASSERTED BY LICENSOR AGAINST THE LICENSEE AFFECTED PARTIES FOR REASONABLE ATTORNEY FEES AND COSTS OF SUIT.

12.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, THE LICENSOR AFFECTED PARTIES' AGGREGATE LIABILITY TO THE LICENSEE IN CONNECTION WITH THIS AGREEMENT EXCEPT FOR WILLFUL MISCONDUCT BY LICENSOR, SHALL IN NO EVENT EXCEED THE AMOUNT OF MONEY RECEIVED BY LICENSOR FROM SUCH LICENSEE UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE DATE ON WHICH SUCH LIABILITY ARISES.

12.4 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EXCEPT FOR WILLFUL MISCONDUCT OR BREACH OF CONFIDENTIALITY BY LICENSEE, AND EXCEPT FOR LICENSEE'S OBLIGATIONS UNDER SECTION 10 OF THIS AGREEMENT, LICENSEE'S MAXIMUM AGGREGATE LIABILITY TO LICENSOR SHALL IN NO EVENT EXCEED THREE MILLION U.S. DOLLARS (US\$ 3,000,000).

13. Term and Termination

13.1 This Agreement shall become effective as of the Effective Date and shall continue in force for a period of three (3) years and shall automatically extend for additional one (1) year periods, unless Licensee delivers written notice of termination to Licensor at least sixty (60) days prior to the expiration of the term of this Agreement or any extension thereof, until ten (10) years from the Effective Date. The parties hereby agree that prior to such expiration at the end of the 10-year term (other than earlier termination of this Agreement pursuant to the provisions herein), the parties shall negotiate in good faith to renew the license granted herein as such renewal may be subject to further terms and conditions, including payment of then determined administrative fees.

13.2 Immediately upon expiration or earlier termination of this Agreement, Licensee shall return to Licensor, or destroy at Licensor's instruction, all SDA Specifications licensed to Licensee hereunder, the SD Logo Guideline, and all copies of the foregoing documents, upon the last date that this Agreement remains in force and effect. To the extent Licensee is required by effect of statute or other governmental regulation, Licensee may, upon written explanatory notice to Licensor, maintain copies of relevant SDA Specifications for the limited purposes required by such statute or other governmental regulation. Licensee acknowledges and agrees that, on the last day of the term of this Agreement or its earlier termination, all rights of Licensee granted hereunder shall cease; provided however, that (i) Licensee shall have the right to sell remaining inventory stock, and complete and sell any manufacturing work in progress, that complies with the SDA Specifications, and (ii) end-users may continue to use SD Memory Cards sold by Licensee.

13.3 Either Licensor or Licensee may terminate this Agreement at any time on sixty (60) days' written notice to the other party in the event that the latter shall materially breach or fail to perform any material obligation under this Agreement and such default is not remedied within sixty (60) days after notice is given specifying the nature of the default. Such right of termination shall not be exclusive of any other remedies or means of redress to which the non-defaulting party may be lawfully entitled, and all such remedies shall be cumulative.

13.4 Licensee hereby agrees that the use of the SDA Logos in any way not in compliance with the SDA Logo Guideline, or on any product or in any advertisement or sales literature concerning any product, which product does not comply with the SDA Specifications, shall constitute a material breach of this Agreement.

13.5 In the event that any Event of Bankruptcy occurs, then Licensor or Licensee may give notice to the offending party terminating this Agreement and this Agreement shall be terminated in accordance with the notice. An "Event of Bankruptcy" occurs if:

(i) a decree or order by a court having jurisdiction in the premises has been entered adjudging a party as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, readjustment, arrangement, composition, winding up or similar relief for a party under any applicable statute, or a decree or order of a court having jurisdiction in the premises for the appointment of a liquidator, receiver, administrator, trustee or assignee in bankruptcy or insolvency or other similar person or official of a party or of a substantial part of the property, or for the winding up or liquidation of the affairs of Licensee has been entered and remains unstayed; or if any substantial part of the property of a party has been sequestered or attached and has not been returned to the possession of a party or released from such attachment within fourteen (14) days thereafter; whether any such act or event occurs in the United States, or any foreign country, subdivision thereof, or any other jurisdiction; or

(ii) Licensee or Licensor institutes proceedings to be voluntarily adjudicated bankrupt or insolvent, consents to the filing of a bankruptcy or insolvency proceeding against it, files a petition or answer or consent seeking reorganization, readjustment, arrangement, composition, winding up, administration, receivership, or similar relief under any applicable statute or consents to the filing of any such petition or the entry of any such order, makes an assignment for the benefit of creditors, is determined to be unable to pay its debts or admits in writing its inability to pay its debts generally as they become due, or voluntarily suspends transactions of a substantial portion of its usual business; whether any such act or event occurs in the United States, or any foreign country or subdivision thereof, or any other jurisdiction.

13.6 The provisions set forth in Sections 6 (to the extent of any outstanding fees), 7, 8, 10, 11.3, 12, 13.2, 13.7 and 14 shall survive the termination or expiration of this Agreement in perpetuity.

14. Miscellaneous

14.1 Licensee agrees that it has no right to bring any actions for unauthorized use or infringement of any of the SDA Specifications or the SDA Logos. Licensee will promptly notify Licensor should it learn of any such potential unauthorized use or infringement. In any suit or action brought against Licensee that challenges or concerns the validity of any right granted by Licensor hereunder, Licensor shall have the option, at its own expense, to assume the defense of any such Licensor granted right.

14.2 The performance by Licensor and Licensee of their respective obligations hereunder shall be conditioned upon and subject to the receipt of all necessary export approvals required by, and all restrictions or conditions imposed by, any relevant government.

14.3 This Agreement and the rights granted hereunder shall be personal to Licensee and shall not be assigned, pledged, divided or otherwise encumbered in any way except that they may be assigned in connection with a merger, sale, change of control or reorganization pursuant to which Licensee transfers all, or substantially all, of the assets of Licensee, provided that the assignee agrees, in writing, to be bound by the terms and conditions of this Agreement and Licensee provides prior written notice to Licensor. Licensee shall not have the right to sublicense any rights granted hereunder, provided that nothing herein shall prohibit or otherwise restrict end users' rights to use SD Memory Cards manufactured hereunder by Licensee. Licensor shall have the right to assign this Agreement, at any time during the term thereof, to any other party which succeeds Licensor in its function as the licensor of the the SDA Specifications and the SDA Logos, upon reasonable prior written notice to Licensee.

14.4 Wherever provision is made in this Agreement for the giving of any notice, such notice shall be in writing and shall be deemed to have been duly given if mailed by first class mail, postage prepaid, addressed to the party entitled to receive the same or delivered personally to such party, or sent by facsimile transmission or sent by electronic mail, or sent by courier,

if to Licensor, to:

SD Card Association
2400 Camino Ramon, Suite 375
San Ramon, California 94583
Attention: Member Services
Fax No.: (925) 886-4870

Copy to:

DLA Piper Rudnick Gray Cary LLP
Legal Counsel for SD Card Association
2000 University Avenue
East Palo Alto, CA 94303-2248
Attention: Tom French
Fax No.: (650) 833-2001

and if to Licensee, to:

Attention: _____
Fax No.: _____

or to such other address, in any such case, as any party hereto shall have last designated by written notice to the other party. Notice shall be deemed to have been given on the day that it is so delivered personally or sent by facsimile transmission and the appropriate answer back or confirmation of successful transmission is received or, if

sent by courier, shall be deemed to have been given two (2) business days after delivery by the courier company, or if mailed, ten (10) business days following the date on which such notice was so mailed.

14.5 THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF CALIFORNIA, AS IF THIS AGREEMENT WERE WHOLLY EXECUTED AND WHOLLY PERFORMED WITHIN SUCH STATE, AND WITHOUT REFERENCE TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF. THE PREVAILING PARTY IN ANY DISPUTE WITH RESPECT TO THIS AGREEMENT SHALL BE ENTITLED TO RECEIVE ITS REASONABLE AND DOCUMENTED FEES AND COSTS, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES. THE PARTIES AGREE THAT THE UNITED NATIONS CONVENTION ON CONTRACTS ON THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THIS AGREEMENT.

14.6 ALL DISPUTES BETWEEN THE PARTIES HERETO ARISING OUT OF OR IN CONNECTION WITH THE INTERPRETATION OR EXECUTION OF THIS AGREEMENT, LICENSOR'S LICENSING OF THE SDA SPECIFICATIONS AND THE SDA LOGOS, OR LICENSEE'S USE OF THE SDA SPECIFICATIONS AND THE SDA LOGOS, SHALL BE FINALLY SETTLED BY THE FEDERAL OR STATE COURTS LOCATED IN THE COUNTY OF SANTA CLARA IN THE STATE OF CALIFORNIA; AND EACH PARTY TO THIS AGREEMENT HEREBY: (i) IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS FOR THE RESOLUTION OF SUCH DISPUTES; (ii) IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OF SAID COURTS IN ANY SUCH DISPUTE BY PERSONAL DELIVERY OR MAILING OF PROCESS BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, AT THE RESPECTIVE ADDRESS SET FORTH IN SECTION 14.4 ABOVE; (iii) IRREVOCABLY WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING IN SUCH COURTS OR TO THE CONVENIENCE OR INCONVENIENCE OF CONDUCTING OR PURSUING ANY ACTION OR PROCEEDING IN ANY SUCH COURT; AND (iv) IRREVOCABLY WAIVES ANY RIGHT TO A TRIAL BY JURY REGARDING THE RESOLUTION OF ANY DISPUTES BETWEEN THE PARTIES HERETO ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

14.7 This Agreement shall inure to the benefit of the parties hereto and each of their respective Affiliates, provided that (i) such Affiliates shall comply with the terms of this Agreement, (ii) nothing herein shall relieve any party of any of its obligations under the terms of this Agreement, and (iii) a party shall be responsible for the acts and omissions of its Affiliates as if such acts and omissions had been the acts and omissions of such party.

14.8 This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and merges all prior discussions between them and neither of the parties shall be bound by any conditions, definitions, warranties, waivers, releases or representations (either expressed or implied) with respect to the subject matter of this Agreement, other than expressly set forth herein (including the schedules hereto), or as duly set forth on or subsequent to the date hereof in writing signed by a duly authorized representative of the party to be bound thereby.

14.9 This Agreement may be executed in counterparts (including facsimile transmission) each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

14.10 At the request of Licensor, Licensee shall update the list in Schedule C if such list has not been updated in the immediately preceding three (3) months.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

Licensor

Licensee

SD Card Association

By (Sign)

By (Sign)

Paul Ritchie

Name (Print)

Name (Print)

Executive Director

Title

Title

Date

Date

SCHEDULE A

SDA SPECIFICATIONS

1. SD application specifications:
 - Part 1: Physical Addendum, Version 1.0
 - Part 5: Picture Specification, Version 1.0
 - Part 6: Voice Specification, Version 1.0
 - Part 7: Document Specification, Version 1.0
 - Part 8: Video Specification, Version 1.0
 - Part 9: PIM Specification, Version 1.0
 - Part 10: Image Specification, Version 1.0 2.
2. SD I/O Extension, Part E-1 3.
3. Any and all additional parts or revisions to the SDA Specifications that Licensor makes available to Licensee pursuant to this Agreement. .

SCHEDULE B-1 SDA

LOGO GUIDELINE

SDA Logo Guideline: To be provided to Licensee if and when Licensor makes such guideline for use by licensees of SDA Logos.

SCHEDULE B-2

SDA LOGOS

To be provided to Licensee if and when Licensor develops or otherwise licensed such logos for use by licensees of the SDA Specifications.

SCHEDULE C

LICENSEE'S AFFILIATES

List of Licensee's Affiliates as of _____:

If blank, "none".

SCHEDULE D

VERIFICATION PROCEDURE

1. Licensee shall, before the initial shipment of each different model of SD Memory Cards, finish self-verification testing on such products in accordance with the SDA Specifications provided by Licensor in accordance with procedures set forth herein.
2. If, in its reasonable judgment, the results of the verification at its own facility are that such SD Memory Cards do not comply with the applicable SDA Specifications, Licensee shall modify the non-compliant products so as to comply and verify that such modified products are compliant or determine not to ship such products.
3. Licensee shall keep records of the verification conducted at its own facility for at least two (2) years after the discontinuation of production of the relevant model.
4. If requested by Licensor pursuant to this Agreement, Licensee shall immediately submit one (1) sample of SD Memory Cards (except prototypes), as the case may be, which the SD Association Compliance Committee suspects to be non-compliant with the applicable SDA Specifications and the Licensee's verification records for such products, to a laboratory designated by Licensee from among the list then provided by Licensor ("Designated Laboratory").
5. The Designated Laboratory shall inform the SD Association Compliance Committee and the Licensee of the result of the verification. If the result of the verification is that, in the sole reasonable judgment of the SD Association Compliance Committee, such sample product does not comply with the applicable SDA Specifications, the SD Association Compliance Committee shall have the right, after explaining the reasons for failure, to request that Licensee modify the non-compliant product so as to comply, and submit one (1) sample of such modified product to a Designated Laboratory within a reasonable period of time. Upon request by the SD Association Compliance Committee, Licensee shall promptly provide information for the Designated Laboratory to trace the cause of such non-compliance with the applicable SDA Specifications.
6. If, (a) as the result of the second verification in the sole reasonable judgment of the SD Association Compliance Committee the sample product still fails to comply with the applicable SDA Specifications, or (b) Licensee fails to submit a modified product within such period set forth in Section 5 of this Schedule D, the SD Association Compliance Committee, in its sole reasonable discretion, shall have the right, after explaining the reasons for failure, either to request that Licensee further modify the product and submit such further modified product to a Designated Laboratory, or to declare and inform Licensee of a final failure to conform to the applicable SDA Specifications ("Final Failure").
7. Licensee shall pay to the Designated Laboratory a verification fee as charged by the Designated Laboratory according to the following conditions:
 - (a) In all cases, Licensee shall pay the verification fee for the first submission of a particular sample product to the Designated Laboratory pursuant to Section 4 of this Schedule D.
 - (b) If Licensee's sample product has previously passed the Designated Laboratory's verification procedure, and the SD Association Compliance Committee subsequently requires the same sample product to be submitted a second time pursuant to Section 4.1, and the same sample product:
 - (i) fails the verification procedure, then Licensee shall pay the verification fee.
 - (ii) passes the verification procedure, then Licensor shall pay the verification fee.

(c) In all cases, Licensee shall pay the verification fee for any submission of a particular sample product to the Designated Laboratory pursuant to Sections 6 or 7 of this Schedule D.

The transportation fees for any submission and return of Licensee's SD Memory Card sample or test results shall in all cases be borne by Licensee.

8. All test results, product samples and other information submitted by Licensee to the SD Association Compliance Committee and/or the Designated Laboratory in compliance with the verification procedure shall be treated as confidential information of Licensee and shall not be disclosed by the SD Association Compliance Committee and/or the Designated Laboratory to any third party or used for any other purpose other than for verification purposes as defined in this Schedule D.

SCHEDULE E

SD ASSOCIATION INTELLECTUAL PROPERTY POLICY

This Intellectual Property Policy (“IP Policy”) is designed to state clearly the expectation of the SD Card Association (“SDA”), with regard to any individual member company’s (“Member”) intellectual property as well as the intellectual property of the SDA, 3C Members (as defined below) and the SD-3C, LLC, respectively.

The SDA is committed to an open standard and strives to establish high quality specifications that can be implemented in a compliant manner by any interested party. Therefore, the SDA will only include a Member’s proprietary technology in the SDA’s specifications if the owner of that technology agrees to reasonable and non-discriminatory licensing terms as set forth below.

The SDA Board of Directors, or its delegates, shall have the responsibility of determining Members’ compliance with this IP Policy. By joining or continuing to participate in the SDA, each Member agrees to abide by the terms of this IP Policy including with respect to any intellectual property contributed by such Member prior to or during its membership. Members failing to abide by this IP Policy are subject to expulsion from the SDA.

1. Type of Specifications

The SDA will have essentially two types of specifications at any given time, proposed specifications and adopted specifications.

“Proposed Specifications” are those specifications that have not yet been formally adopted by the SDA and which remain subject to review and comment by Members during specified periods of time.

On the other hand, “Adopted Specifications” are those specifications that have gone through the formal process of being adopted by the SDA as part of the standard. Subject to agreement of certain terms, Adopted Specifications can be licensed for commercial purposes.

For purposes of this IP Policy, references to “Specifications” shall mean Proposed Specifications and Adopted Specifications collectively.

2. Patents

Subject to the provisions of Section 5, each Member must be prepared to license in a non-discriminatory fashion, and on reasonable terms, to all other Members and non-member licensees (collectively, “Licensees”), such Member’s patent claims, existing and pending, which are required to implement the Adopted Specifications (“Essential Patent Claim(s)”). If a Member desires to incorporate any changes to the Specifications (whether intellectual property rights in those are owned by such Member or a third party), then such changes will not be incorporated into the Specifications unless such Member or the third party likewise agrees to license any Essential Patent Claims, as the case may be, that cover such changes on the same terms as described in this Section 2.

Licensing rights that include granting the SDA the right to sub-license, directly or through other licensing entities, and licensing at zero cost to Members, are the terms considered to be most desirable by the SDA.

Certain exceptions apply to the licensing requirement stated in this Section 2. A Member will not be required to license or continue to license its Essential Patent Claims to Licensees if: (i) a Licensee does not agree to grant back a license to all other Licensees under such party’s Essential Patent Claims on terms and conditions comparable to those contained in the license granted by the Member and/or (ii) a Licensee has commenced or has threatened to commence patent litigation on an Essential Patent Claim against such Member while such patent litigation or dispute is continuing relating to products compliant with the Adopted Specifications.

3. Copyrights

Copyrighted material submitted by a Member for inclusion in a Specification must include at the time of submittal a non-exclusive, perpetual, irrevocable, sub-licensable, royalty free, worldwide license to the SDA to use, reproduce, modify, prepare derivative works of, distribute, publicly display or perform, and exploit in any other manner the copyrighted material. Members agree that all copyrights in the Specifications or other copyrighted work submitted by a Member and adopted by the SDA's Technical Committee at its recommendation in accordance with Section 10.1 (a) of the SDA Bylaws and versions thereafter, including any final version adopted by the SDA's Executive Members, is solely owned by the SDA and not subject to any claim of copyright in the original works submitted by Members, and contributing Members hereby assign to the SDA any right and interest they may have in the copyright of the same.

Notwithstanding the foregoing, the copyrights in Parts 1-4, Versions 1.0 and 1.01 of the Adopted Specifications shall be owned by Panasonic Corporation, SanDisk Corporation and Toshiba Corporation (collectively, the "3C Members") and licensed by SD-3C, LLC (as such Adopted Specifications are available at www.sdcard.org).

4. Trade Secrets

Any information discussed in or by the SDA will be non-confidential and treated as such by the Members, unless otherwise covered by (i) written non-disclosure agreements between the disclosing party and receiving parties, or (ii) Section 6 below. If and when the information referred to in subsection (i) above is incorporated in any Specifications, the Technical Committee may disclose such Specifications to Members in accordance with Article 10 of the SDA Bylaws and Section 6 of this IP Policy, and thereafter, only SDA, not the disclosing party under (i) above, can exercise the right to disclose such information.

Each Member grants to SDA a perpetual, irrevocable, royalty free, worldwide license to any information, trade secret or know-how of such Member that has been proposed by such Member and incorporated into any Specifications, to issue and license such Specifications to Licensees pursuant to terms and conditions to be determined by the SDA Board of Directors. Each Member waives the right to receive compensation (for example, a share of the license fee or administration fee, if any), that may be received from Licensees for the Specifications into which such information, trade secrets or know-how of the Member has been incorporated.

Notwithstanding the foregoing, any trade secrets in Parts 1-4, Versions 1.0 and 1.01 of the Adopted Specifications shall be owned by the 3C Members and licensed by SD-3C, LLC (as such Adopted Specifications are available in the Specification Matrix in the Members Only area at www.sdcard.org).

5. Disclosure Policy

When considering whether proprietary technology should be included in the Specifications, the SDA balances the benefits of such technology with the burden of compliance with licensing requirements. As such, any party submitting a proposal for inclusion in a Specification is expected to disclose, at the time of submittal, all known proprietary technology included in the proposal. All Members of the SDA are encouraged to disclose all known proprietary technology in a proposal for a Specification as soon as it comes to their attention. (Disclosure by itself does not diminish any ownership rights in the proprietary technology.)

When a formal written recommendation is published to all the Members in accordance with Section 10.1 (a) of the SDA Bylaws, each Member will be required to disclose to the SDA's Technical Committee all of its Essential Patent Claims that to the best of its knowledge are required to implement the Proposed Specifications recommended by the Technical Committee, such notice to be given within sixty (60) days from the date such recommendation is published ("Notice Period").

Notwithstanding anything to the contrary in this IP Policy, with regard to Essential Patent Claims required to implement a Proposed Specification, no part of which the Member proposed, a Member is given the following options on licensing by providing a written statement to the President of the SDA within the Notice Period:

(i) agree to license in a non-discriminatory fashion for use in such implementation, on such terms as are disclosed with such statement, to all Licensees, once the Proposed Specification is adopted by the SDA; or

(ii) agree to license in a non-discriminatory fashion for use in such implementation, upon reasonable terms and conditions as provided in Section 2 above, with or without charge, to all Licensees once the Proposed Specification is adopted by the SDA; or

(iii) do not agree to license in connection with any or all of the implementations described in the Proposed Specification, in which case the SDA will not include such Member's proprietary technology in the Specifications.

If a Member does not provide such a statement before the end of the Notice Period, the Member will be deemed to have agreed to grant non-discriminatory licenses upon reasonable terms in accordance with the provisions of this Section 5(ii) above, with or without charge.

To the extent any Proposed Specification, submitted for review under the IP Policy, implements, incorporates by reference or refers to any portion of the Adopted Specifications, adoption of the Proposed Specification shall require Members utilizing the Adopted Specification to obtain the appropriate licenses from the SD-3C, LLC and/or the SDA (e.g., SD Host/Ancillary Product License Agreement or SD Memory Card License Agreement).

Notwithstanding anything to the contrary, the above notice shall serve as a complete and continuing notification of intellectual property held by the SD-3C, LLC or the 3C Members, as required by this IP Policy or during any IP review period, as to any Proposed Specification implementing, incorporating by reference and/or referring to any portion(s) of Parts 1-4, Versions 1.0 or 1.01 of the Adopted Specifications (as such Adopted Specifications are available at [FILL IN URL]).

6. Nondisclosure of Specifications and Ownership

Members agree to keep the Specifications confidential and use them only for the following purposes: (i) to facilitate discussions within the SDA meetings (where such meetings are held in any manner authorized by the SDA Bylaws (e.g. in person or teleconference)) or discussions amongst Members during interim periods between such meetings for the definition, development and promotion of technical specifications; and (ii) to evaluate the Specifications internally for use in developing, designing and/or manufacturing possible future products which are compliant with such Specifications (the "Purposes").

Members further agree to use at least reasonable care to protect the confidentiality of the Specifications. This commitment shall include limiting the internal evaluation to those employees with a need to know such information to carry out the Purposes and who are bound by written confidentiality obligations substantially similar to the obligations stated in this IP Policy. Members agree to comply with any export laws or regulations regarding a Member's own dissemination of the Specifications.

No license, express or implied, is granted to Members for the Specifications other than the Purposes. Commercial use of the Adopted Specifications requires a separate written definitive license agreement to be consummated between a Member and the SDA and/or SD-3C, LLC, as appropriate. Members agree that both the SDA, each member of the 3C Members and the SD-3C, LLC shall have standing and rights to enforce their respective interests in any intellectual property covered by this IP Policy.

Members agree to give the SDA prompt written notice of any unauthorized use or disclosure of the Specifications, with verification of receipt. Upon receipt of any such notice, the SDA will take those steps that it deems appropriate in its discretion in light of the information it receives.

Members agree that the Specifications are provided to Members: (i) on an "AS IS" basis and may have defects or deficiencies that cannot and will not be corrected; and (ii) without any warranties of any kind, express, implied or statutory, including but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement.

Members agree that in no event shall the SDA, SD-3C, LLC or any of the 3C Members be liable for any monetary damages with respect to any claims related to, or arising out of, the Specifications or any Member's use of the Specifications, including but not limited to any liability for any consequential, incidental, indirect, special or punitive damages, even if the SDA, SD-3C, LLC or any of the 3C Members have been advised of the possibility of such damages.

7. Conflict

Any proposals for Specification changes and/or any questions or conflicts regarding the proposals shall be submitted to the SDA Technical Committee for review. The Technical Committee can elect whether to accept the proposal for consideration or to reject it by returning it to the submitting Member, together with formal comments as may be applicable. If rejected, the submitting Member shall be notified by the Chair of the SDA Technical Committee or the working group thereof through which it was originally submitted. If rejected, the proposal and all related proposal inputs shall not be included within the applicable minutes for that Technical Committee meeting, but the minutes shall include sufficient information to describe the proposal and results of the discussion thereof including the reason for rejection.

If the Technical Committee fails to decide whether or not a proposal shall be considered, the proposal and applicable information (including minutes of the pertinent Technical Committee discussion) shall be submitted to the SDA Board of Directors. The SDA Board of Directors may elect to accept or reject the proposal for consideration or delegate further action. Applicable comments and resultant decisions by the Board shall be included in the minutes of their applicable meeting(s) but the proposal itself need not be included.

8. General Rights and Survival

Member rights and obligations under this IP Policy may not be assigned or delegated without the prior written consent of the SDA.

The provisions of this IP Policy shall survive the termination of SDA membership of any Member as follows: (i) Sections 1, 2, 3, 4 and 8 shall survive in perpetuity; and (ii) Section 6 shall survive for a period of ten (10) years from receipt of the Specifications except for the "SD Security Specification" which shall survive in perpetuity. Such provisions shall apply only to the version of the Specifications which were disclosed to Members while such Member was a member of the SDA.

Upon termination of membership, each Member agrees to destroy all copies of the Specifications in its possession and if the SDA requests, at its option, to certify such destruction.

9. Order of Precedence

Members who are Licensees shall be governed by the terms and conditions of the applicable license agreement (e.g., SD Host/Ancillary Product License Agreement), and to the extent there is a conflict between this IP Policy and the license agreement, the terms and conditions of the license agreement shall prevail. This IP Policy will be governed by the laws of the State of California, USA and the federal and state courts located in California shall have exclusive jurisdiction regarding any matters under this IP Policy.