

Non-Disclosure Agreement

This non-disclosure agreement ("Agreement") is made and entered into as of the date last executed below ("Effective Date") by and among _____, having its business office at _____ ("Recipient"), SD-3C LLC ("SD-3C LLC") a Delaware limited liability company having its registered office at 1209 Orange Street, Wilmington, New Castle County, Delaware 19801, U.S.A. under authorization of Panasonic Corporation, SanDisk Corporation and Toshiba Corporation (collectively, "SD Group"), and SD Card Association ("SD Association"), a California non-profit membership corporation having its principal place of business at 2400 Camino Ramon, Suite 375, San Ramon, California 94583, U.S.A. (SD-3C LLC and SD Association each a "Discloser" and collectively "Disclosers").

WITNESSETH

WHEREAS, SD Group has entered into a basic agreement to collaborate on the development, marketing and licensing of a next generation card technology; and

WHEREAS, SD Group and SD Association have defined certain specifications with respect to the next generation card technology; and

WHEREAS, SD-3C LLC (under authorization from the SD Group) and SD Association collectively own certain confidential or proprietary information including, but not limited to, specification designs, drawings, mask works, software, processes, data, know-how, plans, services, samples, prototypes, application, and other information regarding technical specifications for such next generation memory card technology as set forth in Exhibit A (the "Confidential Information"); and

WHEREAS, SD-3C LLC and the SD Association desire to disclose to Recipient, and Recipient is willing to accept, such Confidential Information on the terms and conditions in this Agreement; and

WHEREAS, the purpose for disclosing the Confidential Information to Recipient is to permit Recipient to evaluate the Confidential Information for use in developing, designing and/or manufacturing possible future products which will be compliant with the Confidential Information (the "Purpose").

NOW, THEREFORE, in mutual consideration of the covenants and promises set forth herein, and in consideration of the continued use of any specifications previously disclosed by SD-3C LLC or SD Association to Recipient, the parties agree as follows:

1. Recipient shall not disclose the Confidential Information of SD Association or SD-3C LLC to any third party. Recipient may disclose the Confidential Information only to those of its employees who need to know such Confidential Information in order to carry out the Purpose and who are bound in writing to terms and conditions substantially similar to, and at least as protective of SD Association's and SD-3C LLC's rights as, those contained in this Agreement. Recipient will immediately give notice to SD Association of any unauthorized use

or disclosure of the Confidential Information, and Recipient agrees to assist SD Association and SD-3C LLC in remedying the same.

2. Recipient shall use the Confidential Information only internally and solely for the Purpose. Recipient shall not use the Confidential Information for any other use than the Purpose, including but not limited to filing patent applications based on the Confidential Information. Recipient further agrees not to reproduce, copy, alter, modify, make derivative works from, distribute, publicly display or perform, disassemble, or reverse engineer any Confidential Information unless permitted in a separate written agreement among SD Association and/or SD-3C LLC and Recipient.

3. Recipient agrees that if it is not a member of SD Card Association as of the Effective Date, Recipient will pay a one thousand dollar (US\$1,000) supplemental administration fee payable to SD Card Association. If Recipient subsequently becomes a member of SD Card Association with ninety (90) days of the Effective Date, then SD Card Association will credit the payment under this Agreement towards Recipient's membership dues.

4. In addition to the information set forth in Exhibit A ("Confidential Information"), Confidential Information includes any information disclosed by SD Association or SD-3C LLC to Recipient that: (i) if disclosed in tangible form, is marked as "Confidential", "Proprietary" or in some other legend to indicate its confidential nature, and (ii) if disclosed orally, visually, through demonstration, or other intangible form, is either (a) specifically designated as Confidential Information at the time of disclosure or (b) by its nature or the circumstances of its disclosure would be reasonably understood to be Confidential Information, and such disclosure is confirmed in writing within thirty (30) days from the date of disclosure.

5. Recipient shall use the same degree of care, but no less than reasonable care under the circumstances, in keeping the Confidential Information confidential as it uses for its own confidential information of a similar nature.

6. The obligations under this Agreement shall not extend to Confidential Information that Recipient can document: (a) was generally available to the public at the time it was disclosed pursuant to this Agreement; (b) became generally available to the public after disclosure not as a result of any improper inaction or action of Recipient; (c) was rightfully in Recipient's possession free of any obligation of confidentiality at the time of disclosure; (d) was independently developed by Recipient's employees or agents who have not had access to the Confidential Information; (e) was approved in writing by SD Association and SD-3C LLC for release; or (f) is disclosed by SD Association and SD-3C LLC to a third party without restrictions on such third party's rights to disclose or use the same; provided however that the obligations under this Agreement shall always extend to any next generation card technology specifications disclosed by SD Association or SD-3C LLC to Recipient regardless of whether the disclosure occurred before Recipient's execution of this Agreement. A disclosure of any portion of the Confidential Information (i) in response to a judicial or governmental order, or (ii) as otherwise required by law, shall not be considered as a breach of this Agreement nor a waiver of confidentiality for any other purpose; *provided*, however, that Recipient shall promptly inform SD Association prior to such disclosure and shall assist SD Association and/or SD-3C LLC as reasonably requested to obtain a protective order or otherwise prevent disclosure.

7. This Agreement shall remain in effect until the earlier of (i) the one (1) year anniversary from the Effective Date or (ii) the consummation of a definitive license agreement between the parties for the Confidential Information; *provided*, however, that in any case all of the confidentiality and limited use obligations contained herein shall survive for ten (10) years, except for Part 3 of the specifications (and revisions thereof) which is related to security technology and the 4C copy protection, for which the confidentiality period shall survive in perpetuity.

8. The parties to this Agreement acknowledge that certain Confidential Information disclosed to Recipient hereunder may be subject to the export control laws or regulations of the United States and/or Japan. SD Association or SD-3C LLC, as appropriate, shall be responsible for obtaining any initial export license or authorization as may be required under such laws or regulations with respect to the export to Recipient of any Confidential Information at Recipient's address set forth in the preamble of this Agreement or to such other address as Recipient may specify in writing to SD Association. Recipient shall be responsible for obtaining any export license or authorization as may be required with respect to dissemination of the Confidential Information to Recipient's employees or within Recipient's organization.

9. All Confidential Information shall remain the property of SD Association and/or SD-3C LLC as appropriate. Upon request by SD Association or SD-3C LLC, all Confidential Information furnished to Recipient hereunder and all copies thereof, if any, shall be, at the discretion of SD Association or SD-3C LLC, returned to SD Association or SD-3C LLC or destroyed, and Recipient shall provide a written certification of compliance with this sentence.

10. No license, express or implied, in the Confidential Information is granted to the Recipient other than to use Confidential Information in the manner and to the extent authorized in this Agreement.

11. Neither this Agreement, nor the disclosure or receipt of the Confidential Information, shall constitute or imply any promise or intention by any of the parties or their affiliated companies to enter into any contract, license or other business relationship to (i) make or purchase any products or services, or (ii) market any present or future product or service. Recipient agrees that any commercial use of the Confidential Information requires that a separate written definitive license agreement be consummated between itself and SD Association and/or SD-3C LLC, as appropriate.

12. Recipient understands that Confidential Information provided under this Agreement is subject to change and revision at the sole discretion of SD Association and/or SD-3C LLC.

13. All parties understand that all parties may be currently or in the future exchanging information with third parties that may be identical or similar to the Confidential Information. Accordingly, nothing in this Agreement will be construed as a representation or inference that any party may not develop products, or have products developed for it, or enter into joint ventures, alliances and licensing agreements, that, without violation of this Agreement, compete with products or systems which might be developed or manufactured according to the Confidential Information.

14. This Agreement shall be governed by and construed in accordance with the laws of the state of California, U.S.A. as applied to contracts entered into by California residents and

executed and performed entirely within California. Each of the parties irrevocably consents to the exclusive personal jurisdiction of the federal and state courts located in California, as applicable, for any matter arising out of or relating to this Agreement, except that in actions seeking to enforce any order or any judgment of such federal or state courts located in California, such personal jurisdiction shall be non-exclusive. 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 attorneys' fees.

15. No waiver, alteration, or modification of any of the provisions hereof shall be binding on the parties unless made in writing and signed by duly authorized representatives of the parties. Recipient may not assign or delegate any right or obligation under this Agreement without the prior written consent of SD Association and SD-3C LLC, and any attempted assignment or delegation without such consent shall be wholly void and totally ineffective for all purposes. Any permitted assignment or delegation shall be binding upon the parties, their successors and their permitted assigns.

16. Notwithstanding the foregoing, it is understood by Recipient that this Agreement, including all rights and obligations hereunder, may be transferred by SD Association or SD-3C LLC to a licensing entity to be established by and among SD Association and SD-3C LLC.

17. SD ASSOCIATION AND SD-3C LLC PROVIDE THE CONFIDENTIAL INFORMATION "AS IS" AND DISCLAIM, FOR THEMSELVES AND ON BEHALF OF THEIR LICENSORS, ALL WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY OR PERFORMANCE. RECIPIENT ACKNOWLEDGES THAT THE CONFIDENTIAL INFORMATION IS EXPERIMENTAL, AND AGREES THAT THIS DISCLAIMER IS AN ESSENTIAL ELEMENT OF THIS AGREEMENT. Recipient acknowledges and agrees that the Confidential Information may have defects or deficiencies that SD Association or SD-3C LLC cannot or will not correct, and that neither SD Association nor SD-3C LLC is under any obligation to release the Confidential Information for general commercial availability.

18. SD ASSOCIATION AND SD-3C LLC, AND THEIR LICENSORS, SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND RELATING TO THIS AGREEMENT OR THE CONFIDENTIAL INFORMATION, INCLUDING BUT NOT LIMITED TO LOST DATA, PROPERTY DAMAGE OR INABILITY TO USE THE CONFIDENTIAL INFORMATION, EVEN IF SD ASSOCIATION, SD-3C LLC OR THEIR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. RECIPIENT ACKNOWLEDGES THAT THE CONFIDENTIAL INFORMATION IS EXPERIMENTAL, AND AGREES THAT THIS DISCLAIMER IS AN ESSENTIAL ELEMENT OF THIS AGREEMENT.

19. RECIPIENT ACKNOWLEDGES THAT THE CONFIDENTIAL INFORMATION IS EXPERIMENTAL, AND AGREES THAT IN NO EVENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY, SHALL SD ASSOCIATION, SD-3C LLC OR THEIR LICENSORS HAVE ANY MONETARY LIABILITY WITH RESPECT TO THIS AGREEMENT OR THE

CONFIDENTIAL INFORMATION. THIS LIMITATION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

20. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by telecopy or facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth above or to such other address as a party may specify in writing pursuant to this notice provision.

21. If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, (i) that provision shall be deemed amended to achieve as nearly as possible the same economic effect as the original provision, and (ii) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.

22. A breach of any of the promises or agreements contained herein will result in irreparable and continuing damage to SD Association and/or SD-3C LLC for which there will be no adequate remedy at law, and SD Association and SD-3C LLC shall be entitled to injunctive relief and/or a decree for specific performance, and such other relief as may be proper (including monetary damages if appropriate).

23. The parties agree that facsimile signature pages of this Agreement shall be valid and binding as original signatures and shall be considered an agreement of the respective parties to execute fully and deliver originally signed copies of this Agreement.

24. This Agreement constitutes the entire agreement with respect to the Confidential Information disclosed hereunder and supersedes all prior or contemporaneous oral or written agreements concerning such Confidential Information.

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

SD CARD ASSOCIATION,
individually and on behalf of
SD-3C LLC
("Disclosers")

("Recipient")

By (Sign): _____

By (Sign): _____

Name (Print): Stan Moyer

Name (Print): _____

Title: Executive Director

Title: _____

Date: _____

Date: _____

Exhibit A
Confidential Information

1. Specifications owned by SD-3C LLC

SD Physical Specification: Part 1 Physical Layer Specifications Versions 1.0, 1.01, 1.10

SD Logical Specification: Part 2 File System Specifications Versions 1.0, 1.01

SD Security Specification: Part 3 Security Specifications Versions 1.01

SD Application Format: Part 4 Audio Specifications Versions 1.0, 1.01, 1.10

2. Specifications owned by SD Association

A. Material revisions to the SD Specifications Parts 1-4, if any

B. SD application specifications

Part 5: Picture Specification, Version 1.0, 1.02

Part 6: Voice Specification, Version 1.0, 1.01, 1.10

Part 7: pDocument Specification, Version 1.0, 1.10, 1.20,

Part 8: Video Specification, Version 1.0

Part 9: PIM Specification, Version 1.0

Part 10: Image Specification, Version 1.0

Part 11: ePublish Specification, Version 1.0, 1.01

Part 12: Sound Specification, Version 1.0

Part 13: Binding Specification Version 1.0, 1.01

Part 14: Map Specification Version 1.0

C. SD Host Controller Extension, Part A-2

D. SD I/O Extension, Part E-1, E-2, E-3, E-4, E-5, E-6

E. Any and all additional Parts or revisions to the specifications that SD Association and/or SD-3C LLC makes available to Recipient pursuant to this Agreement.