

## C2 ENCRYPTION LICENSE AGREEMENT

This C2 Encryption License Agreement (the “Agreement”), dated as of \_\_\_\_\_, (the “Effective Date”), is made by and among \_\_\_\_\_, a \_\_\_\_\_ corporation with its principal offices located at: \_\_\_\_\_

(the “C2 Encrypter”) the 4C Entity, LLC, (“4C” or “Licensor”) and the following four parties and/or their Affiliates (collectively, the “Founders”).

- **International Business Machines Corp.**, a New York corporation with its principal offices located at New Orchard Road, Armonk, New York 10504 (“IBM”);
- **Intel Corporation**, a Delaware corporation with an office located at 2200 Mission College Blvd., Santa Clara, California 95052, U.S.A. (“Intel”);
- **Panasonic Corporation**, a Japanese corporation having its principal place of business at 1006 Kadoma, Kadoma, Osaka 571-8501 (“Panasonic”), and
- **Toshiba Corporation**, a Japanese corporation with an office located at 1-1, Shibaura 1-chome, Minato-ku, Tokyo 105-8001 (“Toshiba”).

WHEREAS, the Founders have licensed aspects of the 4C Technology to Licensor and authorized Licensor to further license the 4C Technology and administer such licenses, and whereas the Founders shall license certain patent claims directly to C2 Encrypter through this Agreement;

WHEREAS, the Founders have negotiated certain agreements, including a Founders Agreement and Adopter Agreement regarding the licensing of certain technologies developed by the Founders for the methods of encryption, decryption, and renewability for purposes of protecting certain digital content from unauthorized interception and copying;

WHEREAS, the Founders wish to provide on a royalty-free basis for a limited use of the C2 Cipher including the Secret Constants for encryption of content which will be decrypted in accordance with a C2 Decryption License Agreement or the Adopter Agreement;

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

## 1. Definitions.

- 1.1 “Adopter” means any entity (including a Founder) that has entered into an Adopter Agreement with Licensor and delivered it to Licensor or its designee, and shall include its Affiliates.
- 1.2 “Adopter Agreement” means the CPPM/CPRM License Agreement (including its Compliance Rules and associated Fee Exhibits) and any other 4C License Agreement that includes substantially similar licensing and covenant provisions and is called an Adopter Agreement by 4C.
- 1.3 “Affiliate” means with respect to any person or entity, any other person or entity directly or indirectly controlling or controlled by or under direct or indirect common control with such person or entity. “Control” means the possession of beneficial ownership of more than 50% of the stock or other similar interest entitled to vote for election of the Board of Directors or similar managing authority.
- 1.4 “Authorized Uses” means such uses set out in Exhibit B of the 4C C2 Decryption Agreement, as may be amended from time to time.
- 1.5 “C2 Cipher” means the method for encryption and decryption, including Secret Constants, developed by the Founders described in the specification entitled “C2 Block Cipher Specification” and Chapter 2 (“CPRM Common Cryptographic Functions”) of the specification entitled “CPRM Introduction and Common Cryptographic Elements,” published by the 4C Entity, LLC, as may be amended from time to time.
- 1.6 “C2 Decrypter” means any entity that has signed the C2 Decryption License Agreement as a C2 Decrypter and shall include its Affiliates.
- 1.7 “C2 Decryption License Agreement” means any C2 Decryption License Agreement entered into by Licensor, Founders and a C2 Decrypter that is called a C2 Decryption License Agreement by 4C.
- 1.8 “C2 Encrypted Product” means Commercial Content which is itself encrypted with the C2 Cipher for decryption in accordance with the terms of any C2 Decryption License Agreement or the Adopter Agreement, is made under license from 4C pursuant to Section 2.1 of this Agreement, and which embodies and complies with the designs set out in the C2 Specifications.
- 1.9 “C2 Encrypter” means any entity that has signed the C2 Encryption License Agreement as a C2 Encrypter and includes its Affiliates.

- 1.10 “C2 Encrypting Product” means a product functionality for encrypting Commercial Content using the C2 Cipher where such product is manufactured under license from 4C pursuant to Section 2.1 of this Agreement, with respect to which all of the statements in 1.10.1-1.10.3 are true:
- 1.10.1 the product embodies and complies with the designs set out in the C2 Specifications,
  - 1.10.2 the product complies with the Robustness Rules listed in Exhibit B of this Agreement, and
  - 1.10.3 the product is designed for encryption of Commercial Content.
- 1.11 “C2 Encryption License Agreement” means this Agreement and any other C2 Encryption License Agreement (including its Robustness Rules and associated Fee Exhibits) that include substantially similar licensing and covenant provisions and is called a C2 Encryption License Agreement by 4C.
- 1.12 “C2 Encryption Licensed Component” shall mean a component functionality for encrypting Commercial Content using the C2 Cipher where such component is manufactured under license from 4C and is designed solely to be and is assembled into a C2 Encrypting Product and which embodies a portion of the C2 Specifications, but which does not by itself completely satisfy the Robustness Rules.
- 1.13 “C2 Encryption Licensed Product” means a C2 Encrypted Product and/or a C2 Encrypting Product manufactured under license from 4C.
- 1.14 “C2 Necessary Claims” means those claims of patents or patent applications, under which, any Founder, C2 Encrypter or any Fellow C2 Adopter has the right, at any time during the term of this Agreement to grant licenses within the bounds of the scope of use set forth in Section 2.3 of this Agreement that are necessarily infringed only by those portions of C2 Encryption Licensed Products and C2 Encryption Licensed Components which implement the C2 Cipher solely to the extent disclosed with particularity in the C2 Specifications. Notwithstanding anything else in this Agreement, "C2 Necessary Claims" shall not include any claims relating to aspects of any technology (even if disclosed with particularity), standard or product that is an Optional part of the C2 Specifications or is not itself part of the C2 Cipher, including: (1) claims relating to other encryption, copy protection, compression, or encoding ability (even though such technology, standard or product may otherwise be mentioned or required by the C2 Specifications) or to tamper resistance technology; (2) claims which could be practiced in an implementation of C2

Encryption Licensed Product or C2 Encryption Licensed Component in compliance with the 4C Specifications, other than the C2 Specification, where an alternative implementation exists that would not infringe such claim (even if in the same patent as C2 Necessary Claims); (3) claims that read solely on any implementations of any portion of the C2 Specifications that are not within the bounds of the scope of use set forth in Section 2.3 of this Agreement or (4) claims which, if licensed, would require a payment of royalties by the licensor to unaffiliated third parties.

- 1.15 "C2 Specifications" means collectively the specification entitled "C2 Block Cipher Specification" and Chapter 2 ("CPRM Common Cryptographic Functions") of the specification entitled "CPRM Introduction and Common Cryptographic Elements," published by the 4C Entity, LLC, as may be amended from time to time.
- 1.16 "Commercial Content" means audio, data, video, text, games and/or graphics, whether or not protected by copyright, which are (a) not created by the user of the audio, data, video, text, games and/or graphics and (b) offered for transmission, delivery or distribution either generally or on demand, to subscribers or purchasers of the public at large, or otherwise for commercial purposes, but not offered uniquely to an individual or a small, private group, provided that any data that conveys information or instructions for the use of the above audio, data, video, text, games and/or graphics and any information or data used for the purpose of encrypting or decrypting the above audio, data, video, text, games and/or graphics shall be considered Commercial Content.
- 1.17 "Confidential Information" means x) any and all information relating to the 4C Technology or Licensor's or any Founder's business practices relating to the 4C Technology, made available to C2 Encrypter directly by Licensor or its designees or representatives, or by any Fellow C2 Adopter prior hereto or during the term of this Agreement, including, without limitation, specifications, software, hardware, firmware, documentation, designs, flow charts, technical data, outlines, blueprints, notes, drawings, prototypes, templates, systems, manuals, know-how, processes and methods of operation, trade secrets, business plans, strategies, concepts, research, data bases, client or customer lists, financial data, other data or information that relates to Licensor's or a Founder's past, present or future research, development or business activities, and any other sensitive material belonging to Licensor or any Founder, which y) is marked "Confidential" when disclosed in written form or indicated as "Confidential" when disclosed orally, and confirmed in writing within thirty days to be confidential, including, without limitation, Secret Constants and Media Key Blocks , provided, however, that Secret Constants and Media Key Blocks shall be treated as confidential regardless of whether or not they are marked "Confidential."

- 1.18 “4C Specifications” means, collectively, the specifications entitled “Content Protection for Recordable Media Specification,” “Content Protection for Prerecorded Media Specification,” and “C2 Block Cipher Specification,” published by 4C Entity, LLC.
- 1.19 “4C Technology License Agreement” means a binding written agreement among a 4C Technology Licensee, Licensor and Founders to license some or all of the 4C Technology and includes, without limitation an agreement denominated as an Adopter Agreement, Content Participant Agreement, a C2 Encryption License Agreement or a C2 Decryption License Agreement.
- 1.20 “Fellow C2 Adopters” means those entities which have executed a C2 Decryption License Agreement or C2 Encryption License Agreement and delivered it to Licensor or its designee for purposes of becoming a C2 Encrypter or C2 Decrypter.
- 1.21 “Fellow C2 Encrypters” means those C2 Encrypters which have executed a C2 Encryption License Agreement and delivered it to Licensor or its designee for purposes of becoming a C2 Encrypter.
- 1.22 “4C Technology” means certain methods for encryption (including local encryption), decryption, and renewability developed by the Founders for purposes of protecting certain digital content from unauthorized copying, which methods are described in the Specifications entitled “Content Protection for Prerecorded Media Specifications,” “C2 Block Cipher Specification,” “Content Protection for Recordable Media Specification,” “CSS Compatible DVD Drive Authentication for CPPM” and “CSS-based DVD Drive Authentication for CPRM” as may be amended from time to time.
- 1.23 “Optional” means with reference to the 4C Specifications or C2 Specifications, any part of such specifications specifically identified as “Optional.”
- 1.24 “Robustness Rules” means the requirements set out in Exhibit B hereto, as such may be amended by 4C pursuant to a Founder’s Authorization from time to time.
- 1.25 “Secret Constant” means the value used as part of internal calculations of the C2 Block Cipher, as defined by the technical specifications contained in the C2 Specifications published by 4C Entity, LLC.

## 2. LICENSES GRANTED

2.1 Nonexclusive License. Each Founder (or its Affiliate which has the right to license C2 Necessary Claims) grants to C2 Encrypter and C2 Encrypter accepts from each Founder (or such Affiliate) a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide, royalty-free license under the C2 Necessary Claims of such Founders and/or Affiliates and Licensor grants to C2 Encrypter and C2 Encrypter accepts from Licensor a nonexclusive, nontransferable, nonsublicensable, revocable worldwide royalty-free license under those trade secrets and copyrights embodied in the C2 Specifications:

- (a) to use, reproduce, display, perform and implement the C2 Cipher to make (including designing and developing) have made (including having designed or having developed by third parties on a subcontract basis for the sole account of the C2 Encrypter), use, offer to sell, sell, import, export, distribute, or otherwise transfer C2 Encryption Licensed Components and/or C2 Encryption Licensed Products provided, however, that C2 Encryption Licensed Components shall only be offered for sale, sold, exported, distributed or otherwise transferred to Fellow C2 Encrypters for incorporation into C2 Encryption Licensed Products; and further provided that C2 Encrypted Products shall only be offered for sale, sold, exported, distributed or otherwise transferred to Fellow C2 Adopters in accordance with the C2 Decryption License Agreement or to an end user for the purpose of decrypting such C2 Encrypted Product in accordance with the Adopter Agreement or in accordance with one of the Authorized Uses pursuant to the terms of the C2 Decryption License Agreement, and further provided that C2 Encrypting Products shall only be used to encrypt Commercial Content that is intended to be decrypted in accordance with the terms of the Adopter Agreement or in accordance with one of the Authorized Uses pursuant to the terms of the C2 Decryption License Agreement and may be sold only to Fellow C2 Adopters or to an end user for use to encrypt Commercial Content where the purpose of the sale is to allow for the eventual decryption of the Commercial Content in accordance with the Adopter Agreement or in accordance with one of the Authorized Uses pursuant to the terms of the C2 Decryption License Agreement. Licensor shall make available on its website at [www.4Centity.com](http://www.4Centity.com), or otherwise provide to C2 Encrypter upon request, the list of Authorized Uses; and
- (b) to transfer prototype or sample C2 Encryption Licensed Products and C2 Encryption Licensed Components to prospective customers or retained test companies, in each case solely for their internal

evaluation in contemplation of purchase of such C2 Encryption Licensed Product and/or C2 Encryption Licensed Component or for performance of specified testing of such C2 Encryption Licensed Product and/or C2 Encryption Licensed Component, as applicable, and to provide related technical information necessary for such evaluation or testing purposes, as applicable; provided, however, that any disclosure of Confidential Information shall be made only pursuant to a written agreement providing at least equivalent protections as are provided in this Agreement.

The license granted in this Section 2.1 shall not extend to C2 Encrypter if C2 Encrypter is in violation of Section 2.3.

- 2.2 Notwithstanding anything else in this Agreement, the licenses granted under this Section 2 exclude (1) applications, application programming interfaces and user interfaces, including the technology used to generate, display or interact with a user, (2) data embedding and content formats (other than as described with particularity in the C2 Specifications), (3) tamper resistance technology; (4) aspects of any technology, including an encoding or compression technology, standard or product not disclosed with particularity in the C2 Specifications or that are Optional under the C2 Specifications; even though such technology, standard, or product may be mentioned in, or required by the C2 Specifications; (5) claims relating to decryption technology, decompression technology, decoding technology, electronic media distribution technology, watermarking technology, semiconductors and semiconductor manufacturing technology, compiler technology, programming languages and object-oriented technology, operating system, middleware and database technology, networking, intranet, extranet, and Internet technology.
- 2.3 Scope of Use. The licenses under this Section 2 shall extend only for the use of the C2 Cipher for encryption of Commercial Content by C2 Encryption Licensed Components and in or by C2 Encryption Licensed Products. This license shall not extend to features of C2 Encryption Licensed Products or C2 Encryption Licensed Components which are not required to comply with the C2 Specifications or for which there exists a noninfringing alternative, and shall not apply if C2 Encrypter is in violation of its covenant under Section 2.6. Except for the rights expressly provided in this Agreement, neither C2 Encrypter nor Licensor nor any Founder grants or receives, by implication, or estoppel or otherwise, any rights under any patents or other intellectual property rights.
- 2.4 Proper Use. C2 Encrypter shall not use Confidential Information provided under this Agreement, nor produce, sell or otherwise transfer products or components (whether hardware or software) under color of this Agreement where such usage of Confidential Information, or such

components or products produced, sold or otherwise transferred are designed or may be used to circumvent the requirements or effectiveness of the C2 Specifications or any other 4C Technology.

- 2.5 Affiliates. C2 Encrypter represents and warrants that upon the Effective Date of this Agreement, it has the authority to bind its Affiliates that use, reproduce, display, perform and implement the C2 Cipher to make (including designing and developing) have made (by third parties on a subcontract basis for the sole account of the C2 Encrypter), use, offer to sell, sell, import, export, distribute, or otherwise transfer C2 Encryption Licensed Components and/or C2 Encryption Licensed Products pursuant to this Agreement to the terms of this Agreement.
- 2.6 Reciprocal Non Assertion Covenant. C2 Encrypter, on behalf of itself and its Affiliates, promises not to assert or maintain against Founders, Licensor, or Fellow C2 Adopters and Affiliates of any of the foregoing or any vendor, distributor, purchaser or other person in the chain of distribution any claim of infringement under C2 Encrypter's and Affiliates' C2 Necessary Claims, as well as under any trade secrets or copyrights in the C2 Specifications, and accepts Fellow C2 Adopter's promise not to assert or maintain any claim of infringement under Fellow C2 Adopter's and Affiliates' respective C2 Necessary Claims, as well as under any trade secrets or copyrights in the C2 Specifications, for the development, design, manufacture (including having third parties manufacture on a subcontract basis for the sole account of Founder, Licensor, Fellow C2 Adopter or Affiliate thereof) use, reproduction, modification, distribution, display, performance, sale, offer to sell, import, and export or other transfer of C2 Encryption Licensed Products and C2 Encryption Licensed Components in accordance with the terms and conditions of this Agreement provided that such promise only applies to those portions of such C2 Encryption Licensed Products and C2 Encryption Licensed Components which are required for compliance with the C2 Specifications and which cannot be implemented without infringing (but for this covenant) the C2 Necessary Claims and/or the trade secrets or copyrights in the C2 Specifications, and further provided that such promise does not extend to any person or entity which is asserting its C2 Necessary Claims against the promissor, Founders, Licensor or Fellow C2 Encrypters and such Affiliates where the promissor is not in breach of its obligations under its Agreement. This section applies whether another entity, or such Affiliate, has become a Fellow C2 Encrypter before or after C2 Encrypter signs this Agreement.
- 2.7 Limited Effect. This Agreement shall not be construed to waive any Founder's or Licensor's rights under law or any other Agreement except as expressly set out here.

### 3. FEES

- 3.1 Administration Fees. Within thirty (30) days of the Effective Date, C2 Encrypter shall pay 4C Administration Fees in the amount set forth in the Fee Schedule attached as Exhibit A. C2 Encrypter shall not be entitled to any refund thereof for any reason. Upon each anniversary of the Effective Date (the “Annual Payment Date”), C2 Encrypter shall pay 4C the Annual Administration Fee for the following year which fee shall be used to offset the costs associated with the Licensor’s administration of the 4C Technology. 4C may, upon at least thirty (30) days notice to C2 Encrypter, modify the Annual Administration Fee payable for the period beginning on the next Annual Payment Date, provided that any increase in such fees shall not exceed an amount commensurate with any increase in 4C’s costs. Without limiting the foregoing, where costs per Fellow C2 Encrypter decrease, 4C shall use commercially reasonable efforts to reduce the Annual Administration Fee.
- 3.2 Adjustment for Inflation. On December 31, 2003 and every third anniversary thereof, all of the fees set forth in this Section 3 and/or Exhibit A, shall be adjusted for inflation based on the changes in the Producer Price Index from January, three years prior thereto to December of the then current year. Licensor will make the adjustment effective on April 15 of the following year. The adjustment of fees set forth in this Section 3.2 shall be in addition to any adjustment otherwise authorized under this Section 3 and/or Exhibit A.
- 3.3 Currency. All fees shall be paid to 4C or to its order in United States dollars by wire transfer or such other means as 4C may reasonably specify. Fees shall be directed to 4C Entity, LLC, 380 Tennant Ave., Unit 4, Morgan Hill, CA 95037.

### 4. CONFIDENTIALITY AND EXPORT

- 4.1 Permitted Use. C2 Encrypter shall use Confidential Information (and tangible embodiments thereof) only in accordance with the terms of this Agreement, and shall not use such information or any mentally-retained recollections thereof to circumvent or copy the methods disclosed in Confidential Information or to circumvent any obligations under this Agreement. With the exception of Confidential Information, C2 Encrypter may otherwise use and disclose in its business the increased or enhanced knowledge retained in the unaided memories (that is, without current use of the Confidential Information recorded in any tangible form) of its directors, employees, agents or contractors as a result of their exposure to the Confidential Information. No recipient of Confidential Information shall: (i) intentionally memorize the Confidential Information so as to reduce it to an intangible form for the purpose of creating a

residual or using the same: or (ii) avoid its obligation to maintain the confidentiality of the Confidential Information merely by having a person commit such item to memory so as to reduce it to intangible form. No party shall have any rights in any business endeavors of any other party that may use such knowledge and experience nor any right to compensation related to a C2 Encrypter's use of such knowledge and experience.

- 4.2 Confidential Information. C2 Encrypter shall maintain the confidentiality of Confidential Information in the following manner:
- 4.2.1 C2 Encrypter shall employ procedures for safeguarding Confidential Information at least as rigorous as C2 Encrypter would employ for its own Confidential Information, but no less than a reasonable degree of care.
- 4.2.2 C2 Encrypter may disclose Confidential Information to (1) regular full-time and/or part-time employees (with the exception of short-term employees including by way of example and not of limitation employees such as interns, seasonal and temporary employees) and individuals retained as independent contractors who have a reasonable need to know such Confidential Information in order to allow C2 Encrypter to implement the 4C Technology in compliance with the C2 Specifications and who have executed a nondisclosure agreement sufficient to protect the Confidential Information in accordance with the terms of this Agreement; (2) Fellow C2 Adopters who are subject to a nondisclosure agreement sufficient to protect the Confidential Information in accordance with the terms of this Agreement; (3) C2 Encrypter's attorneys, auditors or other agents who have a reasonable need to know the Confidential Information and who owe C2 Encrypter a duty of confidentiality sufficient to prevent the disclosure of such Confidential Information.
- 4.3 Copies of Confidential Information. C2 Encrypter shall not make any copies of any document containing Confidential Information except when required for use by different business units operating under this Agreement which are manufacturing C2 Encryption Licensed Products and/or C2 Encryption Licensed Products, but located in different facilities. In the event such information is required for use by such diversely located business units, C2 Encrypter may make one (1) copy of such documents for each affected business unit and each of the requirements and obligations of this Section will apply individually to each such business unit. C2 Encrypter shall notify Licensor in writing if such additional copies are made. C2 Encrypter may request that Licensor provide C2 Encrypter with additional copies of Confidential documents for a fee of

\$500 per additional copy, such fee to be submitted to Licensor with each request. Licensor may, in its sole discretion, fulfill any such request, provided that Licensor shall not unreasonably refuse to provide requested additional copies.

- 4.4 Contact Person and Provision of 4C Information. C2 Encrypter shall designate a single Authorized Employee who shall receive all Confidential Information (the “C2 Encrypter Contact”) disclosed by Licensor and may designate a single alternative Authorized Employee (“Alternate C2 Encrypter Contact”) who shall be entitled to receive such Confidential Information in the event that C2 Encrypter Contact is absent at the time such information is to be provided. Prior to the provision of any Confidential Information to the C2 Encrypter Contact or Alternate C2 Encrypter Contact, such C2 Encrypter Contact or Alternate C2 Encrypter Contact shall have complied with all of his/her obligations under Sections 4(a) and (b).
- 4.5 Notification of Unauthorized Use or Disclosure. C2 Encrypter shall notify Licensor in writing promptly upon discovery of any unauthorized use or disclosure of Confidential Information, and will cooperate with Licensor and the Founders in every reasonable way to regain possession of such information and to prevent its further unauthorized use or disclosure.
- 4.6 Disclosure of C2 Encrypter Status. Licensor shall have the right to disclose to third parties the fact that C2 Encrypter has obtained a limited license to implement the C2 Cipher and shall publish a list of C2 Encrypters at least once per quarter. Upon C2 Encrypter’s timely written request to Licensor, Licensor shall maintain the fact that C2 Encrypter has obtained a license to implement the C2 Cipher confidential until such time that C2 Encrypter has publicly announced that it intends to manufacture an C2 Encryption Licensed Product or C2 Encryption Licensed Component or has begun marketing such a product or component, whichever is earliest. In the event that C2 Encrypter exercises this option, C2 Encrypter shall promptly notify Licensor when it has publicly announced its product plans or begins marketing a C2 Encryption Licensed Product or C2 Encryption Licensed Component.
- 4.7 Disclosure Required By Law. In the event C2 Encrypter is required by law, regulation or order of a court or other authority of competent jurisdiction to disclose Confidential Information, (1) C2 Encrypter shall take reasonable steps to notify the Licensor prior to disclosure, or (2) where notice to the Licensor prior to disclosure is not reasonably possible, C2 Encrypter shall take reasonable steps to challenge or restrict the scope of such required disclosure and notify the Licensor as soon as possible thereafter. In either case, C2 Encrypter shall take reasonable steps to seek to maintain the confidentiality of the information required to be disclosed

and to cooperate with Licensor in any effort undertaken by Licensor to challenge the scope of such required disclosure.

- 4.8 Confidentiality Exceptions. The confidentiality restrictions also shall not apply to Confidential Information which C2 Encrypter can demonstrate (1) is or has been developed by C2 Encrypter's employees without having access, to such information (including translations, derivations or abstractions of such information) and without breach of this Agreement; (2) is or has been disclosed to C2 Encrypter, without obligation of confidentiality, by a third party who has developed such information without any direct or indirect access to (including retained mental impressions/recollections) such information and without any breach of such third party's obligations to Licensor, Founders, Adopters, C2 Encrypter, or a Fellow C2 Encrypter; (3) at the time of its disclosure by Licensor to C2 Encrypter, was already in C2 Encrypter's possession without obligation of confidentiality; or (4) was disclosed by Licensor to another party without obligation of confidentiality.
- 4.9 Confidentiality Period. The confidentiality obligations set forth in this Section 5 shall be in effect during the term of this Agreement and shall continue thereafter until five (5) years after termination of this Agreement.
- 4.10 Reverse Engineering. Under no circumstances shall C2 Encrypter reverse engineer, reverse translate, decompile, disassemble, or otherwise seek to determine the operation of any element of Confidential Information or allow another to do so. C2 Encrypter may, to the minimum extent necessary to test, debug, integrate or tune its own C2 Encryption Licensed Product or C2 Encryption Licensed Component to ensure that they work in their intended operational environment with other C2 Encryption Licensed Products or C2 Encryption Licensed Components, conduct compliance or electrical analyses with respect to the operation of other C2 Encryption Licensed Products or C2 Encryption Licensed Components that form part of such intended operational environment.
- 4.11 Export. C2 Encrypter shall comply with all applicable laws and regulations of the United States, Japan and other countries and jurisdictions relating to the export or re-export of commodities, software, and technical data insofar as they relate to activities under this Agreement (including export activities under Section 2.1), and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export. C2 Encrypter agrees and understands that commodities, software and technical data provided under this Agreement may be subject to restrictions under the export control laws of the United States, Japan and other countries and jurisdictions, as applicable, including but not limited to the US Export Administration Act, the US Export Administration Regulations, and the Japanese Foreign

Exchange and Foreign Trade Law, and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export.

- 4.12 Treatment. Any materials marked “Confidential” shall be deemed to be “Confidential Information” under this Agreement.

## 5. TERM/TERMINATION

- 5.1 Termination. This Agreement shall commence upon the Effective Date and shall continue until terminated in accordance with any of the following events:

5.1.1 Initial Term, Termination by Licensor and Renewal. This Agreement shall terminate ten (10) years after the Effective Date (“Initial Term”). At any time after the completion of the fifth (5th) year anniversary of the Effective Date during the Initial Term, Licensor may terminate this Agreement upon at least one hundred and eighty (180) days prior written notice to C2 Encrypter of Licensor’s intention to terminate the Agreement (“Termination Notice Period”). If such notice is provided, then the Agreement will terminate at the end of the Termination Notice Period. Upon the expiration of the Initial Term, the Agreement shall automatically renew for successive one (1) year periods (each a “Renewal Term”, and collectively with the Initial Term, the “Term”) unless either (a) C2 Encrypter provides at least thirty (30) days’ written notice to Licensor; or (b) Licensor provides at least one hundred and eighty (180) days’ notice to C2 Encrypter, in either event in accordance with the terms of the Agreement, of its intention not to renew the Agreement for a subsequent Renewal Term.

5.1.2 Termination by C2 Encrypter.

5.1.2.1 C2 Encrypter shall have the right to terminate this Agreement at any time upon ninety (90) days prior written notice to Licensor and Founders.

5.1.2.2 C2 Encrypter shall have the right to immediately terminate this Agreement if the Licensor makes any material change to the C2 Specifications. In the event C2 Encrypter chooses to terminate this Agreement due to any material change to the C2 Specifications, any covenant in Section 2.6 not to assert C2 Necessary Claims shall apply only to C2 Necessary Claims that read on the last version of the C2 Specifications which have been provided to C2 Encrypter and is in existence sixty (60) days prior to C2 Encrypter's termination of the Agreement.

- 5.1.3 **Breach.** Licensor may terminate this Agreement and Founders may terminate any license to C2 Necessary Claims for any material breach by C2 Encrypter, and C2 Encrypter may terminate this Agreement for any material breach by Licensor or Founders, by providing timely written notice and an opportunity to cure the breach. If the breach is not fully cured within thirty (30) days of receiving such notice, the Agreement may be terminated.
- 5.1.4 **Avoidance of Legal Liability.** Licensor may terminate this Agreement and Founders may terminate any licenses to C2 Necessary Claims and/or convert such licenses to reciprocal covenants not to assert C2 Necessary Claims in the event Licensor and/or Founders determine it is necessary to do so to avoid potential legal liability for Licensor, Founders or C2 Encrypters by providing thirty (30) days prior written notice to C2 Encrypters.
- 5.1.5 **Necessary Claim.** Licensor and Founders may terminate this license immediately if C2 Encrypter asserts or threatens to assert against any 4C Technology Licensee, Licensor or Founders (or its Affiliates) any C2 Necessary Claim or any Necessary Claim as that term is defined in any 4C Technology License Agreement. For purposes of this Section, “4C Technology Licensee” means an entity that has entered into a 4C Technology License Agreement with Licensor and Founders for the purpose of obtaining a license to some or all of the 4C Technology.
- 5.2 **Effect of Termination.** Upon termination or expiration of this Agreement, C2 Encrypter shall promptly cease use of the C2 Cipher, and cease all manufacture, sale or distribution of products authorized by this Agreement. Provided that, if the Agreement expires or is terminated for reasons other than uncured breach by C2 Encrypter, C2 Encrypter shall be entitled to a ninety (90) day sell off period for C2 Encryption Licensed Products or C2 Encryption Licensed Components (subject to Section 2.1) manufactured prior to the expiration or termination of this Agreement. Licenses to C2 Necessary Claims from the Founders shall terminate upon expiration or termination of this Agreement. Within thirty (30) days after termination or expiration of this Agreement, C2 Encrypter shall return all Confidential Information to Licensor, or at Licensor’s option destroy all such information in its possession, retaining no copies thereof, and provide to Licensor a written certification signed by a senior official or officer of the C2 Encrypter.
- 5.3 **Survival.** The Reciprocal Non-Assertion Covenant (Section 2.6) and such other sections of this Agreement that, by their own terms survive termination or expiration of this Agreement, shall continue in full force

after termination or expiration of this Agreement until by their terms they are fulfilled.

## 6. DISCLAIMER AND LIMITATION ON LIABILITY

- 6.1 Generally. The following terms limit the ability of the C2 Encrypter to recover any damages from Licensor or the Founders. These provisions are an essential part of the bargain, without which Licensor would not be willing to enter into this Agreement, and the Founders would not be willing to license their C2 Necessary Claims to C2 Encrypter.
- 6.2 Disclaimer. ALL INFORMATION INCLUDING THE C2 CIPHER, AND C2 SPECIFICATIONS ARE PROVIDED “AS IS.” LICENSOR AND FOUNDERS MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIM IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION THAT MIGHT ARISE FROM ANY ACTIVITIES OR INFORMATION DISCLOSURES RELATING TO THIS AGREEMENT. LICENSOR AND FOUNDERS FURTHER DISCLAIM ANY WARRANTY THAT ANY IMPLEMENTATION OF THE C2 SPECIFICATIONS, IN WHOLE OR IN PART, WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.
- 6.3 Limitation of Liability. NEITHER LICENSOR NOR FOUNDERS NOR ANY OF THEIR DIRECTORS, OFFICERS, AGENTS, MEMBERS, REPRESENTATIVES, EQUIVALENT CORPORATE OFFICIALS, OR EMPLOYEES ACTING IN THEIR CAPACITIES AS SUCH (COLLECTIVELY THE “AFFECTED PARTIES”) SHALL BE LIABLE TO C2 ENCRYPTER FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, OR BASED ON ANY PERSON’S USE OF OR MAKING, (INCLUDING DESIGNING AND DEVELOPING), HAVING MADE (INCLUDING HAVING DESIGNED OR HAVING DEVELOPED BY THIRD PARTIES ON A SUBCONTRACT BASIS FOR THE SOLE ACCOUNT OF C2 ENCRYPTER) OFFERING TO SELL, LEASE, SELLING OR IMPORTING, EXPORTING, OR OTHERWISE TRANSFERRING ANY PRODUCTS OF C2 ENCRYPTER THAT IMPLEMENT THE 4C TECHNOLOGY, C2 CIPHER, OR C2 SPECIFICATIONS, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, INTELLECTUAL PROPERTY INFRINGEMENT (DIRECT, CONTRIBUTORY OR OTHERWISE) PRODUCT LIABILITY OR OTHERWISE. TO THE EXTENT THAT

ANY COURT OF COMPETENT JURISDICTION RENDERS JUDGMENT AGAINST LICENSOR OR FOUNDERS NOTWITHSTANDING THE ABOVE LIMITATION, THE AFFECTED PARTIES' AGGREGATE LIABILITY TO C2 ENCRYPTER IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE FEES PAID BY C2 ENCRYPTER TO LICENSOR OR FOUNDERS HEREUNDER.

- 6.4 C2 Encrypter acknowledges that it may require a license under patent claims other than C2 Necessary Claims licensed by a Founder under Section 2.1 or which are the subject of the non assertion covenant by Fellow C2 Encrypter under Section 2.6, to make, have made, use, import, offer to sell, sell, import, export, lease, distribute, or otherwise transfer C2 Encryption Licensed Components and C2 Encryption Licensed Products.

## 7. REMEDIES

- 7.1 Indemnification for Wrongful Acts of C2 Encrypter. C2 Encrypter shall indemnify and hold Licensor, the Founders and their officers, members, representatives, agents, directors, equivalent corporate officials, and employees, harmless from and against any and all losses, claims, actions, suits, proceedings or litigation, and any losses, deficiencies, damages, liabilities, costs and expenses including without limitation, reasonable attorney's fees and all related costs and expenses, to be paid or otherwise incurred in connection with the defense of any claim, action, suit, proceeding or litigation, which result from any breach of any covenant, agreement, representation or warranty herein or negligent acts related to this Agreement committed by C2 Encrypter, its Affiliates and its or their employees and agents.

## 8. MISCELLANEOUS

- 8.1 Ownership. All Confidential Information, copyrighted or patented information, and media containing any of the above as provided by Licensor to C2 Encrypter shall remain the property of Licensor, the Founders, or their suppliers. Except as expressly provided herein, this Agreement does not give C2 Encrypter any license or other rights to any information provided under this Agreement.
- 8.2 Assignment. The rights and licenses granted to C2 Encrypter by this Agreement are personal to C2 Encrypter and shall not be assigned or otherwise transferred except: (1) with the written approval of 4C and with respect to C2 Necessary Claims, written approval of the Founders, which approval shall not be unreasonably withheld; (2) to a corporation

controlling, controlled by or under common control with C2 Encrypter; or (3) to the purchaser of all or substantially all of the outstanding capital stock or assets and obligations of C2 Encrypter or of all or substantially all of the outstanding capital stock or assets and obligations of the business unit of C2 Encrypter that is making use of the Confidential Information in its business activities or the surviving entity in a merger, reorganization, or other business combination; provided written notice of such assignment has been provided in advance to 4C and the surviving or acquiring company has agreed in writing to be bound by the terms and conditions of this Agreement and to assume all of the duties and obligations of, and grant all of the rights granted by C2 Encrypter (including the non-assertion covenant under Section 2.6) as if it had been named in lieu of the C2 Encrypter in this Agreement originally. Subject to the limitations set forth in this Agreement, this Agreement shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns. 4C or Founders may assign or transfer this Agreement to a party that agrees to assume the transferors obligations hereunder, and will provide C2 Encrypter with written notice of such assignment or transfer.

- 8.3 Presumptions. In construing the terms of this Agreement, no presumption shall operate in any party's favor as a result of its counsel's role in drafting the terms or provisions hereof.
- 8.4 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY IN SUCH STATE, EXCLUDING THAT BODY OF LAW RELATING TO CONFLICTS OF LAW PRINCIPLES.
- 8.5 Consent to Jurisdiction. IN CONNECTION WITH ANY LITIGATION BETWEEN THE PARTIES HERETO EACH PARTY IRREVOCABLY CONSENTS TO (1) THE EXCLUSIVE JURISDICTION AND VENUE OF THE FEDERAL AND STATE COURTS LOCATED IN THE COUNTY OF NEW YORK, N.Y.; AND (2) THE SERVICE OF PROCESS OF SAID COURTS IN ANY MATTER RELATING TO THIS AGREEMENT BY PERSONAL DELIVERY BY OVERNIGHT MAIL OR INTERNATIONAL COURIER, WHICH REQUIRES SIGNING ON RECEIPT, POSTAGE PREPAID, TO THE PARTIES AT THE ADDRESS SPECIFIED IN THIS AGREEMENT, OR TO THE AGENT SPECIFIED IN SECTION 8.7 BELOW. THE PARTIES AGREE TO WAIVE A JURY TRIAL ON ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT.
- 8.6 Agent. C2 ENCRYPTER SHALL APPOINT AN AGENT IN THE STATE OF NEW YORK FOR ACCEPTANCE OF SERVICE OF

PROCESS PROVIDED FOR UNDER THIS AGREEMENT AND SHALL NOTIFY 4C OF THE IDENTITY AND ADDRESS OF SUCH AGENT WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE.

- 8.7 Notice. Any notice required to be given under this Agreement shall be in writing and shall be by overnight mail or international courier, which requires signing on receipt, postage prepaid, to the parties at the address specified in this Agreement. Such notices shall be deemed served when received by addressee or, if delivery is not accomplished by reason of some fault of the addressee, when tendered for delivery. Any party may give written notice of a change of address and, after notice of such change has been received, any notice or request shall thereafter be given to such party at such changed address.
- 8.8 Severability; Waiver. Should any part of this Agreement judicially be declared to be invalid, unenforceable, or void, the parties agree that the part or parts of this Agreement so held to be invalid, unenforceable or void shall be reformed by the entity having jurisdiction thereover without any further action by the parties hereto and only to the extent necessary to make such part or parts valid and enforceable. A waiver by any of the parties hereto of any of the covenants or provisions to be performed by the other parties or any breach thereof shall not be effective unless made in writing and signed by the waiving party and shall not be construed to be a waiver of any succeeding breach thereof or of any covenant herein contained.
- 8.9 Entire Agreement. This Agreement, the exhibits hereto and the C2 Specification constitute the entire agreement between the parties with respect to the subject matter involved and supersede all prior agreements. This Agreement shall not be modified except by written agreement dated subsequent to the date of this Agreement and signed by all the parties.

In witness of their agreement, the parties have executed this Agreement below. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, when taken together shall constitute one and the same instrument. The parties hereto confirm that any facsimile copy of another party's executed counterpart of this Agreement (or its signature page) will be deemed to be an executed original thereof.

**International Business Machines Corp.**

**By:** \_\_\_\_\_

**Name:** Jacob Pak

**Title:** Attorney-in-fact

**Date:** \_\_\_\_\_

**Panasonic Intellectual Property Corporation of America**

**By:** \_\_\_\_\_

**Name:** Jacob Pak

**Title:** Attorney-in-fact

**Date:** \_\_\_\_\_

**4C Entity, LLC**

**By:** \_\_\_\_\_

**Name:** Jacob Pak

**Title:** Manager

**Date:** \_\_\_\_\_

**Intel Corporation**

**By:** \_\_\_\_\_

**Name:** Jacob Pak

**Title:** Attorney-in-fact

**Date:** \_\_\_\_\_

**Toshiba America Information Systems, Inc.**

**By:** \_\_\_\_\_

**Name:** Jacob Pak

**Title:** Attorney-in-fact

**Date:** \_\_\_\_\_

**C2 Encrypter**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## EXHIBIT "A"

### FEES APPENDIX FOR C2 ENCRYPTION AGREEMENT

1. Annual Administration Fees:

\$US 6,000

As provided in Section 3.1 of this Agreement, Administration Fees are used to offset the costs of the Licensor's administration of the 4C Technology. As a result, the Administration Fees may vary in subsequent years due to an increase or decrease in Licensor's administrative costs.

2. Withholding from Payments.

Any fees paid by the C2 Encrypter hereunder will be paid without deduction or withholding for or on account of any present or future tax, assessment or governmental charge imposed or levied, unless in each case the withholding or deduction of such tax, assessment or governmental charge is required by law. In the event such withholding or deduction is so required, C2 Encrypter shall include with its payment written notification of such withholding and shall forward to 4C in a timely manner evidence of such withholding adequate to permit 4C and/or Founders to claim relevant tax credits under applicable treaties. Adopter assumes full responsibility for remitting such withholding to the proper authority.

3. Routing of Payments.

As provided in Section 3.3, all fees shall be paid to 4C or to its order in United States dollars by wire transfer or such other means as 4C may reasonably specify. Orders and payments shall be directed to 4C Entity, LLC, 380 Tennant Ave., Unit 4, Morgan Hill, CA 95037.

4. Recordkeeping.

C2 Encrypter will be invoiced for fees at the time its order is received. All fees are payable and due prior to shipment of orders.

## EXHIBIT “B”

### C2 ENCRYPTER ROBUSTNESS RULES

#### 1. CONFIDENTIAL INFORMATION.

- 1.1 C2 Encrypting Products shall be designed and manufactured such that they shall resist attempts to discover Confidential Information such as the Secret Constant.
- 1.2 The characteristics set forth in Section 1.1 shall be implemented so that it is reasonably certain that they:
  - 1.2.1 Can only with difficulty be defeated or circumvented using Widely Available Tools. “Widely Available Tools” shall mean general-purpose tools or equipment that are widely available at a reasonable price, such as screwdrivers, jumpers, clips, file editors, and soldering irons.

#### 2. HIGHLY CONFIDENTIAL INFORMATION.

- 2.1 C2 Encrypting Products shall be designed and manufactured such that they shall resist attempts to discover or reveal keys or secret intermediate calculated cryptographic values used by the C2 Cipher, or other information that C2 Encrypter designates as highly confidential information or that C2 Encrypter has obtained from a third party where the third party has designated such information as requiring greater protection than that provided for Confidential Information.
- 2.2 Methods of Making Functions Robust. C2 Encrypting Products shall use at least the following techniques to be designed to effectively frustrate efforts to circumvent or defeat the functions and protections specified in this Agreement:
  - 2.2.1 **Robustness Requirements Applicable to Software Implementations.** Any portion of a C2 Encrypting Product that implements C2 encryption in software shall include all of the characteristics set forth in Sections 1 and 2.1 of these Robustness Rules. In addition, such implementations shall:
    - 2.2.1.1 Comply with Section 2.1 of these Robustness Rules by reasonable methods, which may include, but shall not be limited to: encryption, execution of a portion of the implementation in ring zero or supervisor mode, and/or embodiment in a secure physical implementation; and in every case of implementation of software,

using techniques of obfuscation to disguise and hamper attempts to discover the approaches used.

2.2.1.2 Be designed so as to perform self-checking of the integrity of its component parts and be designed to result in a failure of the implementation to provide the authorized authentication, encryption, and/or decryption functions in the event of unauthorized modification. For these purposes, a "modification" includes any change in, or disturbance or invasion of features or characteristics, or interruption of processing, relevant to Sections 1 and/or 2.1 of this Exhibit B. This provision requires at a minimum the use of "signed code" or other means of tagging or operating throughout the code which are equivalent or more robust than the use of signed code.

## 2.2.2 **Robustness Requirements Applicable to Hardware**

**Implementations.** Any portion of the C2 Encrypting Product that implements C2 encryption in hardware shall include all of the characteristics set forth in Sections 1 and 2.1 of these Robustness Rules. The fact that a software implementation operates on a hardware computing platform shall not, in and of itself, cause such hardware computer platform to be subject to the requirements set forth in Sections 2.2.2 and 2.2.3. If, however, the software implementation relies on hardware or any hardware component to satisfy these Robustness Rules, then such hardware or hardware component shall be governed by the robustness rules set forth herein for hardware implementations. In addition, such C2 Encrypting Product shall:

2.2.2.1 Comply with Section 2.1 of these Robustness Rules by reasonable means including, but not limited to embedding keys or secret intermediate calculated cryptographic values used by the C2 Cipher, or other information that C2 Encrypter designated as highly confidential information or that C2 Encrypter has obtained from a third party where the third party has designated such information as requiring greater protection than that provided for Confidential Information, in silicon circuitry or firmware which cannot reasonably be read, or the techniques described above for software.

2.2.2.2 Be designed such that attempts to remove or replace hardware elements in a way that would compromise the content protection features of the C2 technology would pose a serious risk of damaging the C2 Encrypting Product so that it would no longer be able to encrypt Commercial Content. By way of example, a

component which is soldered rather than socketed may be appropriate for these means.

2.2.2.3 Be designed such that the failure of a function related to encryption as defined and required in the C2 Specification would cause the product to no longer be able to encrypt Commercial Content.

2.2.3 **Robustness Requirements Applicable to Hybrid Implementations.** The interfaces between hardware and software portions of a C2 Encrypting Product shall be designed so that the hardware portions comply with the level of protection that would be provided by a pure hardware implementation, and the software portions comply with the level of protection that would be provided by a pure software implementation.

3. **NEW CIRCUMSTANCES.** If a C2 Encrypting Product when designed and shipped complies with the requirements set forth above, but at any time thereafter circumstances arise which — had they been existing at the time of design — would have caused such C2 Encrypting Product to fail to comply with these Robustness Rules ("New Circumstances"), then upon having reasonable notice of such New Circumstances, the developer of such C2 Encrypting Product shall promptly redesign the affected C2 Encrypting Product(s) or make available upgrades to its affected C2 Encrypting Product(s), and, as soon as reasonably practicable, consistent with ordinary product cycles and taking into account the level of threat to content under the New Circumstances, shall incorporate such redesign or replacement into its affected C2 Encrypting Product(s), cease manufacturing such C2 Encrypting Product(s) and cease selling such C2 Encrypting Product(s).