AMENDED & RESTATED BYLAWS
OF
BLU-RAY DISC ASSOCIATION,
formerly known as BDA Administration Corp.

(A California Nonprofit Mutual Benefit Corporation)
Table of Contents

Chapter 0. Definitions ...................................................................................................................................... 4
Chapter I. Introduction ...................................................................................................................................... 9
    Clause 1. Purpose of the Bylaws ................................................................................................................... 9
    Clause 2. Duration ......................................................................................................................................... 9
    Clause 3. Objectives ....................................................................................................................................... 9
    Clause 4. Compliance with the Bylaws and Laws ..................................................................................... 10
Chapter II. Membership ..................................................................................................................................... 11
    Clause 5. Membership ................................................................................................................................... 11
        A. Membership ......................................................................................................................................... 11
        B. Classes of Membership ....................................................................................................................... 11
        C. Application .......................................................................................................................................... 11
        D. Membership Fees ................................................................................................................................. 12
        E. Subsidiaries ........................................................................................................................................... 13
        F. Resignation .......................................................................................................................................... 13
        G. Termination of Membership .................................................................................................................. 13
        H. Effect of Resignation or Termination of Membership ......................................................................... 14
    I. Transition to Another Level ..................................................................................................................... 15
    J. Transfer of Membership .......................................................................................................................... 15
    K. Use of Names .......................................................................................................................................... 15

Clause 6. Enforcement ...................................................................................................................................... 15

Chapter III. Organization ................................................................................................................................. 17
    Clause 7. Officers .......................................................................................................................................... 17
        A. Officers ................................................................................................................................................. 17
            1) President ............................................................................................................................................ 17
            2) Vice President .................................................................................................................................. 17
            4) Chief Financial Officer ..................................................................................................................... 18
            5) License Officer ................................................................................................................................ 18
            6) Enforcement Officer ....................................................................................................................... 18
        B. Other Officers ....................................................................................................................................... 19
        C. Term ...................................................................................................................................................... 19

Clause 8. General Meeting ............................................................................................................................... 19
    A. Objectives and Activities ......................................................................................................................... 19
    B. Participants ............................................................................................................................................... 19
    C. Organization ............................................................................................................................................ 19
    D. Decisions by General Meeting ................................................................................................................ 19

Clause 9. Board of Directors (“BOD”) ............................................................................................................ 20
    A. Objectives .............................................................................................................................................. 20
    B. Activities .............................................................................................................................................. 20
    C. Qualifications ....................................................................................................................................... 20
    D. Nomination and Appointment .................................................................................................................. 20
    E. Term and Replacement ............................................................................................................................. 21
    F. Organization .......................................................................................................................................... 22
    G. Decisions by BOD ................................................................................................................................... 22
    H. Fiduciary Duty ....................................................................................................................................... 23
    I. Consultation of Third Parties ................................................................................................................... 24

Chapter IV. Intellectual Property Rights ......................................................................................................... 25
Clause 13. Copyrights ....................................................................................................................................... 25
        A. Ownership .......................................................................................................................................... 25
B. Co-Ownership

C. Authorization

Clause 14. Trademark Rights

Ownership

Clause 15. Non-Patent IPRs

A. Ownership

B. Authorization

Clause 16. Patent IPRs

Clause 17. Non-Assertion against Format Creation

Clause 18. Waiver and IP related Obligations of Ex-FC Members

Chapter V. General Provisions

Clause 19. Accounting

Clause 20. Language

Clause 21. No Agency or Partnership, Indemnification

Clause 22. Confidentiality

Clause 23. Consultant/Contractor

Clause 24. No Warranty

Clause 25. Obligations of Ex-Members

Clause 26. Effective Date

Clause 27. Voting Requirements

Clause 28. Settlement of Disputes

Clause 29. Indemnification

Clause 30. Insurance
Chapter 0. Definitions

“Affiliated Company” means any legal entity that is: 1) owned or controlled by a Member; 2) owning or controlling a Member; or 3) owned or controlled by any legal entity owning or controlling a Member. For the purpose of this definition, “own or control” shall mean holding more than 50% of the outstanding voting stock or other voting rights entitled to elect members to the board of directors or comparable managing authority of such legal entity, or having the power to direct or cause the direction of the management or policies of the legal entity in any form. For the avoidance of doubt, an Affiliated Company may or may not be a Subsidiary.

“Alternate” means an individual who serves in the capacity of a Director in the event of the absence, removal, resignation or death of the Director. For the avoidance of doubt, when serving in the capacity of a Director, an Alternate shall have all rights, privileges and responsibilities of the Director, including but not limited to rights to vote during a BOD meeting.

“Articles” means the Articles of Incorporation of BDAAC, filed with the California Secretary of State on September 20, 2004, as further amended on April 5, 2007.

“BDA” means Blu-ray Disc Association, a California nonprofit mutual benefit corporation, formerly known as BDAAC.

“BDAAC” means BDA Administration Corp., a California nonprofit mutual benefit corporation, which changed its name to “Blu-ray Disc Association” on April 5, 2007.

“BDF” means the group of companies which executed the Blu-ray Disc Founders Charter effective as of March 15, 2004.

“BOD” means the Board of Directors as described in Clause 9.

“Bylaws” means these Amended and Restated Bylaws of the BDA, as they may be further amended from time to time.

“Chair” means a Member or an employee of a Member, as the case may be, that has the role of conducting the proceeding of a meeting in the activities of the BDA.

“Chief Financial Officer” means the Chief Financial Officer as described in Clause 7, A., 4) hereof.

“Clearance Period” shall mean a period of one (1) calendar week after the date when all Contributor Members are informed of an applicable appointment by the Secretary and during which they have the opportunity to object, in writing, to such appointment. The Clearance Period will be deemed successfully completed unless the Secretary receives written objections to the appointment from 20% or more of such informed Contributor Members within the one (1)
calendar week period, in which case, the relevant appointment shall be deemed rejected and the appointment shall not be effective.

“Code” means the California Corporation Code.

“Confidential Information” means both Confidential Information for General Members and Confidential Information for Contributor Members.

“Confidential Information for Contributor Members” shall mean a) Confidential Information for General Members that is obtained by Contributor Members; and b) all information disclosed, discussed or exchanged during any activity of the BDA in which Contributor Member has participated and which information is marked or designated as confidential by any means.

“Confidential Information for General Members” shall mean all information contained in the documents, materials and data marked or designated as confidential that are obtained by a General Member from the Secretary Office of the BDA, during a General Meeting, from a web page to which the General Member is entitled to access, or under any applicable non-disclosure agreement in connection with any activities of the BDA which the General Member attends or participates in.

“Consultant/Contractor” means a non-employee advisor or consultant, or otherwise any person or company without a formal employment relationship with a Member that assists such Member in its participation in the BDA (including the BDA’s subordinate organizations).

“Contribution Statement” means a statement of an Entity applying for Contributor Membership in which such Entity sets forth the potential contribution it can make to the development, improvement, technical support of, compliance with or promotion of the Format. The form of the Contribution statement shall be made available by the Secretary to such Entity.

“Contributor Member” means a Member with a then effective Contributor Membership as described in Clause 5, B. 1).

“Corresponding Alternate” means an Alternate elected to support a given Director in the absence of such Director and nominated by the same Contributor Member that nominated said Director.

“Covered Person” means those entities described in Clause 24.

“Director” means a current director of the BOD.

“Enforcement Officer” means the Enforcement Officer as described in Clause 7, A., 6) hereof.

“Entity” means any corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or governmental body or other legal entity having interest in
participating in one of the activities or objectives of the BDA as described in Clause 3 of the Bylaws.

“Essential Patents” means those claims of an issued patent or patent application that (a) are owned or controlled by a Member (or its Affiliated Company) now or at any future time, (b) would be necessarily infringed by implementing a Format (i.e., when there is no technically plausible non-infringing alternative for implementing the normative requirements of such Format) and (c) cover or read on technology that is described with particularity in such Format.

“Ex-FC Member” means any Entity that used to be an FC Member but whose Membership as a Contributor Member was ended for any reason whatsoever.

“Ex-Member” means any Entity that used to be a Member but whose Membership was ended for any reason whatsoever.

“Facilitator” means the Director designated by the BOD to facilitate the BOD meetings as a BOD Chair or co-Chair and fulfill the Facilitator duties specified in Clauses 8 and 9.

“FC Member” means any Contributor Member who has contributed to the development of one or more Format(s). “FC” is an abbreviation of “Format Creating.” For the avoidance of doubt, it shall be deemed that any Contributor Member has contributed to the development of a Format if 1) such Contributor Member was eligible to vote in a TEG on the Format presented to the BOD (via the JTC) for approval or 2) such Contributor Member was not eligible to vote in a TEG on the Format presented to the BOD (via the JTC) for approval but has received a decision of the TEG Chair and TEG Vice Chairs based on their sole discretion that such Contributor Member has contributed to the development of the Format after such Contributor Member demonstrated its contribution on the Format to the TEG Chair and TEG Vice Chairs.

“Fiscal Year” shall mean from January 1 to December 31 unless otherwise determined by the BOD.

“Format” means any written technical specification defined and adopted as a standard by the BDA or its respective successors. The Formats include, without limitation, Blu-ray Disc Rewritable format, Blu-ray Disc ROM format and Blu-ray Disc Recordable format.

“General Meetings” mean the meetings as described in Clause 8.

“General Member” means a Member having then effective General Membership as described in Clause 5, B., 2). Notwithstanding anything to the contrary set forth in the Articles or the Bylaws, a General Member shall not be deemed as a member of the BDA within the meaning of Section 5056 of the Code.
“Interested Members” mean Members having reasonable interest in an enforcement action set forth in Clause 6.

“JTC” means the Joint Technical Committee as defined in the Committee Rules of the BDA, as may be amended from time to time.

“License Officer” means the License Officer as described in Clause 7, A., 6) hereof.

“Majority Vote” means the affirmative vote of more than 50% of the total number of Members (regardless of Membership class) voting on a given matter, provided that: 1) the number of abstentions and 2) the number of Members who did not vote, shall not be included in the denominator in the calculation of the 50% requirement.

“Member” means an Entity having then effective Membership in the BDA.

“Membership” means the state of being a Member with rights to participate in the activities of the BDA. Accordingly, Contributor Membership means the state of being a Contributor Member and General Membership means the state of being a General Member, pursuant to Clause 5 hereunder.

“Membership Fee” means the applicable annual membership fee as set forth in Clause 5, D., as may be amended by the BOD annually.

“Moderator” means the individual designated by a Facilitator to moderate discussions for a given BOD meeting or meetings on behalf of that Facilitator, pursuant to Clause 9, F., 6).

“Non-Patent IPRs” mean technical information, know-how, trade secrets and other intellectual property rights except Patent IPRs, copyrights and Trademark Rights.

“Objectives” mean the activities as set forth in Clause 3 hereof.

“Officers” mean the officers as described in Clause 7 hereof.

“Patent IPRs” mean patent rights, utility model rights, rights deriving from inventor’s certificates and other equivalent rights under any laws or international treaties or conventions.

“Potential Licensee Affiliated Company” means any Affiliated Company of a Potential Licensee (as defined in Clause 16).

“President” means the President as described in Clause 7, A., 1) hereof.

“Quasi-Unanimous Vote” means the affirmative vote of more than 80% of the total number of Members (regardless of Membership class) or Directors, as applicable, entitled to vote on a given matter, provided that 1) the number of abstentions and 2) the number of such entitled Members or
Directors who did not vote, *shall* be included in the denominator in the calculation of the 80% requirement.

“**Secretary**” means the Secretary as described in Clause 7, A., 3) hereof.

“**Secretary Office**” means the Secretary Office managed and administered by the Secretary in order to perform the duties of the Secretary.

“**Special Super Majority Vote**” means the affirmative votes of at least 66.7% of the total number of Members (regardless of Membership class) or Directors, as applicable, entitled to vote on a given matter, provided that: 1) the number of abstentions and 2) the number of such entitled Members who did not vote or the number of Directors who did not vote, *shall* be included in the denominator in the calculation of the 66.7% requirement.

“**Subsidiary**” means an Affiliated Company that is owned or controlled, directly or indirectly, by a Member, so long as such ownership or control exists. For purposes of this definition, “own or control” shall have the meaning as defined in the definition of “Affiliated Company.”

“**Super Majority Vote**” means the 1) affirmative votes of at least 66.7% of the total number of Members (regardless of Membership class) or Directors, as applicable, voting on a given matter, provided that 1) the number of abstentions, and 2) the number of such Members or such Directors who did not vote, shall *not* be included in the denominator in the calculation of the 66.7% requirement.

“**TEG**” means the Technical Expert Group as described in the Committee Rules of BDA, as may be amended from time to time.

“**Trademark Rights**” mean any rights in and to the trademarks (including but not limited to logos) and domain names owned or licensed by the BDA. For the avoidance of doubt, Trademark Rights are not included in the definition of “Non-Patent IPRs.”

“**Unanimous Consensus**” means the affirmative votes on a voting item of all Directors, excluding any voter who is required to abstain from voting on such item pursuant to the Conflict of Interest Policy, regardless of any quorum requirement hereunder.

“**Use**” means develop, manufacture, have manufactured, sell, offer for sale, export, import or otherwise dispose of products that are in full compliance with any Format.

“**Vice President**” means the Vice President as described in Clause 7, A., 2) hereof.
Chapter I. Introduction

Clause 1. Purpose of the Bylaws

The purpose of the Bylaws is to provide the structure and rules for governance and operation of the BDA.

Clause 2. Duration

The BDA commenced its existence upon filing of the Articles on September 20, 2004 and shall continue its existence until dissolved: 1) At the option of the BOD by a vote pursuant to the provisions of the Bylaws; or 2) Pursuant to Section 6510 et seq. of the Code.

Clause 3. Objectives

A. The BDA is a voluntary association of hardware manufacturers, software firms, media manufacturers, content providers and other Entities having an interest in Formats.

B. The Objectives are to conduct the following activities:

1) To establish Formats for those applications that would be in the best interests of consumers and users, including revisions, improvements and enhancements thereto;
2) To organize activities to verify compliance with the Formats to enable the broad acceptance of the Formats;
3) To promote the Formats for the recording, playback, storage and distribution of large volume content including high definition content;
4) To license the Formats (not including Patent IPRs) and Trademark Rights;
5) To enforce such licenses for the benefit and success of the Formats;
6) To maintain and enforce the copyrights in and to the Formats and the Trademark Rights; and
7) To provide useful information to those who are interested in supporting the Formats.

C. For the avoidance of doubt, the Objectives do not prevent or obstruct any Member in any way from participating in or from supporting any research or development for any format standard that might be viewed as a competitive standard format to Formats; provided, however, that such participation or support of research and development shall not violate any confidentiality obligations hereunder.
Clause 4. Compliance with the Bylaws and Laws

A. All Members shall comply at all times with these Bylaws and applicable laws and regulations relevant to the activities of the BDA, including without limitation applicable antitrust laws.

B. Detailed antitrust guidelines may be issued by the BDA to Members from time to time and shall be observed by all Members.
Chapter II. Membership

Clause 5. Membership

A. Membership
Membership in the BDA is open to any Entity that demonstrates interest and engages in developing, improving or otherwise supporting the Formats in accordance with the Objectives. Members shall not be required to support the Formats to the exclusion of other formats.

B. Classes of Membership
The BDA shall have two (2) classes of Membership: 1) Contributor Membership; and 2) General Membership. Subject to Clause 5, F. and G., the annual Membership shall be automatically renewed at the end of each Fiscal Year.

1) Contributor Membership
Contributor Membership is open to any Entity that has sent to the BOD via the Secretary a fully filled out and signed Contribution Statement together with other necessary application documents to be designated by the Secretary and has been approved by the BOD on the basis of such Entity’s potential beneficial contribution to the Format. A Contributor Member shall be entitled to: a) Participate in format-development activities; b) Access to the technical specifications of the Format for format development purposes only; c) Attend all General Meetings and specific activities of the committees as designated by BOD; and d) nominate a candidate to serve on the BOD.

2) General Membership
General Membership is open to any Entity that wishes to obtain access to certain technical information developed as part of the format-development activities as well as general information released by the BDA and such Entity will obtain its General Membership upon a) signing necessary documents designated by the Secretary and b) completing the payment of the applicable Membership Fee pursuant to the procedural instructions provided by the Secretary. General Members shall be entitled to attend the General Meetings and specific activities of the committees as designated by BOD. General Members shall not be entitled to vote in any meeting related to the BDA. Notwithstanding anything to the contrary set forth in the Articles or the Bylaws, a General Member shall not be deemed as a member of BDA within the meaning of Section 5056 of the Code.

C. Application
1) All applications for Membership shall be submitted to the Secretary pursuant to the procedural instructions provided by the Secretary.
   a) The Secretary shall be entitled to make inquiries to any applying Entity as to any vague statement on the application from the Entity, its legal status, its contact information, its organizational background, actual activities in the past and/or constituting members of the Entity only to the extent that the Secretary can clarify the intention stated on the
application or confirm that the applying Entity has standing to comply with and fulfill the rules and obligations, including but not limited to confidentiality obligation, under the Bylaws.

b) The Secretary shall be entitled to reject an application from an Entity if: (i) the Secretary reasonably believes that the Entity does not have standing to comply with and fulfill the rules and obligations under the Bylaws; or (ii) the applying Entity consistently fails to provide adequate responses or does not respond within reasonable period of time to the above inquiries from the Secretary, or (iii) the Entity has, based upon the reasonable and fair judgement of the BOD, previously demonstrably infringed upon the intellectual property of the BDA.

2) With respect to those applications for Membership requiring approval of the BOD pursuant to the Bylaws, such applications shall be sent to the Secretary and submitted by the Secretary to the BOD. In order for such approval to be effective, such approval must be made by a Super Majority Vote of the BOD. The BOD shall use reasonable efforts to vote on such applications within one (1) month following the BOD’s receipt of the applicable application.

D. Membership Fees

1) The Membership Fee shall be: a) Fifty Thousand United States Dollars (US $50,000.00) for a Contributor Member whose representative serves on the BOD; b) Twenty Thousand United States Dollars (US $20,000.00) for a Contributor Member whose representative does not serve on the BOD; and c) Three Thousand United States Dollars ($3,000.00) for a General Member. The BOD may review and adjust the Membership Fee, if necessary, on an annual basis.

2) The Membership Fee for existing (and renewing) Members shall be paid within thirty (30) days of commencement of the Fiscal Year. The Membership Fee for a new Member shall be paid within thirty (30) days from the issuance date of an invoice from the Secretary. For Membership Fees for renewing Members which are not paid within thirty (30) days of commencement of the Fiscal Year, a late payment fee being the lesser of 2% per month or the maximum permitted by law will accrue and must be paid when the Membership Fee is paid.

3) The Membership Fee shall cover one (1) Fiscal year; provided, however, that any applicable Membership Fee for a particular Fiscal Year will be reduced to half if an Entity receives an acceptance to a Membership after June 30th in such Fiscal Year.

4) Any fees or dues payable hereunder shall be paid net of any present or future tax, assessment, or government or bank charge. Any paying Entity or Member shall gross up the fees or dues, if necessary, so that after deducting or withholding any applicable tax, assessment or charge, a party or organization duly authorized by the BOD and designated in an invoice issued by the Secretary can receive the full amount of the fees which would have been received if no deduction or withholding had been required.
E. Subsidiaries

1) Any Subsidiary of a parent Member shall possess the same rights to participate in BDA meetings as such parent Member, so long as such parent Member shall remain a Member; however, no Subsidiary shall enjoy any voting rights by virtue of its being a Subsidiary of a Member. A Subsidiary can only vote on behalf of its parent Member. Any Subsidiary is bound by the same rules and obligations hereunder as the parent Member and the parent Member will be jointly and severally responsible with its Subsidiaries for all legal and other consequences in the event of any breaches of the Bylaws by one of its Subsidiaries.

2) Any Subsidiary that wishes to enjoy the rights and benefits (subject to the applicable restrictions) of the Membership shall send in its Membership application to the BOD via the Secretary and state therein the reasons for its wish to enjoy a Membership in the BDA, whether as a Contributor Member or General Member. Approval by the BOD of an application shall be subject to a Super Majority Vote of the BOD.

3) If and when an application from a Subsidiary is duly approved by the BOD as set forth above, and such Subsidiary has paid the applicable Membership Fee, the Subsidiary shall enjoy voting rights in accordance with the Bylaws; provided that such Subsidiary shall only have voting rights at the General Meetings and other meetings as approved by the BOD in advance and in writing. For the avoidance of doubt, even after a Subsidiary obtains a Membership, the Subsidiary can maintain its status and rights hereunder as a Subsidiary.

F. Resignation

Any Member may resign from Membership in the BDA at any time upon at least thirty (30) days’ prior written notice to the Secretary. Such resignation shall be effective on the date specified by the Member but no earlier than thirty (30) days after the date of receipt of such notice of resignation by the Secretary; provided, however, that any obligation of such Ex-Member, which has accrued before such resignation is effective, shall survive resignation and shall stay in force.

G. Termination of Membership

1) Membership in the BDA may be suspended or terminated by the BOD in the event such Member:

   a) Is more than sixty (60) days in default of payment of the applicable Membership Fee; or

   b) Has breached any of its obligations under these Bylaws and other applicable internal rules of the BDA approved by the BOD.

2) The BOD shall follow the following procedures to suspend or terminate a Membership:
a) The BOD shall give the Member at least fifteen (15) days’ prior written notice of the proposed suspension or termination and the reasons for the proposed suspension or termination. Such notice shall be given by any method reasonably calculated to provide actual notice. Such notice given by mail shall be sent by first-class or registered mail or an internationally recognized express mail service to such Member’s last address as shown on the BDA’s records.

b) Such Member shall be given an opportunity to be heard, either orally or in writing, at least five (5) days before the effective date of the proposed suspension or termination. The hearing shall be held, or the written statement considered, by the BOD to determine whether the proposed suspension or termination should occur.

c) The BOD shall decide whether the Membership should be suspended or terminated.

d) Any action challenging a suspension or termination of a Membership, including a claim against defective notice, must be commenced within one (1) year after the date of the suspension or termination.

3) In addition to the foregoing provisions of this Clause 5.G., in the event that a Member uses any company name, commercial name, trademark and/or domain name, that may, in the reasonable opinion of the BOD, cause confusion adverse to the Format or constitute misuse of the Format-related trademarks, and such Member does not comply with the request of the BOD to assign or transfer all of its rights in such company name, commercial name, trademark and/or domain name to an entity designated by the BOD, or to withdraw or waive all of its rights to use such company name, commercial name, trademark and/or domain name, such Member’s Membership in the BDA may be terminated by the BOD upon written notice to such Member of such termination.

H. Effect of Resignation or Termination of Membership

1) A Member whose Membership is terminated by the BOD or who resigns from the BDA shall no longer have the right to participate in any of the activities of the BDA and/or receive information, as applicable. Any Ex-Member shall not be permitted to reapply for Membership in the BDA unless the BOD consents to such reapplication by its Super Majority Vote.

2) No resignation, termination or suspension of any Membership shall relieve any Member from full payment of any and all dues and other fees and assessments remaining unpaid on the date of such resignation, suspension or termination. Upon resignation, suspension or termination of Membership, a Member shall not be entitled to a refund of any amounts paid during Membership.

3) Suspension of any Membership shall not relieve a Member from any obligation under this Chapter.
I. **Transition to Another Level**

In the event of transition to a different level of Membership, the Member shall pay the additional applicable Membership Fee, however in the event the Membership Fee for the new level of Membership would be lower than the fee already paid, there will be no refund of any amounts already paid.

J. **Transfer of Membership**

With the exception of General Members, no Member may assign or otherwise transfer its Membership to any entity without the prior written consent of the BOD, except in the event of a change of control or by operation of law. Any assignment or transfer of Membership, including for General Members, shall be effective only upon the agreement in writing, delivered to the Secretary, by Member’s intended assignee to: 1) be bound by the terms and conditions of the Bylaws; and 2) assume all the obligations and liabilities of such Member under the Bylaws. Any attempted assignment or transfer contrary to the terms of this section shall be null and void and have no effect.

K. **Use of Names**

Each Member agrees and consents to the use of its corporate name in membership lists on the BDA website and membership lists in BDA promotional materials; provided that each name listed shall be of equal prominence with all other names listed. Any other public use of Member’s name by the BDA shall require each Member’s prior written consent.

**Clause 6. Enforcement**

A. Unless otherwise determined by the BOD, and subject to third party beneficiary rights or other enforcement rights in contracts to which BDA is a party, each Member agrees and consents that the BDA shall solely, subject to the approval of the BOD and to the extent permitted by law, initiate legal proceedings or make a claim against any Member, Ex-Member or any third party on reasonable legal grounds in relation to the 1) copyrights in and to any Format, 2) Trademark Rights, 3) license of the Format (excluding Patent IPRs) and 4) other activities of the BDA.

B. Any decision by the BDA to initiate legal proceedings or make a claim against any Member, Ex-Member or any third party on reasonable legal grounds in relation to the activities of the BDA shall be made by a Super Majority Vote of the BOD, after expending reasonable efforts to amicably settle such dispute as required under Clause 28 below.

C. In the event the BDA or an entity designated by the BOD is asked to represent the Interested Members in such proceedings or claims and the BDA or such entity accepts such representation, the Interested Members agree to execute the necessary authorization documents and provide full cooperation to the BDA or such entity.
D. All Members agree that, in accordance with the foregoing enforcement rule, the BDA may make a claim or initiate a legal proceeding against a Member when such Member breaches any term or condition of the Bylaws, any agreement, application, Contribution Statement or other commitment duly prepared by the BDA and executed by Members in connection with the activities of the BDA and further agree not to contend or argue that the foregoing enforcement rule is irrelevant, inapplicable or void under any applicable law or legal theory.
Chapter III. Organization

Clause 7. Officers

A. Officers: The BOD shall elect, via secret voting, and appoint the President, Secretary and Chief Financial Officer, and if necessary, may appoint the other officers such as those set forth herein. The BOD shall appoint a witness who shall initiate a secret voting procedure to elect the Officers.

1) President
   Subject to the control of the BOD, the President shall be the general manager and chief executive officer of the BDA. The details of the roles and responsibilities of the President shall be determined by the BOD. The President shall have such other powers and duties as the BOD or the Bylaws may require.

2) Vice President
   If the President is absent or disabled, the Vice Presidents, if any, in order of their ranks as fixed by the BOD, or, if not ranked, a Vice President designated by the BOD, shall perform all duties of the President. When so acting, the Vice President shall have all powers of and be subject to all restrictions on the President. The Vice President shall have such other powers and perform such other duties as the BOD or the Bylaws may require.

3) Secretary
   The Secretary shall handle general administrative arrangements for the activities of the BDA and shall handle Membership applications and collect and administer Membership Fees.

   a) The Secretary shall make arrangements for the General Meetings and BOD meetings, provide and distribute the agenda for each meeting to the relevant Directors or Members and maintain, at the BDA’s principal office or such other place as the BOD may designate, an archive of relevant documents such as minutes (including but not limited to minutes of BOD meetings and General Meetings), reports, agreements, press releases, presentation materials, etc. In addition, the Secretary shall keep updated information of Members (name, address and class of Membership) and mailing list of all Members.

   b) The Secretary shall maintain a register that includes, but is not limited to, guidelines, agreements and policies generated in the course of BDA activities. The Secretary shall update the register from time to time and shall make the register available to General Members and Contributor Members as appropriate, subject to Clause 22.

   c) In addition, the Secretary shall be responsible for distributing to the General Members all information that the Secretary is instructed by the BOD or any other organization of
the BDA to share with the General Members and maintaining copies of such batches of information, together with a list of addressees that received such information.

d) Subject to the approval of the BOD, the Secretary may form, manage and administer the Secretary Office in order to perform the aforementioned tasks.

e) The Secretary shall have such other powers and perform such duties as the BOD or the Bylaws may require.

4) Chief Financial Officer

a) The Chief Financial Officer shall (i) keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the BDA's properties and transactions and (ii) periodically confirm the day-to-day financial accounting that may be administered by a third party retained by the BDA. The Chief Financial Officer shall send or cause to be given to the Members such financial statements and reports as are required to be given by law, by the Bylaws, or by the BOD. The books of account shall be open to inspection by any Director at all reasonable times.

b) The Chief Financial Officer shall: (i) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the BDA with such depositories as the BOD may designate; (ii) disburse the BDA's funds as the BOD or any Contributor Member duly designated by the BOD may order; (iii) render to the President and the BOD, when requested, an account of all transactions and of the financial condition of the BDA; and (iv) have such other powers and perform such other duties as the BOD or the Bylaws may require.

5) License Officer

a) At the sole discretion of the BOD, the BOD may appoint a License Officer who is in charge of license administration on Formats and Trademark Rights.

b) Unless otherwise determined by the BOD, the duties of the License Officer include (i) executing or causing an entity appointed by the BOD to execute license-related agreements, including but not limited to format and logo license agreements, information agreements and content participant agreements, on behalf of the BDA, (ii) exercising and performing or causing such entity to exercise and perform rights and obligations of the BDA under such agreements, and (iii) performing other tasks inextricably related to the foregoing (i) and (ii) or assigned by the BOD from time to time.

6) Enforcement Officer

a) At the sole discretion of the BOD, the BOD may appoint an Enforcement Officer who is in charge of enforcement administration on BDA's rights in and to Formats and Trademark Rights.

b) Unless otherwise determined by the BOD, the duties of the Enforcement Officer include (i) recommending the BOD the enforcement plans, which may be made upon
instruction from the BOD and/or President, (ii) organizing a group of experts for studying and making enforcement plans upon instruction from the BOD and/or President on a case-by-case basis, (iii) implementing enforcement plans that have been approved by the BOD, and (iv) performing other tasks inextricably related to the foregoing (i), (ii) and (iii) or assigned by the BOD from time to time.

B. Other Officers
The BOD may appoint other officers, as may be deemed necessary. The details of the roles and responsibilities of such officers shall be determined by the BOD.

C. Term
Unless otherwise determined by the BOD, the term of office of an Officer shall commence on April 5th of the given year and end on the date two (2) years from such commencement date (i.e., April 4th).

D. Fiduciary Duty
Each Officer shall discharge the duties of the position of Officer in good faith, in a manner the Officer reasonably believes to be in the best interests of the BDA, and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

Clause 8. General Meeting

A. Objectives and Activities
1) A General Meeting shall be held once a year upon the call of the BOD. Such meeting shall be notified by the Secretary in writing to all Members at least thirty (30) days prior to the scheduled meeting date.

2) At each General Meeting, the BOD shall report a summary of the activities of the BDA during the past year (including adoption of Formats), as well as the plan for the next year’s activities.

B. Participants
All Members shall be entitled to attend and participate in discussions at the General Meetings.

C. Organization
The General Meeting shall be presided by one or more of the Facilitators, who may be subject to rotation by and amongst themselves.

D. Decisions by General Meeting
1) At a General Meeting, the presence in person or by a proxy of at least 50% of all Contributor Members shall be required to constitute a quorum. Decisions may only be made at a General Meeting if such quorum is established.
2) Only Contributor Members who reached such status as of thirty (30) days prior to such General Meeting shall be entitled to vote at such General Meeting and shall be counted in the denominator for the purpose of determining the existence of a quorum. Each such Contributor Member shall have one (1) vote in each General Meeting, which vote may be made in person, by a proxy or in writing, the manner of which shall be designated by the BOD.

3) The General Meeting shall approve or make decisions on the following:

a) Annual Membership Fees proposed by the BOD;

b) Annual statement of accounts for BDA submitted by the BOD; and

c) Annual budget of the BDA prepared by the BOD.

4) A Member granting a proxy hereunder authorizes the proxy holder to vote the proxy on matters identified by the proxy as may come before the Contributor Members at the General Meeting as required by these bylaws or applicable law.

5) Provided that the quorum has been reached, decisions taken at the General Meeting shall require a Majority Vote of all those present and entitled to vote at such meeting.

Clause 9. Board of Directors (“BOD”)

A. Objectives
The BOD shall serve as the executive body of the BDA and exclusively shall have the ultimate authority to approve the completion and establishment of any Format and other matters to be decided as the BDA.

B. Activities
The BOD shall have BOD meetings no less than once per year in which it may discuss activities of the BDA and make decisions on matters, including but not limited to, proposals submitted by the internal organizations of the BDA, Membership applications for Contributor Membership, and applications of Ex-Members, Ex-FC Members or Subsidiaries, and budget and enforcement issues.

C. Qualifications
Any Director and any Alternate must be at least eighteen (18) years of age and must not have any felony convictions. Any Director and any Alternate shall be a director, an officer, an employee, or an individual acting in the capacity of a Consultant/Contractor of the Contributor Member that nominated such Director, or of one of such Contributor Member’s Affiliated Companies.

D. Nomination and Appointment
1) All Directors, together with Corresponding Alternates, shall be elected at each election of the Directors to be held biannually. The detailed procedures for the election and the number of the Directors to be elected shall be determined by the BOD. Only Contributor Members may nominate candidates to serve as the Directors and Alternates and such nomination is limited to one (1) nominee for a Director, together with up to two (2) Corresponding Alternates.

2) Additional obligations shall be undertaken by a Contributor Member whose representative serves as Director. The details of these obligations are available upon request to any General Member that has applied to become a Contributor Member or to any Contributor Member, in each case under a non-disclosure agreement separately provided by the Secretary Office.

E. Term and Replacement
1) The effective term of a Director immediately shall cease upon a) the Director failing to fulfill the qualifications of a Director hereunder, b) the resignation or termination of Membership of the Contributor Member designating such Director, c) the resignation of the Director from the BOD, or d) the change of membership class of the Contributor Member designating such Director from a Contributor Member to a non-Contributor Member.

2) The term of any Director or Alternates, except as otherwise indicated in this paragraph, shall be two (2) years from January 1st of the year immediately after the year in which such Directors or Alternates were elected (“Term”). Any vacancy created by termination of a Director or Alternate from the BOD pursuant to the Clause 9, E., 1) shall be filled by one (1) of the Corresponding Alternates or a new Director or Alternate nominated by the relevant Contributor Member and appointed in accordance with Clause 9. E.3. (“Replacement”). The term of a Replacement or a Director additionally elected or appointed pursuant to these Bylaws shall conclude concurrently with the Term of the other Directors then serving on the BOD.

3) If a Director or a Corresponding Alternate resigns, dies, becomes incompetent, or otherwise becomes unavailable, then the Contributor Member that nominated the Director or Corresponding Alternate may appoint such a Replacement; provided, however, that the appointment of such Replacement shall be effective after BOD approval of the appointment based on his/her qualification and successful conclusion of the Clearance Period. If the Replacement is rejected, the Contributor Member may seek to appoint another Replacement until a Replacement is successfully appointed by such Contributor Member pursuant to the above procedure.

4) The BOD can adjust the number of the Directors. Such adjustments to the number of the Directors can only be made by a Special Super Majority Vote of the BOD. In any event the total number of the Directors shall not exceed twenty-five (25).
5) The BOD can initiate an election to elect additional Directors, together with Corresponding Alternates, from any Contributor Member whose representative does not serve on the BOD to the extent that the resulting number of Directors does not exceed the number of the Directors as duly adjusted or determined by the BOD. With due consideration of equal treatment among the Contributor Members who have already elected Directors and such Contributor Member nominating an additional Director, the BOD shall employ procedures, criteria, terms and conditions for the election that are reasonably equivalent to those for the election in which the then-current Directors were elected. Notwithstanding the foregoing, only by a Quasi-Unanimous Vote of the BOD under an urgent and critical situation where the BOD reasonably believes the acceptance of an additional Director from a specific Contributor Member will significantly enrich the then-current status of the BDA or uncommonly advance the realization of the Objectives of the BDA, the BOD may appoint the additional Director nominated by such Contributor Member, together with the Corresponding Alternates, without any election; provided, however, that the appointment of the additional Director and Corresponding Alternates shall be effective following successful completion of the Clearance Period. For the avoidance of doubt, the provisions set forth in the third paragraph of Clause 9, D., 4) shall also apply.

F. Organization

1) The BOD shall designate one or more Facilitators, and each BOD meeting shall be presided by one of the Facilitators or the Moderator, if one is designated.

2) Each Director shall be notified by the Secretary in advance of any BOD meeting so that each Director can reasonably prepare for and attend such BOD meeting. Each Director has a right to attend and shall make a reasonable effort to attend each BOD meeting.

3) Regular or special BOD meetings shall be held at a place proposed by any of the Directors and accepted by other Directors or at a place designated by the Secretary in proper consultation with the Directors.

4) The BOD meeting shall be hosted, on a rotating basis, by the Contributor Members whose representatives serve on the Board. Any excess costs incurred over the amount allocated in the BDA budget for the hosting of a BOD meeting shall be paid by the Contributor Member hosting the BOD meeting.

5) One or more of the Facilitators shall arrange the meetings by preparing the agenda, setting meeting places, organizing the schedule, taking minutes and distributing minutes and other related documents among the Directors, in cooperation with the Secretary.

6) The current Facilitator may, with prior notice to BOD, appoint an individual to act as the Moderator of the BOD meeting, provided that the Moderator shall meet the qualifications of a Director as set forth in Clause 9, C. and be affiliated with the same Contributor Member as the Facilitator who appoints such Moderator.
G. Decisions by BOD

1) Any decision of the BOD will enter into force on the date specified in such decision or on
the date when such decision is made if no effective date is specified in such decision.

2) Except for those BOD decisions that are subject to special voting rules specifically set forth
in the Bylaws, the BOD shall make all decisions in accordance with the voting rules below.

   a) The Directors shall decide by Unanimous Consensus.

   b) If Unanimous Consensus cannot be reached, a decision shall be made by a Super
      Majority Vote of the Directors; provided, however, that such Super Majority Vote
      provision is subject to, and shall be superseded by, the voting rules for specific issues
      as set forth in any BOD resolution(s) approved by its Unanimous Consensus that
      expressly require a unanimous decision of the BOD prior to the adoption and/or
      approval of any subsequent contradictory and/or inconsistent BOD resolutions.

   c) A Director that cannot be physically present at a BOD meeting due to any event beyond
      the reasonable control of such Director, including but not limited to acts of God, strikes,
      lockouts, accidents in transportation and/or any other causes of similar effect (“Absent
      Director”), may designate a Corresponding Alternate to serve in the capacity of such
      Director only during the absence of the Absent Director. The Absent Director shall
      notify, in writing in advance, the Secretary and all other Directors of the designated
      Corresponding Alternate and the period during which the Corresponding Alternate will
      serve in the capacity of the Director.

   d) Abstention shall be considered as a waiver of voting right and shall not be counted
      either for or against the proposal being voted on.

   e) A quorum shall be present at any meeting of the BOD if no less than two-thirds (2/3) of
      all Directors or their Corresponding Alternates entitled to vote are present at the
      meeting in person (including via telephone or video conference). If such quorum shall
      not be established at any BOD meeting, the Directors and Corresponding Alternates
      present in person at such meeting can adjourn the BOD meeting, without notice other
      than announcement at the meeting, until such quorum is established.

   f) Any action required or permitted to be taken at a meeting of the BOD may be taken
      without a meeting if all Directors approve such action in writing or by electronic
      transmission. For this purpose only, “all Directors” does not include any Director who
      is required to abstain from voting on such item pursuant to the Conflict of Interest
      Policy. Such action by written consent shall have the same force and effect as a vote by
      Unanimous Consensus of such Directors.

H. Fiduciary Duty
Each Director shall discharge the duties of the position of Director in good faith, in a manner the Director reasonably believes to be in the best interests of the BDA, and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

I. Consultation of Third Parties

1) The BOD can decide to consult with third parties to obtain advice in relation to the development of the Formats and other activities of the BDA (such third parties, “Advisors”).

2) In principle such consultation shall be conducted only with non-confidential information to be exchanged with the Advisors. If the BOD has determined that it is necessary to disclose confidential information of the BOD to such Advisors, the BDA shall enter into a relevant confidentiality agreement with the Advisors and disclose such only confidential information as is reasonably necessary to be disclosed to the Advisors to obtain advice on specific issues.

Clauses 10, 11 and 12 are intentionally left blank.
Chapter IV. Intellectual Property Rights

Clause 13. Copyrights

A. Ownership
As a general principle and subject to Clause 13, B. below, each FC Member shall remain the owner of copyrights it owns, generates or acquires and has made available for the development of any Format through the activities of the BDA.

B. Co-Ownership
1) Any FC Member that claims the ownership of the copyrights in and to any Format, or any portion thereof, that such FC Member has contributed to the development of a Format shall share such ownership of the copyrights with the BDA and other FC Members, if any, that have contributed as well to develop such Format.

2) The names of all FC Members (and the BDA) sharing the copyrights on a Format may appear on such Format books.

C. Authorization
All FC Members hereby grant an irrevocable, perpetual, worldwide, exclusive and royalty-free right to the BDA or an entity appointed by the BOD to grant licenses under FC Members’ copyrights on any Format pursuant to the terms and conditions determined by the BOD on a reasonable and non-discriminatory basis to all interested parties to:

1) Develop and promote any such Format;

2) Internally evaluate any Blu-ray Format to explore the feasibility of future development and/or manufacture of products in compliance with the Format or any other commercial activity that would benefit from the utilization of the Format; and/or

3) Use the Format.

Clause 14. Trademark Rights

Ownership: As a general principle, the BDA shall own the Trademark Rights.

Clause 15. Non-Patent IPRs

A. Ownership
As a general principle, each FC Member shall remain the owner of the Non-Patent IPRs it owns, generates or acquires and has made available for the development of any Format through the activities of the BDA and the BDF.
B. Authorization

1) All FC Members hereby grant an irrevocable, perpetual, worldwide, non-exclusive and royalty-free right to the BDA or to an entity appointed by the BOD, as the case may be, to grant licenses under FC Members’ Non-Patent IPRs as part of any Format to all interested parties pursuant to the terms and conditions determined by the BOD on a reasonable and non-discriminatory basis solely for the purpose of:

   a) Developing and promoting any Format;
   b) Internally evaluating any Blu-ray Format to explore the feasibility of future development and/or manufacture of products in compliance with the Format or any other commercial activity that would benefit from the utilization of the Format; and/or
   c) Use of the Format;

2) Provided, however, that in consideration of the Non-Patent IPRs which any FC Member has owned and made available for the development of certain Format through the activities of the BDA and the BDF, the terms and conditions of the Non-Patent IPRs licenses under such Format for such FC Member may be reasonably differentiated from those of the Non-Patent IPRs licenses for:

   a) A Member that has not owned or not made available any of its Non-Patent IPRs for the development of such Format; or
   b) Third party licensees of such Format.

Clause 16. Patent IPRs

In order to expedite the standardization process by the BDA, all Members commit themselves to the following policy in respect of the Patent IPRs.

A. Each Member hereby agrees, on its behalf and on behalf of its Affiliated Companies, that it is willing to grant, or cause its Affiliated Companies to grant, to any interested party (“Potential Licensee”) non-exclusive, non-transferable, world-wide licenses on fair, reasonable and non-discriminatory terms and conditions under any of the Essential Patents that the Member and its Affiliated Companies have the right to license and/or sublicense without obtaining approval from or paying compensation to a third party (“Full License Rights”) at the time such Member initially joins the BDA or thereafter, to Use the Format, that has been adopted by the BDA and has been made available to the public, provided that, if such Potential Licensee is not a Member, such Potential Licensee agrees, and agrees to cause Potential Licensee Affiliated Company(ies) to offer in writing equivalent licensing terms and conditions with respect to any Essential Patents.

B. With respect to the Essential Patents that a Member or its Affiliated Companies own but do not have Full License Rights, each Member hereby commits, on its behalf and on behalf of its
Affiliated Companies, to use reasonable efforts either to grant a non-exclusive, non-transferable, worldwide non-assertion or to cause the grant of licenses by any eligible and authorized entity to any Potential Licensee on a non-exclusive, non-transferable, world-wide basis and on fair, reasonable and non-discriminatory terms and conditions under any of such Essential Patents, to Use the Format, which has been adopted by the BDF or the BDA and has been made available to the public, provided that, if such Potential Licensee is not a Member, such Potential Licensee agrees, and agrees to cause Potential Licensee Affiliated Company(ies), to offer in writing equivalent licensing terms and conditions with respect to any Essential Patents.

C. For the avoidance of doubt, this Clause 16 does not cover the Patent IPRs arising from or relating to any standard that has not been developed through the activities of the BDA but has been only referred to in any Format, such as MPEG2.

D. All Members, regardless of whether they do or do not join any established joint licensing program for the Essential Patents, agree that the aggregate of terms and conditions of all licenses necessary under the Members’ Essential Patents shall not block, frustrate or harm acceptance of any Format as a worldwide standard or development of products complying with any Format or commercialization of the same.

E. Any dispute between a Member and another Member over whether the Member is offering a license under its Essential Patent(s) on fair, reasonable and non-discriminatory terms and conditions within the context of the provision of 16(4) shall be decided by a single neutral arbitrator appointed under the International Rules of the American Arbitration Association (the “Arbitrator”) and will be conducted under the rules of that Association in New York City. The arbitration hearing shall take place no later than ninety (90) days after the arbitrator is selected and a decision shall be rendered within thirty (30) days of the completion of the hearing. In evaluating the reasonableness of the disputed terms and conditions, the Arbitrator shall take into account, among other things, terms and conditions (including but not limited to applicable license fees) of joint license programs and individual license programs within the area of licensing essential patents for optical disc systems, where 1) such terms and conditions; and 2) such optical disc systems are generally accepted by the optical disc systems industry.

Clause 17. Non-Assertion against Format Creation

Solely for the purpose of development work on any of the Formats, each Contributor Member shall not assert any of its intellectual property rights (including, without limitation, Patent IPRs, copyrights, and Non-Patent IPRs) against any Contributor Member participating in such activities. This non-assertion shall not be construed as a license under any intellectual property rights for commercially manufacturing, having manufactured, selling, using, importing, exporting or otherwise disposing of products whether or not in compliance with any Format.
Clause 18. Waiver and IP related Obligations of Ex-FC Members

All Ex-FC Members agree to and will comply with the following rules in respect of intellectual property rights;

A. Each Ex-FC Member shall waive its right to use Non-Patent IPRs and copyrights of the BDA or of remaining FC Members to or in any Format, unless such Ex-FC Member has obtained a license under Non-Patent IPRs and/or copyrights from one or more FC Members under an agreement outside the scope of the BDA or from the BDA or a relevant license agent for any Format; in such event, the Ex-FC Member may continue to use the Non-Patent IPRs and/or copyrights for which such Ex-FC Member is licensed pursuant to such agreement.

B. Against the Contributor Members, each Ex-FC Member shall not assert its Non-Patent IPRs and copyrights existing at the time such Ex-FC Member loses its Membership as a Contributor Member with respect to developing any Format and granting licenses to third parties to Use the Format.

C. Against the Contributor Members, licensees of any Format that was adopted or studied through the activities of the BDA while an Ex-FC Member was a Contributor Member, and their respective customers, such Ex-FC Member shall not assert its Non-Patent IPRs and copyrights existing at the time such Ex-FC Member loses its Membership as a Contributor Member with respect to Use of the Format.

D. To the Contributor Members, licensees of any Format that was adopted or studied through the activities of the BDA while an Ex-FC Member was a Contributor Member, and their respective customers, such Ex-FC Member shall grant a license under fair, reasonable and non-discriminatory terms and conditions for the use of such Ex-FC Member’s Essential Patents existing or filed at the time such Ex-FC Member loses its Membership as a Contributor Member, to Use the Format.
Chapter V. General Provisions

Clause 19. Accounting

A. The Chief Financial Officer shall keep accurate, full and complete books and accounts showing income, operations, transactions and the financial conditions of the BDA. Any Member shall have access to such books and accounts at any reasonable time during regular business hours and shall have the right to copy said records at its expense; provided that the information contained in said books and accounts shall be kept confidential.

B. An auditor shall be appointed by the BOD to audit the annual balance sheet and statement of accounts of the BDA.

C. The Chief Financial Officer shall prepare and submit to the BOD, within sixty (60) days after the end of such Fiscal Year, an audited balance sheet of the BDA as of the end of each Fiscal Year and the related statements of operations.

Clause 20. Language

The official language of the BDA shall be English.

Clause 21. No Agency or Partnership, Indemnification

A. The Bylaws shall not be construed to create an agency, joint venture or partnership between or among the Members.

B. No Member shall have the authority to conclude agreements or enter into any obligation on behalf of the BDA without the prior written consent or authorization from the BOD.

C. No Member shall be liable for any loss or damages whatsoever resulting from any act performed by another Member on behalf of the BDA, for which act such acting Member had not obtained prior written consent or authorization from the BOD. Any Member which has purported to act on behalf of the BDA without authorization or approval from the BOD for such act agrees to indemnify the other Members from all liabilities, losses or damages resulting from such unauthorized acts.

Clause 22. Confidentiality

A. A General Member shall keep the Confidential Information for General Members confidential and shall not disclose or disseminate the same to any third party without written approval from the BOD or any party duly authorized by the BOD to approve such disclosure.
B. A General Member shall not use the Confidential Information for General Members for any purpose other than to enjoy its rights or perform its obligations under the Bylaws or other BDA-related agreement, application or other related commitment duly prepared by the BDA and executed by such General Member.

C. Each Contributor Member shall keep the Confidential Information for Contributor Members confidential and not disclose or disseminate the same to any third party without prior written approval from the BOD or any party duly authorized by the BOD to approve.

D. No Contributor Member shall use the Confidential Information for Contributor Members for any purpose other than to enjoy its rights or perform its obligations under the Bylaws or other BDA-related agreement, application, acknowledgment or other related commitment duly prepared by the BDA and executed by each Contributor Member.

E. Notwithstanding the foregoing, the above confidentiality obligations shall not extend to any information that a Member, who has received such information (“Recipient”), can prove with documentary evidence, satisfactory to the BOD, that the information:

1) Was in the public domain at the time it was disclosed or becomes part of the public domain after its disclosure without violation of the Bylaws by the Recipient;

2) Was lawfully obtained without restriction by the Recipient from a third party who is not bound by similar confidentiality obligations; or

3) Was independently developed by the Recipient.

F. Obligations under the Bylaws shall not be construed to restrict or prevent any Member from receiving or having access to any information whatsoever, including but not limited to any information with respect to any formats other than the Formats.

G. In the event of resignation or termination of Membership, the affected Ex-Member shall immediately 1) return all tangible Confidential Information, including but not limited to the Format specification books, which it has obtained during its Membership to the Secretary, without retaining any copies thereof, or 2) destroy all tangible Confidential Information pursuant to the instructions of the Secretary.

**Clause 23. Consultant/Contractor**

A. In the event a Member wishes to engage a Consultant/Contractor in any BDA activity, such Member (“Contracting Member”) must enter into a written agreement with such Consultant/Contractor prior to any involvement of the Consultant/Contractor in any BDA activities including, without limitation, participation in or attendance at any BDA meeting or
telephone conference and report thereof to the Secretary in a timely manner. Such written
agreement shall contain terms and conditions no less restrictive than the following:

1) The Consultant/Contractor must irrevocably agree to comply with the obligations that are
equivalent to those which the Contracting Member bears under the Bylaws and other BDA
related documents with legal effect except payment obligations and the Contracting
Member shall have secured the written, legal right to enforce such obligations against such
Consultant/Contractor;
2) Other Members must not be precluded from enforcing obligations against the
Consultant/Contractor under any applicable third party beneficiary theory;
3) Should the Consultant/Contractor participate in any voting procedure in connection with
the activities of the BDA, the Consultant/Contractor shall participate in the voting
procedure on behalf of the Contracting Member; and
4) Nothing contained in the terms and conditions stated in 1), 2) and 3) above shall be
superseded, limited or invalidated by any agreement between the Contracting Member and
the Consultant/Contractor.

B. All actions by the Consultant/Contractor shall be deemed actions by the Contracting Member.
Any act or omission by the Consultant/Contractor that, if performed or omitted by the
Contracting Member, would be a breach of the Bylaws or any other legally effective BDA
related document shall be deemed a breach of the Bylaws or such document by the Contracting
Member.

Clause 24. No Warranty

A. All information disclosed during the activities of the BDA by the BOD, any Member, Director,
Officer or other officers or organizations duly established pursuant to the Bylaws and other
applicable internal rules of the BDA, is provided on an “as is” basis, without any warranty of
any kind, express or implied, including without limitation any warranty in connection with
accuracy, completeness, performance, fitness for any particular purpose, non-infringement or
any requested quality of the disclosed information.

B. Notwithstanding the foregoing, each Contributor Member represents and warrants that it has
sufficient rights to provide its technical contributions to the development or improvement of
the Format.

C. To the fullest extent permitted by applicable law, no Member, Affiliated Company or their
respective shareholders, officers, directors, employees, representatives and agents (each a
“Covered Person”) shall be liable to the BDA or any Member for any act or omission taken or
suffered by such Covered Person in good faith and in the reasonable belief that such act or
omission is in, or is not contrary to, the best interest of the BDA and is within the scope of
authority granted to such Covered Person by the Bylaws; provided that such act or omission

BLU-RAY DISC ASSOCIATION BYLAWS
Version 2.3, Rev March 14, 2014
does not constitute willful misfeasance, bad faith, gross negligence or reckless disregard of the duty in conduct of such Covered Person.

D. Without limiting the foregoing, no Member shall be liable to the BDA or any other Member for any action taken hereunder by any other Member.

Clause 25. Obligations of Ex-Members

All obligations that accrued for an Ex-Member before it loses its Membership shall survive its losing the Membership and accordingly, the Ex-Member shall fulfill such obligations even after it loses its Membership. For the avoidance of doubt, such obligations shall include but not be limited to confidentiality obligations and payment obligations under the Bylaws.

Clause 26. Effective Date

The Bylaws shall be effective as of April 5, 2007; provided, however, that any modifications or amendments thereto shall be effective as of the date such modifications or amendments are adopted pursuant to a decision of the BOD.

Clause 27. Voting Requirements

A. Each of the Format specifications, and its associated license agreements, can only be amended or repealed by a decision of the BOD by a Super Majority Vote.

B. Except Clause 13, A., Clause 14, Clause 15, A., Clause 16, Clause 18 and this Clause 27 of the Bylaws, the Bylaws can only be amended or repealed by a decision of the BOD by its Special Super Majority Vote. Clause 13, A., Clause 14, Clause 15, A., Clause 16, Clause 18 and this Clause 27 of the Bylaws can be only amended or repealed by a decision of the BOD by its Unanimous Consensus.

C. Notwithstanding anything contrary set forth in the Bylaws, subject to the quorum set forth in Clause 8, D. of the Bylaws, a Majority Vote of the Contributor Members is required for any amendment hereof that would: (1) materially and adversely affect the rights of Contributor Members as to voting, dissolution, redemption, or transfer; (2) increase or decrease the number of Contributor Members authorized in total or for any class; (3) effect an exchange, reclassification or cancellation of all or part of the Memberships; or (4) authorize a new class of Membership.

Clause 28. Settlement of Disputes
A. In the event of any disputes between or among Members, Ex-Members, and any third party(ies) arising from or related to the Bylaws or the activities of the BDA, the Members and Ex-Members concerned shall make reasonable effort to amicably settle such disputes.

B. Notwithstanding the foregoing and the mandatory arbitration addressing licensing terms and conditions set forth in Clause 16, E. hereof, nothing in the Bylaws shall preclude any Member at any time from seeking an injunction, damages, or any other legal relief available under applicable laws against any other Member or Ex-Member or third party for intellectual property infringement.

Clause 29. Indemnification

A. To the fullest extent permitted by law, the BDA shall indemnify its Members, Directors, Officers, employees, and other persons described in Section 7237(a) of the Code (“Indemnitees”), including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any “proceeding” as that term is used in Section 7237(a) of the Code, and including an action by or in the right of the BDA, by reason of the fact that the person is or was a person described in Section 7237(a) of the Code. “Expenses,” as used in the Bylaws, shall have the same meaning as in Section 7237(a) of the Code.

B. On written request to the BOD by any person seeking indemnification under Section 7237(b) of the Code, the BOD shall promptly decide under Section 7237(e) of the Code whether the applicable standard of conduct set forth in Section 7237(b) of the Code has been met and, if so, the BOD shall authorize indemnification.

C. If the BOD cannot authorize indemnification because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum, the BOD shall promptly call a meeting of Contributor Members. At that meeting, the Contributor Members shall determine under Code section 7237(e) whether the applicable standard of conduct has been met and, if so, the Contributor Members present at the meeting in person or by proxy shall authorize indemnification.

D. To the fullest extent permitted by law and except as otherwise determined by the BOD in a specific instance, expenses incurred by a person seeking indemnification under this Clause 29 of the Bylaws in defending any proceeding covered by this Clause 29 shall be advanced by the BDA before final disposition of the proceeding, on receipt by the BDA of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the BDA for those expenses.

E. The rights conferred on any person by this Clause 29 will not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Articles of Incorporation, Bylaws, agreement, vote of Contributor Members or otherwise.
F. The BDA is specifically authorized to enter into individual contracts with any or all of its Indemnitees with respect to indemnification and advances to the fullest extent not prohibited by the Code.

G. Any repeal or modification of this Clause 29 will only be prospective and will not affect the rights under this Clause 29 in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding.

Clause 30. Insurance.
The BDA shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its Indemnitees to cover any liability asserted against or incurred by its Members, Directors, Officers, employees, and other persons described in Section 7237(a) of the Code in such capacity or arising from its Indemnitees status as such.