

**REGISTRATION AGREEMENT FOR  
BD-R AND/OR BD-RE DISC MANUFACTURER AND BRAND OWNER**

This *Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner* is dated **[insert Date]** (“Registration Agreement”) and is between **[insert Brand Owner Name]** (“Brand Owner”) and **[insert Manufacturer Name]** (“Manufacturer”) on the one hand, and One-Blue, LLC (“Licensing Company”) on the other hand.

The following terms used in this Registration Agreement have the meanings set out below:

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

**Brand Owner Party:** \_\_\_\_\_

**Brand Owner’s Registered Office Address:**

**Brand Owner’s Notice Address and Fax Number:**

Address:

Fax Number:

**Country of Registration:** \_\_\_\_\_

**Manufacturer Party:** \_\_\_\_\_

**Manufacturer's Registered Office Address:**

**Manufacturer's Notice Address and Fax Number:**

Address:

Fax Number:

**Country of Registration:** \_\_\_\_\_

Reference Copy

## RECITALS

**WHEREAS**, members of the Blu-ray Disc Association, a California non-profit mutual benefit corporation, have developed a new optical disc format, which has been presented under the name Blu-ray Disc (“BD”);

**WHEREAS**, the Licensors are prepared to license their Licensed Patents on the terms set forth in this Registration Agreement;

**WHEREAS**, each Licensor has granted Licensing Company the right to conclude this Registration Agreement in accordance with the terms of this Registration Agreement;

**WHEREAS**, Licensing Company has created a batch-based licensing system based on registration by manufacturers of Brand Owner Products, enabling those manufacturers who have registered with Licensing Company to apply for licenses on a per-batch basis and to apply for LSCDs;

**WHEREAS**, each Licensor has authorized Licensing Company to grant Per-Batch Licenses on behalf of such Licensor for the Shipment of Brand Owner Products in accordance with the terms of this Registration Agreement;

**WHEREAS**, Registered Party acknowledges and understands that each of the Licensors whose Patents are licensed under the Per-Batch Licenses also makes their own Patents available through separate licenses and that Registered Party is encouraged by Licensing Company to evaluate and determine whether separate licenses or this Registration Agreement and a Per-Batch License best meets Registered Party’s requirements and needs; and

**WHEREAS**, the parties enter into this Registration Agreement to confirm, among other things, (i) the terms and conditions under which Manufacturer may request and may obtain Per-Batch Licenses and LSCDs on behalf of Brand Owner; (ii) the current form of the PBL Standard Terms and Conditions and an LSCD; (iii) the effects of a failure to comply with this Registration Agreement; and (iv) the conditions under which Licensing Company may revise various aspects of the batch-based licensing system so as to maintain or improve the integrity of the system for manufacturers and consumers of Brand Owner Products;

**NOW, THEREFORE**, Registered Party and Licensing Company agree as follows:

### 1 DEFINITIONS

“*Affiliate*” means, in relation to any party hereto, a legal entity which now, or at any time during the term of this Registration Agreement, directly or indirectly, controls, is controlled by, or is under common control with that party, but only for as long as such control exists. The term “control” as used in this definition means ownership of more than fifty percent (50%) of the outstanding shares representing the right to vote for directors

or other managing officers of such legal entity; or, for a legal entity which does not have outstanding shares, more than fifty percent (50%) of the ownership interest representing the right to appoint directors or other managing officers of such legal entity. The term Affiliate also includes any entity in which a party has, directly or indirectly, a majority of the beneficial ownership of such entity.

“Application” means a set of information relating to the matters listed in Section 5.4 (and Section 5.5, if applicable) of this Registration Agreement, and submitted by Manufacturer to Licensing Company when applying for a Per-Batch License and an LSCD on behalf of Brand Owner.

“Audit Guide” means the document entitled “Audit Guide”, the current form of which is attached hereto as Appendix F, as amended by Licensing Company from time to time.

“Authorized Employee” means a person authorized by Manufacturer to (a) apply for or to accept, or both apply and accept, Per-Batch Licenses, and (b) modify or confirm the Manufacturing Equipment List, on behalf of Manufacturer.

“AVCREC Format” means the specifications identified in sub-sections (s) through (u) of the definition of BD Standard(s) set out below.

“BD-R Disc” means a recordable disc with a capacity of no more than 27 GBytes per layer, designed and manufactured for recording thereon digital information, and which substantially conforms and which is intended to be consistent with the BD-R Format.

“BD-R Format” means the specifications, identified in subsections (k), (l), (o) and (r) of the definition of BD Standard(s) set out below.

“BD-RE Disc” means a rewritable disc with a capacity of no more than 27 GBytes per layer, designed and manufactured for recording, erasing and rewriting thereon digital information, and which substantially conforms and which is intended to be consistent with the BD-RE Format.

“BD-R/RE Disc Standards” means any one or more of the following BD Standards, which may be modified or updated from time to time by the Blu-ray Disc Association:

- (a) System Description Blu-ray Disc Rewritable Part 1: Basic Format Specifications, Version 1.0.
- (b) System Description Blu-ray Disc Rewritable Part 2: File System Specifications, Version 1.0.
- (c) System Description Blu-ray Disc Rewritable Part 1: Basic Format Specifications, Version 2.0.
- (d) System Description Blu-ray Disc Rewritable Part 2: File System Specifications, Version 2.0.
- (e) System Description Blu-ray Disc Rewritable Part 1: Basic Format Specifications, Version 3.0.

- (f) System Description Blu-ray Disc Rewritable Part 2: File System Specifications, Version 3.0.
- (g) System Description Blu-ray Disc Recordable Part 1: Basic Format Specifications, Version 1.0.
- (h) System Description Blu-ray Disc Recordable Part 2: File System Specifications, Version 1.0.
- (i) System Description Blu-ray Disc Recordable Part 1: Basic Format Specifications, Version 2.0.
- (j) System Description Blu-ray Disc Recordable Part 2: File System Specifications, Version 2.0.
- (k) System Description Blu-ray Disc Hybrid Format, Version 1.0.

“BD-RE Format” means the specifications, identified in subsections (a) through (g), (o) and (r) of the definition of BD Standard(s) set out below.

“BDXL-R Disc” means a recordable disc with a capacity of no more than 34 GBytes per layer, designed and manufactured for recording thereon digital information, and which substantially conforms and which is intended to be consistent with the BDXL-R Format.

“BDXL-R Format” means the specifications, identified in subsections (m), (n) and (j) of the definition of BD Standard(s) set out below.

“BDXL-RE Disc” means rewritable disc with a capacity of no more than 34 GBytes per layer, designed and manufactured for recording, erasing and rewriting thereon digital information, and which substantially conforms and which is intended to be consistent with the BDXL-RE Format.

“BDXL-RE Format” means the specifications, identified in subsections (h) through (j) of the definition of BD Standard(s) set out below.

“BD Standard(s)” (also known as Blu-ray Disc Standard(s)) means any one or more of the following standard specifications, which may be modified or updated from time to time by the Blu-ray Disc Association:

- (a) System Description Blu-ray Disc Rewritable – Part 1: Basic Format Specifications, Version 1.0.
- (b) System Description Blu-ray Disc Rewritable – Part 2: File System Specifications, Version 1.0.
- (c) System Description Blu-ray Disc Rewritable – Part 3: Audio Visual Basic Specifications, Version 1.0.
- (d) System Description Blu-ray Disc Rewritable – Part 1: Basic Format Specifications, Version 2.0.

- (e) System Description Blu-ray Disc Rewritable – Part 2: File System Specifications, Version 2.0.
- (f) System Description Blu-ray Disc Rewritable – Part 3: Audio Visual Basic Specifications, Version 2.0.
- (g) System Description Blu-ray Disc Rewritable – Part 3: Audio Visual Basic Specifications, Version 3.0.
- (h) System Description Blu-ray Disc Rewritable – Part 1: Basic Format Specifications, Version 3.0.
- (i) System Description Blu-ray Disc Rewritable – Part 2: File System Specifications, Version 3.0.
- (j) System Description Blu-ray Disc Rewritable – Part 3: Audio Visual Basic Specifications, Version 4.0.
- (k) System Description Blu-ray Disc Recordable – Part 1: Basic Format Specifications, Version 1.0.
- (l) System Description Blu-ray Disc Recordable – Part 2: File System Specifications, Version 1.0.
- (m) System Description Blu-ray Disc Recordable – Part 1: Basic Format Specifications, Version 2.0.
- (n) System Description Blu-ray Disc Recordable – Part 2: File System Specifications, Version 2.0.
- (o) System Description Blu-ray Disc Hybrid Format, Version 1.0.
- (p) System Description Blu-ray Disc Read-Only – Part 1: Basic Format Specifications, Version 1.0.
- (q) System Description Blu-ray Disc Read-Only – Part 2: File System Specifications, Version 1.0.
- (r) System Description Blu-ray Disc Read-Only – Part 3: Audio Visual Basic Specifications, Version 2.0.
- (s) System Description AVCREC Recordable Format – Part 2: File System Specifications (UDF®), Version 1.0.
- (t) System Description AVCREC Rewritable Format – Part 2: File System Specifications (UDF®), Version 1.0.
- (u) System Description AVCREC Rewritable Format – Part 3: Audio Visual Basic Specifications, Version 1.0.

For the avoidance of doubt, “BD Standard(s)” includes references within any one of (a) – (u) above to another BD specification (listed in (a) to (u) above), but excludes any other standard (by way of example, MPEG-2 Video, VC1 or AC-3) that is merely referred to in one of the above subsections or which is made mandatory by a “Format and Logo License Agreement” issued by the Blu-ray Disc Association. Notwithstanding the foregoing exclusion, “BD Standard(s)” includes:

- (v) System Description Blu-ray Disc Read-Only Format Security Virtual Machine (BD+) (which may be modified or updated from time to time by BD+ Technologies LLC); and
- (w) DVB GEM [ETSI TS 102 819 V1.3.1 (2005-10) – Digital Video Broadcasting (DVB); Globally Executable MHP Version 1.0.2 (GEM 1.0.2; A095; Errata (1) to Globally Executable MHP (TS 102 819 V1.3.1)] as referenced in Blu-ray Disc Read-Only Format, Part 3.

“Brand Owner Product” means a BD-R Disc, BD-RE Disc, BDXL-R Disc or BDXL-RE Disc that: (i) bears a brand that is owned by, or licensed to, Brand Owner or an Affiliate of Brand Owner; (ii) is manufactured by Manufacturer or an Affiliate of Manufacturer at the direction of Brand Owner or an Affiliate of Brand Owner; and (iii) is sold directly from Manufacturer, or an Affiliate of Manufacturer, to Brand Owner, or an Affiliate of Brand Owner, without the use of intermediate distributors. Notwithstanding the foregoing, on an annual basis, a permitted amount of up to 10% of the total number of BD-R Disc, BD-RE Disc, BDXL-R Disc or BDXL-RE Disc units which satisfy (i), (ii) and (iii) above, which are BD-R Disc, BD-RE Disc, BDXL-R Disc or BDXL-RE Disc units which do not satisfy (i) above but do satisfy (ii) and (iii), above, shall, at the request in advance of Brand Owner to Licensing Company, be considered Brand Owner Products, subject to Brand Owner submitting additional confirmations with respect to any applicable bilateral agreements, as required by Section 9.3 of this Registration Agreement.

“Commercially Essential Patent(s)” means any Patent: (a) either (i) owned, at any time on or after the Effective Date, by a Licensor or its Affiliates, or (ii) in respect of which Licensor or its Affiliates have or acquire, at any time on or after the Effective Date, the right to license without payment of compensation to a third party other than its Affiliates, agents or employees, and (b) that contains one or more claims that is/are necessary as a practical matter on the basis that there are no economically viable substitutes to implement the relevant BD-R/RE Disc Standards.

“Confirmation Letter” means the letter written by Registered Party, confirming that all Shipments in the preceding calendar year were covered by an LSCD. The current form of the Confirmation Letter is attached hereto as Appendix E, and may be amended by Licensing Company from time to time in accordance with the provisions of Section 20.1(d).

“Country of Registration” has the meaning set forth on the cover page of this Registration Agreement.

“Designated Internet Service Portal” or “DISP” means the Internet service portal or other portals designated by Licensing Company for communicating with Registered Party to process Per-Batch Licenses, LSCDs, and other matters relevant to this Registration Agreement.

“Effective Date” shall have the meaning set forth on the cover page of this Registration Agreement.

“Essential Licensor Patent(s)” means a Commercially Essential Patent, a Technically Essential Patent or both, regardless of whether the Patent is listed in the Essential Licensor Patent List.

“Essential Licensor Patent List” means the Essential Licensor Patent(s) listed on the Website. The omission of a particular Patent from the Essential Licensor Patent List is not a representation or warranty that the omitted Patent is not essential.

“Exempt”, in the context of Shipment of a Brand Owner Product, means that the Brand Owner Product was Shipped directly between two locations, neither of which is in a country where one or more Licensed Patents covering such Brand Owner Product subsist.

“Former Essential Patent(s)” has the meaning set forth in Section 4.5.

“Licensed Patent(s)” means Essential Licensor Patents. “Licensed Patents” shall further include Former Essential Patents, but solely to the extent the Former Essential Patents are made available pursuant to Section 4.5, and solely to the extent Brand Owner did not notify Licensing Company of its wish that the Former Essential Patents not be included in Per-Batch licenses as set forth in Section 4.5.

“Licensed Status Confirmation Document” or “LSCD” (the current form of which is set out in Appendix B, as amended from time to time by Licensing Company) means a document that may be issued by Licensing Company in relation to Brand Owner Products identified in an Application, for the purpose of confirming that the relevant Shipment of such Brand Owner Products is licensed (as specified in the relevant Application) under the Licensed Patents and the Registration Logo.

“Licensor(s)” means each entity listed on the list entitled “Licensors” which can be accessed on the Website and which may be amended from time to time by Licensing Company; provided, however, that “Licensors” for the purposes of this Agreement shall only include those entities that are listed on the list entitled “Licensors” during the Term.

“Manufacturing Equipment List” means the list of manufacturing equipment required to be submitted by Manufacturer under Section 13, a specimen is attached hereto as Appendix J, as amended by Licensing Company from time to time.

“Master Carton” means the outer packaging unit of Brand Owner Products, as used for transport and storage in accordance with normal industry practice. At the Effective Date, normal industry practice is based on use of one Master Carton for packing up to six hundred (600) Brand Owner Products.



“Missing Product” means a Brand Owner Product that is stolen, confiscated, destroyed or lost after a Per-Batch License was granted for such Brand Owner Product and before the Shipment of such Brand Owner Product is complete.

“Missing Serial Number Label” means a Serial Number Label that is stolen, confiscated, destroyed or lost after Licensing Company has supplied it to Manufacturer and before (a) it is attached to a Master Carton or (b) before Brand Owner or a non-Affiliated third party takes ownership or possession of the Brand Owner Product contained in the Master Carton to which the Serial Number Label is attached.

“Patent(s)” means any issued patent(s) in any country, including reexaminations, reissues, continuations, divisionals and continuations-in-part.

“Patent Expert” means a patent expert independent from the parties hereto and from Licensors, which is designated and retained from time to time by Licensing Company to determine whether a Patent is an Essential Licensor Patent or to make other determinations as set forth in this Registration Agreement.

“PBL Standard Terms and Conditions” means the standard terms and conditions of a Per-Batch License current as of the date of grant of the Per-Batch License. The PBL Standard Terms and Conditions current as of the date of this Registration Agreement are attached hereto as Appendix A and may be amended by Licensing Company in accordance with Section 20. The latest and prevailing version of the PBL Standard Terms and Conditions is available on the Website.

“Per-Batch License” means Brand Owner’s and Licensing Company’s rights and obligations under a license, granted by Licensing Company in respect of an Application, under the Licensed Patents and the Registration Logo. A Per-Batch License will be a separate contract, distinct from this Registration Agreement. A Per-Batch License shall consist of the Application that is accepted by Licensing Company and the PBL Standard Terms and Conditions. Where the context so requires, “Per-Batch License” shall also mean any license granted by Licensing Company to any other party substantially incorporating the PBL Standard Terms and Conditions.

“Registered Affiliate” means one or more of the Affiliates of Registered Party listed in Appendix C. If an entity listed in Appendix C ceases to be an Affiliate of Registered Party (by way of example, due to a change in control), such entity shall lose its status as a Registered Affiliate the same moment it ceased to be an Affiliate of Registered Party (regardless of whether the entity continues to be listed in Appendix C). Registered Affiliates of Manufacturer shall be listed and identified separately from the Registered Affiliates of Brand Owner.

“Registered Party” refers to Brand Owner and Manufacturer, individually and collectively. By way of example and not limitation, both Manufacturer and Brand Owner are bound by the obligations imposed on a Registered Party hereunder.

“Registration Logo” means the logo identified as such and depicted in the Registration Logo Guide.

“Registration Logo Guide” means the document entitled “Registration Logo Guide”, the current form of which is attached hereto as Appendix I, as amended by Licensing Company from time to time.

“Registration Number” means a set of identification characters issued by Licensing Company to Manufacturer for the purpose of identifying one unique production location of Manufacturer.

“Serial Number Label” means the label issued by or on behalf of Licensing Company that incorporates the information set forth in the Serial Number Label Guide.

“Serial Number Label Guide” means the document entitled “Serial Number Label Guide”, the current form of which is attached hereto as Appendix H, as amended by Licensing Company in accordance with Section 20.

“Shipment”, “Shipping” and variants thereof means the initial transfer of Brand Owner Products by Manufacturer or its Registered Affiliate from the original manufacturing location of the Brand Owner Products (therefore not including subsequent transfers) to any party (including a Registered Party or Registered Affiliate), involving either: (a) a transfer of title or (b) a physical transfer beyond the area of the manufacturing location’s address, or both.

“Standard Rate” means the standard royalty rate of:

- (a) US\$0.1075 per disc for each BD-R Disc;
- (b) US\$0.1350 per disc for each BD-RE Disc;
- (c) US\$0.13 per disc for each BDXL-R Disc; and
- (d) US\$0.16 per disc for each BDXL-RE Disc.

“System Breach” means any of the following:

- (a) Registered Party commences a Shipment in breach of Section 4.2;
- (b) Registered Party takes ownership or possession of Brand Owner Products in breach of Section 4.7;
- (c) Manufacturer is in breach of Section 5.4 or 5.5;
- (d) Manufacturer manufactures Brand Owner Products in breach of Section 6.1;
- (e) Registered Party takes ownership or possession of Brand Owner Products in breach of Section 6.2;
- (f) Registered Party includes a Brand Owner Product in a Shipment in breach of Section 6.3;

- (g) Manufacturer obtains or uses a Registration Number on false pretences, sells Brand Owner Products under a false, suspended or discontinued Registration Number, or uses a Registration Number after notice from Licensing Company to stop the Shipments of Brand Owner Products using such Registration Number;
- (h) A third party (including an Affiliate of Manufacturer other than Registered Affiliates) manufactures Brand Owner Products using equipment located at Manufacturer's facilities or appearing on the Manufacturing Equipment List;
- (i) Manufacturer commences a Shipment in breach of Section 7.1;
- (j) Manufacturer re-sells or otherwise disposes of a stamper bearing the Registration Logo for use in the manufacture of Brand Owner Products to a party (other than a Manufacturer) that is not a party to a *Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner*;
- (k) Registered Party is in breach of Section 2 or 12.2;
- (l) Registered Party is engaged in, or engages in any activity that is designed to assist any other entity in:
  - (i) the sale or other disposal of Brand Owner Products that are not covered by a Per-Batch License granted by Licensing Company and that infringes any of the Licensed Patents or Licensing Company's rights in the Registration Logo; or
  - (ii) the intentional non-payment or reduced payment of royalties relating to Brand Owner Products, where such royalties would have been payable if the activities had been conducted in a bona fide commercial manner and at arm's length;
- (m) Registered Party fails to report any Missing Products or Missing Serial Number Labels as set out in Section 16, or provides a report regarding Missing Products or Missing Serial Number Labels that is false or materially inaccurate.

"System Change" means a revision made in accordance with Section 20.

"Technically Essential Patent(s)" means any Patent (a) either (i) owned, at any time on or after the Effective Date by a Licensor and its Affiliates, or (ii) in respect of which Licensor and its Affiliates have, or acquire, at any time on or after the Effective Date, the right to license without payment of compensation to a third party other than its Affiliates, agents or employees; and (b) containing one or more claims that is/are necessarily infringed in an implementation of the relevant BD-R/RE Disc Standards.

"Term" means the period beginning on the Effective Date and ending when this Registration Agreement expires or is terminated in accordance with the provisions hereof.

“Visitor Administrator” has the meaning set forth in Section 5.10.

“Website” means [www.one-blue.com](http://www.one-blue.com) or any other website designated by Licensing Company from time to time in connection with this Registration Agreement.

## **2 REGISTERED PARTY’S AFFILIATES**

- 2.1 Identification of Affiliates. Manufacturer shall complete and amend Appendix C to include the corporate name, principal place of business and registered office of each and every Affiliate that is engaged in the manufacture of any Brand Owner Product. Manufacturer shall remove from Appendix C, by amendment, the names of any entity that ceases to be an Affiliate of Manufacturer. Manufacturer may amend Appendix C by adding the names of Affiliates that will engage in the manufacture of Brand Owner Product and removing the names of Affiliates that are not engaged in the manufacture of any Brand Owner Product. Any amendment to Appendix C made pursuant to this Section 2.1 shall be effective when Licensing Company receives a written copy of such amended Appendix C, which shall include an indication of the information that has been added, deleted or changed.
- 2.2 Registered Affiliates' Rights and Obligations. With the exception of this Section 2, Section 21 ("Essential Patents"), Section 23 ("Term and Termination") and Appendix A ("PBL Standard Terms and Conditions") and any other provision that expressly distinguishes between Brand Owner and its Registered Affiliate, the obligations and other requirements of this Registration Agreement that apply to Brand Owner shall also apply to each and every of its Registered Affiliates, and Brand Owner shall ensure that its Registered Affiliates satisfy all obligations and other requirements imposed on Brand Owner. With the exception of this Section 2, Section 21 ("Essential Patents"), Section 23 ("Term and Termination") and Appendix A ("PBL Standard Terms and Conditions") and any other provision that expressly distinguishes between Manufacturer and its Registered Affiliate, the obligations and other requirements of this Registration Agreement that apply to Manufacturer shall also apply to each and every of its Registered Affiliates, and Manufacturer shall ensure that its Registered Affiliates satisfy all obligations and other requirements imposed on Manufacturer.
- 2.3 Authority. Brand Owner and Manufacturer warrant that each has either (a) all necessary right and authority to bind its Affiliates to the obligations imposed on its Affiliates in this Registration Agreement or (b) provided Licensing Company with a written undertaking from each of its Affiliates towards Licensing Company in which such Affiliate states that it understands and agrees to comply with the obligations of this Registration Agreement, including the joint liability for breach set forth in Section 2.4 and grant-back obligations set forth in Section 17.
- 2.4 Responsible for Affiliates' Acts. On behalf of itself and its Registered Affiliates, Brand Owner agrees that if any actions or omissions by a Registered Affiliate breach this Registration Agreement, or

infringe a Licensed Patent or Licensing Company's rights in the Registration Logo, then Brand Owner and such Registered Affiliate shall be jointly and severally liable for such breach (including where applicable System Breaches). On behalf of itself and its Registered Affiliates, Manufacturer agrees that if any actions or omissions by a Registered Affiliate breach this Registration Agreement, or infringe a Licensed Patent or Licensing Company's rights in the Registration Logo, then Manufacturer and such Registered Affiliate shall be jointly and severally liable for such breach (including where applicable System Breaches).

### 3 NO LICENSE

3.1 No Other Licenses Granted. Registered Party acknowledges and agrees that no licenses or non-assert undertakings (other than the non-assert obligations undertaken in Section 3.3) are granted under this Registration Agreement for the manufacture, importation, sale or other disposal of Brand Owner Products and that any such licenses can only be granted by means of separate contracts in the form of Per-Batch Licenses.

3.2 Not Licensed Until Per-Batch License Granted by Licensing Company. Registered Party acknowledges and agrees that:

- (a) Licensing Company may deny the grant of a Per-Batch License and the issuance of an LSCD to Registered Party if Registered Party is not, at the time the relevant Application is made, in full compliance with its obligations under this Registration Agreement or any Per-Batch License previously granted by Licensing Company; and
- (b) Licensing Company has not granted and will not grant Registered Party any license in relation to Brand Owner Products other than by granting a Per-Batch License for such Brand Owner Products pursuant to an Application, and therefore that Registered Party's manufacture of such Brand Owner Products occurs without Licensing Company's consent and remains without Licensing Company's consent unless and until such Brand Owner Products become the subject of a duly and properly granted Per-Batch License.

3.3 Temporary Non-Assert Undertaking. Notwithstanding Section 3.2, for the duration of this Registration Agreement and subject to Registered Party's full and timely compliance with all of Registered Party's obligations under this Registration Agreement, Licensing Company undertakes to withhold, until the relevant Brand Owner Products are included in a Shipment in respect of which Licensing Company has granted a Per-Batch License, from taking action against infringement of any Licensed Patent, as well as against any unauthorized use of the Registration Logo, in relation to the manufacture of Brand Owner Products by Manufacturer provided, however, that such undertaking shall only apply to the extent the structure, features and functions of the Brand Owner Product are used to practice the BD-

R/RE Disc Standards, and the undertaking does not extend to any structure, features or functions of a Brand Owner Product not used to practice the BD-R/RE Disc Standards.

- 3.4 No License. Registered Party acknowledges and agrees that nothing in this Registration Agreement nor in any Per-Batch License that may be granted by Licensing Company shall grant any rights in relation to:
- (a) master recording machines, equipment or methods for the manufacture of Brand Owner Products;
  - (b) the manufacture or sale of materials contained in or reproduction rights for information (including audio, video, text or other data) stored on discs to be played back or recorded on a player or a recorder; or
  - (c) any BD-R Disc, BD-RE Disc, BDXL-R Disc or BDXL-RE Disc that is sold by Brand Owner or an Affiliate of Brand Owner back to Manufacturer or an Affiliate of Manufacturer.

#### 4 PER-BATCH LICENSES AND LSCDs

- 4.1 (a) Use of DISP to Make an Application. Manufacturer shall request on behalf of Brand Owner, by making an Application using the DISP, a Per-Batch License for all Brand Owner Products manufactured by Manufacturer that it includes in a Shipment. All references herein to a Manufacturer "applying for" or "requesting" (or the like) for a Per-Batch License will be understood to refer to the act of applying for or requesting (or the like) a Per-Batch License on behalf of the Brand Owner.
- (b) Derivative LSCDs. Upon request from Registered Party or any other party that is registered with Licensing Company in a manner prescribed by Licensing Company, Licensing Company will issue a derivative of an LSCD (such derivative, a "Derivative LSCD") for a transfer other than a Shipment, provided that (a) Licensing Company is reasonably satisfied that such transfer includes Brand Owner Products that have already been included in a Shipment, and (b) such Derivative LSCD is applied for in accordance with the procedures set forth by Licensing Company. The method for applying for a Derivative LSCD shall be set forth separately from this Registration Agreement by Licensing Company.
- 4.2 Must Have Per-Batch License. Prior to Shipping a Brand Owner Product, Registered Party shall have obtained from Licensing Company a Per-Batch License for such Shipment, unless the Shipment is Exempt. For the avoidance of doubt, no license is granted hereunder for Brand Owner Products that are Shipped prior to the grant of a Per-Batch License.

- 4.3 Per-Batch License for Exempt Shipments. Without prejudice to the provisions of Section 4.2, Manufacturer may apply for a Per-Batch License for any Exempt Shipments in its discretion and Brand Owner shall, upon the grant of such Per-Batch License, pay the corresponding royalties in accordance with Section 9. By way of example, if downstream recipients of Brand Owner Product in an Exempt Shipment reside in a jurisdiction in which Licensed Patents would be infringed in the absence of a Per-Batch License, Manufacturer may request and Brand Owner may obtain a Per-Batch License in order to cover the downstream recipients. The parties agree that in the absence of a Per-Batch License, the using and selling of Brand Owner Products by downstream recipients is not authorized in whole or in part by this Registration Agreement even if the Shipment from the Registered Party is Exempt.
- 4.4 Notice of Temporary DISP Unavailability. Notwithstanding Section 4.2, if the DISP is unavailable, Manufacturer may commence a Shipment without obtaining a Per-Batch License from Licensing Company; provided however that if Manufacturer commences a Shipment under such circumstances, Manufacturer shall obtain a Per-Batch License from Licensing Company, for any Shipment commenced without a Per-Batch License, within five (5) business days of receiving a notice of availability of the DISP. Whether the DISP is “unavailable” shall be reasonably determined by Licensing Company. The DISP shall not be considered to be “unavailable” due to a hardware or software failure (including network failures) unless Manufacturer can reasonably demonstrate that the failure does (or did) not arise from hardware or software owned or controlled by Manufacturer or its vendors.
- 4.5 Essential Patents that Cease to be Essential Patents. In the event that Licensing Company becomes aware that a Patent that was originally listed on the Essential Licensor Patent List was determined by a Patent Expert or a court of competent jurisdiction as no longer qualifying as an Essential Licensor Patent (“Former Essential Patent(s)”), then Licensing Company shall modify the Essential Licensor Patent List accordingly. Upon Licensing Company modifying the Essential Licensor Patent List after such a determination, and provided that Brand Owner had entered into this Registration Agreement before the moment of such determination, such Patent will continue to be included under Per-Batch Licenses to be granted to Brand Owner pursuant to this Registration Agreement, unless Brand Owner notifies Licensing Company in writing of its wish that such Patent not be so included. Licensing Company and Brand Owner further acknowledge and agree that any changes to the Essential Licensor Patent List, as well as a determination that a Patent is a Former Essential Patent, shall not give rise to any adjustment of the Standard Rate or the royalties payable pursuant to any Per-Batch Licenses and Brand Owner shall not be entitled to any refund by virtue of such changes.
- 4.6 Must Source Brand Owner Products. Registered Party shall not take ownership or possession of any third-party made Brand Owner Products in relation to which Licensing Company has not granted a Per-Batch License, where such ownership or possession, or the making, using, selling, offering to sell or import of such Brand Owner Product would amount to infringement of any rights granted under the Licensed Patents or the Registration Logo.

- 4.7 Brand Owner Products Not Manufactured by Manufacturer or Manufacturer's Registered Affiliates Must Be Accounted For. Registered Party and its Registered Affiliates shall ensure that any Brand Owner Products covered by a license or licenses to all the Essential Licensor Patents that are not manufactured by Manufacturer or its Registered Affiliates (“Sourced Brand Owner Products”) are accounted for to the extent that Registered Party and Registered Affiliate can distinguish between Brand Owner Products and such Sourced Brand Owner Products. Registered Party and Registered Affiliates are not required to obtain a Per-Batch License for such Sourced Brand Owner Products.
- 4.8 No Third-Party Use of Manufacturer's Facilities. Manufacturer shall not permit any party other than its Registered Affiliates to manufacture Brand Owner Products using equipment located at Manufacturer's or its Registered Affiliates' facilities or appearing on the Manufacturing Equipment List.
- 4.9 License Void Due to Misrepresentations. Registered Party shall use commercially reasonable efforts to ensure the accuracy and completeness of all information required to be submitted in connection with this Registration Agreement, including but not limited to information provided pursuant to Section 5.4 or 5.5. Notwithstanding the foregoing sentence, if a Per-Batch License was granted or an LSCD was issued following material misrepresentation (whether such misrepresentation was inadvertent or not) to Licensing Company by Registered Party or Registered Affiliates:
- (a) the LSCD and any Per-Batch License that was granted therewith shall be void *ab initio*; and
  - (b) if Registered Party proves to Licensing Company's reasonable satisfaction that the misrepresentation was attributable to Registered Party's inadvertent error and that Registered Party promptly gave Licensing Company notice of the misrepresentation upon its discovery, Licensing Company may by notice offer Registered Party the opportunity to make a replacement Application. Licensing Company shall not unreasonably withhold or delay making such an offer. Registered Party shall implement measures to prevent the occurrence of similar misrepresentations.

## 5 METHODS AND INFORMATION REQUIRED FOR MAKING AN APPLICATION

- 5.1 Use of DISP to Submit PBL Applications. Manufacturer shall submit an Application via the DISP.
- 5.2 Application Processing. Upon reviewing an Application for a Per-Batch License, without prejudice to Licensing Company's right to refuse to grant a Per-Batch License pursuant to Sections 3.2 and 10.2, Licensing Company shall offer to enter into a Per-Batch License with Brand Owner. Upon an affirmative act of acceptance (by way of example, by clicking an “I Accept” button or such other instrument as designated by Licensing Company), the offer shall be deemed accepted by Brand Owner,



thus creating a binding contract on the conditions set out in the Per-Batch License, for the Shipment of the Brand Owner Products described in the Application by Manufacturer. The Manufacturer shall be entitled to accept the offer on behalf of Brand Owner if Brand Owner has previously provided Licensing Company with its written consent that Manufacturer may accept offers for Per-Batch Licenses on behalf of Brand Owner; Brand Owner may revoke such consent by providing notice of the revocation to Licensing Company. In the absence of such consent, Licensing Company shall notify Brand Owner by electronic communication (by way of example and not limitation by sending an email to an address designated by Brand Owner) that it has received an Application from Manufacturer and Licensing Company shall not grant a Per-Batch License in response to the Application until Brand Owner accepts the offer.

- 5.3 Obligation to Pay Royalties. Brand Owner shall be liable to pay all royalties due under Section 9.5 for all Brand Owner Products covered by Per-Batch Licenses. In the event Brand Owner does not pay all royalties due for the Brand Owner Products, Licensing Company retains the right to require Manufacturer to pay all royalties due under Section 9.5 for all Brand Owner Products covered by Per-Batch Licenses.
- 5.4 Application Requirements. Each Application submitted by Manufacturer shall include the following information:
- (a) the Registration Number(s) embedded in the Brand Owner Products in the proposed Shipment;
  - (b) the type of Brand Owner Product (by way of example, a description sufficient to determine whether Brand Owner Product is a BD-R Disc, BD-RE Disc, BDXL-R Disc or BDXL-RE Disc) in relation to each Registration Number;
  - (c) the quantity of Brand Owner Product in relation to each Registration Number;
  - (d) the brand name of Brand Owner Products in the Shipment (if available);
  - (e) in the case of a Shipment due to a physical transfer, the country in which the Shipment originates;
  - (f) in the case of a Shipment due to a physical transfer, the country of destination of the Shipment;
  - (g) to the extent known to Manufacturer, the country in which the Brand Owner Products will ultimately be sold to end-users;
  - (h) in the case of a Shipment due to a transfer of title (without physical transfer), the country of the location of the Brand Owner Products at the time of Shipment;

- (i) if Brand Owner Product is packaged in retail packaging, the “Global Trade Item Number” (GTIN), “Universal Product Code” (UPC), “European Article Numbering” (EAN) code, or their equivalent (as reasonably required by Licensing Company) of that retail packaging;
- (j) the name of the Brand Owner or the Brand Owner’s Registered Affiliate to whom the associated Per-Batch License will be granted; and
- (k) if Manufacturer so elects, the name of the Brand Owner’s Registered Affiliate to whom the invoice for the associated Per-Batch License should be sent.

5.5 Supplemental Information. Manufacturer shall promptly provide any one or more of the following documents or information created or known at any time in relation to its Application or Shipment when requested by Licensing Company, irrespective of whether a Per-Batch License has been granted or whether an LSCD has been issued:

- (a) the bill of lading containing the shipping details, including but not limited to the port of lading and the name of the vessel, if the Shipment is by way of ship;
- (b) the air waybill containing the flight number and the airport of departure and arrival , if the Shipment is by way of air;
- (c) the CMR or other truck waybill, if the Shipment is by way of truck;
- (d) the purchase order received by Manufacturer from its customer, in relation to the Shipment;
- (e) the invoice issued by Manufacturer to its customer, in relation to the Shipment;
- (f) proof of the country of origin, which may include a “Form A Certificate of Origin” in those countries where such form is required;
- (g) the packing list in relation to the Shipment, provided that it has not been destroyed in accordance with regular business practices of Manufacturer;
- (h) the identification number of the LSCD identifying Manufacturer as the recipient of any Brand Owner Products sourced from a party other than Manufacturer’s Registered Affiliates and included in the Shipment, if it is reasonably known to the Manufacturer; and
- (i) all other information that Licensing Company may reasonably require to:
  - (i) prevent the fraudulent use of LSCDs;

- (ii) prevent the evasion of royalty payments;
- (iii) verify the compliance of Manufacturer, Manufacturer's suppliers, and Manufacturer's customers, with their respective contractual obligations;

- 5.6 Licensing Company to Quickly Review Applications. Licensing Company shall use commercially reasonable efforts to review and process an Application and, subject to the provisions of this Registration Agreement, to grant a Per-Batch License and issue an LSCD in relation to such Application, within three (3) hours of receipt of such Application by Licensing Company.
- 5.7 Refusal of License. Licensing Company may refuse to grant a Per-Batch License to Brand Owner or issue an LSCD for use by Manufacturer where:
- (a) the information provided by Manufacturer in an Application pursuant to Section 5.4, or additional information provided pursuant to Section 5.5, is incomplete or incorrect;
  - (b) Registered Party is not in full compliance with its obligations under this Registration Agreement at the time when the Application is received by Licensing Company; or
  - (c) the Application covers Brand Owner Products acquired by Registered Party from a third party in relation to which an LSCD has been issued to that third party, and where royalties to Licensing Company for those Brand Owner Products have fallen due and payable but have not been paid.
- 5.8 Verification of LSCDs. Registered Party acknowledges and agrees that Licensing Company may make available information for customs officers to verify the authenticity of LSCDs (or documents that purport to be LSCDs), or otherwise to determine the licensed status of Shipments of Brand Owner Products. Licensing Company shall otherwise treat the information as confidential.
- 5.9 Availability of DISP. Licensing Company shall use commercially reasonable efforts to make the DISP available 24 hours per day, 7 days per week to Authorized Employees to enable such Authorized Employees to submit Applications.
- 5.10 Assignment of Visitor Administrator. Manufacturer shall assign, by giving notice to Licensing Company, one of its full-time employees as an administrator for accessing the DISP. Manufacturer represents that this person ("Visitor Administrator") shall have the authority to appoint one or more Authorized Employees. Manufacturer may at any time during the term of this Registration Agreement assign another of its full-time employees as a replacement Visitor Administrator by giving notice of such appointment to Licensing Company. Any notice under this Section 5.10 shall specify the e-mail address, phone number of the Visitor Administrator, and the address and the detail of the organization at which the Visitor Administrator is primarily located. Manufacturer shall ensure that the Visitor Administrator registers him/herself on the Website.

## 6 REGISTRATION LOGO AND REGISTRATION NUMBER

- 6.1 Requirement to Embed Registration Logo and Registration Number on the Brand Owner Product. Manufacturer shall, on each Brand Owner Product that it manufactures, embed the Registration Logo and the appropriate Registration Number in accordance with the Registration Logo Guide. Manufacturer shall obtain from Licensing Company a Registration Number for each unique production location of Brand Owner Products.
- 6.2 Acquisition of Brand Owner Products. Registered Party shall not take ownership or possession of any Brand Owner Product unless it (a) bears the Registration Logo and the Registration Number assigned to the unique production location at which the Brand Owner Product was manufactured; or (b) is otherwise licensed under all Licensed Patents.
- 6.3 Shipping of Brand Owner Products. Registered Party shall not include in any Shipment a Brand Owner Product that does not bear the Registration Logo and the Registration Number assigned to the unique production location at which the Brand Owner Products were manufactured (each displayed in accordance with the Registration Logo Guide).
- 6.4 Placement of Registration Logo. Registered Party acknowledges and agrees that:
- (a) the proper placement of the Registration Logo and the appropriate Registration Number on Brand Owner Products shall be a condition precedent to the grant of a Per-Batch License and the issuance of an LSCD in relation to such Brand Owner Products, as such, Registered Party represents and warrants that all Brand Owner Products it includes in Shipments shall bear an embedded Registration Logo and the appropriate Registration Number, which complies with the Registration Logo Guide;
  - (b) Licensing Company will rely on the accuracy of Registered Party's representation and warranty in Section 6.4(a) when considering whether to grant a Per-Batch License and issue an LSCD to Registered Party;
  - (c) Brand Owner Products that Registered Party:
    - (i) manufactures in breach of Section 6.1;
    - (ii) takes ownership or possession in breach of Section 6.2; or

- (iii) includes in a Shipment in breach of Section 6.3, are not licensed, and any Per-Batch License granted or LSCD issued by Licensing Company in relation to such Brand Owner Products is void *ab initio*.

6.5 Rights in Registration Logo Remain with Licensing Company. Registered Party acknowledges and agrees that all rights in the Registration Logo are, and shall remain, within the ownership of Licensing Company. Registered Party further acknowledges and agrees that any Shipment by it that includes Brand Owner Products in which the Registration Logo has been embedded other than in accordance with the Registration Logo Guide will have occurred without Licensing Company's consent (irrespective of whether a Per-Batch License has been granted) and may constitute an infringement of Licensing Company's intellectual property rights in the Registration Logo. Registered Party acknowledges and agrees that, except as expressly provided in this Section 6, no right to use the Registration Logo is granted under this Registration Agreement. Registered Party may only use the Registration Logo on Brand Owner Product, pursuant to a Per-Batch License relating to the Brand Owner Product concerned.

6.6 Claims of Infringement of Registration Logo. Registered Party shall promptly inform Licensing Company of any claim of infringement relating to the Registration Logo received by Registered Party.

6.7 Discontinued Use of Registration Logo. In certain circumstances described below in this Section 6.7, Licensing Company may instruct Manufacturer to discontinue use of the Registration Logo permanently or until further notice, or to use such other logo as Licensing Company may specify, which serves the same purpose as the Registration Logo. Manufacturer shall implement such instructions reasonably promptly after receiving notice from Licensing Company. Notwithstanding the foregoing, if Licensing Company issues such instruction, Manufacturer will be entitled to continue including Brand Owner Products bearing the Registration Logo in Shipments for 120 days after the issuance of such instruction. Licensing Company may only issue such instructions to reasonably address any of the following circumstances:

- (a) counterfeiting of the Registration Logo or any part thereof, or
- (b) with respect to the Registration Logo:
  - (i) risk of infringement (as determined by an independent expert), or
  - (ii) claim of infringement.

6.8 Exempt Shipments Exception. Notwithstanding any provision to the contrary, if a Per-Batch License is not granted for Brand Owner Product in an Exempt Shipment, then (a) the provisions of this Section 6 shall not apply to such Brand Owner Product and (b) Manufacturer shall not embed a Registration Logo or Registration Number to such Brand Owner Product; provided, however, that if a Per-Batch

License is granted for Brand Owner Product in an Exempt Shipment, the provisions of Section 6 shall apply to the products covered by the Per-Batch License.

## 7 SERIAL NUMBER LABELS

- 7.1 Optional Requirement to Place a Serial Number Label. Registered Party may commence a Shipment in relation to which Registered Party is required to obtain a Per-Batch License pursuant to Section 4.2 by enclosing Brand Owner Products included in that Shipment in a Master Carton on which, at Brand Owner's sole option, a Serial Number Label has been placed in accordance with the Serial Number Label Guide.
- 7.2 Placement of Serial Number Label Not a Condition. Licensing Company acknowledges and agrees that the placement of the appropriate Serial Number Label on a Master Carton in accordance with the Serial Number Label Guide shall not be a condition precedent to the grant of a Per-Batch License and the issuance of an LSCD in relation to a Shipment of Brand Owner Products.
- 7.3 No Obligation to Repackage. Where Brand Owner Products are already packed in Master Cartons with Serial Number Labels, in full compliance with the Serial Number Label Guide, nothing in this Section 7 shall oblige Registered Party to repackage them.
- 7.4 Supply of Serial Number Labels. Manufacturer acknowledges and agrees that it shall be Manufacturer's own responsibility to ensure that it has sufficient quantities of Serial Number Labels in stock to satisfy its obligations under this Registration Agreement. Licensing Company shall use commercially reasonable efforts to supply Manufacturer with sufficient quantities of Serial Number Labels to enable Manufacturer to Ship Brand Owner Products with Serial Number Labels, should Brand Owner desire that Manufacturer do so. Licensing Company shall provide the Serial Number Labels to Manufacturer (who shall in turn provide the Serial Number Labels to its Registered Affiliates, if any) free of any charge, with the exception that Licensing Company shall bill Manufacturer for such reasonable shipping costs of the Serial Number Labels to Manufacturer on a yearly basis.
- 7.5 Exempt Shipments Exception. Notwithstanding any provision to the contrary, if a Per-Batch License is not granted for Brand Owner Product in an Exempt Shipment, then (a) the provisions of this Section 7 shall not apply to such Brand Owner Product and (b) Manufacturer shall not apply a Serial Number Label to Master Cartons containing such Brand Owner Products; provided, however, that if a Per-Batch License is granted for Brand Owner Product in an Exempt Shipment, the provisions of Section 7 shall apply to the products covered by the Per-Batch License.
- 7.6 Restricted to Manufacturer. Neither Manufacturer nor its Registered Affiliates shall provide Serial Number Labels to any other entity unless (a) the label is attached to a Master Carton in accordance with the requirements of the Serial Number Label Guide or (b) the entity is Manufacturer or one of its

Registered Affiliate. By way of example and not limitation, Manufacturer shall not provide Serial Number Labels to Brand Owner unless the Serial Number Label is attached to a Brand Owner Product.

## **8 REGISTRATION AND RENEWAL FEES**

- 8.1 *Payment of Registration Fee.* Brand Owner shall, within thirty (30) days of the execution of this Registration Agreement, pay Licensing Company a non-refundable, non-recoupable registration fee of US\$ 25,000 (twenty-five thousand US Dollars). This registration fee covers the initial five-year period of this Registration Agreement, and not any extension or renewal thereof. Brand Owner shall not be obligated to pay such registration fee if Brand Owner already paid a registration fee of at least \$25,000 to Licensing Company in connection with a substantially identical *Registration Agreement for BD-R and/or BD-RE Disc Manufacturer*, or *Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner*.
- 8.2 *Payment of Renewal Fee.* Brand Owner shall, within thirty (30) days of each renewal of this Registration Agreement, pay Licensing Company a non-refundable, non-recoupable renewal fee of US\$ 10,000 (ten thousand US Dollars). This renewal fee covers the five-year period applicable to the current renewal of this Registration Agreement, and not any extension or further renewal thereof. Brand Owner shall not be obligated to pay such renewal fee if Brand Owner paid a renewal fee of at least \$10,000 to Licensing Company in connection with a renewal of a substantially identical *Registration Agreement for BD-R and/or BD-RE Disc Manufacturer*, or *Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner*, for a renewal period extending beyond the date of renewal of this Registration Agreement.

## **9 ROYALTY PAYMENTS, INVOICING AND REPORTING**

- 9.1 *Obligation to Pay Royalties Upon Grant of Per-Batch License.* The provisions of this Section 9 shall apply to any Brand Owner Product that is the subject of a Per-Batch License granted by Licensing Company to Registered Party; the provisions of this Section 9 do not apply to Brand Owner Product that is not the subject of a Per-Batch License. Brand Owner's liability to pay royalties accrues under a Per-Batch License immediately upon the grant of that Per-Batch License, in accordance with the payment terms and invoice processes set out in this Registration Agreement and the PBL Standard Terms and Conditions.
- 9.2 *Standard Rate.* Subject to the provisions of Sections 9.3 and 9.4, the royalty rate payable in respect of each Brand Owner Product covered by a Per-Batch License by Brand Owner shall be the Standard Rate.

- 9.3 Royalty Offsetting. If Brand Owner is also a party to a license agreement or covenant not to sue or assert (“Bilateral Agreement”), other than this Registration Agreement or any Per-Batch License issued thereunder, or any other agreement with Licensing Company, wherein one or more of a Licensor's (“Bilateral Licensor”) Licensed Patents that cover a Brand Owner Product are separately licensed, the Brand Owner may direct Licensing Company to adjust the royalties payable under this Registration Agreement, including any applicable Per-Batch License (as calculated on the basis of the Standard Rate, or discounted Standard Rate to the extent Section 9.4 applies), by deducting therefrom the royalty portion that would otherwise be due to such Bilateral Licensor pursuant to this Registration Agreement for the applicable Shipments of Brand Owner Product on account of those Licensed Patents that are separately licensed under the Bilateral Agreement. If given, Brand Owner shall give such instruction by submitting to Licensing Company a Confirmation of Bilateral Agreement form, a template of which is provided as Appendix D to this Registration Agreement, duly completed and signed by Brand Owner and the Bilateral Licensor concerned, to confirm that such Bilateral Agreement has been executed and that the Bilateral Licensor agrees to such adjustment in accordance with the provisions hereof. In the event, Brand Owner Products include, a permitted amount that do not bear a brand that is owned by, or licensed to, Brand Owner or an Affiliate of Brand Owner (“Non-Compliant Brand Owner Products”); then Brand Owner shall submit further confirmations to Licensing Company from all applicable Bilateral Licensors that the Confirmation of Bilateral documents apply to such Non-Compliant Brand Owner Products. The Confirmation of Bilateral Agreement form that is submitted to Licensing Company by or for Brand Owner, and the existence and applicability of the bilateral agreement between the Brand Owner and the Bilateral Licensor shall constitute confidential information of the Brand Owner and the Bilateral Licensor.
- 9.4 Past Use. Except as set forth in subsections (a)-(c) of this Section 9.4, the provisions of Section 9 (Royalty Payments, Invoicing and Reporting) shall apply to Brand Owner Products Shipped prior to the Effective Date (hereafter, “Previously-Shipped Products”) to the same extent such provisions apply to Brand Owner Product that is the subject of a Per-Batch License.
- (a) Discount. Provided that Brand Owner (irrespective of Registered Affiliates) has entered into this Registration Agreement by December 31, 2011, and further provided that Brand Owner and all of its Registered Affiliates are in full compliance with their obligations under this Registration Agreement as confirmed by Licensing Company to its knowledge in writing, Brand Owner and its Registered Affiliates will be entitled to a discount of fifty percent (50%) of the royalties payable (after giving effect to the offsetting mechanism, if any, set out in Section 9.3) for Brand Owner Products Shipped prior to April 1, 2010. Such discount shall not apply to any Brand Owner Products that were Shipped by a Registered Affiliate of Manufacturer or of Brand Owner before the Registered Affiliate was such an Affiliate.
- (b) Release. Upon full payment of the amounts and reports required for Previously-Shipped Products, Licensing Company, on behalf of itself and the Licensors, its and their respective successors and assigns, hereby releases, to the extent of its right to do so, Brand Owner and



its Registered Affiliates, their respective successors and assigns, as well as any end-users, distributors, dealers, suppliers, vendors and customers, under any patent infringement arising prior to the Effective Date of this Agreement for which the rights and licenses expressly granted under this Agreement and a Per-Batch License to Brand Owner would be a complete defense had this Agreement and Per-Batch License been in effect at the time such patent infringement arose and as if the Previously-Shipped Product was manufactured and Shipped in compliance with the remaining provisions of this Agreement. For greater certainty, the release in this Section 9.4(b) does not operate with respect to acquisitions of any sort by Brand Owner during the Term.

(c) Reporting.

- (1) Estimated Past Use Report. As a condition precedent to the entry into force of this Registration Agreement, Brand Owner shall submit to Licensing Company an Estimated Past Use Report that includes the same information for all Previously-Shipped Products as is required for Brand Owner Products under subsections (a)–(c) of Section 5.4 (Applications).
- (2) Official Past Use Report. Within sixty (60) days after the Effective Date, Brand Owner shall submit to Licensing Company an Official Past Use Report that includes all the same information for all Previously-Shipped Products as is required for Brand Owner Products under Section 5.4 (Applications); provided, however, that Brand Owner may use commercially reasonable efforts to estimate such information if Brand Owner cannot reasonably obtain more reliable information. Brand Owner shall also provide an explanation of any material differences between the Official Past Use Report and the Estimated Past Use Report.
- (3) No Waiver. Notwithstanding that Licensing Company may execute the Registration Agreement with knowledge of the Estimated Past Use Report and/or may invoice Brand Owner based on the Official Past Use Report, it shall not be considered that Licensing Company has accepted the Estimated Past Use Report and/or the Official Past Use Report, or waived any of its rights with respect to past use, including but not limited to the right to request an audit statement pursuant to Section 9.11 and the right to audit the books and records of Registered Party set forth in Section 12.1(b).

9.5 Invoicing and Payment Due Date. Within thirty (30) days after the end of each month, Licensing Company shall invoice Brand Owner for royalties that have accrued in the previous calendar month or earlier (except in the case of Previously-Shipped Products, Licensing Company shall send an invoice to the Brand Owner for the royalties that have accrued for such products within thirty (30) days after receipt of the Official Past Use Report referenced in Section 9.4(c)(2)). Licensing Company shall

invoice Brand Owner for such Per-Batch Licenses unless either (a) Brand Owner provided Licensing Company with notice of its intent that Licensing Company invoice its Registered Affiliates directly or (b) the Manufacturer indicated in its Application for the Per-Batch License that a Brand Owner's Registered Affiliate should be invoiced. Such invoices shall specify the amounts due calculated separately for each manufacturing location of Manufacturer and its Registered Affiliates that have applied for Per-Batch Licenses on behalf of Brand Owner or its Registered Affiliates in the period concerned. In case Licensing Company directly provides the invoice to Brand Owner's Registered Affiliate in accordance with this paragraph, such Registered Affiliate shall pay to Licensing Company the sum stated to be due in such invoice no later than forty-five (45) days from the date of the invoice. Except as otherwise provided in this Registration Agreement, and provided a Brand Owner's Registered Affiliate has not already paid the Licensing Company, Brand Owner shall pay to Licensing Company the sum stated to be due in each such invoice no later than forty-five (45) days from the date of the invoice.

Notwithstanding anything to the contrary, during the twelve-month period after July 1, 2011, the following exceptions with respect to invoicing shall apply, provided that Brand Owner directs Licensing Company to adjust its royalties payable pursuant to Section 9.3:

- (i) Past Use Royalties. Licensing Company shall invoice Brand Owner within thirty (30) days after January 1, 2012 for any report delivered to Licensing Company before January 1, 2012 pursuant to Section 9.4 (Past Use) based on the patents listed on the Commercially Essential Patent List and Technically Essential Patent List by Licensing Company on its website as of January 1, 2012;
- (ii) Standard Rate. Per-Batch License Royalties. Licensing Company shall invoice Brand Owner within thirty (30) days after December 31, 2011 for royalties that have accrued up to December 31, 2011 pursuant to Section 9.2 (Standard Rate) based on the patents listed on the Commercially Essential Patent List and Technically Essential Patent List by Licensing Company on its website as of January 1, 2012; and
- (iii) One-time Adjustment. Licensing Company shall conduct a one-time adjustment of all royalties invoiced prior to July 1, 2012 based on the patents listed on the Commercially Essential Patent List and Technically Essential Patent List by Licensing Company on its website as of July 1, 2012.

9.6 Payments in U.S. Dollars. All payments to be made by Brand Owner to Licensing Company under this Registration Agreement or under any Per-Batch License shall be made in US Dollars.

9.7 Wire Information for Payments. All payments to be made by Brand Owner to Licensing Company under this Registration Agreement or under any Per-Batch License shall be made without any deduction whatsoever (except for the tax deduction specified in Section 9.8), whether for bank transmission charges or otherwise, by wire transfer to:

**Bank Account No.:** 936717636

**Name:** One-Blue, LLC Royalties

**Bank:** JP Morgan Chase  
270 Park Avenue  
New York, NY 10017

**SWIFTCODE:** CHASUS33 (International Customers Only)

**ABA Number:** 021000021

or such other bank account as Licensing Company may designate in writing from time to time.

- 9.8 Stamp Duties, Taxes and Other Levies. All stamp duties, taxes (including but not limited to business taxes, values added taxes, income taxes) and other similar levies arising from or in connection with this Registration Agreement or any Per-Batch License shall be borne by Brand Owner. If the government of any country imposes any income taxes to be withheld from payments made by Brand Owner under this Registration Agreement or under any Per-Batch License, and requires Brand Owner to withhold such tax from such payments, Brand Owner may deduct such tax from such payments. In such event, Brand Owner shall promptly provide Licensing Company with all tax receipts issued by the relevant tax authorities that Licensing Company may require to enable Licensing Company to document, if necessary, its compliance with tax obligations in any country. If such tax receipts are not provided promptly, Licensing Company reserves the right to treat the un-documented deductions as unpaid royalties due which will become subject to the provisions of this Registration Agreement. Registered Party shall inform Licensing Company if the withholding tax rates on an invoice issued by Licensing Company are incorrect. Registered Party shall inform Licensing Company of such error prior to paying the subject invoice.
- 9.9 Confirmation Letter Upon Request. Brand Owner and Manufacturer shall separately submit to Licensing Company, within ninety (90) days after the reasonable request of Licensing Company, irrespective of whether any Shipments of Brand Owner Products have occurred, a Confirmation Letter for the preceding calendar year in the form set out in Appendix E, and signed by a duly authorized officer on behalf of Brand Owner and Manufacturer, respectively.
- 9.10 Audit Statement to Confirm Confirmation Letter. If Licensing Company reasonably suspects that Brand Owner and Manufacturer has submitted an inaccurate Confirmation Letter, Licensing Company may request Brand Owner and Manufacturer to separately submit to Licensing Company, within sixty (60) days after the notice by Licensing Company informing Brand Owner of the reasonable suspicion, irrespective of whether any Shipments of Brand Owner Products have occurred, an audit statement prepared by its external independent auditors confirming that:

- (a) the Per-Batch Licenses granted and LSCDs issued for the preceding calendar year correspond accurately with all Shipments made by Manufacturer in the preceding calendar year;
- (b) all royalty payments made by Brand Owner in the preceding calendar year correspond accurately with the royalty payments which have fallen due under this Registration Agreement in the preceding calendar year; and
- (c) the Confirmation Letter provided by Brand Owner and Manufacturer under Section 9.9 is true, accurate and complete in all material respects.

The auditor and audit statement must meet the requirements set out in the Audit Guide. Licensing Company shall reimburse Brand Owner and Manufacturer for the cost of such audit, to the extent the cost is customary and reasonable, if (i) Brand Owner and Manufacturer provides the audit statement confirming clauses (a), (b) and (c) above or (ii) if Brand Owner's and Manufacturer's external independent auditor certifies that there is no discrepancy or error by way of underpayment equal to or greater than five percent (5%) of the monies actually due during the calendar year covered by the Confirmation Letter. Notwithstanding any audit statement provided by Brand Owner and Manufacturer under this Section 9.10, Licensing Company reserves the right to inspect the books and records of Brand Owner, Manufacturer and their Registered Affiliates from time to time in accordance with Section 12.

9.11 Audit Statement to Confirm Official Past Use Report. If Licensing Company reasonably suspects that Brand Owner has submitted an inaccurate Official Past Use Report of Previously-Shipped Products pursuant to Section 9.4(c)(2), Licensing Company may request Brand Owner to submit to Licensing Company, within sixty (60) days after the notice by Licensing Company informing Brand Owner of the reasonable suspicion, irrespective of whether any Shipments of Registered Products have occurred, an audit statement prepared by its external independent auditors confirming that the Official Past Use Report of Previously-Shipped Products provided by Brand Owner to Licensing Company under Section 9.4(c)(2), is true, accurate and complete in all material respects. The auditor and audit statement must meet the requirements set out in the Audit Guide. Licensing Company shall reimburse Brand Owner for the cost of such audit, to the extent the cost is customary and reasonable, if Brand Owner's external independent auditor certifies that the total discrepancy or error by way of underreporting of quantities is less than five percent (5%) of the quantities set forth in the Official Past Use Report of Previously-Shipped Products. Notwithstanding any audit statement provided by Brand Owner under this Section 9.11, Licensing Company reserves the right to inspect the books and records of Brand Owner and Registered Affiliates from time to time in accordance with Section 12.

9.12 Returns. If Brand Owner demonstrates to Licensing Company's reasonable satisfaction (by way of example and not limitation, by providing copies of internal documents) that Brand Owner Product is returned to the original manufacturing location of the Brand Owner Product, then Licensing Company

shall either waive the Brand Owner's obligation to pay royalties for such Brand Owner Product or, if royalties have been paid with respect to such Brand Owner Product, apply the royalties for such Brand Owner Product as a credit against future royalties due. If Licensing Company granted such a waiver or applied such a credit to Brand Owner Product, Manufacturer shall obtain a Per-Batch License on behalf of Brand Owner for any subsequent transfer from the manufacturing location to any party (including Brand Owner's or Manufacturer's Registered Affiliate), involving either: (a) a transfer of title or (b) a physical transfer beyond the area of the manufacturing location's address, or both.

## **10 REMEDIES FOR NON-PAYMENT AND LATE PAYMENT OF ROYALTIES**

- 10.1 Interest Due for Late Payments. Any payment that becomes due, either under this Registration Agreement or under any Per-Batch License that may be granted, and that is not made in full when due, accrues interest at the rate of one percent (1%) per month (or part thereof) or at the maximum rate permitted by law, whichever is lower.
- 10.2 Licensing Company's Rights If Late Payment. For any non-payment or late payment of royalties, Registered Party acknowledges and agrees that Licensing Company, without waiving any other remedy, shall be entitled to suspend granting any Per-Batch Licenses and issuing any LSCDs until Registered Party is in full compliance with its obligations under this Registration Agreement.
- 10.3 Remedy of Payment. If Licensing Company provides Brand Owner with a notice specifying non-payment or late payment of royalties and Brand Owner remedies such non-payment or late payment within thirty (30) days from the date of issuance of such notice, Licensing Company shall end the suspension imposed under Section 10.2 from the date of such remedy. Notwithstanding the foregoing, from the date of the issuance of such notice by Licensing Company, Licensing Company may at any time require a reasonable security deposit for the payment of royalties as a condition to the grant of Per-Batch Licenses and issuance of LSCDs (irrespective of whether the notice has been complied with). Any security deposit required by Licensing Company shall be given in a manner and in an amount as specified by notice from Licensing Company to Brand Owner. Such security deposit shall be held in an interest-bearing account and, subject to this Section 10.3, for the benefit of Brand Owner. Licensing Company may draw funds from said security deposit account for the payment of royalties due by Brand Owner under this Registration Agreement and shall account to Brand Owner for any interest that accumulates. Licensing Company may account for interest by crediting the interest to said account. When Licensing Company determines that the security deposit is no longer appropriate, Licensing Company shall return control over the remaining funds in the account to Brand Owner.
- 10.4 Payment on behalf of Brand Owner. In the event Brand Owner is sixty (60) days overdue in paying an invoice from Licensing Company for a Per-Batch License issued as a result of an Application submitted by Manufacturer, Manufacturer shall, within sixty (60) days of receiving an invoice from Licensing

Company, pay Licensing Company on behalf of Brand Owner for all amounts due and owing in connection with such Per-Batch License.

## 11 SYSTEM BREACH

### 11.1 System Breaches Adversely Affect Licensing Company. Registered Party:

- (a) acknowledges and agrees that any System Breach by it can, *inter alia*:
  - (i) contribute to competitive distortions or concerns of unfair competition;
  - (ii) erode confidence in Licensing Company's batch-based licensing system; and
  - (iii) encourage System Breaches and discourage compliance with Licensing Company's batch-based licensing system among manufacturers and purchasers of Brand Owner Products, causing substantial direct and indirect loss to Licensing Company, which loss is impossible to quantify accurately;
- (b) recognizes the value of the licenses under Licensed Patents, and the rights in the Registration Logo which are granted by Licensing Company under Per-Batch Licenses, and recognizes that other registered parties pay royalties in return for the right to use those Licensed Patents and rights in the Registration Logo; and
- (c) recognizes that Licensing Company incurs substantial costs in investigating, detecting, and acting against System Breaches.

11.2 Consequence of System Breach. In the event of a System Breach by Manufacturer or Brand Owner, and subject to Section 11.5, such breaching Registered Party shall, immediately upon receipt of notice from Licensing Company alleging the System Breach, be liable to pay Licensing Company a non-refundable sum of US\$100,000 (one hundred thousand US Dollars) per event constituting a System Breach in addition to any royalties that would be due in accordance with the payment terms set out in this Registration Agreement and the PBL Standard Terms and Conditions. Registered Party acknowledges and agrees that said payments represent a fair assessment of the damage Licensing Company is likely to suffer as a result of any System Breach by Registered Party. Further, any such payments shall be without prejudice to Licensing Company's right to terminate this Registration Agreement immediately, in accordance with the provisions of Section 23.4.

11.3 Reporting of System Breach. Registered Party may, immediately upon receipt of a notice under Section 11.2, give notice to Licensing Company that Registered Party has committed a further System Breach or System Breaches, specifying the nature of the System Breach or System Breaches, the number of

Brand Owner Products concerned, and any other parties involved. Each System Breach that is the subject of such notice shall be considered to be part of the same single System Breach for the purpose of calculating the sums owed pursuant to Section 11.2.

11.4 Conditions Under Which No Damages Required in the Event of System Breach. No damages shall be payable under Section 11.2 if the Registered Party that committed the System Breach can prove each of the following elements to Licensing Company's reasonable satisfaction within sixty (60) days after receipt of a notice under Section 11.2:

- (a) such Registered Party made all reasonable endeavors to avoid the occurrence of the System Breach;
- (b) the System Breach has not resulted, and will not result, in any substantial financial loss to Licensing Company which such Registered Party has not compensated within a reasonable period of time; and
- (c) the circumstances giving rise to the System Breach no longer exist.

For the avoidance of doubt, where such Registered Party proves each of these elements to Licensing Company's reasonable satisfaction, any royalties payable by the Brand Owner for Brand Owner Products in relation to which the System Breach was committed shall remain payable in accordance with the provisions of Section 9. Where a number of System Breaches are the subject of a notice under Section 11.4, the breaching Registered Party shall be required to prove each of the elements in this Section 11.5 in relation to each System Breach that is the subject of such notice.

11.5 No Further Action. If the Registered Party that committed the System Breach satisfies the requirements under Section 11.4 (a) through (c), Licensing Company warrants that it shall not take any further action against such Registered Party for the System Breach concerned.

## 12 RIGHT TO AUDIT

12.1 Permission for Certified Public Auditor to Audit. In order to verify:

- (a) the completeness and accuracy of the number of Brand Owner Products included in Shipments by Manufacturer and reported to Licensing Company by means of Applications for Per-Batch Licenses and LSCDs,
- (b) the completeness and accuracy of the number of Brand Owner Products on which royalties are or have been payable by Brand Owner, and

- (c) Registered Party's compliance with other provisions of this Registration Agreement (provided, however, that Licensing Company has a good faith belief that Registered Party is in breach of such other provisions),

Registered Party shall permit an independent certified public auditor selected by Licensing Company ("Certified Auditor") to inspect all books and records of Registered Party in accordance with this Section 12 upon notice from Licensing Company requiring such inspection. Such audit shall be performed under confidentiality obligations materially similar to those contained in this Agreement. The Certified Auditor shall be (i) a certified public auditor, chartered accountant or registered accountant (as these terms are generally known in the United States, the United Kingdom and The Netherlands respectively) or holding an equivalent professional qualification in the country in which the auditor practices, (ii) a member of a well-respected firm, preferably one of KPMG, PricewaterhouseCoopers, Deloitte Touche Tohmatsu and Ernst & Young (or any of their successors), or (iii) a member of the American Institute of Certified Public Accountants (AICPA), the Institute of Chartered Accountants in England & Wales (ICAEW), or Koninklijk Nederlands Instituut van Register accountants (NIVRA) (whichever of these associations governs accounting in the country in which the auditor practices), or a member of a professional body of similar standing where this is not practicable.

- 12.2 Requirements in the Event and in Preparation for Audits. Registered Party shall maintain complete and accurate books and records relating to the Registered Party's obligations under this Registration Agreement and shall keep such books and records available for inspection by a Certified Auditor for a period of three (3) years following each Shipment to which the books or records relate. Registered Party shall ensure that a full copy of such books and records remains available for inspection by the Certified Auditor at all times during normal business hours. Any inspection under this Section 12 shall be initiated by Licensing Company no more than once per calendar year and shall be conducted by the Certified Auditor. Licensing Company shall give Registered Party notice of such inspection at least seven (7) business days prior to the inspection. Registered Party shall promptly and fully cooperate and provide access to its books and records and provide all assistance that Certified Auditor may reasonably require in connection with such inspection. Registered Party shall allow the Certified Auditors (if such Certified Auditor determines it to be reasonably necessary) to make copies of all documents, and to take such copies from Registered Party's premises (or any other premises at which the documents are held by Registered Party) to enable the Certified Auditor to prepare and support its audit report. The Certified Auditor shall not provide Licensing Company with any information obtained from Registered Party in connection with such audit unless the Registered Party was obligated to provide such information to Licensing Company pursuant to this Registration Agreement (excluding this Section 12) or the provision of such information to Licensing Company is reasonably necessary in order for the Certified Auditor to inform Licensing Company of an actual or potential breach.
- 12.3 Costs of Audit. The inspection referred to in this Section 12 shall be conducted at Licensing Company's own expense, except that such expense shall be borne by the audited Registered Party where the inspection reveals that:



- (a) the audited Registered Party has failed to comply with its obligations under Section 12.2;  
or
- (b) the Certified Auditor certifies that there is a discrepancy or error by way of underpayment of five percent (5%) of the monies actually due during the period under inspection.

12.4 *Effect of Underpayment.* If the inspection determines that an underpayment of the monies actually due occurred during the period under inspection, Brand Owner shall pay the amount of the underpayment plus interest calculated in accordance with the provisions of Section 10.1.

12.5 *Payment of Audit Does Not Prejudice Other Rights.* Payment of the cost of inspection and of additional royalties pursuant to this Section 12 shall be without prejudice to any other claim or remedy that Licensing Company may have under this Registration Agreement, including, without limitation, Licensing Company's right to terminate this Registration Agreement, or under any applicable law.

### **13 MANUFACTURING EQUIPMENT LIST**

13.1 Upon execution of this Registration Agreement, Manufacturer shall submit to Licensing Company a Manufacturing Equipment List, listing all of Manufacturer's and its Registered Affiliates' equipment which is used, or which is technically capable of being used, for the manufacture of Brand Owner Products, and the facilities at which such equipment is or may be located, as of the Effective Date.

13.2 Within thirty (30) days of any acquisition, transfer, movement, or disposal of manufacturing equipment or any substantial modification of manufacturing equipment that would materially increase or decrease production capacity used by Manufacturer and its Registered Affiliates for the manufacture of Brand Owner Products, Manufacturer shall submit to Licensing Company details of any such adjustment(s). Further, Manufacturer shall, within 90 days after the end of each calendar year, submit to Licensing Company a revised Manufacturing Equipment List, signed by an authorized representative of Manufacturer.

13.3 Manufacturer shall manufacture Brand Owner Products only using equipment properly identified in the Manufacturing Equipment List.

13.4 If Manufacturer and all of its Registered Affiliates cease manufacture of Brand Owner Products, Manufacturer shall immediately inform Licensing Company of such cessation.

## 14 SAMPLES

14.1 Within thirty (30) days from a written request from Licensing Company, Manufacturer shall submit to Licensing Company samples from each production line and each mould of manufacturing equipment used for the production of Brand Owner Products. Each such sample Brand Owner Product shall be:

- (a) marked in accordance with the sampling and marking instructions provided by Licensing Company; and
- (b) adequately packaged and shipped to the address as specified in the written request, together with a copy of the written request.

## 15 ACCESS TO FACILITIES

15.1 Manufacturer shall, upon request from Licensing Company (at Licensing Company's expense), give an employee of Licensing Company or a Certified Auditor selected by Licensing Company pursuant to Section 12.1 immediate access during reasonable business hours to, and allow such employee or external independent auditor to inspect, the manufacturing equipment to verify the accuracy of the Manufacturing Equipment List and to take samples of Brand Owner Products from all of its facilities where Brand Owner Products are manufactured or held, or at which equipment capable of manufacturing Brand Owner Products is present, for the purpose of determining whether Manufacturer is in compliance with its obligations under this Registration Agreement. Manufacturer shall also take reasonable efforts to procure that, upon request from Licensing Company, an employee of Licensing Company or a Certified Auditor selected by Licensing Company pursuant to Section 12.1 shall have immediate access during reasonable business hours to, and such external independent auditor shall be allowed to take samples of Brand Owner Products from:

- (a) the facilities of any company that stores Brand Owner Products on behalf of Manufacturer; and
- (b) any warehouses at which Manufacturer holds Brand Owner Products, for the purpose of determining whether Manufacturer is in full compliance with its obligations under this Registration Agreement.

## 16 DESTRUCTION, THEFT AND CONFISCATION

16.1 Obligation to Report Missing Products and Missing Serial Number Labels. Manufacturer shall report Missing Serial Number Labels and Missing Products to Licensing Company within seven (7) days of

becoming aware of the Missing Serial Number Labels or Missing Products. The report shall be accurate and include sufficient details for Licensing Company to understand the relevant dates, circumstances and quantities associated with the theft, confiscation, destruction or loss to the extent Manufacturer knows such details or can determine such details using commercially reasonable efforts. Failure to make such a report shall be deemed a System Breach. Manufacturer shall fully cooperate with Licensing Company in any subsequent investigations or actions in respect of any Missing Serial Number Labels or Missing Products.

- 16.2 Missing Brand Owner Products. If Manufacturer demonstrates to Licensing Company's reasonable satisfaction that a Brand Owner Product is a Missing Product, then Licensing Company shall either waive the Brand Owner's obligation to pay royalties for such Brand Owner Product or, if royalties have been paid with respect to such Brand Owner Product, apply the royalties for such Brand Owner Product as a credit against future royalties due.

## 17 RAND GRANT-BACK

- 17.1 Obligation to Grant-Back Under RAND Terms. Registered Party and its Affiliates shall not unreasonably refuse to grant to qualified entities (defined below), for products that are configured in compliance with the BD Standards ("BD Products"), non-exclusive, non-transferable rights (by way of license or otherwise), on fair, reasonable, non-discriminatory conditions, to manufacture, transfer, sell, import or otherwise dispose of BD Products under any and all Grant-Back Essential Patents. "Grant-Back Essential Patents" means present and future Patents that contain one or more claims which are (or which were, if Former Essential Patents) necessarily infringed, or necessary as a practical matter on the basis that there are no economically viable substitutes, to implement the BD-R/RE Disc Standards, for which Registered Party or its Affiliates have during the Term, or may acquire during the Term, the right to grant licenses. For the purposes of this Section 17.1 only, each Licensor's per-Patent share of the royalties paid per Brand Owner Product in accordance with this Registration Agreement shall be deemed to be a fair, reasonable and non-discriminatory royalty rate for the grant (by way of license or otherwise) by Registered Party and its Affiliates under its Grant-Back Essential Patents. For the purposes of this paragraph, "qualified entities" means (a) third parties and their respective Affiliates that have entered or will enter into a registration or license agreement with Licensing Company under one or more of the Licensed Patents (by way of example, a "*Registration Agreement for BD-RE and/or BD-R Disc Manufacturer*") and (b) Licensors. Notwithstanding any provision of this paragraph to the contrary, Registered Party (or its Affiliates) shall not be required to grant a third party a license under a Grant-Back Essential Patent if such a license would require Registered Party (or its Affiliates) to pay compensation to a third party other than the Affiliates, agents or employees of Registered Party (or its Affiliates).
- 17.2 Consideration for RAND Grant-Back. The undertaking given by Registered Party and its Affiliates in Section 17.1 is given in consideration of the benefits set forth in this Registration Agreement, including

the benefit of substantively equivalent undertakings given by other entities under a “*Registration Agreement for BD-R Disc and/or BD-RE Disc Manufacturer*” or under other registration or license agreements with Licensing Company under one or more of the Licensed Patents that include undertakings substantively equivalent to the undertaking in Section 17.1, and without prejudice to the provisions of Section 23 of this Registration Agreement.

- 17.3 *Term of the Grant-Back License.* Any license made available under Section 17.1 shall be available for a period ending on the expiry date of the last subsisting Grant-Back Essential Patent. For the avoidance of doubt, where a Patent for which a license has been granted pursuant to Section 17.1 has expired, it shall be removed from such license, which shall continue to run only in relation to still subsisting Patent(s).
- 17.4 *Transfer of Grant-Back Essential Patents.* If Registered Party (or its Affiliates) assigns, exclusively licenses, sells or transfers a Grant-Back Essential Patent to another entity, Registered Party (or such Affiliates) shall, in the instrument giving effect to such assignment, exclusive license, sale or transfer, include provisions which ensure that the assignee, exclusive licensee, purchaser or transferee of such Grant-Back Essential Patents is bound by equivalent obligations with respect to such Grant-Back Essential Patents as is Registered Party (or such Affiliates) pursuant to this Section 17. Registered Party acknowledges that the obligation to license Grant-Back Essential Patents on fair, reasonable, non-discriminatory conditions in accordance with Section 17.1 runs with such Patents and thus binds any subsequent owners of such Patents.
- 17.5 *Grant-Back and Affiliates.* If an entity that was an Affiliate of a Registered Party becomes no longer Affiliated with the Registered Party, the entity’s obligations under Section 17 shall continue with respect to any Patent that the entity had or acquired between the Effective Date and the moment the entity became no longer Affiliated with the Registered Party.

## **18 NO WARRANTY; INDEMNITY**

- 18.1 *No Representation or Warranty as to Standards.* Licensing Company makes no representation or warranty as to the completeness or accuracy of the BD Standards, nor as to the ability of Registered Party to achieve interoperability of Brand Owner Products through the use of such information.
- 18.2 *Indemnification as to Brand Owner Products and Registration Logo.* Registered Party acknowledges and agrees that third parties may own intellectual property rights relating to Brand Owner Product and the Registration Logo. Licensing Company makes no representation or warranty that the manufacture, importation, use, offering for sale, sale or other disposal of Brand Owner Product or use of the Registration Logo does not infringe or will not infringe any intellectual property right of any third party. Registered Party shall indemnify and hold harmless Licensing Company from and against any and all third party claims made in connection with Brand Owner Product (excluding claims made in

connection with the Registration Logo, provided that such claims do not arise subsequent to Registered Party's non-compliance with Licensing Company's instructions pursuant to Section 6.7 of this Registration Agreement) manufactured, acquired, used, sold, offered for sale or otherwise disposed of by Registered Party.

- 18.3 Waiver. Registered Party hereby waives all rights and hereby forever releases from liability, or in respect of matters that cannot be released from liability, shall indemnify and hold harmless, Licensing Company and Licensors from and against any and all liabilities as may arise in relation to:
- (a) the grant, failure or refusal to grant, or delay in granting, Per-Batch Licenses, or the issuance, failure or refusal to issue, or delay in issuing, LSCDs, to Registered Party (or to third parties from whom Registered Party takes ownership or possession of Brand Owner Product) by Licensing Company (other than where such failure, refusal or delay is a breach of this Registration Agreement);
  - (b) claims made by Registered Party, or customers of Registered Party relating to Brand Owner Product being delayed or detained at customs, seized or destroyed; or
  - (c) any interruption or deficiency in the supply of Serial Number Labels where Registered Party had not taken reasonable care to order such Serial Number Labels in a timely manner, did not keep Serial Number Labels in stock in sufficient quantities to be able to cope with disruptions in the supply, or was not in full compliance with its obligations under its agreement with the supplier concerning the supply of Serial Number Labels.
- 18.4 Limitation of Liability. In no event shall Licensing Company be liable to Registered Party under any cause of action (other than intentional breach or liabilities arising under Sections 9.10 and 12.3) arising under or related to this Registration Agreement for any amount greater than US\$20,000 (twenty thousand US Dollars).
- 18.5 No Representation. Notwithstanding anything to the contrary in this Registration Agreement, Licensing Company makes no representation or warranty about the validity or enforceability of any of the Licensed Patents and specifically excludes and disclaims any liability for any damages that Registered Party may suffer under any cause of action due to the invalidity or unenforceability of any of the Licensed Patents.
- 18.6 Representations and Warranties. Licensing Company and Registered Party each represent and warrant that: (a) it is a duly organized and validly existing legal entity; (b) it has all requisite power and authority to execute this Registration Agreement and to perform its obligations hereunder; (c) this Registration Agreement has been duly executed by an officer or representative of such party authorized to act on its behalf; and (d) its obligations under this Registration Agreement do not conflict with its bylaws, certificate of incorporation or equivalent charter documents.

18.7 No Special Damages. TO THE GREATEST EXTENT PERMITTED BY LAW, LICENSING COMPANY SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS OR BUSINESS INTERRUPTION, RELATING TO THE BRAND OWNER PRODUCTS OR ARISING OUT OF THIS AGREEMENT, EVEN IF LICENSING COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDING THE EXPRESS WARRANTIES SET FORTH HEREIN, LICENSING COMPANY MAKES NO EXPRESS OR IMPLIED WARRANTIES.

## 19 CONFIDENTIALITY

19.1 Licensing Company shall, during the term of this Registration Agreement and for a period of five (5) years thereafter, not disclose to any third party or use any confidential information obtained in connection with Sections 5.4, 5.5, 9.3, 9.9, 9.10 and 12 through 16 for any purpose other than:

- (a) if required by any judicial or governmental request, requirement or order, or by operation of law, provided however, that Licensing Company shall provide Brand Owner with notice of such request, requirement or order and, if available, assist Brand Owner (at Brand Owner's expense) with obtaining a protective order against such disclosure;
- (b) to disclose the information under an obligation of confidence to an auditor for any purpose contemplated by this Registration Agreement;
- (c) to disclose the information under an obligation of confidence to a subcontractor of the Licensing Company; or
- (d) to enforce Licensing Company's rights under this Registration Agreement and PBL Standard Terms and Conditions in the event of a breach by Registered Party. The disclosure of confidential information pursuant to this subsection "(d)" may include disclosure under an obligation of confidence to Licensors in order for Licensing Company to: (i) inform Licensors of Registered Party's breach of this Registration Agreement or Licensing Company's plan to terminate this Registration Agreement due to such a breach; or (ii) seek Licensors' approval to enforce this Registration Agreement using legal or governmental institution(s). Notwithstanding the foregoing, in no event shall Licensing Company disclose Registered Party's competitively sensitive information to Licensors.

19.2 Circumstances When Not Obligated to Keep Information Confidential. The obligations of Licensing Company in Section 19.1 shall not apply to the extent that the Licensing Company can prove, by written evidence, that such information:

- (a) has, after the date of this Registration Agreement, been published or otherwise generally made available to the public, except in consequence of a willful or negligent act or omission by Licensing Company in breach of its confidentiality obligations under this Section 19;
- (b) has been made available to Licensing Company by a third party who is entitled to divulge such information and who is not under any obligation of confidentiality in respect of such information to Registered Party or which has been disclosed under an express statement from either Brand Owner or Manufacturer that it is not confidential;
- (c) has been independently developed by Licensing Company other than in the course of the exercise of Licensing Company's rights under this Registration Agreement or the implementation of this Registration Agreement; or
- (d) is information already known to Licensing Company before its receipt from the disclosing party and such information was not protected by confidentiality protections.

19.3 *This Registration Agreement Is Not Confidential.* For the avoidance of doubt, the existence and contents of this Registration Agreement are not subject to any confidentiality obligation; provided, however that the name and any identifying information of the Manufacturer, and its relationship to Brand Owner, shall remain confidential information of the Brand Owner, unless otherwise instructed by Brand Owner.

## **20 SYSTEM CHANGES**

20.1 *Licensing Company May Make Changes to Licensing System.* Registered Party acknowledges and agrees that the integrity of Licensing Company's batch-based licensing system is important to the equitable treatment of manufacturers of Brand Owner Product and to open and fair competition in the market for Brand Owner Product and the market for licensing intellectual property rights relevant to Brand Owner Product. Accordingly, Registered Party acknowledges and agrees that Licensing Company may, in its sole discretion which Licensing Company shall not exercise unreasonably or within an unreasonably short period of time, revise any and all of the following:

- (a) the PBL Standard Terms and Conditions;
- (b) the Registration Logo Guide;
- (c) the Serial Number Label Guide;
- (d) the form of the Confirmation Letter;

- (e) the form of the Manufacturing Equipment List;
- (f) extend the use of Serial Number Labels or other markings to units of packaging smaller than Master Cartons (e.g. per spindle or per disc); and
- (g) the Standard Rate.

Registered Party acknowledges and agrees that any such revision or other change, as set out in a notice shall be deemed to be incorporated into this Registration Agreement upon the effective date of the change. Other than provisions related to topic "(g)", revisions and changes in accordance with this Section 20.1 shall not conflict with any other provisions of this Agreement.

20.2 Registered Party May Terminate This Registration Agreement in the Event of System Change.

Registered Party shall be entitled to refuse to comply with any System Change, including pre-authorized increases in the Standard Rate, by providing Licensing Company with timely notice of such refusal. In the event Brand Owner or Manufacturer provides such notice, this Registration Agreement will automatically terminate if the refusal relates to a pre-authorized increase in the Standard Rate or any topic set forth in Sections 20.1(a)-(f). An increase in the Standard Rate shall be considered "pre-authorized" if it occurs in conjunction with (a) a substantial increase in the number of patents listed on the Essential Licensor Patent List because of (1) the addition of one or more entities to the list of Licensors or (2) the acquisition of patents by an existing Licensor, or (b) a modification or update by the Blu-ray Disc Association to the standard specifications listed in the definition of "BD Standard," which results in a material addition of technology covered by the definition. Such notice of refusal shall be considered "timely" if it is provided (i) one or more days before the System Change takes effect, in which case this Registration Agreement shall automatically terminate the day before such System Change takes effect, or (ii) thirty (30) or less days after the System Change takes effect, in which case this Registration Agreement shall automatically terminate immediately upon the provision of such notice and Registered Party shall not be considered to have breached this Agreement merely because it failed to comply with the System Change.

20.3 Licensing Company Agrees Not to Make Certain Changes. Licensing Company undertakes that it will not:

- (a) act unreasonably in making any System Change;
- (b) restrict the scope of any license granted in a Per-Batch License; or
- (c) restrict the scope of the non-assert undertakings set forth in Section 3.3 with respect to any Brand Owner Products manufactured prior to the System Change taking effect.



## 21 ESSENTIAL PATENTS

- 21.1 Objection to Essentiality. Should Registered Party object to the inclusion or exclusion of any Patent owned by Licensors as a Technically Essential Patent or a Commercially Essential Patent in or from the Essential Licensor Patent List based on a contention set forth in a Notice of Challenge as defined in Appendix G of this Registration Agreement, such Patent shall be submitted to a Patent Expert to evaluate the subject Patent and resolve the contention. The fees and expenses of the Patent Expert for such evaluation shall be borne by the Registered Party pursuant to Appendix G of this Registration Agreement. In the event that the Patent Expert determines that such Patent is or is not a Technically Essential Patent or a Commercially Essential Patent, such Patent shall be deleted from or added to the Essential Licensor Patent List as appropriate until such time, if ever, that the Patent Expert's decision is overturned by a court of competent jurisdiction.
- 21.2 Essential Licensor Patent List May Be Subject to Revisions and Royalty Rates Will Not Change Due to Such Revisions. Licensing Company and Registered Party acknowledge and agree that the Essential Licensor Patent List may be subject to continual revision. Licensing Company and Registered Party further acknowledge and agree that any changes to the Essential Licensor Patent List, as well as a determination that a Patent is a Former Essential Patent, shall not give rise to any adjustment of the Standard Rate or the royalties payable pursuant to any Per-Batch Licenses and Registered Party shall not be entitled to any refund by virtue of such changes.
- 21.3 Revocation of Patents from License. "Registrant-Related Entity" means (a) Registered Party; (b) an Affiliate of Registered Party; or (c) a minority shareholder having thirty percent (30%) ownership or more in Registered Party or its Affiliates which manufactures or sells any BD Product(s) or an Affiliate of such minority shareholder which manufactures or sells any BD Product(s). A "Registrant Essential Patent" is a Patent that contains one or more claims which are (or which were, if Former Essential Patent) necessary (where "necessary" for the purposes of this paragraph only means that the claim is either necessarily infringed, or necessary as a practical matter on the basis that there are no economically viable substitutes, to implement the relevant BD-R/RE Disc Standards). Registered Party acknowledges that in the event a Registrant-Related Entity has brought a claim for infringement of a Registrant Essential Patent in a lawsuit or other proceeding against one or more of the Licensors, or that a Registrant-Related Entity has refused to grant a Licensor a license under a Registrant Essential Patent on reasonable and non-discriminatory conditions, such Licensor's Licensed Patents may be removed from any Per-Batch License to be issued by Licensing Company to such Registered Party or its Registered Affiliates. In the event that a Registrant-Related Entity bringing such a claim does not agree that its Patent contains one or more necessary claims, such Patent shall be promptly submitted to a Patent Expert and Licensing Company's right to revoke the Licensor's Patents shall be suspended until the Patent Expert determines that such Patent contains a necessary claim. The fees of the Patent Expert for such evaluation shall be borne by the Registered Party unless the Patent Expert determines that such Patent does not contain one or more necessary claims, in which case the fees shall be borne by the relevant Licensor(s) contending that such Patent does contain one or more necessary claims.

## 22 NO ASSIGNMENT

- 22.1 Registered Party's Assignment. This Registration Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their respective successors and permitted assignees. It may not be assigned by Registered Party in whole or in part except with the prior consent of Licensing Company, which consent shall not be unreasonably withheld when assigned in whole to an Affiliate of the Registered Party, given in writing and executed by a duly authorized representative of Licensing Company.
- 22.2 Licensing Company's Assignment. Licensing Company may assign this Registration Agreement in whole to a successor of Licensing Company after providing Registered Party with at least fourteen (14) days notice.

## 23 TERM AND TERMINATION

- 23.1 Term. This Registration Agreement shall commence on the Effective Date. Unless and until terminated earlier in accordance with the provisions of this Section 23, this Registration Agreement shall remain in force for a period of five (5) years from the Effective Date or until the expiry date of the last Licensed Patent whichever comes first. This Registration Agreement shall automatically extend for successive five (5) year periods, unless (a) Registered Party notifies Licensing Company of its wish not to extend the Term no later than forty-five (45) days prior to the then-applicable end of the then-current five (5) year period, in which case this Registration Agreement shall terminate at the end of the then-current five-year period or (b) this Registration Agreement is terminated prior to the expiration of the then-current five-year period. By way of example and not limitation, if either Brand Owner or Manufacturer notifies, or both notify, Licensing Company of its wish not to extend the Term in accordance with this paragraph, this Registration Agreement shall terminate with respect to all three parties (Brand Owner, Manufacturer and Licensing Company) at the end of the then-current five-year period.
- 23.2 Registered Party May Terminate Without Cause. Notwithstanding Section 23.1, either Brand Owner or Manufacturer may terminate this Registration Agreement without cause upon giving Licensing Company forty-five (45) days notice of its intention to terminate.
- 23.3 Either Party May Terminate if Other Party Breaches. Without prejudice to the provisions of Section 23.4 through Section 23.10, either Manufacturer or Brand Owner may terminate this Registration Agreement if Licensing Company fails to perform any obligation under this Registration Agreement and such failure is not remedied within thirty (30) days after receipt of a notice specifying the nature of such failure and requiring it to be remedied; such right of termination shall be without prejudice to any other remedy to which Manufacturer or Brand Owner may be lawfully entitled and all such

remedies shall be cumulative. Without prejudice to the provisions of Section 23.4 through Section 23.10, Licensing Company may terminate this Registration Agreement if Manufacturer or Brand Owner (or any Registered Affiliate of Manufacturer or Brand Owner) fails to perform any obligation under this Registration Agreement and such failure is not remedied within thirty (30) days after receipt of a notice specifying the nature of such failure and requiring it to be remedied; such right of termination shall be without prejudice to any other remedy to which Licensing Company may be lawfully entitled and all such remedies shall be cumulative.

23.4 Licensing Company May Terminate. Licensing Company may terminate this Registration Agreement if:

- (a) Registered Party or a Registered Affiliate commits a System Breach and does not prove each of the elements set out in Section 11.4 (a) through (c), within the time limit stipulated in the same section, to Licensing Company's reasonable satisfaction;
- (b) subject to applicable laws, a creditor or other claimant takes possession of, or a receiver, administrator or similar officer is appointed over, any of the assets of Registered Party or a Registered Affiliate, or Registered Party or a Registered Affiliate makes any voluntary arrangement with its creditors or becomes subject to any court or administration order pursuant to any bankruptcy or insolvency law;
- (c) any of Registered Party's or a Registered Affiliate's representations in or under this Registration Agreement proves to be false or are breached in any manner; or
- (d) a notice has been issued by Licensing Company under Section 10.3 specifying non-payment or late payment of royalties, and Registered Party does not remedy such non-payment or late payment within thirty (30) days of such notice being issued.

23.5 Notice of Termination. In each instance where Licensing Company has a right to terminate pursuant to Section 23.3 or 23.4, Licensing Company may only exercise such termination rights by giving notice to both Manufacturer and Brand Owner specifying the reason for such termination. Any termination so effected pursuant to Section 23.3 shall be effective immediately upon such notice.

23.6 Registered Party's Obligations Upon Termination. Upon termination of this Registration Agreement for any reason, Manufacturer shall, at its expense, return to Licensing Company all Serial Number Labels in its possession or certify that they have been destroyed and shall (and shall ensure that its Registered Affiliates will) immediately cease (a) including in Shipments Brand Owner Product bearing the Registration Logo or Serial Number Label; and (b) using the Registration Logo or Serial Number Label in any other way where such use would infringe Licensing Company's rights in the Registration Logo.

- 23.7 Payments Due Notwithstanding Termination. Upon termination of this Registration Agreement by Licensing Company for any reason pursuant to Sections 23.3 or 23.4, any and all amounts outstanding under this Registration Agreement or under any Per-Batch License shall become immediately due and payable. Rights already accrued shall survive termination. In the event credits set forth in Sections 9.11 and 16.2 together with the security deposit referred to in Section 10.3 exceed the amount owed to Licensing Company as of termination, Licensing Company shall pay, no later than three (3) months after termination, Brand Owner a refund equal to the credit less the amount owed.
- 23.8 Survival. All acknowledgements by Registered Party and Registered Affiliate under this Registration Agreement, and the following provisions of this Registration Agreement, shall survive the expiry or termination of this Registration Agreement: Sections 1, 2, 9.9, 9.10, 9.11, 10.1, 10.3, 17, 18, 19, 23.6, 23.7, 23.8, 23.9 and 24. Section 12 and 15 of this Registration Agreement shall survive the expiry or termination of this Registration Agreement for one year.
- 23.9 Reporting of Stock Following Termination. Within thirty (30) days following the termination of this Registration Agreement, Manufacturer shall submit to Licensing Company a report certified by its external auditors (i) specifying the number of Brand Owner Products owned or controlled by Manufacturer or its Registered Affiliates that remain in stock at such date of termination and (ii) identifying the nature and location of all warehouses or other storage facilities at which such Brand Owner Products are stored. The rights and obligations of this Agreement shall continue to apply to such Brand Owner Product after termination of this Agreement until (a) no such products remain in stock, (b) the date occurring thirty (30) days after the termination of this Agreement if this Agreement has been terminated by Licensing Company in accordance with Section 23.3, or (c) the date occurring ninety (90) days from the termination of this Agreement if this Agreement has not been terminated by Licensing Company in accordance with Section 23.3, whichever occurs earliest. Licensing Company shall not unreasonably refuse a Per-Batch License to Brand Owner in respect of such Brand Owner Products. The obligations of Manufacturer in this Section 23.9 shall not apply to Brand Owner Products: (i) that have been included in a Shipment by Manufacturer or its Registered Affiliate but that remain under Manufacturer's or its Registered Affiliate's control and for which royalties have become due in accordance with the provisions of this Registration Agreement or (ii) Brand Owner Products that were manufactured in, and remain in a country where no Licensed Patents subsist.
- 23.10 Termination Upon All Patents Expiring or Non-Infringement. Upon (i) the expiration of the last to expire Essential Licensor Patent; or (ii) the final adjudication by a court of competent jurisdiction of invalidity or unenforceability of the last of the unexpired Licensed Patents, from which adjudication no appeal is taken or allowed; or (iii) the issuance of a written opinion by a Patent Expert concluding that the last subsisting Licensor's Patent made available by this Registration Agreement does not qualify as a Licensed Patent, this Registration Agreement shall automatically terminate.

**24 MISCELLANEOUS**

- 24.1 *No Breach for Non-Infringement.* Notwithstanding anything to the contrary contained in this Registration Agreement, it shall not be a breach of this Registration Agreement, nor shall it give rise to any royalty payment or other obligations under this Registration Agreement, for Registered Party to manufacture, sell, import or otherwise dispose of a Brand Owner Product not bearing the Registration Logo, where such manufacture, sale, importation or other disposal does not infringe any claim of an issued and unexpired Licensed Patent that has not been held unenforceable, un-patentable or invalid by a decision of a court or governmental agency of competent jurisdiction, where no appeal against such decision is possible. Except in cases where a Shipment is an Exempt Shipment, or where all issued and unexpired Licensed Patents subsisting for the locations between which the Shipment has been made have been held unenforceable, un-patentable or invalid by a decision of a court or governmental agency of competent jurisdiction, where no appeal against such decision is possible, Registered Party may not fail to make royalty payments or to comply with its other obligations under this Registration Agreement based on this Section 24.1 of this Registration Agreement with respect to such Shipment without first providing Licensing Company with an analysis by a licensed patent attorney demonstrating that the manufacture, sale, importation or other disposal with respect to such Shipment does not infringe any Licensed Patent subsisting for the locations between which such Shipment has been made.
- 24.2 *Right, Title and Interest in Patents and Registration Logo Remain with Licensors/Licensing Company.* Registered Party acknowledges that all right, title and interest in and to Licensed Patents and Registration Logo are owned by Licensors and by Licensing Company, respectively. Registered Party shall not acquire any rights or title in any of the Licensed Patents or the Registration Logo, whether by implication, use, registration or otherwise. All rights relating to or resulting from the use of Registration Logo by Registered Party, including, without limitation, goodwill, shall inure to the benefit of Licensing Company.
- 24.3 *Third Party Infringement of Licensed Patents or Registration Logo.*
- (a) Registered Party acknowledges and agrees that this Registration Agreement does not grant or imply any right to instigate any action against a third party for infringement of any Licensed Patents or the Registration Logo.
  - (b) If a third-party infringement claim is made against Registered Party in connection with Registered Party's use of Registration Logo, Registered Party shall notify Licensing Company and Licensing Company shall have the right (but shall have no obligation) to defend such claim at Licensing Company's own cost. If Licensing Company does not defend such claim, or if use of the Registration Logo is enjoined by a court of competent jurisdiction, Manufacturer shall have the right to discontinue use of the Registration Logo until such time that Licensing Company provides Manufacturer with a Registration Logo that is not the subject of an infringement claim

- (c) If Licensing Company institutes legal proceedings against a third party for alleged infringement of the Registration Logo, Registered Party shall provide Licensing Company with all such assistance as Licensing Company may reasonably require from time to time in respect of such proceedings.

24.4 Modifications to the Registration Agreement for BD-R Disc and/or BD-RE Disc Manufacturer and Brand Owner. Registered Party acknowledges and agrees that Licensing Company may modify the wording of the standard version of the “Registration Agreement for BD-R Disc and/or BD-RE Disc Manufacturer and Brand Owner” at any time. Provided both Manufacturer and Brand Owner so elect, Manufacturer and Brand Owner shall at all times have the option of entering into the most recent version of the “Registration Agreement for BD-R Disc and/or BD-RE Disc Manufacturer and Brand Owner”, as published by Licensing Company on the Website or otherwise communicated by Licensing Company to Registered Party after the Effective Date. Except as provided in Section 20, nothing in this Registration Agreement shall be construed as giving Licensing Company the right to change the wording of this Registration Agreement, without consent of both Manufacturer and Brand Owner, after it has been executed by both Manufacturer and Brand Owner.

24.5 Notices. Any notice required to be given by one party to another party under this Registration Agreement shall, unless explicitly specified in this Registration Agreement otherwise, be given in writing in the English language by means of a letter, facsimile or e-mail directed:

*in respect of Brand Owner or its Registered Affiliate to:* **[insert Brand Owner Name]**

**Address:** [insert Brand Owner Address]  
**Attn:** [insert Brand Owner Contact Name]  
**Fax:** [insert Brand Owner Fax Number]  
**E-mail:** [insert Brand Owner E-mail Address]

for notice purposes.

*in respect of Manufacturer or its Registered Affiliate to:* **[insert Manufacturer Name]**

**Address:** [insert Manufacturer Address]  
**Attn:** [insert Manufacturer Contact Name]  
**Fax:** [insert Manufacturer Fax Number]  
**E-mail:** [insert Manufacturer E-mail Address]

for notice purposes.

in respect of Licensing Company, to: **One-Blue, LLC**

**Address:** 520 White Plains Road, Suite 500,  
Tarrytown, NY, 10591, USA  
Attn: Legal Department

**Tel:** +1 (212) 223-3190

**E-mail:** [info@one-blue.com](mailto:info@one-blue.com)

or such other address as may be thereafter specified by the party for the purpose of receiving notice. Notice shall be deemed to have been given on the day that it is so delivered personally or sent by facsimile transmission or e-mail and the appropriate answer back or confirmation of successful transmission or e-mail is received or, if sent by courier, shall be deemed to have been given two (2) business days after delivery by the courier company, or if mailed, ten (10) business days following the date on which such notice was so mailed. The proper sending of notice to Registered Party shall constitute the proper sending of notice to any and all of its Registered Affiliates.

- 24.6 *Force Majeure*. No party hereto shall be responsible for any failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts or inability to obtain any export or import license or other approval or authorization of any governmental authority.
- 24.7 *Entire Agreement*. This Registration Agreement sets forth the entire understanding and agreement between the parties as to the subject matter to which it refers, and supersedes and replaces all prior arrangements, discussions and understandings between the parties relating to such subject matter. Subject to Sections 2.1, 20 and 21, no variation to this Registration Agreement shall be binding upon any party hereto unless made in writing and signed by an authorized representative of each of the parties.
- 24.8 *Rights and Obligations Not Conferred By this Registration Agreement*. Nothing contained in this Registration Agreement shall be construed:
- (a) as imposing on any party hereto any obligation to instigate any action for infringement of any Licensed Patents or Registration Logo, or to defend any action brought by a third party which challenges or relates to the validity of any of these intellectual property rights;
  - (b) as imposing any obligation to file any patent, trademark or copyright applications, to secure any patent, trademark or copyright registrations, or to maintain any subsisting patent, trademark or copyright registrations; or

- (c) as conferring any license to manufacture, sell or otherwise dispose of any product or device, or as transferring any title to any product or device.

- 24.9 Independent Counsel. Registered Party, on behalf of itself and its Registered Affiliates, acknowledges and confirms that it has had sufficient opportunity to engage legal counsel of its choice to review the structure, contents and implications of the batch-based licensing system and of this Registration Agreement, and Registered Party, on behalf of itself and its Registered Affiliates, acknowledges and confirms that it freely enters into this Registration Agreement.
- 24.10 No Waiver. Neither the failure nor the delay of any party hereto to enforce any provision of this Registration Agreement shall constitute a waiver of such provision or of the right of any party hereto to enforce each provision of this Registration Agreement.
- 24.11 Severability. Should any provision of this Registration Agreement be finally determined to be void or unenforceable in any judicial proceeding, such determination shall not affect the operation of the remaining provisions of this Registration Agreement, provided that, in such event, any party hereto shall have the right to terminate this Registration Agreement by notice to the other two parties.
- 24.12 Interpretation. The Section headings contained in this Registration Agreement are for reference purposes only and do not in any way control the meaning or interpretation of this Registration Agreement. Explicit references to a particular section shall be deemed to include a reference to its subsections, if any. The terms "for the avoidance of doubt," "including," "such as," "by way of example" or any variation thereof means "including the following by way of example only, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items immediately following it. This Registration Agreement shall be fairly interpreted in accordance with its terms and without any presumption in favor of or against any party hereto regardless of the drafter.
- 24.13 Governing Law. If the Country of Registration is the People's Republic of China, this Registration Agreement is governed by the laws of the Hong Kong Special Administrative Region. If the Country of Registration is not the People's Republic of China, this Registration Agreement is governed by the laws of the State of New York, United States of America.
- 24.14 Dispute Resolution. Other than as provided in Section 24.15, any dispute between the parties in connection with this Registration Agreement (including any question regarding its existence, validity or termination) shall be submitted to and finally resolved by (a) if the Country of Registration is the People's Republic of China, arbitration administered by the Hong Kong International Arbitration Centre under the Hong Kong International Arbitration Centre Administered Arbitration Rules in force when the Notice of Arbitration is submitted, the seat of arbitration being the Hong Kong Special Administrative Region, the number of arbitrators being one, and the arbitration proceedings being conducted in English, provided for the avoidance of doubt that Licensing Company retains the right to apply to any court of competent jurisdiction for provisional and/or conservatory relief, including but



not limited to pre-arbitral attachments or injunctions, or (b) if the Country of Registration is not the People's Republic of China, the Supreme Court of the State of New York, located in the County of New York, New York State, United States of America or the United States District Court for the Southern District of New York, United States of America, provided always that, where the Country of Registration is not the People's Republic of China and Licensing Company is the plaintiff, it may, alternatively and at its sole discretion, submit such dispute either to the competent courts in the country where either Brand Owner's or Manufacturer's registered office is located, or to the competent courts in any country where Brand Owner or Manufacturer or their Affiliates are otherwise located or have manufacturing facilities, or, for claims arising in relation to a Shipment by Registered Party or its Affiliates, to any of the competent courts in the country of destination of the Shipment. The service of any process and any other documents connected with any proceedings in connection with this Section 24.14 will be deemed to have been validly served on a party if they are served by mail to the addresses indicated in Section 24.5 or by any other method of service authorized by law applicable to the jurisdiction where service is made, and service shall be deemed to have been completed upon receipt by the party being served. Registered Party irrevocably waives any rights it may have to object to the jurisdiction, process and venue of any such arbitration tribunal or court and to the effectiveness, execution and enforcement of any order or judgment (including, but not limited to, a default judgment) of any such arbitration tribunal or court in relation to this Registration Agreement, to the maximum extent permitted by the law of any jurisdiction, or to the laws which might be claimed to be applicable regarding the effectiveness, enforcement or execution of such order or judgment.

24.15 Arbitration Solely for Disputes Concerning Jurisdiction. The parties acknowledge and agree that any effort to defeat or circumvent the appropriate jurisdiction or jurisdictions for disputes as set out in Section 24.14 are to be dealt with expeditiously and accordingly if:

- (a) Registered Party refers a dispute to any court other than the courts specified in Section 24.14 applicable to when the Country of Registration is not the People's Republic of China and Licensing Company alleges that Registered Party has done so in breach of Section 24.14; and
- (b) a dispute arises between the parties as to
  - (i) whether Registered Party has referred a dispute to a court (other than the courts specified in Section 24.14 applicable to when the Country of Registration is not the People's Republic of China) that, under Section 24.14, lacks jurisdiction; or
  - (ii) the appropriate remedy by way of injunction and/or damages or otherwise due to Licensing Company from Registered Party arising from such breach,

Licensing Company may refer the dispute under this Section 24.15(b) to arbitration by giving to both Manufacturer and Brand Owner a notice, including a reference to this Section 24.15, specifying the

dispute that Licensing Company has referred to arbitration. The arbitration shall be conducted by one arbitrator appointed by the American Arbitration Association at Licensing Company's request. The arbitrator shall be a lawyer qualified under the laws of, and engaged in private practice in, the State of New York, United States of America. Before his appointment he shall have given an assurance (either on oath or binding as a matter of professional conduct) to discharge the office of arbitrator impartially. The arbitration shall be conducted in the English language in New York, New York, the United States of America. If the arbitrator dies, resigns, refuses to arbitrate or becomes incapable of arbitrating, Licensing Company shall request the arbitrator to appoint a new arbitrator. If arbitration had already commenced prior to the new arbitrator being appointed, it shall continue as if the new arbitrator had been acting from the beginning. The arbitrator shall use his/her best endeavors to issue a final award within twenty (20) days of his/her appointment. Procedural matters not specified in this Section 24.15, including costs of the arbitration, shall be determined by the arbitrator. No party hereto may apply to a Court to determine any question of law arising in the course of, or otherwise in relation to, the arbitration, or appeal to a Court on a question of law relating to an award.

Reference Copy

**AS WITNESS**, the parties hereto have caused this Registration Agreement to be executed in duplicate on the date first written above by their duly authorized representatives.

LICENSING COMPANY:

**ONE-BLUE, LLC**

\_\_\_\_\_

Name:

Title:

Date:

BRAND OWNER:

**[insert BRAND OWNER NAME]**

\_\_\_\_\_

Name:

Title:

Date:

MANUFACTURER:

**[insert MANUFACTURER NAME]**

\_\_\_\_\_

Name:

Title:

Date:

Reference Copy

## APPENDIX A

### PBL STANDARD TERMS AND CONDITIONS

Except as expressly agreed to the contrary, the provisions of any Per-Batch License concluded between the Brand Owner and Licensing Company shall be as follows.

Licensing Company, Brand Owner and Manufacturer have previously entered into a *Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner* (“Registration Agreement”). The Applicant has submitted the Application for a Per-Batch License on behalf of Brand Owner.

Licensing Company and Brand Owner hereby agree as follows:

#### **1. Definitions**

- 1.1 All capitalized terms used in this Per-Batch License shall have the meaning ascribed thereto in the Registration Agreement.
- 1.2 “*Applicant*” means the entity that submitted the Application, being a Manufacturer or a Manufacturer’s Registered Affiliate.

#### **2. Grant of License**

- 2.1 *Licensed Patents*. Subject to the provisions of this Per Batch License and the Registration Agreement, Licensing Company grants to Brand Owner and Brand Owner’s Affiliates, on behalf of Licensors, a non-transferable, non-exclusive license, under Licensed Patents to transfer, sell, offer(ed) for sale, have manufactured by Manufacturer or Manufacturer’s Registered Affiliates for Brand Owner and Brand Owner’s Affiliates, import, use or otherwise dispose of the Brand Owner Products identified in the Application. The license conferred pursuant to this Section 2.1 applies only to the extent the structure, features and functions of a BD Brand Owner Product are used to practice the BD-R/RE Disc Standards and said license does not extend to any structure, features of functions of a BD Brand Owner Product not used to practice the BD-R/RE Disc Standards.
- 2.2 *Registration Logo*. Subject to the provisions of this Per-Batch License and the Registration Agreement, Licensing Company grants to the Brand Owner and Brand Owner’s Affiliates a non-transferable, non-exclusive license, under Licensing Company’s intellectual property rights in the Registration Logo, for Brand Owner, Brand Owner’s Affiliates, Manufacturer, and Manufacturer’s Registered Affiliates to transfer, sell, offer for sale, import, use or otherwise dispose of the Brand Owner Products identified in the Application in accordance with the Registration Logo Guide.

- 2.3 *Have Made Rights.* Brand Owner and Brand Owner's Affiliates may have Brand Owner Product made for them by Manufacturer or Manufacturer's Registered Affiliates for the sole purpose of Brand Owner and Brand Owner's Affiliates exercising the license set forth in Section 2.1 provided that Manufacturer is and remains in compliance with the Registration Agreement. Otherwise, Brand Owner and Brand Owner's Affiliates are not permitted to authorize Manufacturer, Manufacturer's Registered Affiliates, or any third party to make Brand Owner Product.

### 3. **Retail Packaging**

Manufacturer may use the Registration Logo on retail packaging containing Brand Owner Products identified in the Application provided that:

- (a) all Brand Owner Products included in such retail packaging bear the Registration Logo; and
- (b) the Registration Logo is reproduced on such retail packaging in accordance with the Registration Logo Guide.

### 4. **Limitation of License**

No licenses are granted under Sections 2.1 or 2.2 for:

- (a) the benefit of any entity other than Brand Owner and Brand Owner's Affiliates;
- (b) any product other than the Brand Owner Products specified in the Application;
- (c) any intellectual property right other than rights in the Licensed Patents and the Registration Logo;
- (d) any act that is not in accordance with the Application;
- (e) for the manufacture of any Brand Owner Product by any entity other than Manufacturer or Manufacturer's Registered Affiliates (by way of example and not limitation, neither Brand Owner nor Brand Owner's Registered Affiliates have the right to manufacture Brand Owner Product).

**5. Royalty Rate and Payment**

- 5.1 Subject to the provisions of Section 9 of the Registration Agreement, the royalty rate for each Product covered by this Per-Batch License shall be the Standard Rate.
- 5.2 The royalties shall be paid in accordance with the provisions of Section 9 of the Registration Agreement.

**6. Miscellaneous**

The provisions of the Registration Agreement shall apply *mutatis mutandis* to this Per-Batch License.

Reference Copy

**APPENDIX B**

LICENSED STATUS CONFIRMATION DOCUMENT

**One-Blue, LLC**

**LICENSED STATUS CONFIRMATION DOCUMENT**

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

**Issue Number:** \_\_\_\_\_

**TO WHOM IT MAY CONCERN**

This Licensed Status Confirmation Document (LSCD), whether in hard copy or in electronic form, confirms that the transfer to the recipient specified below, of the specific Products identified below, is licensed by One-Blue, LLC on behalf of Licensors under Essential Licensor Patents made available to the Applicant as well as the trademark rights in the Registration Logo.

**Applicant:**

**Registration Number(s):**

**Products:**

**Quantity:**

**Brand name:**

**Country in which Shipment originated:**

**Country of Destination:**

**GTIN /UPC /EAN:**

**Additional Information:**

One-Blue, LLC has issued this LSCD based on Applicant's representation to One-Blue, LLC that the above information is accurate and complete. Applicant remains fully responsible for the continued accuracy and completeness thereof. One-Blue, LLC expressly reserves the right to revoke this LSCD in the event that any information provided to One-Blue, LLC in connection with this LSCD is inaccurate, incomplete or untrue. Subject to section 4.4 of the "Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner" between [insert Brand Owner Name] and One-Blue, LLC dated [insert Date], this LSCD shall only be valid if issued prior to the Shipment.

If you have any doubts concerning the authenticity of this LSCD, please contact One-Blue, LLC at [info@One-Blue.com](mailto:info@One-Blue.com).

**One-Blue, LLC**

© One-Blue, LLC 2010. The contents of this LSCD are protected by copyright owned by One-Blue, LLC. You may download or copy this LSCD only for the purpose of confirming the licensed status of the transfer of the Products specified above. Any modification of this document or the offering for sale in any form is strictly prohibited and will render this document void.

Reference Copy



**APPENDIX C**

**REGISTERED AFFILIATES**

**1. Registered Affiliates of Brand Owner:**

**2. Registered Affiliates of Manufacturer:**

Reference Copy

**APPENDIX D**

CONFIRMATION OF BILATERAL AGREEMENT

**[insert Date]**

One-Blue, LLC  
520 White Plains Road, Suite 500  
New York, NY 10591  
USA  
Attn: Royalty Offsetting Administration

Dear Sirs:

We hereby request you to make the royalty adjustment of the “*Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner*”, reflecting the Bilateral Agreement between **[insert Licensor of the Bilateral License Arrangement]** and our company dated **[insert Effective Date of the License Arrangement]**, the relevant terms and conditions of which are provided below.

Our request for royalty adjustment and confirmation of the existence of the Bilateral Agreement covering Brand Owner Products, between **[insert Licensor of the Bilateral License Arrangement]** and our company, was acknowledged and agreed by **[insert Licensor of the Bilateral License Arrangement]**, a duly authorized signature of which is indicated below. (The terms used herein shall have the meaning set forth in the “*Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner*”.)

(i) Scope of Products. Please mark the relevant boxes which are subject to the Bilateral Agreement:

- BD-R Discs
- BD-RE Discs
- BDXL-R Discs
- BDXL-RE Discs
- other **[insert descriptions here]** ]

(ii) Scope of Patents. Please mark the relevant boxes which are subject to the Bilateral Agreement:

- all Licensed Patents with respect BD Standards for the products marked above.
- other **[insert descriptions here]** ]

(iii) The term of Bilateral Agreement.

from **[insert Date]** to **[insert Date]**

Yours sincerely,

\_\_\_\_\_  
[insert Name of Signatory]  
[insert Title, etc.]  
[insert Name of Brand Owner]

**Acknowledged and Agreed:**

**By (sign):** \_\_\_\_\_

**Name (print):** \_\_\_\_\_

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

**Company:** \_\_\_\_\_

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

Reference Copy

**APPENDIX E**

CONFIRMATION LETTER

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

The Brand Owner/Manufacturer, **[insert Brand Owner/Manufacturer Name]**, represents and confirms that, for the calendar year **[insert Year]**:

Except as set out in the Exceptions Report below:

All Brand Owner Products acquired by Brand Owner/Manufacturer and its Registered Affiliates were properly covered by an LSCD;

All Brand Owner Products included by Brand Owner/Manufacturer and its Registered Affiliates in a Shipment were properly covered by an LSCD;

All information provided by Manufacturer and Registered Affiliates in each Application, and all other information provided by Brand Owner/Manufacturer and its Registered Affiliates in connection with all Per-Batch Licenses and LSCDs, was and is true, accurate and complete in every respect;

The number of Brand Owner Products that have been stolen, confiscated, lost, or destroyed, are reported in the Exceptions Report below.

Signed

\_\_\_\_\_  
**Authorized Officer of [insert Brand Owner/Manufacturer Name]**

**Exceptions Report**

[•]

## APPENDIX F

### AUDIT GUIDE

This Audit Guide lays down the conditions under which audits are to be performed and audit statements generated by Brand Owner/Manufacturer's external auditors on the Confirmation Letter or on the Official Past Use Report pursuant to Sections 9.10 and 9.11, respectively, of the "*Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner*" between Brand Owner/Manufacturer and Licensing Company. This Audit Guide may be amended by Licensing Company from time to time.

#### 1. Auditor's Qualifications

The auditor appointed by Brand Owner/Manufacturer to issue an audit statement on the Confirmation Letter or on the Official Past Use Report shall, where Brand Owner/Manufacturer appoints an auditor on a regular basis to issue an auditor's opinion on the financial statements of Brand Owner/Manufacturer, be the same auditor, unless reasonable explanation to the contrary; and, in any event, the auditor shall be:

- (a) a certified public auditor, chartered accountant or registered accountant (as these terms are generally known in the United States, the United Kingdom and The Netherlands respectively) or holding an equivalent professional qualification in the country in which the auditor practices;
- (b) a member of a well-respected firm, preferably one of KPMG, PricewaterhouseCoopers, Deloitte Touche Tohmatsu and Ernst & Young (or any of their successors); and/or
- (c) a member of the American Institute of Certified Public Accountants (**AICPA**), the Institute of Chartered Accountants in England & Wales (**ICAEW**), or Koninklijk Nederlands Instituut van Registeraccountants (**NIVRA**) (whichever of these associations governs accounting in the country in which the auditor practices), or a member of a professional body of similar standing where this is not practicable.

#### 2. Opinion

The audit statement on the Confirmation Letter or on the Official Past Use Report shall be in the form of the Independent Audit Statement set out in Schedule 1.

**Schedule 1**  
**Independent Audit Statement**

Independent Audit Statement to the Directors and/or Management of  
**[insert Brand Owner/Manufacturer Name]**, *The Brand Owner/Manufacturer*

We have audited the attached report (the **[insert either Confirmation Letter or Official Past Use Report]**) relating to the Shipments of Brand Owner Products by Brand Owner/Manufacturer (and its Registered Affiliates), as reported by Manufacturer to Licensing Company under the “*Registration Agreement for BD-R and/or BD-RE Disc Manufacturer and Brand Owner*” between them dated **[insert Date]** (the *Registration Agreement*). The **[insert Confirmation Letter or Official Past Use Report]** has been duly initialed by us for identification purposes and relates to the period starting **[insert Date]** and ending **[insert Date]**.

**1. Respective Responsibilities of Directors, Management and Auditors**

The directors and/or management are responsible for preparing the **[insert either Confirmation Letter or Official Past Use Report]** in accordance with the terms of the Registration Agreement, so as to set out completely and accurately the information required to be reported under the Registration Agreement for the period **[insert Date]** through **[insert Date]**.

Our responsibility is to express an opinion on the completeness and accuracy of the **[insert either Confirmation Letter or Official Past Use Report]** based on our audit of Brand Owner/Manufacturer’s (and/or its Registered Affiliates’) books and records and other aspects of its manufacturing and distribution operations.

This audit statement is intended for use by the board of directors and management of Brand Owner/Manufacturer for the purpose of its reporting requirements under the Registration Agreement and therefore may only be made available by Brand Owner/Manufacturer to Licensing Company (and its Affiliates), as defined in the Registration Agreement. We consent to such distribution on the understanding that under no circumstances shall we accept any liability or responsibility to Licensing Company (or its Affiliates), or to any other party to whom our report is made available, whether or not intentionally and whether or not by Brand Owner/Manufacturer or Licensing Company (or either of their Affiliates). This audit statement may not be made available to any other party without our prior written consent.

**2. Basis of Audit Opinion**

We have conducted our audit in accordance with those elements of generally accepted international standards on auditing that are relevant for the purposes of forming an opinion on the completeness and accuracy of the Confirmation Letter. These standards require that we:

- (a) plan and perform the audit in order to make ourselves satisfied that the **[insert either Confirmation Letter or Official Past Use Report]** is free of material mistakes, misstatements or other inaccuracies;
- (b) examine, on a test basis, evidence supporting the statements made in the **[insert either Confirmation Letter or Official Past Use Report]**;
- (c) assess the appropriateness of the accounting principles adopted in preparing the **[insert either Confirmation Letter or Official Past Use Report]** and the accuracy of significant estimates made in the **[insert either Confirmation Letter or Official Past Use Report]** by the management of Brand Owner/Manufacturer; and
- (d) evaluate the overall presentation of the **[insert either Confirmation Letter or Official Past Use Report]**.

We believe that the method adopted in our audit provides a reasonable basis for issuing our statement.

### 3. Statement

In our opinion, the **[insert either Confirmation Letter or Official Past Use Report]** sets out completely and accurately (in all material respects) the information required to be reported by Brand Owner/Manufacturer under the Registration Agreement for the period **[insert Date]** through **[insert Date]**.

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(signed)

**[insert Name of Audit Firm]**

**[insert City]**

**[insert Date]**

**Attachment: [insert either Confirmation Letter or Official Past Use Report] (\_\_\_ pages)**

## APPENDIX G

### PAYMENT OF PATENT EXPERT FEES

Registered Party shall pay the fees and expenses of the Patent Expert for the evaluation of the subject Patent, in the following cases:

1. Registered Party requests Patent Expert to evaluate a Patent listed on the Essential Licensor Patent List to determine whether the Patent qualifies as either a Technically Essential Patent or a Commercially Essential Patent, and the Patent Expert determines the Patent to qualify as either a Technically Essential Patent or a Commercially Essential Patent; and
2. Registered Party submits a “Notification of Challenge” (as defined hereinafter) regarding the subject Patent.

“*Notification of Challenge*” means a Registered Party’s document to be submitted to the Licensing Company to indicate its objection and contention pursuant to Section 21.1 of this Registration Agreement to the inclusion or exclusion of any Patent owned by Licensors as a Technically Essential Patent or a Commercially Essential Patent in or from the Essential Licensor Patent List, and which explains the Registered Party’s contention in sufficient detail to enable a Patent Expert to evaluate the subject Patent and resolve the contention. If the objection relates to Commercially Essential Patent(s), the contention shall explain why the Registered Party believes in good faith that as a practical matter there is (in the case of objection to inclusion of a Patent on the Essential Licensor Patent List) or there is not (in the case of objection to exclusion of a Patent from the Essential Licensor Patent List) an economically viable substitute to implement the relevant BD Standards, the DVD Standards or the CD Standards to which the Patent pertains.



## APPENDIX H

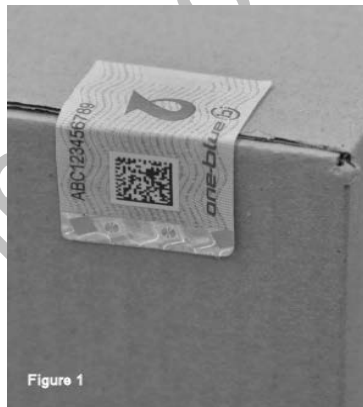
### SERIAL NUMBER LABEL GUIDE

#### 1. Introduction

Terms with initial capital letters used in this Serial Number Label Guide have the meaning set forth in the Registration Agreement.

Brand Owner may, at its sole option, direct Manufacturer or its Registered Affiliate to apply a Serial Number Label, as shown in Figure 1, on Master Cartons of Shipments of Brand Owner Products. However, the placement of a Serial Number Label on Master Cartons is not a condition precedent to the grant of a Per-Batch License and the issuance of an LSCD in relation to Brand Owner Products.

This Serial Number Label Guide sets forth the rules for the attachment of the Serial Number Labels to the Master Carton in which the Brand Owner Products are enclosed and further specifies the rules for procuring Serial Number Labels. It also includes reporting instructions for damaged Serial Number Labels.



#### 2. Rules for attaching Serial Number Labels

If Brand Owner desires to use Serial Number Labels, such labels shall be obtained only from Licensing Company or a supplier that has been designated by Licensing Company (hereinafter referred to as “Authorized Supplier”), and such labels shall be attached to Master Cartons, in the following manner:

- (a) the Serial Number Label shall be attached directly to the Master Carton, without an intermediate layer between the Serial Number Label and the Master Carton;

- (b) the Serial Number Label shall be visible on the outside of the Master Carton, as shown in Figure 1;
- (c) the Serial Number Label shall be placed in such way that the Serial Number Label will be torn when the Master Carton is opened.

### **3. Rules for procuring Serial Number Labels**

Manufacturer or its Registered Affiliate shall order the Serial Number Labels from Licensing Company or Authorized Supplier pursuant to a written request on the DISP, specifying the required quantities.

Manufacturer shall not order more and shall not keep in stock more Serial Number Labels than it would attach to an amount of Master Cartons equivalent to the amount of Brand Owner Products manufactured in a regular production cycle in a period of six (6) months.

Serial Number Label details and ordering will be available through the Website. Login and proper authorization may be required.

Licensing Company shall procure that Authorized Supplier will make commercially reasonable efforts to process all orders for Serial Number Labels within a time period of five (5) working days. Manufacturer acknowledges that Authorized Supplier will only deliver to the address of Manufacturer, known to Authorized Supplier. However, Licensing Company shall not be obligated to procure such reasonable efforts, or direct Authorized Supplier to fulfill orders from Manufacturer or its Registered Affiliate, if Manufacturer or any of its Registered Affiliates are in breach of this Serial Number Label Guide or any other provision of the Registration Agreement, or if a creditor or other claimant takes possession of, or a receiver, administrator or similar officer is appointed over, any of the assets of Manufacturer or its Registered Affiliate, or Manufacturer or its Registered Affiliate makes any voluntary arrangement with its creditors or becomes subject to any court or administration order pursuant to any bankruptcy or insolvency law.

The shipping costs related to the Serial Number Labels shall be due and payable by Manufacturer no later than (thirty) 30 days from date that Licensing Company or its Authorized Supplier invoices Manufacturer or its Registered Affiliate.

Manufacturer and its Registered Affiliate shall be solely responsible for payment of all import duties or taxes related to the delivery of Serial Number Labels to Manufacturer or its Registered Affiliate.

### **4. Reporting Missing and Damaged Serial Number Labels**

In accordance with Section 16.1 of the Registration Agreement, Manufacturer or its Registered Affiliate shall report the number of Missing Serial Number Labels promptly to Licensing Company by using the appropriate section for reporting of Missing Serial Number Labels on the DISP, providing sufficient details for Licensing Company to understand the relevant circumstances, quantities of the Missing Serial Number Labels and the numbers mentioned on the Missing Serial Number Label(s).

If Manufacturer or its Registered Affiliate receives from Licensing Company or its Authorized Supplier, any Serial Number Labels which have been damaged, and are not usable, Manufacturer or its Registered Affiliate shall identify such damaged Serial Number Labels to Licensing Company, specifying that the Serial Number Labels were already damaged upon receipt. After the receipt of such notice from Manufacturer, containing evidence that the Serial Number Labels were damaged, Licensing Company shall provide replacement Serial Number Labels. In addition, Licensing Company may require Manufacturer to follow additional instructions provided by Licensing Company with respect to such Serial Number Labels. A Serial Number Label is considered “damaged”, for the purposes of this definition only, if it cannot be attached in a manner that permits a person to clearly discern the information on the label. By way of example and not limitation, a label would be considered damaged for the purposes of this definition if has lost its adhesive properties, it has a significant portion torn from it, or the Registration Logo is significantly obscured.

## APPENDIX I

### REGISTRATION LOGO GUIDE

#### 1. Introduction

Terms with initial capital letters used in this Registration Logo Guide have the meaning set forth in the Registration Agreement.

The proper placement of the Registration Logo and the appropriate Registration Number on Brand Owner Products is a condition precedent to the grant of a Per-Batch License and the issuance of an LSCD in relation to Brand Owner Products. Therefore, Manufacturer must embed the Registration Logo and the appropriate Registration Number on each Brand Owner Product it Ships.

This Registration Logo Guide sets forth the rules for the proper application of the Registration Logo and the Registration Number.

#### 2. Rules for embedding the Registration Logo and the Registration Number

- (a) *General.* The Registration Logo and the Registration Number must always be used as described in this Registration Logo Guide. Except as specifically set forth herein, any user created additions, deletions, variations or modifications to any part of the Registration Logo and the Registration Number are strictly forbidden.
- (b) *Color.* The Registration Logo is reproduced in either black (on a light background) or white (on a dark background). On products where only one-color printing is being used, or where the appearance of the Registration Logo is obtained by moulding or reflection, the Registration Logo may appear in the basic color used, or in the texture or reflection level used. In case of obtaining the Registration Logo by moulding or reflection, texture or reflection levels must be uniform across the entire Registration Logo.

The color of the Registration Logo, its background color and intensity must be uniform across the entire Registration Logo. Shadows or graphic effects are not allowed.

- (c) *Clear Zone.* The complete Registration Logo and the Registration Number must be utilized, maintaining a clear zone. A clear zone is an area in which no other graphical or textual elements appear. The clear zone is defined as at least the width of the Registration Logo. The Registration Logo may not be enclosed in any kind of border, box or frame. No text, slogan, etc. may be added to it. The complete Registration Logo must therefore be used on its own.

Between the Registration Logo and the Registration Number a clear zone is to be maintained of half the width of the Registration Logo.

- (d) Appearance. The Registration Logo shall be legible and readable with the naked human eye from the readout side of the disc. The Registration Logo and the Registration Number shall be applied in the area between 15 mm and 41.6 mm or greater (only if Registered Party cannot comply with such outside limit of 41.6 mm based on its standard design restrictions and, in such case, the new outside limit shall be as close as possible to such outside limit of 41.6 mm as permitted pursuant to its standard design restrictions) by means of moulding and/or printing, taking the applicable system description into account.

In case the Registration Number is already available on the disc by moulding, only the Registration Logo shall be applied.

- (e) Size. The Registration Logo may be reduced or enlarged on the condition that the same relative positions and proportions between the respective elements (aspect ratio) are maintained and that the Registration Logo is legible and readable with the naked human eye from the readout side of the disc. The indicated aspect ratio (+/- 5%) and the minimum size shall be maintained. There is no maximum size.

### 3. The Registration Logo



Size/Aspect Ratio Registration Logo:

Height = 1.2 x Width  
Min. Height = 1.0 mm

### 4. The Registration Number

The Registration Number is assigned to the production facility. The Registration Number is a 4-6 Character code.

The font type used for the Registration Number is Arial Bold or Helvetica Bold, with a character height of approximately 0.5 x of the width of the Registration Logo.

Note: If the area which may contain the Registration Logo has a circle shape, then the Registration Logo may follow this curve.

Reference Copy

**APPENDIX J**

**MANUFACTURING EQUIPMENT LIST**

Name of Manufacturer: \_\_\_\_\_

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

Initial for identification purposes only: \_\_\_\_\_

This Manufacturing Equipment List contains \_\_\_\_\_ pages specifying:

The number of production systems: \_\_\_\_\_

The number of moulds: \_\_\_\_\_

I hereby represent that the information provided in this Manufacturing Equipment List is true, complete and accurate in every respect.

Signed for and on behalf of:

**[insert Manufacturer Name]** and its Registered Affiliates

\_\_\_\_\_

Name:

Title:

**Manufacturing Equipment List – Brand Owner Products**

**Name of Manufacturer:** \_\_\_\_\_

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

System reference: .....  Location: .....  Company name: .....	Type: .....																
Date of installation/commissioning: .....	Supplier: .....  Serial number: .....																
This production system is suitable for   																	
<p><b>Injection moulding equipment</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 30%;">Serial number</th> <th style="width: 30%;">Supplier</th> <th style="width: 30%;">Reference</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td></td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td></td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td></td> </tr> </tbody> </table>			Serial number	Supplier	Reference	1.	.....	.....		2.	.....	.....		3.	.....	.....	
	Serial number	Supplier	Reference														
1.	.....	.....															
2.	.....	.....															
3.	.....	.....															



<b>Moulds</b>				
	Serial number	SID code	Supplier	Additional Information
1.	.....	.....	.....	
2.	.....	.....	.....	
3.	.....	.....	.....	

<b>Dye-coating, sputtering and lacquering equipment</b>				
	Type of equipment	Serial number	Supplier	Additional Information
1.	.....	.....	.....	
2.	.....	.....	.....	
3.	.....	.....	.....	

Reference Copy