

BYLAWS
OF
ENTERTAINMENT MERCHANTS ASSOCIATION, INC.

Effective April 21, 2006

(A Delaware nonprofit corporation, hereinafter called the “Association”)

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ARTICLE I

PURPOSES

The purposes for which this Association is formed are trade association purposes including, but not limited to: promoting the common business interests of those engaged in the sale, rental, and licensed reproduction of entertainment software such as motion pictures, video games and sound recordings, and in the provision of related products and services. Notwithstanding any other provision of this Article or of the General Corporation Law of the State of Delaware, however, the Association shall not pursue any purpose or carry on any activities not permitted to be pursued or carried on by a corporation described in Section 501(c)(6) of the Internal Revenue Code of 1986 and exempt from Federal income tax under Section 501(a) thereof (or the corresponding provisions of any future United States Internal Revenue law) or not permitted to be pursued or carried on by a tax exempt corporation under the laws of Canada.

ARTICLE II

OFFICES

The Association may have such office(s) at such place(s), both within and without the State of Delaware as the Board of Directors from time to time determines. The President of the Association shall be in charge of each such office.

ARTICLE III

MEMBERSHIP

A. General

Section 1. Any individual, partnership, or corporation engaged in whole or in part in the business of selling, leasing, renting, or offering licensed reproductions of home entertainment software such as motion pictures, video games and sound recordings at wholesale or retail, or engaged in the franchising of home entertainment software retail outlets, shall be eligible to apply to the Board of Directors for “Regular” membership in the Association. Regular members shall have full voting rights only on such matters as may, in the sole discretion of the Board of Directors, be presented for approval to the membership, but in no event shall have any voting rights with respect to proposed amendments to the Certificate of Incorporation or these Bylaws, these being the exclusive province of the Board of Directors.

Section 2. There shall also be a class of membership designated as “Associate” membership. Associate membership shall be open to libraries, trade associations, educational, religious, governmental, and not-for-profit institutions and to suppliers of products and services to the Regular membership. Acceptance, rejection, termination and reinstatement of Associate membership shall be on the same basis as prescribed for Regular membership; however, an Associate member shall not be entitled to voting rights on matters presented for approval to the membership.

Section 3. There shall be a category of Associate membership designated as “Individual” membership. Individual membership shall be open to any person employed by a company eligible to apply for Regular or Associate membership and having 100 or more employees, but who is not a principal or officer of the company.

Section 4. Any eligible party desiring to apply for membership in the Association shall make application in the manner the Board of Directors may from time to time prescribe.

Section 5. All applications for membership in the Association shall be subject to the approval of the Board of Directors. In passing upon any such application, the Board of Directors shall be authorized to take into consideration any matters pertaining to the applicant's financial condition, business reputation, or any other matter which the Board of Directors shall believe to be properly pertinent to the applicant's request for membership, provided, however, that if an action of the Board of Directors taken without a meeting indicates rejection of an application, said rejection shall not become final unless the decision to reject is ratified by the Board of Directors at a meeting held pursuant to Article VI of these Bylaws.

Section 6. Any membership may be suspended or terminated for cause. Sufficient cause for such suspension or termination of membership shall be violation of these Bylaws or any lawful rule or practice duly adopted by the Association, or any other conduct prejudicial to the interests of the Association. Except as provided in Subsection B of this Article, suspension or expulsion shall be by two-thirds (2/3) vote of the entire Board of Directors provided that a statement of the charges shall have been sent by certified or registered mail to the address of the member as recorded on the books of the Association at least twenty (20) days before final action is taken thereon. This statement shall be accompanied by a notice of the time and place of the meeting of the Board of directors at which the charges shall be considered. The member shall be afforded a reasonable period within which to submit a written statement in response to such charges before action is taken thereon, and the Board of Directors may, by majority vote, provide such member an opportunity to appear in person, be represented by counsel, and be heard in response to such charges before action is taken thereon.

B. Copyright Infringement

Section 1. For purposes of this Article III-B, "applicant" or "member" means a company, its officers, directors or principal owners, and "copyright infringement" shall include violation of state truth in labeling statutes (also known as "true name and address" statutes) involving motion pictures, video games or sound recordings.

Section 2. Unless good cause is shown to the contrary, an applicant for membership in or member of the Association who has been convicted of copyright infringement of a motion picture, video game or sound recording is ineligible to join the Association (in the case of an applicant) or shall be suspended from membership (in the case of a member), for a period of five years from the date of conviction.

Section 3. Unless good cause is shown to the contrary, an applicant for membership in or member of the Association who has been the defendant in a civil lawsuit which alleges copyright infringement of a motion picture, video game or sound recording, wherein a judgment has been rendered against that defendant, is ineligible to join the Association (in the case of an applicant) or shall be suspended from membership (in the case of a member), for a period of three years from the date of that judgment.

Section 4. An applicant for membership in or member of the Association who

has been the defendant in a civil lawsuit which alleges copyright infringement involving a motion picture, video game or sound recording, wherein the defendant has admitted engaging in such copyright infringement as part of a settlement of the lawsuit, is ineligible to join the Association (in the case of an applicant) or shall be suspended from membership (in the case of a member), for a period of one year from the date of that settlement.

Section 5. An applicant for membership in the Association who is or may be ineligible for membership under Subsections B.1 through B.5; within the seven (7) years preceding such application has been charged with a criminal copyright infringement offense involving a motion picture, video game or sound recording; has been named a defendant or cross-defendant in a civil action charging copyright infringement involving a motion picture, video game or sound recording; has ever been convicted of copyright infringement of a motion picture, video game or sound recording, or found civilly liable for such infringement; or has admitted, in settlement of a lawsuit, to having engaged in copyright infringement of a motion picture, video game or sound recording, shall notify the Association in writing of these facts upon application. Failure to do so may result in a denial of eligibility to join the Association for a term of one to five years, as determined by the Board of Directors.

Section 6. It shall be incumbent upon any member of the Association to immediately notify the Association upon any of the following events:

- i) the initiation of criminal charges against such Association member on the basis of copyright infringement of a motion picture, video game or sound recording;
- ii) the filing of any lawsuit against such member which alleges copyright infringement of a motion picture, video game or sound recording by the Association member;
- iii) the resolution of any lawsuit involving the member which alleges copyright infringement of a motion picture, video game or sound recording by such Association member, whether it be a finding for the plaintiff or defendant, or a settlement of the suit.

Failure to make aforementioned notification may result in a suspension of the member of the Association for a term of one to five years, as determined by the Board of Directors.

ARTICLE IV

MEETING OF MEMBERS

Section 1. An annual meeting of the members of this Association shall be held at and during the Association's annual convention at which time the members shall transact such business as may, in the sole discretion of the Board of Directors, properly be brought before the meeting; provided, however, that the Board of Directors may from time to time change the date or the place of such meeting, provided at least thirty (30) days written notice of such change is given to each member of the Association.

Section 2. Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Chairman at his or her

discretion, upon a resolution approved by a two-thirds (2/3) vote of the entire Board of Directors or upon a petition signed by twenty-five percent (25%) of the regular members of the Association. The call of any such meeting shall state the purpose or purposes of the proposed meeting.

Section 3. Notice of special meetings of the members of the Association shall be given by written notice to each member of record, directed to his or her address as shown upon the books of the Association, at least ten (10) days prior to the date of such meeting. Such a notice shall state the date, place and purpose of the meeting, but no failure or irregularity of notice of any Annual Meeting scheduled and held pursuant to Section 1 of this Article shall affect any proceedings taken thereat.

Section 4. Fifteen percent (15%) of the Regular members of this Association present in person, or represented by proxy, shall constitute a quorum for the transaction of business except as otherwise provided by statute, by the Certificate of Incorporation, or by these Bylaws.

Section 5. At any meeting of the members of this Association, every Regular member shall be entitled to vote on such matters as put before them, in person, by written ballot where authorized by the Board of Directors, or by proxy appointed by the instrument in writing subscribed by such member and bearing a date not more than thirty (30) days prior to such meeting. Each Regular member shall have one (1) vote irrespective of the number of persons, partners, officers or directors associated with the sole proprietorship, partnership or corporation to which a membership in the Association has been granted.

Section 6. When a quorum is present at a meeting of the members, the vote of the majority of the Regular members present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of any statute, the Certificate of Incorporation or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

ARTICLE V

DIRECTORS

Section 1. Board of Directors. There shall be a Board of Directors of the Association, consisting of no less than five (5) and no more than twenty-four (24) members. The Board of Directors shall designate those member companies that are entitled to appoint an individual to the Board of Directors. The composition of the Board shall strive to fairly represent each segment of the home entertainment retailing sector in relative proportion.

Section 2. Qualifications. To be eligible to appoint an individual to the Board, a company must be a Regular member of the Association. An individual appointed to serve as a Director shall be either a sole or majority owner, general partner or a full-time employee of the company designated. For the purposes of this Section, "full-time employee" is defined to mean an employee who devotes full time and effort to the interests of the member employer.

Section 3. Nominations. Nominations for a member company to be

designated to appoint an individual to serve on the Board may be made by any Director. All members of the Board of Directors shall be given written notice of nominations of companies to be entitled to appoint a Director, whether made by the Nominations Committee or by a member of the Board of Directors, at least five days before the date on which the Board of Directors shall vote on the nomination.

Section 4. Appointment.

- (a) Member companies shall be designated to appoint an individual to serve on the Board of Directors upon the favorable vote of a majority of the entire Board of Directors, except that the appointee of a member company under consideration for designation shall neither vote nor be counted in determining a majority of the entire Board of Directors for the purpose of such designation. A minimum of two (2) Directors from among the independent retailer members, as that term is defined in Article XIV, Section 7(d), shall be appointed upon the recommendation of the Board of Trustees of the Independent Dealers of Entertainment Association.
- (b) The Chairman of the Board of Trustees of the Independent Dealers of Entertainment Association shall serve as a Director, *ex officio*. The provisions of Section 3, Section 5(a), and Section 6 of this Article shall not apply to such Director.

Section 5. Term of Service.

- (a) Directors shall serve staggered terms of three (3) years each. Terms shall commence at the annual organizational meeting of the Board.
- (b) The Board of Directors may, by a majority vote of the entire Board, expand the size of the Board for one year in order to appoint to Board membership one immediate previous Officer of the Board whose term on the Board has expired.
- (c) The Board is authorized to take necessary steps to implement fully the three (3) year rotation system for appointments to the Board established by these Bylaws, including, if necessary, the provision of less than three (3) year terms for certain appointments if necessary to establish such rotation system.

Section 6. Vacancies. Any vacancy occurring on the Board of Directors prior to the completion of a designated term may be filled for the remainder of the unexpired term by a vote of the majority of the remaining Directors.

Section 7. Conflict of Interest.

- (a) Any Director having direct and substantial interest in a matter being considered by the Board shall disclose that such an interest exists and abstain from discussion of, or voting on, the matter. Any Director who, with knowledge of a personal financial interest in the outcome, fails to disclose such interest and participates in a vote on such matter shall be subject to removal from the Board of Directors.
- (b) At the beginning of the Association year, each Director shall sign a

statement acknowledging that he or she has read and understood this Section and that Directors are subject to sanctions including dismissal from the Board for failing to disclose interests for which disclosure is required by these Bylaws.

ARTICLE VI MEETING OF THE DIRECTORS

Section 1. The Directors of the Association may hold their meetings, both regular and special, either within or without the State of Delaware.

Section 2. Regular meetings of the Board may be held upon such notice and at such time and place as shall from time to time be determined by the Board.

Section 3. Special meetings of the Board may be called by the Chairman on five (5) days notice to each Director, either personally or by mail. Special meetings of the Board shall be called by the Chairman or Secretary in like manner and on like notice upon the written request of a majority of the Directors. All such notices shall state the purpose or purposes of the proposed meeting.

Section 4. At all meetings of the Board of Directors of the Association the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board of Directors, except as may be otherwise specifically provided in Section 5, in Article XIV, by statute or by the Certificate of Incorporation, and except for the following matters which shall require a favorable vote of two-thirds (2/3) of the entire Board of Directors:

- (a) The establishing and instituting of any membership initiation fees, annual dues, or mandatory assessments except as hereinafter provided in Article X, Section 2.
- (b) The call of a special meeting of members pursuant to Article IV, Section 2.
- (c) The termination or reinstatement of membership in the Association.
- (d) Censure or removal of a Board Member pursuant to Article VI, Section 9.
- (e) Amendment of the Association Certificate of Incorporation pursuant to Article XV, Section 5.
- (f) Removal of a Director, for violation of these Bylaws.

Section 5. The removal or discharge of an elected officer (Chairman, Vice Chairman, Secretary, or Treasurer) prior to the expiration of the officer's term of office, or of the appointed officer (President) prior to the expiration of his or her contract of employment, shall require a favorable vote of a majority of the entire Board of Directors.

Section 6. Directors shall not be entitled to compensation for their services as directors but shall be entitled to reimbursement of reasonable expenses incurred by them in attending directors meetings. Any director may waive compensation for any meeting. No Director shall be barred from serving the Association in any other capacity or from

receiving compensation and reimbursement of reasonable expenses for any or all such other services.

Section 7. Any action required or permitted to be taken at any meeting of the Board of Directors other than rejection of an application for membership under Article III, Section 4 or suspension or termination of membership under Article III, Section 5, may be taken without a meeting and without prior notice if a written consent in lieu of such meeting which sets forth the action so taken is signed either before or after such action by all directors. All written consents shall be filed with the minutes of the Board's proceedings. Such consents may be given by electronic mail.

Section 8. The Board of Directors may participate in meetings by means of conference telephone or similar communications equipment, whereby all directors participating in the meeting can hear each other at the same time, and participation in any such meeting shall constitute presence in person by such director at such meeting. A written record shall be made of all actions taken at any such meeting.

Section 9. The Chairman and the President and such persons to whom either has expressly delegated authority, shall be the only persons authorized to speak on behalf of the Association or the Board of Directors, either directly or indirectly, to Association members, the public, the press or other media. The Board shall have the right, by two-thirds (2/3) vote of the entire Board of Directors, to censure or remove any member of the Board who violates the spirit or intent of this Section and to take such other action in this regard as the Board may from time to time deem appropriate.

Section 10. A member of the Board who fails to attend two Board meetings in a calendar year may be removed from the Board unless the Board specifically determines that at least one such absence was for good cause.

ARTICLE VII

POWER OF DIRECTORS

Section 1. The Board of Directors shall govern the affairs of the Association and establish basic policies for the conduct of the affairs of the Association. In addition to the powers and authorities by these Bylaws expressly conferred upon it, the Board may exercise all such powers of the Association and do all such lawful acts and things as are not by statute or by these Bylaws directed or required to be exercised or done by the members.

Section 2. The Board of Directors shall exercise general direction over the affairs of the Association, shall determine its policies and changes therein within the limits of these Bylaws, shall actively prosecute its purposes and formulate and adopt such regulations consistent with the Certificate of Incorporation and Bylaws as may be in the best interests of the members of the Association. The Board of Directors is not charged with executive or administrative responsibilities in the management and continuing conduct of the Association's affairs, such duties and responsibilities being those of the President or others to whom the Board of Directors has expressly delegated such authority.

Section 3. Without prejudice to the general powers conferred by Sections 1 and 2 of this Article, and other powers conferred by the Certificate of Incorporation and

by these Bylaws, it is hereby expressly declared that the Board of Directors shall have the following powers:

- (a) To retain and discharge a President.
- (b) To remove any and all officers for cause.
- (c) To approve an annual budget for the operation of the affairs of the Association.
- (d) To pass upon applications for membership and to accept or reject applicants.
- (e) To establish membership initiation fees, annual dues and mandatory assessments except as hereinafter provided in Article X, Section 2.
- (f) To terminate or suspend members who, in the judgment of the Board of Directors, have not conducted themselves in a manner becoming a member of the Association, after first affording such member an opportunity to be heard in the manner described in Article III, Section 5.
- (g) To designate by resolution one or more committees as it shall deem advisable and with such limited authority as the Board of Directors shall from time to time determine.
- (h) To determine the compensation of the President.
- (i) To establish the Independent Dealers of Entertainment Association as provided in Article XIV of these Bylaws, with such authority as set forth in such Article XIV and such additional authority as the Board of Directors may from time to time determine.

Section 4. For the purpose of facilitating the merger between Video Software Dealers Association, Inc., (hereafter “VSDA”) and Interactive Entertainment Merchants Association, Inc., (hereafter “IEMA”), and to benefit from the respective areas of expertise of their two former boards of directors, the Board of Directors may delegate, and through adoption of this bylaw has so delegated, power to the two subdivisions of the Board of Directors, namely the “Video Industry Directors” and the “Game Industry Directors,” as follows:

- (a) The Video Industry Directors shall be comprised of all Association Directors who were Directors of VSDA prior to its merger with IEMA, including the two (2) Directors designated by the former IEMA Directors pursuant to the Agreement and Plan of Merger.
- (b) The Game Industry Directors shall be comprised of all Association Directors who were IEMA Directors prior to its merger with VSDA, including the two (2) Directors designated by the former VSDA Directors pursuant to the Agreement and Plan of Merger.
- (c) Such delegation of power shall be the effective date of the merger between VSDA and IEMA and continue at least until June 21, 2007.
- (d) No delegation may be made of the specific powers of the Board of

Directors specified in Section 3(a)-(i) of this Article, in Section 4(a)-(f) of Article VI, or in any matter requiring more than a simple majority vote of the Directors present and voting at a meeting of the Association's Board of Directors.

- (e) Provided that a quorum of 50% of such Directors is present, the Video Industry Directors (hereinafter referred to as the "Video Industry Board" and the Game Industry Directors hereinafter referred to as the "Game Industry Board") shall have power to act by a vote of a simple majority of Directors present and voting, on any matter which the Association Board of Directors may adopt by a simple majority of Directors present and voting, and such action shall be deemed to be an action of the Association Board of Directors, provided that:
 - (i) Such action is ratified by the Association's Executive Committee;
 - (ii) The matter is of particular interest to the video industry or the video game industry, as the case may be, and is of little concern to the other industry segment; and
 - (iii) The Association's Board of Directors is notified of any action so taken at the meeting of the Board of Directors immediately following such action.
- (f) Notwithstanding the foregoing, the Video Industry Board and the Game Industry Board may each serve in an advisory capacity without restriction, may make recommendations to the Association's Board of Directors, and may require that its recommendations be considered at the next meeting of the Association's Board of Directors.

Section 5. At least until June 21, 2007, the Executive Committee shall be comprised of five Directors, consisting of the Chairman and Vice Chairman of the VSDA Board of Directors as of April 21, 2006, the Chairman and Vice Chairman of the IEMA Board of Directors as of April 21, 2006, and a fifth member appointed by the action of the other four directors. During this period of transition, the Executive Committee shall serve as an administrative board to execute final review and approval of the Association Budget, to plan the strategic direction of the Association, and to direct the President of the Association. The purpose of delegating this function to the Executive Committee is to permit the newly established Board of Directors to focus on full integration into a single body, and to become familiar with all segments of the home entertainment industry. Notwithstanding this delegation of authority, the entire Board of Directors of the Association retains the customary power to ratify, nullify or supercede any action taken by the Executive Committee.

ARTICLE VIII

OFFICERS

Section 1. The elected officers of this Association shall consist of a Chairman, a Vice Chairman, a Secretary, and a Treasurer. The appointed officer of the Association shall be the President.

Section 2. The Directors shall elect the Chairman, Vice Chairman, Secretary, and Treasurer from among the persons constituting the Board of Directors. The Board of Directors shall hold an organizational meeting annually for the purpose of electing officers of the Association. Such organizational meeting shall be convened at the conclusion of the final meeting prior to the expiration of the terms of outgoing directors.. Election shall be by written ballot and a majority of votes cast shall elect. All officers so elected by the Board shall take office immediately and serve until the next organizational meeting of the Board of Directors and until their respective successors are chosen.

Section 3. The Chairman shall preside at all meetings of the members; shall have general supervision over the affairs of the Association; shall serve as chairman of the Board of Directors; shall see that all orders and resolutions of the Board of Directors are carried into effect; shall execute bonds, mortgages, and other contracts requiring a seal, under the seal of the Association; shall keep in safe custody the seal of the Association, and when authorized by the Board, affix the seal to any instrument requiring the same, and the seal when so affixed, shall be attested by a signature of the Secretary. The Chairman shall have general superintendence and direction of all the other officers of the Association and shall see that their duties are properly performed; shall report to the Board of Directors all matters within his/her knowledge which the interest of the Association may require to be brought to its attention; shall, subject to Article VII, Section 5, appoint members and may be a member, with the right to vote, of all standing and *ad hoc* committees except the Nominating Committee and any committee appointed to review or administer the election of directors; and shall have all general power and duties usually incident to this office.

Section 4. During the absence or disability of the Chairman, the Vice Chairman shall exercise all the functions of the Chairman, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the Chairman. The Vice Chairman shall also have such powers and discharge such duties as may be assigned to him/her from time to time by the Board of Directors or the Chairman.

Section 5. The Secretary shall give or cause to be given notice of meetings of the members of the Association and of the Board and shall perform such other duties as may be assigned to him/her from time to time by the Board of Directors or the Chairman.

Section 6. The Treasurer shall render to the Chairman and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all of his/her transactions as Treasurer and of the financial condition of the Association, and shall perform such other duties as may be assigned to him/her by the Board of Directors or the Chairman.

Section 7. If the office of Chairman, Vice Chairman, Secretary, or Treasurer becomes vacant by reason of death, resignation, disqualification or otherwise, the Directors may choose a successor or successors from among the members of the Board of Directors who shall hold office for the unexpired term. The Board of Directors may act for and exercise the powers of the President during any period in which the office of the President is vacant or he or she is incapacitated or disabled.

Section 8. The President shall be the chief executive and operating officer of the Association with responsibility for the management and direction of all operations,

programs, activities, budgets and financial affairs of the Association including employment, supervision and termination of employment, and the determination of compensation of members of the staff and supporting personnel functioning within the framework of policies, aims and programs specifically and generally determined by the Board of Directors. The President, who need not be a member of the Association, shall be appointed by, and directly responsible to, the Executive Committee and the Board of Directors. He/she shall receive such compensation as shall be determined by the Board of Directors. He/she shall have the authority to obligate the Association and to sign bills, notes, receipts, acceptances, endorsements, checks, releases, contracts and documents; to prorate annual membership dues to promote membership growth in EMA and to extend the term of membership for Regular and Associate members to permit the orderly renewal of annual memberships. The President shall submit a report of the operations of the Association to the directors and members at the Annual meeting; shall report in a timely manner to the Board of Directors all matters within his/her knowledge which the interest of the Association may require to be brought to their attention and shall perform such other duties as may be specified by the Board of Directors. The President shall also serve as the President of The EMA Scholarship Foundation, Inc.

ARTICLE IX

LITIGATION INVOLVING MEMBERS

Except as may be required by law, the Association will not lend financial or other support to any law suit or threatened legal action against an EMA Regular member concerning any matter primarily related to intra-industry competition in the rental, sale or licensed reproduction of packaged or downloaded home entertainment. For purposes of this article, copyright infringement is not considered matters primarily related to intra-industry competition in the rental, sale or licensed reproduction of packaged or downloaded home entertainment.

ARTICLE X

INITIATION FEES, ANNUAL DUES AND ASSESSMENTS

Section 1. Initiation fees, annual dues and mandatory assessments, shall be such sum for each class of membership as shall be determined from time to time by the Board of Directors.

Section 2. Section 1 of this Article notwithstanding, the President of the Association shall be authorized to prorate annual charges to promote membership growth in the Association and to establish charges and prices for products, goods and services offered and provided to members by the Association.

Section 3. Section 1 of this Article and Section 4(a) of Article VI notwithstanding, the Board of Trustees of the Independent Dealers of Entertainment Association shall be authorized, upon the affirmative vote of two-thirds (2/3) of its members and a majority of the members of the Association's Board of Directors, to establish fees, annual dues and mandatory assessments exclusively for members of the Independent Dealers of Entertainment Association.

Section 4. Section 1 of this Article notwithstanding, in order to effect an equitable distribution of dues paid by former IEMA and/or VSDA members at the time of

the merger, the Executive Committee is delegated authority to establish the initial annual dues for Regular Members effective April 21, 2006 through the end of the first fiscal year.

ARTICLE XI

EXECUTION OF INSTRUMENTS, ETC.

All funds of the Association shall be deposited to the credit of the Association in such banks or deposits as the Board of Directors may select. All checks or orders for the payment of money, and all deeds, conveyances, endorsements, assignments, transfers, or other instruments of transfer, contracts, agreements, or other orders, consents, returns, reports, certificates, notices or documents, and other instruments of any nature may be signed, executed, verified, acknowledged and delivered by such officers, agents, employees or other persons and in such manner as from time to time may be determined by the Board of Directors.

ARTICLE XII

NOTICES

Section 1. Form; Delivery. Any notice required or permitted to be given to any Director or member, shall be given in writing, either personally, by courier service or by first-class mail with postage prepaid, in either case be addressed to the recipient at his/her address as it appears on the books of the Association. Notices delivered by courier service and personally delivered notices shall be deemed to be given at the time they are delivered at the address of the named recipient as it appears on the books of the Association and mailed notices shall be deemed to be given at the time they are deposited in the United States mail. Notice to the Director also may be given by facsimile transmission or electronic mail sent to his/her facsimile or electronic mail address as it appears on the books of the Association and shall be deemed given at the time delivered at such address.

Section 2. Waiver; Effect of Attendance. Whenever any notice is required to be given by law, the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be the equivalent of the giving of the notice. In addition, any member who attends a meeting of the Association membership in person, or who attends a meeting of the Association membership in person, or who is represented at such meeting by a proxy, or any director who attends a meeting of the Board of Directors shall be deemed to have had timely and proper notice of the meeting, unless such member (or his/her proxy) or director or committee member attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

ARTICLE XIII

INDEMNIFICATION AND EXCULPATION; TRANSACTIONS WITH AFFILIATED PERSONS

Section 1. Indemnification and exculpation. Reference is hereby made to Section 145 of the General Corporation Law of the State of Delaware (or any successor

provision thereto). The Association shall indemnify each person who may be indemnified (the “Indemnities”) pursuant to such section, to the full extent permitted thereby. In each and every situation where the Association obligates itself to so indemnify the Indemnities, and in each case, if any, where the Association must make certain investigations in a case-by-case basis prior to indemnification, the Association hereby obligates itself to pursue such investigations diligently, it being the specific intention of these Bylaws to obligate the Association to indemnify each person who it may indemnify to the fullest extent permitted by law at any time and from time to time. To the extent not permitted by Section 145 of the General Corporation Law of the State of Delaware (or any other provision of the General Corporation Law of the State of Delaware), the Indemnities shall not be liable to the Association except for their own individual willful misconduct or actions taken in bad faith.

Section 2. Common or Interested Officers and Directors. The officers and directors shall exercise their powers and duties in good faith and with a view to the best interests of the Association. No contract or other transaction between the Association and one or more of its officers or directors, or between the Association and any corporation, firm, association, or other entity in which one or more of the officers or directors of the Association are officers or directors, or are pecuniarily or otherwise interested, shall be either void or voidable because of such common directorate, officership or interest, because such officers or directors are present at the meeting of the Board of Directors or any committee thereof which authorizes, approves or ratifies the contract or transaction, or because his, her or their votes are counted for such purpose, if specified in the following paragraphs exist:

- (a) the material facts of the common directorate or interest or contract or transaction are disclosed or known to the Board of Directors or committee thereof and the Board or committee authorizes or ratifies such contract or transaction in good faith by the affirmation vote of a majority of the disinterested directors, even though the number of such disinterested directors may be less than a quorum; or
- (b) the material facts of the common directorate or interest or contract or transaction are disclosed or known to the members entitled to vote thereon and the contract or transaction is specifically approved in good faith by vote of the members; or
- (c) the contract or transaction is fair and commercially reasonable to the Association at the time it is authorized, approved or ratified by the Board, a committee thereof, or the members, as the case may be.

Common or interested directors may be counted in determining whether a quorum is present at any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at such meeting to authorize any contract or transaction with like force and effect as if he, she or they were not such officers or directors of such other Association or were not so interested.

ARTICLE XIV

INDEPENDENT DEALERS OF ENTERTAINMENT ASSOCIATION

Section 1. iDEA Established. For the purpose of better serving the specific needs of Association members which are independent retailers and identifying, developing, managing and overseeing of appropriate products and services for independent retailers among the Association's members, and for the purpose of empowering the independent retailer sector of the membership to exercise greater control over the design, selection and implementation of programs, products and services for their benefit, the Independent Dealers of Entertainment Association (iDEA) is hereby established as an unincorporated division of the Association.

Section 2. Delegation of Authority. The Board of Directors delegates to the iDEA Board of Trustees all necessary and proper authority to carry out the purposes of iDEA as set forth in this Article, with oversight over the program functions specified in Section 5 of this Article, subject to the limitations contained herein. Nothing in this Article shall be deemed to empower the iDEA Board of Trustees to borrow funds, to obligate the Association, or to conduct any business beyond the scope of the Association's authority.

Section 3. Membership. Any Regular Member of the Association in good standing may belong to the iDEA without any further qualification, and shall be eligible to receive services made available exclusively to iDEA members.

Section 4. Trustees.

- (a) Election of Trustees. The iDEA shall select from among its members a Board of Trustees in a manner that fairly represents the membership of iDEA. The majority of Trustees shall be elected by a vote of the general membership of iDEA, although the Trustees, by a majority vote of the entire Board of Trustees, may directly elect Trustees of a lesser number. The term of service of a Trustee, the rotation of Trustees, and the manner and timing of the election of Trustees shall be determined by the iDEA Board of Trustees.
- (b) Eligibility. A Trustee shall be either a sole or majority owner, general partner or a full-time employee of a member company. For the purposes of this Section, "full-time employee" is defined to mean an employee who devotes full time and effort to the interests of the member employer.

Section 5. Scope of Authority. Within the limits of the authority delegated pursuant to Section 2 of this Article, as may be supplemented from time to time by the Board of Directors of the Association:

- (a) Except as provided in subsection (b) of this Section, the iDEA shall have specific responsibility for and general oversight over Association programs and services.
- (b) The iDEA shall not have responsibility for or oversight over convention and trade show joint venture activities, governmental and legislative relations, public relations, industry research, or programs or services not designed primarily to benefit the independent retailer sector of the membership.

Section 6. Chief Executive Officer.

- (a) The chief executive officer of iDEA is the President of the Association.
- (b) In discharging its authority to hire, discharge, evaluate or determine the compensation of the President, the Board of Directors of the Association shall seek the advice of the Board of Trustees of iDEA, or from persons designated by the Board of Trustees of iDEA for that purpose.

Section 7. Budget and Funding.

- (a) The iDEA Board of Trustees shall develop an annual budget for iDEA programs, services and activities. Such annual budget shall be developed and provided for approval as to its overall financial impact on the Association to the Board of Directors on or before September 15 annually or the Association's Board of Directors will develop the iDEA budget for the following year. Such budget may not reflect deficit spending or borrowing, but shall rely entirely upon anticipated revenue from the funding sources designated below, together with any other revenue sources developed by the iDEA. Approval by the Board of Directors shall not be unreasonably withheld.
- (b) A portion of the Association's funds shall be allocated each year for the provision of programs, products and services designed to meet the needs of the independent retailer segment of the Association membership within the scope of the iDEA's authority. The allocation for the first calendar year shall be prorated to reflect the portion of the year remaining upon the adoption of the iDEA budget and the initiation of its programs and services.
- (c) The allocation specified in Subsection (b) of this Section shall be as follows:
 - (i) Seventy-five percent (75%) of the revenue derived from Association dues paid by independent retailer members.
 - (ii) Twenty-five percent (25%) of the revenue derived from Association dues paid by Associate members.
 - (iii) Fifty percent (50%) of the revenue derived from the Association's share of the Home Entertainment Events joint venture.
 - (iv) Fifty percent (50%) of the realized interest and earnings from Association investments, provided that, during the first three (3) years of iDEA operation, the allocation under this paragraph shall be a minimum of \$50,000 for the remainder of fiscal year 2004, and \$100,000 per year for fiscal years 2005 and 2006.
 - (v) Such other allocations or funds as shall be specifically provided or allocated by the Association's Board of Directors and reflected in the minutes of the Association.
- (d) For purposes of subsection (c)(i) of this Section, Association dues paid by independent retailer members shall be computed on the basis of current dues generated by Association home entertainment specialist members having no

more than one hundred (100) store locations and shall be prorated year-to-year to reflect such members' renewal date or date of joining the Association

Section 8. Trust Established.

- (a) The Association's Board of Directors shall establish a trust in the amount of \$1,500,000.00 in support of the iDEA.
- (b) The amount held in trust shall be reduced each year in an amount equal to the sum of the total funds allocated to the iDEA as provided in Section 7 and any additional gross revenues generated independently by iDEA, except that such annual reduction shall not be less than \$500,000.00. Such reduction may be reallocated to the Association's general fund, or in any other manner defined by the Board of Directors of the Association.
- (c) Except as provided for in this section and in Section 9 of this article, the trust may not be dispersed, disposed of, or dissolved in any other manner without a two-thirds majority approval, each, of both the entire Board of Directors of the Association and the entire Board of Trustees of iDEA.

Section 9. Dissolution. Subject to all other sections of Article XIV, dissolution of the iDEA may only occur if:

- (a) The total number of independent retail members joining the Association in any calendar year falls below 400; or
- (b) With a two-thirds majority approval, each, of both the entire Board of Directors of the Association and the entire Board of Trustees of iDEA; or
- (c) With 6 months prior notice of its intent to do so, properly delivered to the Chairman of the Board of Trustees of iDEA, and provided that any and all funds still held in trust, as described in Section 8, along with any and all financial reserves generated by iDEA subsequent to their second full year of operation shall be paid to the iDEA, in lump sum, provided their Board of Trustees decides to continue operations separate of the Association and incorporates as a tax exempt entity under Section 501(c)(6) of the Internal Revenue Code and within the scope of the Association's charter; or
- (d) In the event that the Association is dissolved, or is sold to, merged with, or acquired by another party; provided, however, that in the event of such occurrence, any and all funds still held in trust as described in Section 8, along with any and all financial reserves generated by iDEA, shall be paid to the iDEA, in lump sum, provided its Board of Trustees decides to continue operations independently and incorporates as a tax exempt entity under Section 501(c)(6) of the Internal Revenue Code and within the scope of the Association's charter. Nothing in this Section shall preclude a merged or successor entity from assuming the obligations set forth herein with respect to the iDEA.

ARTICLE XV
GENERAL PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Association shall be the calendar year.

Section 2. Seal. The corporate seal shall have inscribed thereon the name of the Association, the year of its incorporation and the words “Corporate Seal” and “State of Delaware.”

Section 3. Insignia. The Association shall use and employ such insignia as the Board of Directors shall from time to time approve.

Section 4. Roberts Rules of Order. Where not inconsistent with these bylaws, the latest Revised Edition of Roberts Rules of Order shall govern where appropriate.

Section 5. Amendments. Any and all Bylaws of the Association may be altered or repealed, and new Bylaws may be adopted by a favorable vote of a majority of the entire Board of Directors of the Association at any duly held regular or special meeting of the Board of Directors. No Bylaw may be amended, altered, repealed or adopted in contravention or derogation of the Certificate of Incorporation of the Association. The Certificate of Incorporation may be amended only by a two-thirds (2/3) majority of the entire Board of Directors in a vote taken or consent signed no sooner than ten (10) days and no more than sixty (60) days after notice of the proposed change has been given to each Director. Notwithstanding the foregoing, no substantive amendment to these Bylaws adopted effective April 21, 2006, shall be made prior to June 21, 2007 without the affirmative vote of two-thirds (2/3) majority of the entire Board of Directors.