

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**FORMFACTOR, INC.**  
(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**93-0856709**  
(I.R.S. Employer  
Identification No.)

**7005 Southfront Road  
Livermore, California 94551  
(925) 290-4000**  
(Address of Principal Executive Offices)

**Options and Restricted Stock Units Assumed by FormFactor, Inc.  
originally granted under the  
CASCADE MICROTECH, INC. 2010 STOCK INCENTIVE PLAN  
CASCADE MICROTECH, INC. 2000 STOCK INCENTIVE PLAN  
CASCADE MICROTECH, INC. 1993 STOCK INCENTIVE PLAN**  
(Full Titles of the Plans)

**Michael M. Ludwig  
Chief Financial Officer  
FormFactor, Inc.  
7005 Southfront Road  
Livermore, California 94551  
(925) 290-4000**

**Copy to:  
Sarah K. Solum  
Davis Polk & Wardwell  
1600 El Camino Real  
Menlo Park, California 94025  
(650) 752-2000**

(Name, address and telephone number, including area code, of agents for service of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title Of Each Class Of Securities To Be Registered	Amount To Be Registered(1)	Proposed Maximum Offering Price Per Unit(2)	Proposed Maximum Aggregate Offering Price(2)	Amount Of Registration Fee(2)
Common Stock, \$.001 par value	929,872	\$9.69	\$9,010,460	\$907.36

(1) Represents shares issuable pursuant to equity awards that were assumed by the Registrant pursuant to the Agreement and Plan of Merger dated as of February 3, 2016, by and among the Registrant, Cardinal Merger Subsidiary, Inc. and Cascade Microtech, Inc. The awards were originally issued by Cascade Microtech pursuant to its 2010 Stock Incentive Plan, 2000 Stock Incentive Plan and 1993 Stock Incentive Plan (together, the "Equity Plans").

This Registration Statement on Form S-8 shall also cover any additional shares of Registrant's common stock that become issuable under the Equity Plans by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration which results in an increase in the number of the outstanding shares of FormFactor, Inc. common stock.

- (2) Calculated solely for purposes of calculating the amount of the registration fee under Rule 457(h) of the Securities Act of 1933, as amended, on the basis of the average of the high and low selling prices per share of the Registrant's Common Stock on July 11, 2016 as reported by the NASDAQ Global Market.
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## PART I

The information specified in Part I of Form S-8 is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act and the introductory note to Part I of the Form S-8 instructions. The documents containing the information specified in Part I will be delivered to the participants in the Plan as required by Rule 428(b)(1).

## PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

### Item 3. Incorporation of Documents by Reference.

The following documents filed with the Securities and Exchange Commission (the "Commission") under the Securities Act or the Securities Exchange Act of 1934, as amended (the "Exchange Act") are incorporated herein by reference:

(a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 26, 2015 filed with the Commission on March 4, 2016, which contains the Registrant's audited financial statements for the latest fiscal year for which such statements have been filed;

(b) All other reports filed by the Registrant pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Registrant document referred to in (a) above; and

(c) The description of the Registrant's Common Stock which is contained in the Registrant's Exchange Act Registration Statement on Form 8-A filed with the Commission on June 6, 2003 (Exchange Act File No. 000-50307), including any amendments or supplements thereto.

In addition, all documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to any filing of a post-effective amendment to this Registration Statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of the filing of such documents; except as to any portion of any future annual or quarterly report to stockholders or document or current report furnished under current Items 2.02 or 7.01 of Form 8-K that is not deemed filed under such provisions.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein (or in any other subsequently filed document which also is incorporated or deemed to be incorporated by reference herein), modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

### Item 4. Description of Securities.

Not applicable.

### Item 5. Interests of Named Experts and Counsel.

Not applicable.

### Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers under certain circumstances and subject to certain limitations. The terms of Section 145 of the Delaware General Corporation Law are sufficiently broad to permit indemnification under certain circumstances for liabilities, including reimbursement of expenses incurred, arising under the Securities Act of 1933, as amended (the "Securities Act").

As permitted by the Delaware General Corporation Law, the Registrant's certificate of incorporation includes a provision that eliminates the personal liability of its directors for monetary damages for breach of fiduciary duty as a director, except for liability:

- for any breach of the director's duty of loyalty to the Registrant or its stockholders;
- for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- under Section 174 of the Delaware General Corporation Law; or
- for any transaction from which the director derived an improper personal benefit.

As permitted by the Delaware General Corporation Law, the Registrant's bylaws provide that:

- the Registrant is required to indemnify its directors and officers to the fullest extent permitted by the Delaware General Corporation Law, subject to limited exceptions where indemnification is not permitted by applicable law;
- the Registrant is required to advance expenses, as incurred, to its directors and officers in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to certain limited exceptions; and
- the rights conferred in the bylaws are not exclusive.

In addition, the Registrant has entered into indemnity agreements with each of its directors and certain of its officers. The indemnification agreements provide indemnification to such directors and officers under certain circumstances for expenses and liabilities incurred in connection with actions or proceedings brought against them by reason of the fact that they are or were agents of the Registrant.

The Registrant has obtained directors' and officers' insurance to cover its directors and officers for certain liabilities.

The Registrant has entered into agreements with certain of its stockholders, including Benjamin N. Eldridge, an officer of the Registrant, pursuant to which the stockholders have piggyback registration rights with respect to certain of their shares. If a stockholder agrees to participate in a piggyback registration, the Registrant has agreed to indemnify the stockholder against all claims, losses, damages and liabilities regarding any material misstatement or omission by the Registrant in the registration-related documents, and any violation of the Securities Act by the Registrant in connection with the registration, subject to certain limitations.

#### **Item 7. Exemption from Registration Claimed.**

Not applicable.

#### **Item 8. Exhibits.**

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| 3.01  | Amended and Restated Certificate of Incorporation of the Registrant as filed with the Delaware Secretary of State on June 17, 2003 (incorporated by reference to Exhibit 3.01 of the Registrant's registration statement on Form S-1 filed with the SEC on October 20, 2003) |
| 3.02  | Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit 3.02 of the Registrant's Current Report on Form 8-K filed with the SEC on May 25, 2005)  |
| 4.01  | Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.01 of Amendment No. 2 to the Registrant's registration statement on Form S-1 filed with the SEC on May 28, 2002)   |
| 5.01* | Opinion of Davis Polk & Wardwell LLP   |

23.01	Consent of Davis Polk & Wardwell LLP (included in Exhibit 5.01)
23.02*	Consent of Independent Registered Public Accounting Firm
24.01	Power of Attorney (included on signature page of this Registration Statement)
99.01*	Cascade Microtech, Inc. 2010 Stock Incentive Plan, and forms of plan agreements
99.02*	Cascade Microtech, Inc. 2000 Stock Incentive Plan, and forms of plan agreements
99.03*	Cascade Microtech, Inc. 1993 Stock Incentive Plan, and forms of plan agreements

\* Filed herewith.

## Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
- (ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in this Registration Statement;
- (iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

*provided, however*, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Livermore, State of California, on this 19th day of July, 2016.

**FORMFACTOR, INC.**

By: /s/ Jason Cohen

Name: Jason Cohen

Title: General Counsel and Secretary

**POWER OF ATTORNEY**

KNOW BY ALL PERSONS BY THESE PRESENTS that each individual whose signature appears below constitutes and appoints Michael M. Ludwig and Jason Cohen and each of them, his/her true and lawful attorneys-in-fact and agents with full power of substitution, for him/her and in his/her name, place and stead, in any and all capacities, to sign any and all amendments, including post-effective amendments, to this Registration Statement, and to file the same, with all exhibits thereto and all documents in connection therewith, making such changes to this Registration Statement as such attorneys-in-fact and agents so acting deem appropriate, with the Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act requisite and necessary to be done with respect to this Registration Statement, including amendments, as fully to all intents and purposes as he/she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his/her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, each of the undersigned has executed this Power of Attorney as of the date indicated.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
Principal Executive Officer:  <u>/s/ Michael D. Slessor</u> Michael D. Slessor	Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	July 19, 2016
Principal Financial Officer and Principal Accounting Officer:  <u>/s/ Michael M. Ludwig</u> Michael M. Ludwig	Chief Financial Officer <i>(Principal Financial Officer and Principal Accounting Officer)</i>	July 19, 2016

<u>Signature</u>	<u>Title</u>	<u>Date</u>
Additional Directors:		
<u>/s/ Lothar Maier</u> Lothar Maier	Director	July 19, 2016
<u>/s/ Edward Rogas, Jr</u> Edward Rogas, Jr	Director	July 19, 2016
<u>Kelley Steven-Waiss</u>	Director	
<u>Michael W. Zellner</u>	Director	
<u>/s/ Richard DeLateur</u> Richard DeLateur	Director	July 19, 2016
<u>/s/ Thomas St. Dennis</u> Thomas St. Dennis	Director	July 19, 2016
<u>/s/ Raymond A. Link</u> Raymond A. Link	Director	July 19, 2016



## EXHIBIT INDEX

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- 5.01\* Opinion of Davis Polk & Wardwell LLP
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\* Filed herewith.

## OPINION OF COUNSEL

[Davis Polk &amp; Wardwell Letterhead]

July 19, 2016

FormFactor, Inc.  
7005 Southfront Road  
Livermore, California 94551

Ladies and Gentlemen:

FormFactor, Inc., a Delaware corporation (the “**Company**”), is filing with the Securities and Exchange Commission a Registration Statement on Form S-8 (the “**Registration Statement**”) for the purpose of registering under the Securities Act of 1933, as amended (the “**Securities Act**”), an aggregate of 929,872 shares (the “**Shares**”) of its common stock, par value \$0.001 per share of the Company, issuable pursuant to the Cascade Microtech, Inc. 2010 Stock Incentive Plan, Cascade Microtech, Inc. 2000 Stock Incentive Plan and Cascade Microtech, Inc. 1993 Stock Incentive Plan (together, as amended, the “**Plans**”), as described in the Registration Statement. The Plans were assumed by the Company in connection with its acquisition of Cascade Microtech, Inc., an Oregon corporation, by means of the merger of Cardinal Merger Subsidiary, Inc., an Oregon corporation and a wholly owned subsidiary of the Company, with and into Cascade Microtech, Inc., pursuant to the Agreement and Plan of Merger dated February 3, 2016, by and among the Company, Cardinal Merger Subsidiary, Inc. and Cascade Microtech, Inc.

We, as your counsel, have examined originals or copies of such documents, corporate records, certificates of public officials and other instruments as we have deemed necessary or advisable for the purpose of rendering this opinion. In rendering the opinions expressed herein, we have, without independent inquiry or investigation, assumed that (i) all documents submitted to us as originals are authentic and complete, (ii) all documents submitted to us as copies conform to authentic, complete originals, (iii) all signatures on all documents that we reviewed are genuine, (iv) all natural persons executing documents had and have the legal capacity to do so, (v) all statements in certificates of public officials and officers of the Company that we reviewed were and are accurate and (vi) all representations made by the Company as to matters of fact in the documents that we reviewed were and are accurate.

Based upon the foregoing, we advise you that, in our opinion, when the Shares have been duly issued and delivered in accordance with the terms and conditions of the Plans, the Shares will be validly issued, fully-paid and non-assessable.

We are members of the Bars of the States of New York and California, and the foregoing opinion is limited to the federal laws of the United States and the General Corporation Law of the State of Delaware.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement referred to above. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Davis Polk & Wardwell LLP

**Consent of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders  
FormFactor, Inc.:

We consent to the use of our report dated March 4, 2016, with respect to the consolidated balance sheets of FormFactor, Inc. as of December 26, 2015 and December 27, 2014, and the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows for each of the years in the three-year period ended December 26, 2015, and the effectiveness of internal control over financial reporting as of December 26, 2015, incorporated herein by reference.

/s/ KPMG LLP

Santa Clara, California  
July 19, 2016

**CASCADE MICROTECH, INC.  
2010 STOCK INCENTIVE PLAN**

**I. PURPOSE**

This Cascade Microtech, Inc. 2010 Stock Incentive Plan is intended to provide incentives to Employees, Consultants and Directors of Cascade Microtech, Inc. (the "Company") and its eligible Affiliates, to encourage proprietary interest in the Company and to encourage Employees, Consultants and Directors to remain in the service of the Company or its Affiliates.

**II. DEFINITIONS**

(a) "*Administrator*" means the Board or the Committee appointed to administer the Plan, or a delegate of the Administrator as provided in Section IV(iii).

(b) "*Affiliate*" means any entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the Company.

(c) "*Award*" means any award of Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units or any other issuance of Shares under the Plan.

(d) "*Award Agreement*" means the agreement between the Employer and the recipient of an Award which contains the terms and conditions pertaining to the Award. An Award Agreement may be in an electronic medium, and need not be signed by a representative of the Employer or the Participant. Award Agreements may be delivered by email or other electronic means (including posting on a website maintained by the Employer or its delegate), along with the Plan and any other documents related to the Plan or an Award such as prospectuses, proxy statements or annual reports.

(e) "*Beneficiary*" means a person designated as such by a Participant for purposes of the Plan or determined with reference to Section XVI

(f) "*Board*" means the Board of Directors of the Company.

(g) "*Code*" means the Internal Revenue Code of 1986, as amended.

(h) "*Committee*" means the Compensation Committee of the Board, or such other individual(s) designated by the Board to administer the Plan.

(i) "*Common Stock*" means the \$.01 par value common stock of the Company.

(j) "*Company*" means Cascade Microtech, Inc., an Oregon Corporation.

(k) "*Consultant*" means an individual providing services to the Company or an Affiliate other than as an Employee or Director.

(l) "*Covered Employee*" will have the meaning assigned in Code section 162(m), as amended, which generally includes the chief executive officer or any Employee whose total compensation for the taxable year is required to be reported to shareholders under the Exchange Act by reason of such Employee being among the four highest compensated officers for the taxable year (other than the chief executive officer).

(m) "*Director*" means an individual member of the Board.

(n) “*Disability*” or “*Disabled*” means that the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve months, as determined by the Administrator in its sole discretion.

(o) “*Employee*” means an individual employed by the Employer as a common-law employee subject to Code section 3401 and the regulations thereunder.

(p) “*Employer*” means the Company or an Affiliate that employs the Employee.

(q) “*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

(r) “*Exercise Price*” means the price per Share of Common Stock at which an Option or Stock Appreciation Right may be exercised.

(s) “*Fair Market Value*” of a Share as of a specified date means the value of a Share determined as follows:

a. If the Common Stock is listed on any established stock exchange or a national market system, Fair Market Value shall be the closing sales price for a Share (or the closing bid, if no sales were reported) as quoted on such exchange or system on the date of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; provided, if the date of determination does not fall on a day on which the Common Stock has traded on such securities exchange or market system, the date on which the Fair Market Value shall be established shall be the last day on which the Common Stock was so traded prior to the date of determination, or such other appropriate day as shall be determined by the Administrator, in its sole discretion; or . If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, Fair Market Value shall be the mean between the high bid and low asked prices for a Share on the date of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; provided, if the date of determination does not fall on a day on which the Common Stock has been so quoted, the date on which the Fair Market Value shall be established shall be the last day on which the Common Stock was so quoted prior to the date of determination, or such other appropriate day as shall be determined by the Administrator, in its sole discretion; or . In the absence of an established market for the Common Stock, the Fair Market Value of a Share shall be determined by the Administrator in good faith using a reasonable application of any reasonable method.

(t) “*Incentive Stock Option*” means an Option described in Code section 422.

(u) “*Nonqualified Stock Option*” means an Option not described in Code section 422 or 423.

(v) “*Option*” means an Incentive Stock Option or Nonqualified Stock Option granted pursuant to Section VII

(w) “*Outside Director*” means a Director described in Treasury Regulations §1.162-27(e)(3) or its successor.

(x) “*Parent*” means a parent corporation as defined in Code section 424(e).

(y) “*Participant*” means an Employee, Consultant or Director who has received an Award.

(z) “Plan” means this Cascade Microtech, Inc. 2010 Stock Incentive Plan.

(aa) “Purchase Price” means the Exercise Price times the number of Shares with respect to which an Option or Stock Appreciation Right is exercised, or in the case of Restricted Stock to be issued in partial consideration of a payment or Shares otherwise being purchased under the Plan, the price paid per Share times the number of Shares being purchased.

(bb) “Restricted Stock” means Shares granted pursuant to Section I

(cc) “Restricted Stock Unit” means a right to receive an amount equal to a specified number of Shares or Share Equivalents payable in Shares or cash as established by the Administrator.

(dd) “Retirement” means the Participant’s voluntary termination of service with the Employer at (i) age 65 or older or (ii) age 55 or older at a time when age plus such years of service with the Employer equals or exceeds 65.

(ee) “Share” means one share of Common Stock, adjusted in accordance with Section XIV (if applicable).

(ff) “Share Equivalent” means a bookkeeping entry representing a right to the equivalent of one Share.

(gg) “Stock Appreciation Right” means a right to receive an amount equal to the appreciation of a specified number of Shares between two dates which will be payable in Shares or cash as established by the Administrator.

(hh) “Subsidiary” means a Subsidiary corporation as defined in Code section 424(f).

### III. EFFECTIVE DATE

This Plan was adopted by the Board on March 24, 2010, subject to approval by the Company’s shareholders, as provided in Section XIX.

### IV. ADMINISTRATION

(i) Administration with respect to Directors

With respect to Awards to Directors, the Plan will be administered by the Board unless delegated to its Compensation Committee. If so delegated, the full Board will approve all Awards made to members of the Compensation Committee.

(ii) Administration with respect to Employees and Consultants

With respect to Awards to Employees and Consultants, the Plan will be administered by the Administrator.

a. If any member of the Administrator does not qualify as an Outside Director for purposes of Code section 162(m), Awards under the Plan for Covered Employees will be administered by a subcommittee of the Administrator consisting of each Board member who qualifies as an Outside Director. If fewer than two members qualify as Outside Directors, the Board will appoint one or more other Board members to such subcommittee who do qualify as Outside Directors, so that the subcommittee will at all times consist of two or more members all of whom qualify as Outside Directors for purposes of Code section 162(m).

b. If Awards are subject to the Exchange Act, if any member of the Administrator does not qualify as a “non-employee director” for purposes of Rule 16b-3 promulgated under the Exchange Act (“Rule 16b-3”), then Awards under the Plan for the executive officers of the Company and Directors will be administered by a subcommittee consisting of the members of the Administrator who qualify as a “non-employee director.” If fewer than two Administrator members qualify as “non-employee directors,” then the Board will appoint one or more other Board members to such subcommittee who do qualify as “non-employee directors,” so that the subcommittee will at all times consist of two or more members all of whom qualify as “non-employee directors” for purposes of Rule 16b-3.

(iii) Delegation of Authority to an Officer of the Company

The Administrator may delegate to an officer or officers of the Company the authority to administer the Plan (including making Awards) with respect to Awards made to Employees or Consultants who are not subject to Section 16 of the Exchange Act or are not Covered Employees. Provided, however, that an officer may not be delegated the authority to make an Award to himself or herself or take any other action with respect to his or her personal interest or participation in the Plan.

(iv) Powers of the Administrator

a. The Administrator will from time to time at its discretion determine which Employees, Consultants and Directors will be granted Awards, when and how to make Awards, the types or combinations of Awards, the number of Shares or Share Equivalents to be subject to each Award, the vesting of Awards, the designation of Options as Incentive Stock Options or Nonqualified Stock Options and any other conditions of Awards to Employees, Consultants and Directors, which need not be identical.

b. The determinations, interpretation and construction by the Administrator of any provisions of the Plan or of any Award will be final. No individual member of the Administrator will be liable for any action or determination made in good faith with respect to the Plan or any Award, except as required by law. The Administrator has complete discretion to construe and interpret the Plan and any Award and to establish, amend and revoke rules and regulations for its administration. The Administrator may correct any defect, omission or inconsistency in an Award in any manner it deems necessary or expedient. . The Administrator may exercise such powers as it deems necessary to promote the interests of the Company that do not conflict with the Plan. . The Administrator may authorize any officer or Employee to execute on behalf of the Company any Award Agreement or other instrument required to effect an Award previously granted by the Administrator. . The Administrator may settle Awards in stock, cash or any combination.

(v) Leaves of Absence

Unless an Award provides otherwise, vesting of any Award will be suspended during any unpaid leave of absence. A Participant will not cease to be an Employee in the case of any leave of absence approved by the Employer or required by law.

## V. ELIGIBILITY

### (i) Number of Awards

Subject to the terms and conditions set forth below, the Administrator has sole and complete authority to determine the Employees, Consultants and Directors to whom, and the time or times at which, Awards may be granted. A specific type of Award may be made alone, in addition to, or in conjunction with any other type of Award. Notwithstanding the foregoing, only Employees may be granted Incentive Stock Options.

A Participant may receive more than one Award, including Awards of the same type, but only on the terms and subject to the restrictions set forth in the Plan.

### (ii) Annual Limitation

Subject to the provisions of Section XIV, no Employee is eligible to receive Incentive Stock Options, Nonqualified Stock Options, and/or Stock Appreciation Rights covering more than 150,000 Shares during any calendar year. Notwithstanding this restriction, in connection with his or her initial service an Employee may receive Incentive Stock Options, Nonqualified Stock Options and/or Stock Appreciation Rights covering not more than an additional 150,000 Shares, which will not be included in the limit set forth in the preceding sentence.

## VI. STOCK

The stock subject to Awards granted under the Plan will be shares of the Company's authorized but unissued Common Stock. If required by state law, any recipient of an Award will pay par value for any Award of Common Stock in cash or in the form of prior services. The aggregate number of Shares subject to Awards granted under this Plan will not exceed 3,669,600 Shares (the "Share Reserve"). Any limitations established by this Section VI are subject to adjustment as provided by Section XIV. any outstanding Award expires, is terminated or forfeited or the Shares subject to an Award are purchased or acquired by the Company, the Shares represented by the expired, unexercised, forfeited or acquired portion of such Award may again be subject to Awards under the Plan. The following Shares may not again be made available for issuance under the Plan: (i) Shares used to pay the withholding taxes related to an Award, or (ii) Shares not issued or delivered as a result of the net exercise of a Stock Appreciation Right or Option or (iii) if a distribution related to an Award is made in cash, the number of Shares subject to the redeemed or exercised portion of the Award.

## VII. STOCK OPTIONS

Options granted to Employees, Consultants and Directors pursuant to the Plan will be evidenced by written Option Award Agreements (whether in hard copy or in an electronic format approved by the Company) in such form as the Administrator will determine, subject to the Plan and the following terms and conditions:

### (i) Number of Shares

Each Option Award Agreement will state the number of Shares to which such Option pertains, which will be subject to adjustment in accordance with Section XIV.



(ii) Exercise Price

Each Option Award Agreement will state the Exercise Price of such Option, determined by the Administrator, which will not be less than the Fair Market Value of a Share on the date of grant, except as provided in Section XIV. If the recipient of an Incentive Stock Option owns more than 10% of the total combined voting power of all classes of stock of the Company, its Parent or Subsidiary on the date of grant (a "10% Owner") then the Exercise Price of such Incentive Stock Option will be at least 110% of the Fair Market Value of a Share on the date of grant.

(iii) Medium and Time of Payment

The Purchase Price payable upon the exercise of an Option is payable in full in United States dollars; provided that with the consent of the Administrator and in accordance with its rules and regulations, the Purchase Price may be paid by the surrender of Shares in good form for transfer, owned by the person exercising the Option and having a Fair Market Value on the date of exercise at least equal to the Purchase Price (including same-day sales and cashless exercises), or in any combination of cash and Shares, or in such acceptable form of payment as approved by the Administrator, so long as the total of the cash and the Fair Market Value of the Shares or other form or payment surrendered equals the Purchase Price. No Shares will be issued until full payment has been made.

(iv) Term and Exercise of Options

Each Option Award Agreement will state the date after which such Option will cease to be exercisable. No Option will be exercisable after the expiration of ten years (five years for Incentive Stock Options awarded to 10% Owners) from the date it is granted or such lesser period established by the Administrator. An Option will, during a Participant's lifetime, be exercisable only by the Participant or if the Participant's Disability prevents such exercise, by their legally appointed guardian, unless otherwise provided in the Option Award Agreement or Section XXII.

(v) Termination of Service

In the event that a Participant's service as an Employee, Consultant or Director terminates for any reason, unless provided for otherwise in an Option Award Agreement, such Participant (or in the case of death, such Participant's designated Beneficiary) will have the right (subject to the limitation that no Option may be exercised after its stated expiration date) to exercise such Option either:

a. within three months after such termination of service; or . in the case of Retirement or death, within one year after the date thereof; or . in the case of Disability, within one year from the date the Participant's service with the Company or an Affiliate is terminated due to the Disability, or . on such other terms established by the Administrator in the Award Agreement or otherwise prior to termination of service, but only to the extent that, at the date of termination, the Option had vested pursuant to the terms of the Option Award Agreement with respect to which such Option was granted and had not previously been exercised. purposes of this Section, the service relationship will be treated as continuing while the Participant is on military leave, sick leave (including short term disability) or other bona fide leave of absence (to be determined in the sole discretion of the Administrator, in accordance with rules and regulations construing

Code sections 422 and 409A). If a Participant's classification as an Employee, Consultant or Director changes into a different such classification without any break in service, such Participant's service relationship will be treated as continuing without interruption for purposes of vesting in and exercising Options held by such Participant. Notwithstanding the foregoing, in the case of an Incentive Stock Option, employment will not continue beyond the date the Participant ceased active employment, unless the Participant's reemployment rights are guaranteed by statute or by contract. Otherwise, an Incentive Stock Option that is exercised after the period following termination of employment that is required for qualification under Code section 422, will be treated as a Nonqualified Stock Option for all Plan purposes.

Notwithstanding the above, in the event an Outside Director terminates service as a Director, the former Director (or his or her designated Beneficiary in the event of the Outside Director's death) will have the right (subject to the limitation that no Option may be exercised after its stated expiration date) to exercise an Option (to the extent vested pursuant to the terms of the Option Award Agreement and not previously exercised) within one year after such termination of service or on such other terms established by the Board or Committee in the Option Award Agreement or otherwise prior to the termination of service.

(vi) Rights as a Shareholder

A Participant or an authorized transferee of a Participant will have no rights as a shareholder with respect to any Shares covered by his or her Option until the date of issuance of a stock certificate or book entry notation for such Shares. No adjustment will be made for dividends, distributions or other rights for which the record date is prior to the date such stock certificate is issued or book entry made, except as provided in Section XIV.

(vii) Modification, Extension and Renewal of Options

Subject to the terms and conditions and within the limitations of the Plan, the Administrator may modify, extend or renew outstanding Options granted to Employees, Consultants and Directors under the Plan. Notwithstanding the foregoing, however, no modification, extension or renewal of an Option will, without the consent of the Participant, alter or impair any rights or obligations under any Option previously granted under the Plan or cause any Option to fail to be exempt from the requirements of Code section 409A.

(viii) Limitations on Incentive Stock Option Awards

If and to the extent that the aggregate Fair Market Value (determined as of the date the Option is granted) of the Shares with respect to which any Incentive Stock Options are exercisable for the first time by a Participant during any calendar year under this Plan and all other plans maintained by the Company, its Parent or any Subsidiaries exceeds \$100,000, the excess (taking into account the order in which they were granted) will be treated as Nonqualified Stock Options. The maximum number of Shares that may be issued subject to Incentive Stock Options granted under this Plan shall equal the Share Reserve, subject to adjustments provided for in Section XIV.

(ix) No Reload Options

Options that provide for the automatic grant of another Option upon exercise of the original Option may not be granted under the Plan.

(x) Other Terms and Conditions

An Option Award Agreement may contain such other terms and conditions, including restrictions or conditions on the vesting of such Option or the terms and conditions under which such Option may be forfeited, as may be determined by the Administrator that are consistent with the Plan. Subject to the

provisions of the Plan, the Administrator may condition the grant of any Option, or the removal of any restriction imposed on such Option, upon the attainment of specified performance objectives established by the Administrator, as the Administrator may determine in its sole discretion.

### VIII. STOCK APPRECIATION RIGHTS

Stock Appreciation Rights granted to Employees, Consultants and Directors pursuant to the Plan will be evidenced by written Stock Appreciation Right Award Agreements (whether in hard copy or in an electronic format approved by the Company) in such form as the Administrator will determine, subject to the Plan and the following terms and conditions:

(i) Number of Shares

Each Stock Appreciation Right Award Agreement will state the number of Shares or Share Equivalents to which such Stock Appreciation Right pertains, subject to adjustment in accordance with Section XIV.

(ii) Calculation of Appreciation; Exercise Price

The appreciation distribution payable on the exercise of a Stock Appreciation Right is equal to the excess of (i) the Fair Market Value of each Share or Share Equivalent in which the Participant is vested under such Stock Appreciation Right on the exercise date, over (ii) the Exercise Price of each Share or Share Equivalent determined by the Administrator on the date of grant of the Stock Appreciation Right, which will not be less than 100% of the Fair Market Value of a Share on the date of grant except as provided in Section XIV.

(iii) Payment

The appreciation distribution in respect of a Stock Appreciation Right may be paid in Shares, in cash or any combination, or in any other form of consideration as determined by the Administrator and contained in the Stock Appreciation Right Award Agreement.

(iv) Term and Exercise of Stock Appreciation Rights

Each Stock Appreciation Right Award Agreement will state the date after which the Stock Appreciation Right will cease to be exercisable. No Stock Appreciation Right will be exercisable after the expiration of ten years from the date it is granted or such lesser period established by the Administrator in the Stock Appreciation Right Award Agreement. A Stock Appreciation Right will, during a Participant's lifetime, be exercisable only by the Participant or if the Participant's Disability prevents such exercise, by their legally appointed guardian, unless otherwise provided in the Stock Appreciation Right Award Agreement or as allowed by Section XXII.

(v) Termination of Service

In the event that a Participant's service as an Employee, Consultant or Director terminates, for any reason, unless provided for otherwise in a Stock Appreciation Right Award Agreement, such Participant (or in the case of death, such Participant's designated Beneficiary) will have the right (subject to the limitation that no Stock Appreciation Right may be exercised after its stated expiration date) to exercise such Stock Appreciation Right either:

- a. within three months after such termination of service; or . in the case of Retirement or death within one year after the date thereof; or

c. in the case of Disability, within one year from the date the Participant's service with the Company or an Affiliate is terminated due to the Disability, or

d. on such other terms established by the Administrator in the Award Agreement or otherwise prior to termination of service, but only to the extent that, at the date of termination, the Stock Appreciation Right had vested pursuant to the terms of the Stock Appreciation Right Award Agreement with respect to which such Stock Appreciation Right was granted and had not previously been exercised.

For purposes of this Section, the service relationship will be treated as continuing while the Participant is on military leave, sick leave (including short term disability) or other bona fide leave of absence (to be determined in the sole discretion of the Administrator, in accordance with rules and regulations construing Code sections 422 and 409A). If a Participant's classification as an Employee, Consultant or Director changes into a different such classification without any break in service, such Participant's service relationship will be treated as continuing without interruption for purposes of vesting in and exercising Stock Appreciation Rights held by such Participant. the above, in the event an Outside Director terminates service as a Director, the former Director (or his or her designated Beneficiary in the event of the Outside Director's death) will have the right (subject to the limitation that no Stock Appreciation Right may be exercised after its stated expiration date) to exercise a Stock Appreciation Right (to the extent vested pursuant to the terms of the Stock Appreciation Right Award Agreement and not previously exercised) within one year after such termination of service or on such other terms established by the Administrator in the Stock Appreciation Award Agreement or otherwise prior to the termination of service.

(vi) Rights as a Shareholder

A Participant or an authorized transferee of a Participant will have no rights as a shareholder with respect to any Shares covered by his or her Stock Appreciation Right until the date of issuance of such Shares. No adjustment will be made for dividends, distributions or other rights for which the record date is prior to the date such Shares are issued, except as provided in Section XIV.

(vii) Modification, Extension and Renewal of Stock Appreciation Rights

Subject to the terms and conditions and within the limitations of the Plan, the Administrator may modify, extend or renew outstanding Stock Appreciation Rights granted to Employees, Consultants and Directors under the Plan. Notwithstanding the foregoing, however, no modification, extension or renewal of a Stock Appreciation Right will, without the consent of the Participant, alter or impair any rights or obligations under any Stock Appreciation Right previously granted under the Plan or cause any Stock Appreciation Right to fail to be exempt from the requirements of Code section 409A.

(viii) Other Terms and Conditions

A Stock Appreciation Right Award Agreement may contain such other terms and conditions, including restrictions or conditions on the vesting of such Stock Appreciation Right Award or the terms and conditions under which such Stock Appreciation Right Award may be forfeited, as may be determined by the Administrator that are consistent with the Plan. Subject to the provisions of the Plan, the Administrator may condition the grant of any Stock Appreciation Right, or the removal of any restriction imposed on such Stock Appreciation Right, upon the attainment of specified performance objectives established by the Administrator, as the Administrator may determine in its sole discretion.

## IX. RESTRICTED STOCK

Restricted Stock granted to Employees, Consultants and Directors pursuant to the Plan will be subject to written Restricted Stock Award Agreements (whether in hard copy or in an electronic format approved by the Company) in such form as the Administrator will determine, subject to the Plan and the following terms and conditions:

### (i) Number of Shares; Grants

Subject to the provisions of the Plan, the Administrator may condition the grant of Restricted Stock, or the removal of any restriction, upon the attainment of specified performance objectives established by the Administrator, as the Administrator may determine in its sole discretion.

Each Participant receiving a grant of Restricted Stock will be issued a stock certificate which may be in electronic form or book entry in respect of such Shares of Restricted Stock. Such certificate will be registered in the name of such Participant, and will bear an appropriate legend referring to the applicable terms, conditions, and restrictions. The Administrator will require that stock certificates evidencing such Shares be held by the Company until the restrictions lapse and that, as a condition of any grant of Restricted Stock, the Participant will deliver to the Company a stock power relating to such Shares.

### (ii) Restrictions and Conditions

The Shares of Restricted Stock granted pursuant to this Section I will be subject to the following restrictions and conditions:

a. During a period set by the Administrator commencing with the date of such grant (the "Restriction Period"), the Participant will not be permitted to sell, transfer, pledge, assign or encumber shares of Restricted Stock granted under the Plan. Within these limits, the Administrator, in its sole discretion, may provide for the lapse of such restrictions in installments and may accelerate or waive such restrictions in whole or in part, based on continued service, performance, or such other factors or criteria as the Administrator may determine in its sole discretion. . Except as provided in this paragraph (ii) and paragraph (i) above, the Participant will have, with respect to the shares of Restricted Stock, all of the rights of a shareholder of the Company, including the right to vote the shares and the right to receive any cash or stock dividends on or after the grant date. The Administrator, in its sole discretion, as determined at the time of grant, may provide that the payment of cash dividends will be deferred and not paid until the underlying Shares are vested. Stock dividends issued with respect to Restricted Stock will be treated as additional shares of Restricted Stock that are subject to the same restrictions and other terms and conditions that apply to the Shares with respect to which such dividends are issued. . The Administrator will specify the conditions under which shares of Restricted Stock will vest or be forfeited, including achievement of performance criteria or continued service, by setting forth such conditions in the Restricted Stock Award Agreement. . If and when the Restriction Period applicable to shares of Restricted Stock expires without a prior forfeiture of the Restricted Stock, certificates for an appropriate number of unrestricted Shares will be delivered promptly to the Participant, and the certificates for the shares of Restricted Stock will be canceled. . If required by the General Corporation Laws of the Company's state of incorporation, recipients will pay at least par value for their Restricted Stock Awards in cash or, at the discretion of the Administrator, past services rendered. If the recipient subsequently forfeits the Restricted Stock for any reason, the Company will refund any cash payments to the recipient without interest.

## X. RESTRICTED STOCK UNITS

Restricted Stock Units granted to Employees, Consultants and Directors pursuant to the Plan will be evidenced by written Restricted Stock Unit Award Agreements (whether in hard copy or in an electronic format approved by the Company) in such form as the Administrator will determine, subject to the Plan and the following terms and conditions:

### (i) Number of Shares; Grants

Each Restricted Stock Unit Award Agreement will state the number of Shares subject to issuance thereunder.

With respect to a Restricted Stock Unit, no Shares will be issued at the time the grant is made (nor will any book entry be made in the records of the Company) and the Participant will have no right to or interest in any Shares as a result of the grant of a Restricted Stock Unit until all conditions attached to the grant are fulfilled.

### (ii) Restrictions and Conditions

The Restricted Stock Units granted pursuant to this Section X will be subject to the following restrictions and conditions:

a. At the time of grant of a Restricted Stock Unit, the Administrator may impose such restrictions or conditions on the vesting of the Restricted Stock Units as the Administrator deems appropriate. Within these limits, the Administrator, in its sole discretion, may provide for the lapse of such restrictions in installments and may accelerate or waive such restrictions in whole or in part, based on continued service, performance or such other factors or criteria as the Administrator may determine in its sole discretion. The foregoing notwithstanding, no action pursuant to the preceding sentence may alter the time of issuance of Shares under the Restricted Stock Unit, if such alteration would cause the Award to be subject to penalty under Code section 409A. . A Participant or an authorized transferee of a Participant will have no rights as a shareholder with respect to any Shares covered by his or her Restricted Stock Unit until the date of issuance of a stock certificate or book entry notation for such Shares. No adjustment will be made for dividends, distributions or other rights for which the record date is prior to the date such stock certificate is issued or book entry made, except as provided in Section 14. . The Administrator will specify the conditions under which Restricted Stock Units will vest or be forfeited, including achievement of performance criteria or continued service, and such conditions will be set forth in the Restricted Stock Unit Award Agreement. The Administrator may condition the issuance of a Restricted Stock Unit or the removal of any restriction upon the attainment of specified performance objectives established by the Administrator, as the Administrator may determine in its sole discretion. . If required by the General Corporation Laws of the Company's state of incorporation, recipients will pay at least par value for Shares issued pursuant to a Restricted Stock Unit in cash or, at the discretion of the Administrator, past services rendered.

## XI. OTHER ISSUANCE OF SHARES

Shares may be issued under this Plan to satisfy the payment of all or part of an award pursuant to the Company's annual bonus plan. All or part of any Director's fees may be paid in Shares or Share Equivalents issued under this Plan. Shares may also be sold to a Participant on such terms and conditions as the Administrator determines. Any Shares issued pursuant to this Section I(a)(i)a will reduce the number of Shares authorized under Section VI.

## XII. PERFORMANCE OBJECTIVES

### (i) Authority to Establish

The Administrator will determine the terms and conditions of Awards at the date of grant or thereafter; provided that performance objectives for each year, if any, will be established by the Administrator not later than the latest date permissible under Code section 162(m). Performance objectives are not satisfied until the Administrator certifies their satisfaction.

### (ii) Criteria

To the extent that such Awards are paid to Employees, the performance objectives to be used, if any, will be expressed in terms of one or more of the following: total shareholder return; earnings per share; stock price; return on equity; net earnings; income from continuing operations; related return ratios; cash flow; net earnings growth; earnings before interest, taxes, depreciation and amortization (EBITDA); gross or operating margins; productivity ratios; expense targets; operating efficiency; market share; customer satisfaction; working capital targets (including, but not limited to days sales outstanding); return on assets; increase in revenues; decrease in expenses; increase in funds from operations (FFO); and increase in FFO per share. Awards may be based on performance against objectives for more than one Subsidiary, segment or division of the Company. For example, Awards to an Employee of the Company may be based on overall Company performance against objectives, but awards for an Employee employed by a Subsidiary may be based on a combination of corporate, segment, and Subsidiary performance against objectives. Performance objectives, if any, established by the Administrator may be (but need not be) different from year-to-year, and different performance objectives may be applicable to different Participants. Performance objectives may be determined on an absolute basis or relative to internal goals or relative to levels attained in prior years or related to other companies or indices or as ratios expressing relationships between two or more performance objectives. In addition, performance objectives may be based upon the attainment of specified levels of Company performance under one or more of the measures described above relative to the performance of other corporations.

### (iii) Adjustments

The Administrator will specify the manner of adjustment of any performance objectives to the extent necessary to prevent dilution or enlargement of any award as a result of extraordinary events or circumstances, as determined by the Administrator, or to exclude the effects of extraordinary, unusual, or non-recurring items; changes in applicable laws, regulations, or accounting principles; currency fluctuations; discontinued operations; non-cash items, such as amortization, depreciation, or reserves; asset impairment; or any recapitalization, restructuring, reorganization, merger, acquisition, divestiture, consolidation, spin-off, split-up, combination, liquidation, dissolution, sale of assets, or other similar corporate transaction.

## XIII. TERM OF PLAN

The Plan will remain in effect for ten years from the effective date in Section III, unless sooner terminated under Section XVII. However, if the Company's shareholders approve an increase in the number of Shares available for issuance under Section VI, that approval will serve as the adoption of a new plan regarding the increased number of Shares that may then be issued for a term of ten (10) years following the date the shareholders approved such increase.

## XIV. RECAPITALIZATION

### (i) Changes in Capitalization

Subject to any required action by the Company's shareholders, the number of Shares covered by this Plan as provided in Section VI; the maximum number of Shares subject to Incentive Stock Options as provided in Section VII(viii); the number of Shares or Share Equivalents covered by or referenced in each outstanding Award; the maximum grant limitations in Section I; and the Exercise Price of each outstanding Option or Stock Appreciation Right will be proportionately adjusted for any increase or decrease in the number of issued Shares resulting from a subdivision or consolidation of Shares, the payment of a stock dividend (but only of Common Stock) or any other increase or decrease in the number of such Shares effected without receipt of consideration by the Company or the declaration of a dividend payable in cash that has a material effect on the price of issued Shares. The conversion of any convertible security of the Company will not be deemed to have been effected without receipt of consideration.

### (ii) Dissolution or Liquidation

In the event of the dissolution or liquidation of the Company, each outstanding Award will terminate immediately prior to the consummation of such proposed action, unless otherwise provided by the Administrator. The Administrator may, in the exercise of its sole discretion in such instances, declare that any Award will terminate as of a date fixed by the Administrator and give each Participant the right to exercise their Award as to all or any part of the Shares subject to the Award, including Shares as to which the Award would not otherwise be exercisable.

### (iii) Merger or Asset Sale

Except as otherwise provided in an Award Agreement, in the event of a sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another entity, each outstanding Award will be assumed or an equivalent Award substituted by such successor entity or a Parent or Subsidiary of such successor entity, unless the Administrator determines, in the exercise of its sole discretion and in lieu of such assumption or substitution, that each Participant will have the right to exercise the Participant's Award as to all or any part of the Shares subject to the Award, including Shares as to which the Award would not otherwise be exercisable. If the Administrator determines that an Award will be exercisable in lieu of assumption or substitution in the event of a merger or sale of assets, the Administrator will notify the Participant that the Award will be so exercisable for a period of thirty (30) days from the date of such notice or such shorter period as the Administrator may specify in the notice, and the Award will terminate upon the expiration of such period. For the purposes of this paragraph, the Award will be considered assumed or substituted if, following the merger or sale of assets, the Award confers the right to purchase, for each Share subject to the Award immediately prior to the merger or sale of assets, the consideration (whether stock, cash, or other securities or property) received in the merger or sale of assets by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the merger or sale of assets was not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor entity, provide for the consideration to be received upon the exercise of the Award, for each Share subject to the Award, to be solely common stock of the successor corporation or its Parent substantially equal in Fair Market Value to the per Share consideration received by holders of Common Stock in the merger or sale of assets. The determination of such substantial equality of value of consideration will be made by the Administrator and its determination will be conclusive and binding.



## XV. SECURITIES LAW REQUIREMENTS AND LIMITATION OF RIGHTS

### (i) Federal Securities Law

No Shares will be issued pursuant to the Plan unless and until the Company has determined that: (i) it and the Participant have taken all actions required to register the Shares under the Securities Act of 1933 or perfect an exemption from registration; (ii) any applicable listing requirement of any stock exchange on which the Common Stock is listed has been satisfied; and (iii) any other applicable provision of state or federal law has been satisfied.

### (ii) Employment Rights

Neither the Plan nor any Award granted under the Plan will give any individual a right to become or remain employed by the Employer or to become or remain a Director or Consultant. The Employer reserves the right to terminate the employment of any Employee at any time, with or without cause, subject only to a written employment contract (if any). The Company and its Affiliates also retain the right to terminate a Consultant at any time, subject only to a written consulting contract, if any.

### (iii) Shareholders' Rights

A Participant will have no dividend rights, voting rights or other rights as a shareholder with respect to any Shares covered by his or her Award prior to the issuance of a stock certificate for such Shares, or in the case of a stock Award, the removal of all restrictions and risk of forfeiture. No adjustment will be made for cash or stock dividends or other rights for which the record date is prior to the date when such certificate is issued or restrictions and forfeiture risk lapse.

## XVI. BENEFICIARY DESIGNATION

Participants may designate on the prescribed form one or more Beneficiaries to whom distribution will be made of any Award outstanding at the time of the Participant's or Beneficiary's death. A Participant may change such designation at any time by filing a new form with the Administrator. If a Participant has not designated a Beneficiary or if no designated Beneficiary survives the Participant, distribution will be made to the Participant's estate as Beneficiary.

## XVII. AMENDMENT OF THE PLAN

### (i) Amendment and Termination

The Board may amend, suspend, discontinue or terminate the Plan at any time in such respects as the Board may deem advisable. Without approval of the shareholders of the Company, no such revision or amendment will:

a. Increase the number of Shares subject to the Plan; . Amend the class of Employees eligible to receive Awards in Section I; . Decrease the Exercise Price at which Options may be granted; . Remove the administration of the Plan from the Administrator; or . Amend this Section XVII to defeat its purpose.

(ii) Shareholder Approval

The Company will obtain shareholder approval of any Plan amendment to the extent necessary and desirable to comply with Rule 16b-3 or with Sections 162(m) or 422 of the Code (or any successor rule or statute or other applicable law, rule or regulation, including the requirements of any exchange or quotation system on which the Common Stock is listed or quoted). Such shareholder approval, if required, will be obtained in such a manner and to such a degree as is required by the applicable law, rule or regulation.

(iii) Effect of Amendment or Termination

Any such amendment or termination of the Plan will not affect Awards already granted, and such Awards will remain in full force and effect as if this Plan had not been amended or terminated, unless mutually agreed otherwise between the Participant and the Administrator, which agreement must be in writing and signed by the Participant and the Administrator.

**XVIII. NO AUTHORITY TO REPRICE**

Without the prior consent of the Company's shareholders, except as provided in Section XIV, the Administrator will have no authority to effect either (i) the repricing of any outstanding Options or Stock Appreciation Rights under the Plan or (ii) the cancellation of any outstanding Options or Stock Appreciation Rights under the Plan and the grant in substitution therefor of new Options or Stock Appreciation Rights under the Plan covering the same or different numbers of shares of Common Stock.

**XIX. APPROVAL OF SHAREHOLDERS**

This Plan and any amendments requiring shareholder approval pursuant to Section XVII will be subject to approval by the shareholders of the Company. Such vote will be taken no later than the first annual meeting of shareholders following the adoption of the Plan or of any such amendments, or any adjournment of such meeting.

**XX. WITHHOLDING TAXES**

(i) General

To the extent required by applicable law, the person exercising any Award granted under the Plan or the recipient of any payment or distribution under the Plan will make arrangements satisfactory to the Company for the satisfaction of any applicable withholding tax obligations. The Company will not be required to make such payment or distribution until such obligations are satisfied.

(ii) Other Awards

The Administrator may permit a Participant to satisfy all or part of his or her withholding tax obligations by having the Company withhold a portion of the Shares that otherwise would be issued to him or her under such Awards. Such Shares will be valued at the Fair Market Value on the day when taxes otherwise would be withheld in cash. The payment of withholding taxes by surrendering Shares to the Company, if permitted by the Administrator, will be subject to such restrictions as the Administrator may impose, including any restrictions required by rules of the Securities and Exchange Commission.

## **XXI. SUCCESSORS AND ASSIGNS**

The Plan will be binding upon the Company, its successors and assigns, and any Parent of the Company's successors or assigns. Notwithstanding that the Plan may be binding upon a successor or assign by operation of law, the Company will require any successor or assign to expressly assume and agree to be bound by the Plan in the same manner and to the same extent that the Company would be if no succession or assignment had taken place.

## **XXII. TRANSFERABILITY OF AWARDS**

No Award issued under this Plan may be sold, exchanged, transferred (including, without limitation, any transfer to a nominee or agent of a Participant), assigned, pledged, hypothecated or otherwise disposed of, except by will or by the laws of descent and distribution or otherwise required by applicable law, unless otherwise provided in an Award Agreement. Any unauthorized transfer of an Award will be void. Any authorized transferee will be subject to all of the terms and conditions applicable to a Participant transferring an Award or Shares issued under this Plan, including, but not limited to, the terms and conditions set forth in this Plan and the applicable Award Agreement. Notwithstanding the foregoing, a Participant may, by delivering written notice to the Company, in a form satisfactory to the Company, designate a third party who, in the event of the death of the Participant, will thereafter be entitled to exercise applicable rights under an Award Agreement as described in Section XVI.

**CASCADE MICROTECH, INC.  
2000 STOCK INCENTIVE PLAN  
AS AMENDED**

**1. Purposes of the Plan.** The purposes of this Stock Incentive Plan are to attract, retain and reward individuals who can and do contribute to the Company's success by providing Employees and Consultants an opportunity to share in the equity of the Company and to more closely align their interests with the Company and its shareholders.

Options granted hereunder may be either "incentive stock options," as defined in Section 422 of the Internal Revenue Code of 1986, as amended, or "nonqualified stock options," at the discretion of the Board and as reflected in the terms of the written option agreement. In addition, shares of the Company's Common Stock may be Sold hereunder independent of any Option grant.

**2. Definitions.** As used herein, the following definitions shall apply:

2.1 **"Administrator"** shall mean the Board or any of its Committees as shall be administering the Plan, in accordance with Section 4.1 of the Plan.

2.2 **"Board"** shall mean the Board of Directors of the Company.

2.3 **"Code"** shall mean the Internal Revenue Code of 1986, as amended.

2.4 **"Committee"** shall mean a committee appointed by the Board in accordance with Section 4.1 of the Plan.

2.5 **"Common Stock"** shall mean the Common Stock of the Company.

2.6 **"Company"** shall mean Cascade Microtech, Inc., an Oregon corporation.

2.7 **"Consultant"** shall mean any person who is engaged by the Company or any Parent or Subsidiary to render consulting services and is compensated for such consulting services and any Director of the Company whether compensated for such services or not.

2.8 **"Continuous Status as an Employee or Consultant"** shall mean the absence of any interruption or termination of service as an Employee or Consultant. Continuous Status as an Employee or Consultant shall not be considered interrupted in the case of: (i) any sick leave, military leave, or any other leave of absence approved by the Company; provided, however, that for purposes of Incentive Stock Options, any such leave is for a period of not more than ninety days or reemployment upon the expiration of such leave is guaranteed by contract or statute, provided, further, that on the ninety-first day of such leave (where re-employment is not guaranteed by contract or statute) the Optionee's Incentive Stock Option shall automatically convert to a Nonqualified Stock Option; or (ii) transfers between locations of the Company or between the Company, its Parent, its Subsidiaries or its successor.

2.9 **“Director”** shall mean a member of the Board.

2.10 **“Disability”** shall mean total and permanent disability as defined in Section 22(e)(3) of the Code.

2.11 **“Employee”** shall mean any person, including Officers and Directors, employed by the Company or any Parent or Subsidiary. Neither the payment of a director’s fee by the Company nor service as a Director shall be sufficient to constitute “employment” by the Company.

2.12 **“Exchange Act”** shall mean the Securities Exchange Act of 1934, as amended.

2.13 **“Fair Market Value”** shall mean, as of any date, the value of Common Stock determined as follows:

2.13.1 If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq National Market or the Nasdaq SmallCap Market of the Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for the Common Stock (or the closing bid, if no sales were reported) as quoted on such exchange or system for the last market trading day prior to the date of determination, as reported in The Wall Street Journal or such other source as the Administrator deems reliable;

2.13.2 If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, its Fair Market Value shall be the mean between the high bid and low asked prices for the Common Stock on the last market trading day prior to the date of determination, as reported in The Wall Street Journal or such other source as the Administrator deems reliable;

2.13.3 In the absence of an established market for the Common Stock, the Fair Market Value shall be determined in good faith by the Administrator.

2.14 **“Incentive Stock Option”** shall mean an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

2.15 **“Nonqualified Stock Option”** shall mean an Option not intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

2.16 **“Notice of Grant”** shall mean a written notice evidencing certain terms and conditions of an individual Option grant. The Notice of Grant is part of the Option Agreement.

2.17 **“Officer”** shall mean a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

2.18 **“Option”** shall mean a stock option granted pursuant to the Plan.

2.19 **“Option Agreement”** shall mean a written agreement between the Company and an Optionee evidencing the terms and conditions of an individual Option grant. The Option Agreement is subject to the terms and conditions of the Plan.

2.20 **“Optioned Stock”** shall mean the Common Stock subject to an Option.

2.21 **“Optionee”** shall mean an Employee or Consultant who holds an Option.

2.22 **“Parent”** shall mean a “parent corporation,” whether now or hereafter existing, as defined in Section 424(e) of the Code.

2.23 **“Plan”** shall mean this 2000 Stock Incentive Plan.

2.24 **“Rule 16b-3”** shall mean Rule 16b-3 of the Exchange Act or any successor to Rule 16b-3, as in effect when discretion is being exercised with respect to the Plan.

2.25 **“Sale” or “Sold”** shall include, with respect to the sale of Shares under the Plan, the sale of Shares for any form of consideration specified in Section 8.2, as well as a grant of Shares for consideration in the form of past or future services.

2.26 **“Share”** shall mean a share of the Common Stock, as adjusted in accordance with Section 11 of the Plan.

2.27 **“Subsidiary”** shall mean a “subsidiary corporation,” whether now or hereafter existing, as defined in Section 424(f) of the Code.

### **3. Stock Subject to the Plan.**

3.1 Subject to the provisions of paragraphs 3.2 and 3.3 of this Section 3 and the provisions of Section 11 of the Plan, the maximum aggregate number of Shares which may be optioned and/or Sold under the Plan is 3,000,000 shares of Common Stock. The Shares may be authorized, but unissued, or reacquired Common Stock.

3.2 If an Option should expire or become unexercisable for any reason, or is otherwise terminated or forfeited, without having been exercised in full, the unpurchased Shares which were subject thereto shall, unless the Plan shall have been terminated, become available for future Option grants and/or Sales under the Plan. If any Shares issued pursuant to a Sale shall be reacquired, canceled or forfeited for any reason, such Shares shall become available for future Option grants and/or Sales under the Plan, unless the Plan shall have been terminated. If the exercise price of any Option granted under the Plan is satisfied by tendering Shares of Common Stock to the Company (by either actual delivery or by attestation), only the number of shares of Common Stock issued net of the Shares of Common Stock tendered shall be deemed delivered for purposes of determining the maximum number of Shares available for delivery under the Plan.

3.3 Notwithstanding any other provision of this Section 3, but subject to the provisions of Section 11 of the Plan, the maximum number of Shares that may be issued upon the exercise of Incentive Stock Options shall be 3,000,000.

#### 4. Administration of the Plan.

##### 4.1 Procedure.

**4.1.1 Multiple Administrative Bodies.** If permitted by Rule 16b-3, the Plan may be administered by different bodies with respect to Directors, Officers who are not Directors, and Employees who are neither Directors nor Officers.

**4.1.2 Administration With Respect to Directors and Officers Subject to Section 16(b).** With respect to Option grants made to Employees who are also Officers or Directors subject to Section 16(b) of the Exchange Act, the Plan shall be administered by (A) the Board, if the Board may administer the Plan in compliance with the rules governing a plan intended to qualify as a discretionary plan under Rule 16b-3, or (B) a Committee designated by the Board to administer the Plan, which Committee shall be constituted to comply with the rules, if any, governing a plan intended to qualify as a discretionary plan under Rule 16b-3. Once appointed, such Committee shall continue to serve in its designated capacity until otherwise directed by the Board. From time to time the Board may increase the size of the Committee and appoint additional members, remove members (with or without cause) and substitute new members, fill vacancies (however caused), and remove all members of the Committee and thereafter directly administer the Plan, all to the extent permitted by the rules, if any, governing a plan intended to qualify as a discretionary plan under Rule 16b-3. With respect to persons subject to Section 16 of the Exchange Act, transactions under the Plan are intended to comply with all applicable conditions of Rule 16b-3. To the extent any provision of the Plan or action by the Administrator fails to so comply, it shall be deemed null and void, to the extent permitted by law and deemed advisable by the Administrator.

**4.1.3 Administration With Respect to Other Persons.** With respect to Option grants made to Employees or Consultants who are neither Directors nor Officers of the Company, the Plan shall be administered by the Board or a Committee designated by the Board, which Committee shall be constituted to satisfy the legal requirements relating to the administration of stock option plans under applicable corporate and securities laws and the Code. Once appointed, such Committee shall serve in its designated capacity until otherwise directed by the Board. The Board may increase the size of the Committee and appoint additional members, remove members (with or without cause) and substitute new members, fill vacancies (however caused), and remove all members of the Committee and thereafter directly administer the Plan, all to the extent permitted by the legal requirements relating to the administration of stock option plans under state corporate and securities laws and the Code.

**4.2 Powers of the Administrator.** Subject to the provisions of the Plan, and in the case of a Committee, subject to the specific duties delegated by the Board to such Committee, the Administrator shall have the authority, in its discretion:

4.2.1 to grant Incentive Stock Options in accordance with Section 422 of the Code, or Nonqualified Stock Options;

4.2.2 to authorize Sales of Shares of Common Stock hereunder;

4.2.3 to determine, upon review of relevant information, the Fair Market Value of the Common Stock;

4.2.4 to determine the exercise/purchase price per Share of Options to be granted or Shares to be Sold, which exercise/purchase price shall be determined in accordance with Section 8.1 of the Plan;

4.2.5 to determine the Employees or Consultants to whom, and the time or times at which, Options shall be granted and the number of Shares to be represented by each Option;

4.2.6 to determine the Employees or Consultants to whom, and the time or times at which, Shares shall be Sold and the number of Shares to be Sold;

4.2.7 to interpret the Plan;

4.2.8 to prescribe, amend and rescind rules and regulations relating to the Plan;

4.2.9 to determine the terms and provisions of each Option granted (which need not be identical) and, with the consent of the holder thereof, modify or amend each Option;

4.2.10 to determine the terms and provisions of each Sale of Shares (which need not be identical) and, with the consent of the purchaser thereof, modify or amend each Sale;

4.2.11 to accelerate or defer (with the consent of the Optionee) the exercise date of any Option;

4.2.12 to accelerate or defer (with the consent of the Optionee or purchaser of Shares) the vesting restrictions applicable to Shares Sold under the Plan or pursuant to Options granted under the Plan;

4.2.13 to authorize any person to execute on behalf of the Company any instrument required to effectuate the grant of an Option or Sale of Shares previously granted or authorized by the Administrator;

4.2.14 to determine the restrictions on transfer, vesting restrictions, repurchase rights, or other restrictions applicable to Shares issued under the Plan;

4.2.15 to effect, at any time and from time to time, with the consent of the affected Optionees, the cancellation of any or all outstanding Options under the Plan and to grant in substitution therefor new Options under the Plan covering the same or different numbers of Shares, but having an Option price per Share consistent with the provisions of Section 8 of this Plan as of the date of the new Option grant;

4.2.16 to establish, on a case-by-case basis, different terms and conditions pertaining to exercise or vesting rights upon termination of employment, whether at the time of an Option grant or Sale of Shares, or thereafter;

4.2.17 to approve forms of agreement for use under the Plan;



4.2.18 to reduce the exercise price of any Option to the then current Fair Market Value if the Fair Market Value of the Common Stock covered by such Option shall have declined since the date the Option was granted;

4.2.19 to determine whether and under what circumstances an Option may be settled in cash under subsection 9.6 instead of Common Stock; and

4.2.20 to make all other determinations deemed necessary or advisable for the administration of the Plan.

**4.3 Effect of Administrator's Decision.** All decisions, determinations and interpretations of the Administrator shall be final and binding on all Optionees and any other holders of any Options granted under the Plan or Shares Sold under the Plan.

## **5. Eligibility.**

**5.1 Persons Eligible.** Options may be granted and/or Shares Sold only to Employees and Consultants. Incentive Stock Options may be granted only to Employees. An Employee or Consultant who has been granted an Option or Sold Shares may, if he or she is otherwise eligible, be granted an additional Option or Options or Sold additional Shares.

**5.2 ISO Limitation.** To the extent that the aggregate Fair Market Value of Shares subject to an Optionee's Incentive Stock Options granted by the Company, any Parent or Subsidiary which become exercisable for the first time during any calendar year (under all plans of the Company or any Parent or Subsidiary) exceeds \$100,000, such excess Options shall be treated as Nonqualified Stock Options. For purposes of this Section 5.2, Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of the Shares shall be determined as of the time of grant.

**5.3 Section 5.2 Limitations.** Section 5.2 of the Plan shall apply only to an Incentive Stock Option evidenced by an Option Agreement which sets forth the intention of the Company and the Optionee that such Option shall qualify as an Incentive Stock Option. Section 5.2 of the Plan shall not apply to any Option evidenced by a Option Agreement which sets forth the intention of the Company and the Optionee that such Option shall be a Nonqualified Stock Option.

**5.4 No Right to Continued Employment.** The Plan shall not confer upon any Optionee any right with respect to continuation of employment or consulting relationship with the Company, nor shall it interfere in any way with his or her right or the Company's right to terminate his employment or consulting relationship at any time, with or without cause.

**5.5 Other Limitations.** The following limitations shall apply to grants of Options to Employees:

5.5.1 No Employee shall be granted, in any fiscal year of the Company, Options to purchase more than 500,000 Shares.

5.5.2 In connection with his or her initial employment, an Employee may be granted Options to purchase up to an additional 500,000 Shares which shall not count against the limit set forth in subsection 5.51 above.

5.5.3 The foregoing limitations shall be adjusted proportionately in connection with any change in the Company's capitalization as described in Section 11.

5.5.4 If an Option is canceled in the same fiscal year of the Company in which it was granted (other than in connection with a transaction described in Section 11), the canceled Option shall be counted against the limits set forth in subsections 5.51 and 5.52 above. For this purpose, if the exercise price of an Option is reduced, the transaction will be treated as a cancellation of the Option and the grant of a new Option.

6. **Term of Plan.** The Plan shall become effective upon the earlier to occur of its adoption by the Board or its approval by the shareholders of the Company as described in Section 17 of the Plan. It shall continue in effect for a term of ten (10) years, unless sooner terminated under Section 13 of the Plan.

7. **Term of Option.** The term of each Option shall be stated in the Notice of Grant; provided, however, that in the case of an Incentive Stock Option, the term shall be ten (10) years from the date of grant or such shorter term as may be provided in the Notice of Grant. However, in the case of an Incentive Stock Option granted to an Optionee who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Incentive Stock Option shall be five (5) years from the date of grant thereof or such shorter term as may be provided in the Notice of Grant.

#### 8. **Exercise/Purchase Price and Consideration.**

8.1 **Exercise/Purchase Price.** The per-Share exercise/purchase price for the Shares to be issued pursuant to exercise of an Option or a Sale shall be such price as is determined by the Administrator, but shall be subject to the following:

##### 8.1.1 In the case of an Incentive Stock Option

(a) granted to an Employee who, at the time of the grant of such Incentive Stock Option, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price shall be no less than one hundred ten percent (110%) of the Fair Market Value per Share on the date of the grant.

(b) granted to any other Employee, the per Share exercise price shall be no less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant.

8.1.2 In the case of a Nonqualified Stock Option or Sale, the per Share exercise/purchase price shall be determined by the Administrator.

8.1.3 Any determination to establish an Option exercise price or effect a Sale of Common Stock at less than Fair Market Value on the date of the Option grant or authorization of Sale shall be accompanied by an express finding by the Administrator specifying that the Option grant or Sale is in the best interest of the Company, and specifying both the Fair Market Value and the Option exercise price or Sale price of the Common Stock.

8.2 **Consideration.** The consideration to be paid for the Shares to be issued upon exercise of an Option or pursuant to a Sale, including the method of payment, shall be determined by the Administrator. In the case of an Incentive Stock Option, the Administrator shall determine the acceptable form of consideration at the time of grant. Such consideration may consist of:

8.2.1 cash;

8.2.2 check;

8.2.3 promissory note;

8.2.4 transfer to the Company of Shares which

(a) in the case of Shares acquired upon exercise of an Option, have been owned by the Optionee for more than six months on the date of surrender, and

(b) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares to be acquired;

8.2.5 if and so long as the Common Stock is registered under Section 12(b) or 12(g) of the Exchange Act, delivery of a properly executed exercise notice together with irrevocable instructions to a broker to promptly deliver to the Company the amount of sale or loan proceeds required to pay the exercise price;

8.2.6 such other consideration and method of payment for the issuance of Shares to the extent permitted by legal requirements relating to the administration of stock option plans and issuances of capital stock under applicable corporate and securities laws and the Code; or

8.2.7 any combination of the foregoing methods of payment.

If the Fair Market Value of the number of whole Shares transferred or the number of whole Shares surrendered is less than the total exercise price of the Option, the shortfall must be made up in cash or by check. Notwithstanding the foregoing provisions of this Section 8.2, the consideration for Shares to be issued pursuant to a Sale may not include, in whole or in part, the consideration set forth in subsection 8.2.5 above.

## 9. Exercise of Option.

9.1 **Procedure for Exercise; Rights as a Shareholder.** Any Option granted hereunder shall be exercisable at such times and under such conditions as determined by the Administrator, including performance criteria with respect to the Company and/or the Optionee, and as shall be permissible under the terms of the Plan.

An Option may not be exercised for a fraction of a Share.

An Option shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option by the person entitled to exercise the Option and full payment for the Shares with respect to which the Option is exercised has been received by the Company. Full payment may, as authorized by the Administrator, consist of any consideration and method of payment allowable under the Option Agreement and Section 8.2 of the Plan. Each Optionee who exercises an Option shall, upon notification of the amount due (if any) and prior to or concurrent with delivery of the certificate representing the Shares, pay to the Company amounts necessary to satisfy applicable federal, state and local tax withholding requirements. An Optionee must also provide a duly executed copy of any stock transfer agreement then in effect and determined to be applicable by the Administrator. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Optioned Stock represented by such stock certificate, notwithstanding the exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 11 of the Plan.

**9.2 Termination of Employment or Consulting Relationship.** In the event that an Optionee's Continuous Status as an Employee or Consultant terminates (other than upon the Optionee's death or Disability), the Optionee may exercise his or her Option, but only within such period of time as is determined by the Administrator, and only to the extent that the Optionee was entitled to exercise it at the date of termination (but in no event later than the expiration of the term of such Option as set forth in the Notice of Grant). In the case of an Incentive Stock Option, the Administrator shall determine such period of time (in no event to exceed three (3) months from the date of termination) when the Option is granted. If, at the date of termination, the Optionee is not entitled to exercise his or her entire Option, the Shares covered by the unexercisable portion of the Option shall revert to the Plan. If, after termination, the Optionee does not exercise his or her Option with the time specified by the Administrator, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

**9.3 Disability of Optionee.** In the event that an Optionee's Continuous Status as an Employee or Consultant terminates as a result of the Optionee's Disability, the Optionee may exercise his or her Option at any time within twelve (12) months from the date of such termination, but only to the extent that the Optionee was entitled to exercise it at the date of such termination (but in no event later than the expiration of the term of such Option as set forth in the Notice of Grant). If, at the date of termination, the Optionee is not entitled to exercise his or her entire Option, the Shares covered by the unexercisable portion of the Option shall revert to the Plan. If, after termination, the Optionee does not exercise his or her Option within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

**9.4 Death of Optionee.** In the event of the death of an Optionee, the Option may be exercised at any time within twelve (12) months following the date of death (but in no event later than the expiration of the term of such Option as set forth in the Notice of Grant), by the Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent that the Optionee was entitled to exercise the Option at the date of death. If, at the time of death, the Optionee was not entitled to exercise his or her entire Option, the Shares covered by the unexercisable portion of the Option shall revert to the Plan. If, after death, the Optionee's estate or a person who acquired the right to exercise the Option by bequest or inheritance does not exercise the Option within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

**9.5 Rule 16b-3.** Options granted to persons subject to Section 16(b) of the Exchange Act must comply with Rule 16b-3 and shall contain such additional conditions or restrictions as may be required thereunder to qualify for the maximum exemption from Section 16 of the Exchange Act with respect to Plan transactions.

**9.6 Buyout Provisions.** The Administrator may at any time offer to buy out, in whole or in part, for a payment in cash or Shares, an Option previously granted, based on such terms and conditions as the Administrator shall establish and communicate to the Optionee at the time that such offer is made.

**10. Nontransferability of Options.** Except as otherwise specifically provided in the Option Agreement, an Option may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than by will, or by the laws of descent and distribution, and may be exercised during the lifetime of the Optionee only by the Optionee or, if incapacitated, by his or her legal guardian or legal representative.

#### **11. Adjustments Upon Changes in Capitalization or Merger.**

**11.1 Changes in Capitalization.** Subject to any required action by the shareholders of the Company, the number of shares of Common Stock covered by each outstanding Option and the number of shares of Common Stock which have been authorized for issuance under the Plan but as to which no Options have yet been granted or Sales made or which have been returned to the Plan upon cancellation or expiration of an Option, as well as the price per share of Common Stock covered by each such outstanding Option, shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of issued shares of Common Stock effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Administrator, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option.

**11.2 Dissolution or Liquidation.** In the event of the proposed dissolution or liquidation of the Company, each outstanding Option will terminate immediately prior to the consummation of such proposed action, unless otherwise provided by the Administrator. The Administrator may, in the exercise of its sole discretion in such instances, declare that any Option shall terminate as of a date fixed by the Board and give each Optionee the right to exercise Optionee's Option as to all or any part of the Common Stock subject to the Option, including Shares as to which the Option would not otherwise be exercisable.

**11.3 Merger or Asset Sale.** Except as otherwise provided in an Option Agreement, in the event of a proposed sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another corporation, each outstanding Option shall be assumed or an equivalent option shall be substituted by such successor corporation or a Parent or Subsidiary of such successor corporation, unless the Administrator determines, in the exercise of its sole discretion and in lieu of such assumption or substitution, that each Optionee shall have the right to exercise Optionee's Option as to all or any part of the Common Stock subject to the Option, including Shares as to which the Option would not otherwise be exercisable. If the Administrator determines that an Option shall be exercisable in lieu of assumption or substitution in the event of a merger or sale of assets, the Administrator shall notify the Optionee that the Option shall be so exercisable for a period of thirty (30) days from the date of such notice or such shorter period as the Administrator may specify in the notice, and the Option will terminate upon the expiration of such period. For the purposes of this paragraph, the Option shall be considered assumed if, following the merger or sale of assets, the Option confers the right to purchase, for each Share of Optioned Stock subject to the Option immediately prior to the merger or sale of assets, the consideration (whether stock, cash, or other securities or property) received in the merger or sale of assets by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the merger or sale of assets was not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation and the Optionee, provide for the consideration to be received upon the exercise of the Option, for each Share of Optioned Stock subject to the Option, to be solely common stock of the successor corporation or its Parent equal in Fair Market Value to the per share consideration received by holders of Common Stock in the merger or sale of assets.

**12. Time of Granting Options.** The date of grant of an Option shall, for all purposes, be the date on which the Administrator makes the determination granting such Option. Notice of the determination shall be given to each Optionee within a reasonable time after the date of such grant.

**13. Amendment and Termination of the Plan.**

**13.1 Amendment and Termination.** The Board may amend or terminate the Plan from time to time in such respects as the Board may deem advisable.

**13.2 Shareholder Approval.** The Company shall obtain shareholder approval of any Plan amendment to the extent necessary and desirable to comply with Rule 16b-3 or with Section 422 of the Code (or any successor rule or statute or other applicable law, rule or regulation, including the requirements of any exchange or quotation system on which the Common Stock is listed or quoted). Such shareholder approval, if required, shall be obtained in such a manner and to such a degree as is required by the applicable law, rule or regulation.

**13.3 Effect of Amendment or Termination.** Any such amendment or termination of the Plan shall not affect Options already granted, and such Options shall remain in full force and effect as if this Plan had not been amended or terminated, unless mutually agreed otherwise between the Optionee and the Administrator, which agreement must be in writing and signed by the Optionee and the Company.

**14. Conditions Upon Issuance of Shares.** Shares shall not be issued pursuant to the exercise of an Option or a Sale unless the exercise of such Option or consummation of the Sale and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act of 1933, as amended, applicable state securities laws, the Exchange Act, the rules and regulations promulgated thereunder, and the requirements of any stock exchange (including NASDAQ) upon which the Shares may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

**15. Reservation of Shares.** The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

**16. Liability of Company.**

**16.1 Inability to Obtain Authority.** Inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

As a condition to the exercise of an Option or a Sale, the Company may require the person exercising such Option or to whom Shares are being Sold to represent and warrant at the time of any such exercise or Sale that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned relevant provisions of law.

**16.2 Grants Exceeding Allotted Shares.** If the Optioned Stock covered by an Option exceeds, as of the date of grant, the number of Shares which may be issued under the Plan without additional shareholder approval, such Option shall be void with respect to such excess Optioned Stock, unless shareholder approval of an amendment sufficiently increasing the number of Shares subject to the Plan is timely obtained in accordance with Section 13 of the Plan.

17. **Shareholder Approval.** Continuance of the Plan shall be subject to approval by the shareholders of the Company within twelve (12) months before or after the date the Plan is adopted. Such shareholder approval shall be obtained in the manner and to the degree required under applicable federal and state law.

**18. Market Standoff.**

In connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the Securities Act, including the Company's initial public offering, an Optionee or other participant in the Plan shall not sell, make any short sale of, loan, hypothecate, pledge, grant any option for the purchase of, or otherwise dispose or transfer for value or otherwise agree to engage in any of the foregoing transactions with respect to, any shares issuable or issued under the Plan, whether pursuant to an Option or a Sale, without the prior written consent of the Company or its underwriters. Such limitations shall be in effect for such period of time as may be requested by the Company or such underwriters and agreed to by the Company's officers and directors with respect to their shares; provided, however, that in no event shall such period exceed 180 days. The limitations of this paragraph shall in all events terminate five years after the effective date of the Company's initial public offering. Participants shall be subject to the market standoff provisions of this Section 18 only if the officers and directors of the Company are also subject to similar arrangements.

In the event of any stock split, stock dividend, recapitalization, combination of shares, exchange of shares or other change affecting the Company's outstanding Common Stock effected as a class without the Company's receipt of consideration, then any new, substituted or additional securities distributed with respect to the purchased shares shall be immediately subject to the provisions of this Section 18, to the same extent the purchased shares are at such time covered by such provisions.

In order to enforce the limitations of this Section 18, the Company may impose stop-transfer instructions with respect to the purchased shares until the end of the applicable standoff period.

Amended by the Board of Directors on March 31, 2006

Amendment approved by Shareholders on May 19, 2006

Amended by the Board of Directors on March 3, 2009

Amendment approved by Shareholders on May 15, 2009



CASCADE MICROTECH, INC.  
1993 STOCK INCENTIVE PLAN  
AS AMENDED

(INCLUDING AMENDMENT AND RESTATEMENT OF THE  
1986 NON-QUALIFIED STOCK OPTION PLAN)

1. **PURPOSES OF THE PLAN.** The purposes of this Stock Incentive Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to the Employees and Consultants of the Company and to promote the success of the Company's business.

Options granted hereunder may be either "incentive stock options," as defined in Section 422 of the Internal Revenue Code of 1986, as amended, or "nonqualified stock options," at the discretion of the Board and as reflected in the terms of the written option agreement. In addition, shares of the Company's Common Stock may be Sold hereunder independent of any Option grant.

The Company's 1986 Non-Qualified Stock Option Plan (the "1986 Plan") is hereby amended and restated in its entirety. All outstanding options granted under the 1986 Plan shall be deemed Nonqualified Stock Options under this Plan subject to the terms and conditions hereof.

2. **DEFINITIONS.** As used herein, the following definitions shall apply:

(a) "BOARD" shall mean the Committee, if one has been appointed, or the Board of Directors of the Company, if no Committee is appointed.

(b) "CODE" shall mean the Internal Revenue Code of 1986, as amended.

(c) "COMMON STOCK" shall mean the Common Stock of the Company.

(d) "COMPANY" shall mean Cascade Microtech, Inc., an Oregon corporation.

(e) "COMMITTEE" shall mean the Committee appointed by the Board of Directors in accordance with paragraph (a) of Section 4 of the Plan, if one is appointed.

(f) "CONSULTANT" shall mean any person who is engaged by the Company or any Subsidiary to render consulting services and is compensated for such consulting services and any director of the Company whether compensated for such services or not.

(g) "CONTINUOUS STATUS AS AN EMPLOYEE OR CONSULTANT" shall mean the absence of any interruption or termination of service as an Employee or Consultant. Continuous Status as an Employee or Consultant shall not be considered interrupted in the case of sick leave, military leave, or any other leave of absence approved by the Board; provided that such leave is for a period of not more than ninety days or reemployment upon the expiration of such leave is guaranteed by contract or statute.

(h) "EMPLOYEE" shall mean any person, including officers and directors, employed by the Company or any Parent or Subsidiary of the Company. The payment of a director's fee by the Company shall not be sufficient to constitute "employment" by the Company.

(i) "INCENTIVE STOCK OPTION" shall mean an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(j) "NONQUALIFIED STOCK OPTION" shall mean an Option not intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(k) "OPTION" shall mean a stock option granted pursuant to the Plan.

(l) "OPTIONED STOCK" shall mean the Common Stock subject to an Option.

(m) "OPTIONEE" shall mean an Employee or Consultant who receives an Option.

(n) "PARENT" shall mean a "parent corporation," whether now or hereafter existing, as defined in Section 425(e) of the Code.

(o) "PLAN" shall mean this Stock Incentive Plan.

(p) "SALE" or "SOLD" shall include, with respect to the sale of Shares under the Plan, the sale of Shares for consideration in the form of cash or notes, as well as a grant of Shares without consideration, except past or future services.

(q) "SHARE" shall mean a share of the Common Stock, as adjusted in accordance with Section 11 of the Plan.

(r) "SUBSIDIARY" shall mean a "subsidiary corporation," whether now or hereafter existing, as defined in Section 425(f) of the Code.

3. STOCK SUBJECT TO THE PLAN. Subject to the provisions of Section 11 of the Plan, the maximum aggregate number of shares which may be optioned and/or Sold under the Plan is 2,200,000 shares of Common Stock. The Shares may be authorized, but unissued, or reacquired Common Stock.

If an Option should expire or become unexercisable for any reason without having been exercised in full, the unpurchased Shares which were subject thereto shall, unless the Plan shall have been terminated, become available for future Option grants and/or Sales under the Plan. If Shares Sold under the Plan are repurchased by the Company pursuant to restrictions applicable to such Shares, the number of Shares repurchased shall, unless the Plan shall have been terminated, become available for future Option grants and/or Sales under the Plan.

#### 4. ADMINISTRATION OF THE PLAN.

(a) PROCEDURE. The Plan shall be administered by the Board of Directors of the Company.

(i) Subject to subparagraph (ii), the Board of Directors may appoint a Committee consisting of not less than three (3) members of the Board of Directors to administer the Plan on behalf of the Board of Directors, subject to such terms and conditions as the Board of Directors may prescribe. Once appointed, the Committee shall continue to serve until otherwise directed by the Board of Directors. From time to time the Board of Directors may increase the size of the Committee and appoint additional members thereof, remove members (with or without cause) and appoint new members in substitution therefor, fill vacancies however caused, or remove all members of the Committee and thereafter directly administer the Plan.

Members of the Board who are either eligible for Options and/or Sales or have been granted Options or Sold Shares may vote on any matters affecting the administration of the Plan or the grant of any Options or Sale of any Shares pursuant to the Plan, except that no such member shall act upon the granting of an Option or Sale of Shares to himself, but any such member may be counted in determining the existence of a quorum at any meeting of the Board during which action is taken with respect to the granting of Options or Sale of Shares to him.

(ii) Notwithstanding the foregoing subparagraph (i), if and in any event the Company registers any class of any equity security pursuant to Section 12 of the Securities Exchange Act of 1934, from the effective date of such registration until six (6) months after the termination of such registration, any grants of options to officers or directors shall only be made by the Board; provided, however, that if any member of the Board has received an option grant or stock award under this Plan or any other stock option or other stock plan of the Company, or any of its affiliates, at any time within the preceding year, any grants of options to officers or directors must be made by, or only in accordance with the recommendation of, a Committee consisting of two or more persons, each of whom must be a member of the Board of Directors of the Company, appointed by the Board and having full authority to act in the matter, and none of whom has received any option grant or stock award under this Plan or any other stock option or other stock plan of the Company, or any of its affiliates at any time within the preceding year.

(b) **POWERS OF THE BOARD.** Subject to the provisions of the Plan, the Board shall have the authority, in its discretion: (i) to grant Incentive Stock Options in accordance with Section 422 of the Code, or nonqualified stock Options; (ii) to authorize Sales of Shares of Common Stock hereunder; (iii) to determine, upon review of relevant information and in accordance with Section 8(b) of the Plan, the fair market value of the Common Stock; (iv) to determine the exercise/purchase price per share of Options to be granted or Shares to be Sold, which exercise/purchase price shall be determined in accordance with Section 8(a) of the Plan; (v) to determine the Employees or Consultants to whom, and the time or times at which, Options shall be granted and the number of Shares to be represented by each Option; (vi) to determine the Employees or Consultants to whom, and the time or times at which, Shares shall be Sold and the number of Shares to be Sold; (vii) to interpret the Plan; (viii) to prescribe, amend and rescind rules and regulations relating to the Plan; (ix) to determine the terms and provisions of each Option granted (which need not be identical) and, with the consent of the holder thereof, modify or amend each Option; (x) to determine the terms and provisions of each Sale of Shares (which need not be identical) and, with the consent of the purchaser thereof, modify or amend each Sale; (xi) to accelerate or defer (with the consent of the Optionee) the exercise date of any Option, consistent with the provisions of Section 9 of the Plan; (xii) to accelerate or defer (with the consent of the Optionee or purchaser of Shares) the vesting restrictions applicable to Shares Sold under the Plan or pursuant to Options granted under the Plan; (xiii) to authorize any person to execute on behalf of the Company any instrument required to effectuate the grant of an Option or Sale of Shares previously granted or authorized by the Board; (xiv) to determine the restrictions on transfer, vesting restrictions, repurchase rights, or other restrictions applicable to Shares issued under the Plan; (xv) to effect, at any time and from time to time, with the consent of the affected Optionees, the cancellation of any or all outstanding Options under the Plan and to grant in substitution therefor new Options under the Plan covering the same or different numbers of Shares, but having an Option price per Share consistent with the provisions of Section 8 of this Plan as of the date of the new Option grant; and (xvi) to make all other determinations deemed necessary or advisable for the administration of the Plan.

(c) **EFFECT OF BOARD'S DECISION.** All decisions, determinations and interpretations of the Board shall be final and binding on all Optionees and any other holders of any Options granted under the Plan or Shares Sold under the Plan.

## 5. ELIGIBILITY.

(a) PERSONS ELIGIBLE. Options may be granted and/or Shares Sold only to Employees and Consultants. Incentive Stock Options may be granted only to Employees. An Employee or Consultant who has been granted an Option or Sold Shares may, if he is otherwise eligible, be granted an additional Option or Options or Sold additional Shares.

(b) ISO LIMITATION. No Incentive Stock Option may be granted to an Employee which, when aggregated with all other Incentive Stock Options granted to such Employee by the Company or any Parent or Subsidiary, would result in Shares having an aggregate fair market value (determined for each Share as of the date of grant of the Option covering such Share) in excess of \$100,000 becoming first available for purchase upon exercise of one or more Incentive Stock Options during any calendar year.

(c) SECTION 5(b) LIMITATIONS. Section 5(b) of the Plan shall apply only to an Incentive Stock Option evidenced by an "Incentive Stock Option Agreement" which sets forth the intention of the Company and the Optionee that such Option shall qualify as an Incentive Stock Option. Section 5(b) of the Plan shall not apply to any Option evidenced by a "Nonqualified Stock Option Agreement" which sets forth the intention of the Company and the Optionee that such Option shall be a Nonqualified Stock Option.

(d) NO RIGHT TO CONTINUED EMPLOYMENT. The Plan shall not confer upon any Optionee any right with respect to continuation of employment or consulting relationship with the Company, nor shall it interfere in any way with his right or the Company's right to terminate his employment or consulting relationship at any time.

6. TERM OF PLAN. The Plan shall become effective upon the earlier to occur of its adoption by the Board of Directors or its approval by the stockholders of the Company as described in Section 17 of the Plan. It shall continue in effect for a term of ten (10) years, unless sooner terminated under Section 13 of the Plan.

7. TERM OF OPTION. The term of each Incentive Stock Option shall be ten (10) years from the date of grant thereof or such shorter term as may be provided in the Stock Option Agreement. The term of each Nonqualified Stock Option shall be ten (10) years and one (1) day from the date of grant thereof or such shorter term as may be provided in the Stock Option Agreement. However, in the case of an Option granted to an Optionee who, at the time the Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, (a) if the Option is an Incentive Stock Option, the term of the Option shall be five (5) years from the date of grant thereof or such shorter time as may be provided in the Stock Option Agreement, or (b) if the Option is a Nonqualified Stock Option, the term of the Option shall be five (5) years and one (1) day from the date of grant thereof or such shorter term as may be provided in the Stock Option Agreement.

## 8. EXERCISE/PURCHASE PRICE AND CONSIDERATION.

(a) EXERCISE/PURCHASE PRICE. The per-Share exercise/purchase price for the Shares to be issued pursuant to exercise of an Option or a Sale (other than a Sale which is a grant for which no purchase price is payable) shall be such price as is determined by the Board, but shall be subject to the following:

(i) In the case of an Incentive Stock Option

(A) granted to an Employee who, at the time of the grant of such Incentive Stock Option, owns stock representing more than ten percent (10%) of the voting

power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise price shall be no less than one hundred ten percent (110%) of the fair market value per Share on the date of the grant.

(B) granted to any other Employee, the per Share exercise price shall be no less than one hundred percent (100%) of the fair market value per Share on the date of grant.

(ii) In the case of a Nonqualified Stock Option or Sale.

(A) granted or Sold to a person who, at the time of the grant of such Option or authorization of such Sale, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the per Share exercise/purchase price shall be no less than one hundred ten percent (110%) of the fair market value per Share on the date of the grant or authorization of Sale.

(B) granted or Sold to any other person, the per Share exercise/purchase price shall be no less than eighty-five percent (85%) of the fair market value per Share on the date of grant or authorization of Sale.

(iii) In the case of an Option granted or Sale authorized on or after the effective date of registration of any class of equity security of the Company pursuant to Section 12 of the Exchange Act and prior to six (6) months after the termination of such registration, the per Share exercise/purchase price shall be no less than one hundred percent (100%) of the fair market value per Share on the date of grant or authorization of Sale.

(b) FAIR MARKET VALUE. The fair market value per Share shall be determined by the Board in its discretion; provided, however, that where there is a public market for the Common Stock, the fair market value per Share shall be the mean of the bid and asked prices of the Common Stock for the date of grant or authorization of Sale, as reported in THE WALL STREET JOURNAL (or, if not so reported, as otherwise reported by the National Association of Securities Dealers Automated Quotation (NASDAQ) System) or, in the event the Common Stock is listed on a stock exchange (including NASDAQ), the fair market value per Share shall be the closing price on such exchange on the date of grant of the Option or authorization of Sale, as reported in THE WALL STREET JOURNAL.

(c) CONSIDERATION. The consideration to be paid for the Shares to be issued upon exercise of an Option or pursuant to a Sale, including the method of payment, shall be determined by the Board and may consist entirely of cash, check, promissory note, other Shares of Common Stock having a fair market value on the date of surrender equal to the aggregate exercise/purchase price of the Shares as to which said option shall be exercised or Sale consummated, or any combination of such methods of payment for the issuance of Shares.

## 9. EXERCISE OF OPTION.

(a) PROCEDURE FOR EXERCISE; RIGHTS AS A STOCKHOLDER. Any Option granted hereunder shall be exercisable at such times and under such conditions as determined by the Board, including performance criteria with respect to the Company and/or the Optionee, and as shall be permissible under the terms of the Plan.

An Option may not be exercised for a fraction of a Share.

An Option shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option by the person entitled to exercise the Option and full payment for the Shares with respect to which the Option is exercised has been received by the Company. Full payment may, as authorized by the Board, consist of any

consideration and method of payment allowable under Section 8(c) of the Plan. Each Optionee who exercises an Option shall, upon notification of the amount due (if any) and prior to or concurrent with delivery of the certificate representing the Shares, pay to the Company amounts necessary to satisfy applicable federal, state and local tax withholding requirements. An Optionee must also provide a duly executed copy of any shareholder stock transfer agreement then in effect and determined to be applicable by the Board. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 11 of the Plan.

Exercise of an Option in any manner shall result in a decrease in the number of Shares which thereafter may be available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(b) **TERMINATION OF STATUS AS AN EMPLOYEE OR CONSULTANT.** If an Employee or Consultant ceases to serve as an Employee or Consultant (as the case may be), he may, but only within three (3) months (or with respect to Nonqualified Stock Options, such other period of time not exceeding the limitations of Section 7 above as is determined by the Board at the time of grant of the Nonqualified Stock Option) after the date he ceases to be an Employee or Consultant (as the case may be) of the Company, exercise his Option to the extent that he was entitled to exercise it at the date of such termination. To the extent that he was not entitled to exercise the Option at the date of such termination, or if he does not exercise such Option (which he was entitled to exercise) within the time specified herein, the Option shall terminate.

(c) **DISABILITY OF OPTIONEE.** Notwithstanding the provisions of Section 9(b) above, in the event an Employee or Consultant is unable to continue his employment or consulting relationship (as the case may be) with the Company as a result of his total and permanent disability (as defined in Section 22(e)(3) of the Code), he may, but only within twelve (12) months (or with respect to Nonqualified Stock Options, such other period of time not exceeding the limitations of Section 7 above as is determined by the Board at the time of grant of the Nonqualified Stock Option) from the date of termination, exercise his Option to the extent he was entitled to exercise it at the date of such termination. To the extent that he was not entitled to exercise the Option at the date of termination, or if he does not exercise such Option (which he was entitled to exercise) within the time specified herein, the Option shall terminate.

(d) **DEATH OF OPTIONEE.** In the event of the death of an Optionee during the term of the Option who is at the time of his death an Employee or Consultant of the Company and who shall have been in Continuous Status as an Employee or Consultant since the date of grant of the Option, the Option may be exercised, at any time within twelve (12) months (or such other period of time not exceeding the limitations of Section 7 above as is determined by the Board at the time of grant of the Option) following the date of death, by the Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise as of the date of death.

10. **NONTRANSFERABILITY OF OPTIONS.** An Option may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than by will or by the laws of descent or distribution and may be exercised during the lifetime of the Optionee only by the Optionee.

11. ADJUSTMENTS UPON CHANGES IN CAPITALIZATION OR MERGER. Subject to any required action by the stockholders of the Company, the number of shares of Common Stock covered by each outstanding Option and the number of shares of Common Stock which have been authorized for issuance under the Plan but as to which no Options have yet been granted or sales made or which have been returned to the Plan upon cancellation or expiration of an Option, as well as the price per share of Common Stock covered by each such outstanding Option, shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of issued shares of Common Stock effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option.

In the event of the proposed dissolution or liquidation of the Company, the Option will terminate immediately prior to the consummation of such proposed action, unless otherwise provided by the Board. The Board may, in the exercise of its sole discretion in such instances, declare that any Option shall terminate as of a date fixed by the Board and give each Optionee the right to exercise his Option as to all or any part of the Optioned Stock, including Shares as to which the Option would not otherwise be exercisable. In the event of a proposed sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another corporation, the Option shall be assumed or an equivalent option shall be substituted by such successor corporation or a parent or subsidiary of such successor corporation, unless the Board determines, in the exercise of its sole discretion and in lieu of such assumption or substitution, that the Optionee shall have the right to exercise the Option as to all of the Optioned Stock, including Shares as to which the Option would not otherwise be exercisable. If the Board makes an Option fully exercisable in lieu of assumption or substitution in the event of a merger or sale of assets, the Board shall notify the Optionee that the Option shall be fully exercisable for a period of thirty (30) days from the date of such notice or such shorter period as the Board may specify in the notice, and the Option will terminate upon the expiration of such period.

12. TIME OF GRANTING OPTIONS. The date of grant of an Option shall, for all purposes, be the date on which the Board makes the determination granting such Option. Notice of the determination shall be given to each Employee or Consultant to whom an Option is so granted within a reasonable time after the date of such grant.

### 13. AMENDMENT AND TERMINATION OF THE PLAN.

(a) AMENDMENT AND TERMINATION. The Board may amend or terminate the Plan from time to time in such respects as the Board may deem advisable; provided that, the following revisions or amendments shall require approval of the stockholders of the Company in the manner described in Section 17 of the Plan:

(i) any increase in the number of Shares subject to the Plan, other than in connection with an adjustment under Section 11 of the Plan;

(ii) any change in the designation of the class of Employees or Consultants eligible to be granted Options; or

(iii) if the Company has a class of equity security registered under Section 12 of the Exchange Act at the time of such revision or amendment, any material increase in the benefits accruing to participants under the Plan.

(b) STOCKHOLDER APPROVAL. If any amendment requiring stockholder approval under Section 13(a) of the Plan is made subsequent to the first registration of any class of equity security by the Company under Section 12 of the Exchange Act, such stockholder approval shall be solicited as described in Section 17(a) of the Plan.

(c) EFFECT OF AMENDMENT OR TERMINATION. Any such amendment or termination of the Plan shall not affect Options already granted, and such Options shall remain in full force and effect as if this Plan had not been amended or terminated, unless mutually agreed otherwise between the Optionee and the Board, which agreement must be in writing and signed by the Optionee and the Company.

14. CONDITIONS UPON ISSUANCE OF SHARES. Shares shall not be issued pursuant to the exercise of an Option or a Sale unless the exercise of such Option or consummation of the Sale and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act of 1933, as amended, applicable state securities laws, the Exchange Act, the rules and regulations promulgated thereunder, and the requirements of any stock exchange upon which the Shares may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

As a condition to the exercise of an Option or a Sale, the Company may require the person exercising such Option or to whom Shares are being Sold to represent and warrant at the time of any such exercise or Sale that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned relevant provisions of law.

15. RESERVATION OF SHARES. The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

Inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

16. OPTION AGREEMENT. Options shall be evidenced by written option agreements in such form as the Board shall approve.

17. STOCKHOLDER APPROVAL. Continuance of the Plan shall be subject to approval by the stockholders of the Company within twelve months before or after the date the Plan is adopted. If such stockholder approval is obtained at a duly held stockholders' meeting, it may be obtained by the affirmative vote of the holders of a majority of the outstanding shares of the Company, such holders being present or represented and entitled to vote thereon. If and in the event that the Company registers any class of any equity security pursuant to Section 12 of the Exchange Act, the approval of such stockholders of the Company shall be:

(a) SOLICITATION.

(i) solicited substantially in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder, or

(ii) solicited after the Company has furnished in writing to the holders entitled to vote substantially the same information concerning the Plan as that which would be required by the rules and regulations in effect under Section 14(a) of the Exchange Act at the time such information is furnished; and



(b) TIME. Obtained at or prior to the first annual meeting of stockholders held subsequent to the first registration of any class of equity securities of the Company under Section 12 of the Exchange Act.

If such stockholder approval is obtained by written consent, it must be obtained by the written consent of stockholders of the Company in compliance with the requirements of applicable state law.

/s/ Eric W. Strid

Eric Strid, President

ADOPTED: FEBRUARY 5, 1993