

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark one)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Quarterly Period Ended September 30, 2001

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number 0-12699

ACTIVISION, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

95-4803544

(I.R.S. Employer Identification No.)

3100 Ocean Park Boulevard, Santa Monica, CA
(Address of principal executive offices)

90405
(Zip Code)

(310) 255-2000

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

The number of shares of the registrant's Common Stock outstanding as of November 5, 2001 was 34,693,108.

ACTIVISION, INC. AND SUBSIDIARIES

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Part I. Financial Information.

Item 1. Financial Statements.

**ACTIVISION, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(In thousands, except share data)**

	September 30, 2001 (Unaudited)	March 31, 2001
Assets		
Current assets:		
Cash and cash equivalents	\$ 122,152	\$ 125,550
Accounts receivable, net of allowances of \$27,450 and \$28,461 at September 30, 2001 and March 31, 2001, respectively	86,391	73,802
Inventories	33,892	43,888
Prepaid royalties and capitalized software costs	38,377	27,502
Deferred income taxes	12,553	14,292
Other current assets	14,758	13,196
Total current assets	308,123	298,230
Prepaid royalties and capitalized software costs	23,538	14,703
Property and equipment, net	17,209	15,240
Deferred income taxes	39,697	13,759
Other assets	5,786	7,709
Goodwill	10,458	10,316
Total assets	\$ 404,811	\$ 359,957
Liabilities and Shareholders' Equity		
Current liabilities:		
Current portion of long-term debt	\$ 2,337	\$ 10,231
Accounts payable	60,417	60,980
Accrued expenses	43,612	44,039
Total current liabilities	106,366	115,250
Long-term debt, less current portion	3,425	3,401
Convertible subordinated notes	—	60,000
Total liabilities	109,791	178,651
Commitments and contingencies		
Shareholders' equity:		
Preferred stock, \$.000001 par value, 4,500,000 shares authorized, no shares issued at September 30, 2001 and March 31, 2001	—	—
Series A Junior Preferred stock, \$.000001 par value, 500,000 shares authorized, no shares issued at September 30, 2001 and March 31, 2001	—	—

Common stock, \$.000001 par value, 125,000,000 and 50,000,000 shares authorized, 36,201,749 and 30,166,455 shares issued and 33,317,770 and 27,282,476 shares outstanding at September 30, 2001 and March 31, 2001, respectively	—	—
Additional paid-in capital	310,744	200,786
Retained earnings	14,390	12,146
Accumulated other comprehensive loss	(9,865)	(11,377)
Less: Treasury stock, at cost, 2,883,979 shares at September 30, 2001 and March 31, 2001	(20,249)	(20,249)
	<u>295,020</u>	<u>181,306</u>
Total shareholders' equity	295,020	181,306
	<u>295,020</u>	<u>181,306</u>
Total liabilities and shareholders' equity	\$ 404,811	\$ 359,957
	<u>\$ 404,811</u>	<u>\$ 359,957</u>

The accompanying notes are an integral part of these consolidated financial statements.

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ACTIVISION, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(In thousands, except per share data)

	For the three months ended September 30,		For the six months ended September 30,	
	2001	2000	2001	2000
Net revenues	\$ 139,604	\$ 144,363	\$ 250,181	\$ 228,921
Costs and expenses:				
Cost of sales—product costs	88,157	64,351	152,281	107,984
Cost of sales—royalties and software amortization	13,165	24,819	23,161	38,465
Product development	9,020	11,107	18,210	18,531
Sales and marketing	16,425	23,909	35,181	41,779
General and administrative	9,693	10,641	19,439	19,124
	<u>136,460</u>	<u>134,827</u>	<u>248,272</u>	<u>225,883</u>
Total costs and expenses	136,460	134,827	248,272	225,883
Operating income	3,144	9,536	1,909	3,038
Interest income (expense), net	372	(2,683)	1,653	(4,406)
	<u>3,516</u>	<u>6,853</u>	<u>3,562</u>	<u>(1,368)</u>
Income (loss) before income tax provision	3,516	6,853	3,562	(1,368)
Income tax provision (benefit)	1,301	2,547	1,318	(495)
	<u>2,215</u>	<u>4,306</u>	<u>2,244</u>	<u>(873)</u>
Net income (loss)	\$ 2,215	\$ 4,306	\$ 2,244	\$ (873)
	<u>0.07</u>	<u>0.18</u>	<u>0.07</u>	<u>(0.04)</u>
Basic earnings (loss) per share	\$ 0.07	\$ 0.18	\$ 0.07	\$ (0.04)
	<u>33,241</u>	<u>23,835</u>	<u>31,683</u>	<u>24,388</u>
Weighted average common shares outstanding	33,241	23,835	31,683	24,388
	<u>0.06</u>	<u>0.17</u>	<u>0.06</u>	<u>(0.04)</u>
Diluted earnings (loss) per share	\$ 0.06	\$ 0.17	\$ 0.06	\$ (0.04)
	<u>38,100</u>	<u>25,799</u>	<u>36,752</u>	<u>24,388</u>
Weighted average common shares outstanding assuming dilution	38,100	25,799	36,752	24,388

The accompanying notes are an integral part of these consolidated financial statements.

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ACTIVISION, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(In thousands)

	For the six months ended September 30,	
	2001	2000
Cash flows from operating activities:		
Net income (loss)	\$ 2,244	\$ (873)
Adjustments to reconcile net income (loss) to net cash used in operating activities:		
Deferred income taxes	(24,199)	(5,275)
Depreciation and amortization	2,679	2,964
Amortization of prepaid royalties and capitalized software costs	17,531	34,101
Tax benefit attributable to employee stock options and common stock warrants	24,371	1,445
Expense related to common stock warrants	566	703
Changes in assets and liabilities:		
Accounts receivable	(12,589)	(28,760)
Inventories	9,996	(6,789)
Prepaid royalties and capitalized software costs	(37,241)	(37,182)
Other assets	(1,489)	(1,677)
Accounts payable	(563)	6,200
Accrued expenses and other liabilities	2,790	8,493
Net cash used in operating activities	(15,904)	(26,650)
Cash flows from investing activities:		
Capital expenditures	(4,652)	(3,531)
Proceeds from disposal of property and equipment	391	1,394
Net cash used in investing activities	(4,261)	(2,137)
Cash flows from financing activities:		
Proceeds from issuance of common stock pursuant to employee stock option plans, employee stock purchase plan and common stock warrants	23,716	5,451
Borrowing under line-of-credit agreements	—	234,296
Payment under line-of-credit agreements	—	(211,055)
Payment on term loan	(8,550)	(5,000)
Other borrowings, net	680	(458)
Redemption of convertible subordinated notes	(62)	—
Purchase of treasury stock	—	(14,971)
Net cash provided by financing activities	15,784	8,263
Effect of exchange rate changes on cash	983	(4,257)
Net decrease in cash and cash equivalents	(3,398)	(24,781)
Cash and cash equivalents at beginning of period	125,550	49,985
Cash and cash equivalents at end of period	\$ 122,152	\$ 25,204

The accompanying notes are an integral part of these consolidated financial statements.

ACTIVISION, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF CHANGES IN SHAREHOLDERS' EQUITY
For the six months ended September 30, 2001
(Unaudited)
(In thousands)

Common Stock		Additional Paid-In Capital	Retained Earnings	Treasury Stock		Accumulated Other Comprehensive Income (Loss)	Shareholders' Equity
Shares	Amount			Shares	Amount		

Balance, March 31, 2001	30,166	\$	—	\$	200,786	\$	12,146	(2,884)	\$	(20,249)	\$	(11,377)	\$	181,306
Components of comprehensive income (loss):														
Net income	—		—		—		2,244	—		—		—		2,244
Foreign currency translation adjustment	—		—		—		—	—		—		1,512		1,512
Total comprehensive income														3,756
Issuance of common stock pursuant to conversion of convertible subordinated notes	3,175		—		59,938		—	—		—		—		59,938
Issuance of common stock pursuant to employee stock option plans, employee stock purchase plan and common stock warrants	2,861		—		23,716		—	—		—		—		23,716
Tax benefit attributable to employee stock options and common stock warrants	—		—		24,371		—	—		—		—		24,371
Other	—		—		1,933		—	—		—		—		1,933
Balance, September 30, 2001	36,202	\$	—	\$	310,744	\$	14,390	(2,884)	\$	(20,249)	\$	(9,865)	\$	295,020

The accompanying notes are an integral part of these consolidated financial statements.

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ACTIIVION INC. AND SUBSIDIARIES
Notes to Consolidated Financial Statements
For the three and six months ended September 30, 2001
(Unaudited)

1. Basis of Presentation

The accompanying consolidated financial statements include the accounts of Activision, Inc. and its subsidiaries. The information furnished is unaudited and reflects all adjustments that, in the opinion of management, are necessary to provide a fair statement of the results for the interim periods presented. The financial statements should be read in conjunction with the financial statements included in our Annual Report on Form 10-K for the year ended March 31, 2001 as filed with the Securities and Exchange Commission.

Certain amounts in the consolidated financial statements have been reclassified to conform to the current period's presentation. These reclassifications had no impact on previously reported working capital or results of operations.

2. Recently Issued Accounting Standards

Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations", was issued on July 20, 2001 and addresses financial accounting and reporting for business combinations. SFAS No. 141 requires that the purchase method be used to account and report for all business combinations. The provisions of this Statement apply to all business combinations initiated after June 30, 2001. This Statement also applies to all business combinations accounted for using the purchase method for which the date of acquisition is July 1, 2001 or later.

SFAS No. 142 "Goodwill and Other Intangibles", was issued on July 20, 2001 and addresses financial accounting and reporting for acquired goodwill and other intangible assets. SFAS No. 142 addresses how intangible assets should be accounted for after they have been initially recognized in the financial statements. The provisions of this Statement are required to be applied starting with fiscal years beginning after December 15, 2001. Early application is permitted for entities with fiscal years beginning after March 15, 2001, provided that the first interim financial statements have not previously been issued. We adopted the provisions of this Statement effective April 1, 2001.

In August 2001, SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" was issued, which supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed of," and the accounting and reporting provisions of Accounting Principles Board ("APB") No. 30, "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions." SFAS No. 144 addresses financial accounting and reporting for the impairment or disposal of long-lived assets and is effective for fiscal years beginning after December 15, 2001, and interim periods within those fiscal years. We believe the adoption of SFAS No. 144 will not have a material impact on our financial statements.

3. Goodwill and Other Intangible Assets—Adoption of SFAS No. 142

We adopted SFAS No. 142 effective April 1, 2001, and as a result we were not required to expense goodwill in the amount of \$375,000 and \$750,000 for the three months and six months ended September 30, 2001, respectively. The following table reconciles net income (loss) and earnings (loss) per share as reported for the three and six months ended September 30, 2001 and 2000 to net income

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(loss) and earnings (loss) per share as adjusted to exclude goodwill amortization (amounts in thousands, except per share data).

	Three months ended September 30,		Six months ended September 30,	
	2001	2000	2001	2000
Reported net income (loss)	\$ 2,215	\$ 4,306	\$ 2,244	\$ (873)
Add back: Goodwill amortization	—	375	—	753
Adjusted net income (loss)	\$ 2,215	\$ 4,681	\$ 2,244	\$ (120)
Basic earnings (loss) per share:				
Reported net income (loss)	\$ 0.07	\$ 0.18	\$ 0.07	\$ (0.04)
Goodwill amortization	—	0.02	—	0.03
Adjusted net income (loss)	\$ 0.07	\$ 0.20	\$ 0.07	\$ (0.01)
Diluted earnings (loss) per share:				
Reported net income (loss)	\$ 0.06	\$ 0.17	\$ 0.06	\$ (0.04)
Goodwill amortization	—	0.01	—	0.03
Adjusted net income (loss)	\$ 0.06	\$ 0.18	\$ 0.06	\$ (0.01)

4. Prepaid Royalties and Capitalized Software Costs

Prepaid royalties include payments made to independent software developers under development agreements and license fees paid to intellectual property rights holders for use of their trademarks or copyrights. Intellectual property rights which have alternative future uses are capitalized. Capitalized software costs represent costs incurred for internal development of products.

We account for prepaid royalties relating to development agreements and capitalized software costs in accordance with SFAS No. 86, "Accounting for the Costs of Computer Software to be Sold, Leased, or Otherwise Marketed." Software development costs and prepaid royalties are capitalized once technological feasibility is established and such costs are determined to be recoverable. For products where proven game engine technology exists, this may occur early in the development cycle. Technological feasibility is evaluated on a product by product basis. Prior to a product's release, we expense, as part of product development costs, capitalized costs when we believe such amounts are not recoverable. Amounts related to software development which are not capitalized are charged immediately to product development expense.

We evaluate the future recoverability of capitalized amounts on a quarterly basis. The following criteria is used to evaluate recoverability of software development costs: historical performance of comparable products; the commercial acceptance of prior products released on a given game engine; orders for the product prior to its release; estimated performance of a sequel product based on the performance of the product on which the sequel is based; and actual development costs of a product as compared to our budgeted amount.

Commencing upon product release prepaid royalties and capitalized software development costs are amortized to cost of sales—royalties and software amortization on the ratio of current revenues to total projected revenues, generally resulting in an amortization period of one year or less. For products that have been released, we evaluate the future recoverability of capitalized amounts on a quarterly basis. The primary evaluation criterion is actual title performance.

As of September 30, 2001, prepaid royalties and unamortized capitalized software costs totaled \$51.8 million (including \$23.5 million classified as non-current) and \$10.2 million, respectively. As of

March 31, 2001, prepaid royalties and unamortized capitalized software costs totaled \$38.3 million (including \$14.7 million classified as non-current) and \$3.9 million, respectively.

5. Revenue Recognition

We recognize revenue from the sale of our products once they are shipped and are available for general release to customers. Subject to certain limitations, we permit customers to exchange and return our products within certain specified periods and we provide our customers with price protection on certain unsold merchandise. Price protection policies, when negotiated and applicable, allow customers to take a deduction on unsold merchandise.

Revenue from product sales is reflected after deducting the estimated allowance for returns and price protection. We estimate the amount of future returns and price protection based upon historical results and current known circumstances. With respect to license agreements that provide customers the right to make multiple copies in exchange for guaranteed amounts, revenue is recognized upon delivery. Per copy royalties on sales that exceed the guarantee are recognized as earned.

6. Interest Income (Expense)

Interest income (expense), net is comprised of the following (amounts in thousands):

	Three months ended September 30,		Six months ended September 30,	
	2001	2000	2001	2000
Interest expense	\$ (662)	\$ (2,913)	\$ (1,263)	\$ (5,103)
Interest income	1,034	230	2,916	697
Net interest income (expense)	\$ 372	\$ (2,683)	\$ 1,653	\$ (4,406)

7. Supplemental Cash Flow Information

Non-cash investing and financing activities and supplemental cash flow information is as follows (amounts in thousands):

	Six months ended September 30,	
	2001	2000
<i>Non-cash investing and financing activities:</i>		
Conversion of convertible subordinated notes	\$ 59,938	\$ —
Tax benefit derived from net operating loss carryforward utilization	—	533
Other	1,933	—
<i>Supplemental cash flow information:</i>		
Cash paid for income taxes	978	2,723
Cash paid (received) for interest	(1,211)	3,174

8. Operations by Reportable Segments and Geographic Area

We publish, develop and distribute interactive entertainment software products. Our products cover the action, adventure, extreme sports, racing, role playing, simulation and strategy game categories. We offer our products in versions which operate on the Sega Dreamcast, Sony PlayStation, Sony PlayStation 2 and Nintendo 64 console systems, the Nintendo Game Boy Color and Game Boy Advance hand held devices, as well as on personal computers. We have also begun product

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development for next generation console systems, including Microsoft's Xbox and Nintendo's GameCube.

Based upon our organizational structure, we operate two business segments: (i) publishing of interactive entertainment software and (ii) distribution of interactive entertainment software and hardware products.

Publishing refers to the development, marketing and sale of products, either directly, by license or through our affiliate label program with third party publishers. In the United States, our products are sold primarily on a direct basis to major computer and software retailing organizations, mass market retailers, consumer electronic stores, discount warehouses and mail order companies. We conduct our international publishing activities through offices in the United Kingdom, Germany, France, Australia, Canada and Japan. Our products are sold internationally on a direct to retail basis and through third party distribution and licensing arrangements and through our wholly-owned distribution subsidiaries located in the United Kingdom, the Netherlands and Germany.

Distribution refers to our operations in the United Kingdom, the Netherlands and Germany that provide logistical and sales services to third party publishers of interactive entertainment software, our own publishing operations and manufacturers of interactive entertainment hardware.

Resources are allocated to each of these segments using information on their respective net revenues and operating profits before interest and taxes. The segments are not evaluated based on assets or depreciation.

The accounting policies of these segments are the same as those described in the Summary of Significant Accounting Policies in our Annual Report on Form 10-K for the year ended March 31, 2001. Revenue derived from sales between segments is eliminated in consolidation.

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Information on the reportable segments for the three and six months ended September 30, 2001 and 2000 is as follows (amounts in thousands):

	Three months ended September 30, 2001		
	Publishing	Distribution	Total
Total segment revenues	\$ 97,627	\$ 41,977	\$ 139,604
Revenues from sales between segments	(7,481)	7,481	—
Revenues from external customers	\$ 90,146	\$ 49,458	\$ 139,604

Operating income	\$ 2,118	\$ 1,026	\$ 3,144
Goodwill	\$ 5,941	\$ 4,517	\$ 10,458
Total assets	\$ 319,236	\$ 85,575	\$ 404,811

Three months ended September 30, 2000

	Publishing	Distribution	Total
Total segment revenues	\$ 121,630	\$ 22,733	\$ 144,363
Revenues from sales between segments	(10,715)	10,715	—
Revenues from external customers	\$ 110,915	\$ 33,448	\$ 144,363
Operating income (loss)	\$ 10,461	\$ (925)	\$ 9,536
Goodwill	\$ 6,544	\$ 4,630	\$ 11,174
Total assets	\$ 262,743	\$ 66,784	\$ 329,527

Six months ended September 30, 2001

	Publishing	Distribution	Total
Total segment revenues	\$ 180,457	\$ 69,724	\$ 250,181
Revenues from sales between segments	(13,481)	13,481	—
Revenues from external customers	\$ 166,976	\$ 83,205	\$ 250,181
Operating income	\$ 812	\$ 1,097	\$ 1,909
Goodwill	\$ 5,941	\$ 4,517	\$ 10,458
Total assets	\$ 319,236	\$ 85,575	\$ 404,811

Six months ended September 30, 2000

	Publishing	Distribution	Total
Total segment revenues	\$ 182,629	\$ 46,292	\$ 228,921
Revenues from sales between segments	(16,576)	16,576	—
Revenues from external customers	\$ 166,053	\$ 62,868	\$ 228,921
Operating income (loss)	\$ 4,554	\$ (1,516)	\$ 3,038
Goodwill	\$ 6,544	\$ 4,630	\$ 11,174
Total assets	\$ 262,743	\$ 66,784	\$ 329,527

Geographic information for the three and six months ended September 30, 2001 and 2000 is based on the location of the selling entity. Revenues from external customers by geographic region were as follows (amounts in thousands):

	Three months ended September 30,		Six months ended September 30,	
	2001	2000	2001	2000
United States	\$ 71,680	\$ 92,308	\$ 137,944	\$ 138,303
Europe	65,537	48,039	107,370	85,409
Other	2,387	4,016	4,867	5,209
Total	\$ 139,604	\$ 144,363	\$ 250,181	\$ 228,921

Revenues by platform were as follows (amounts in thousands):

	Three months ended September 30,		Six months ended September 30,	
	2001	2000	2001	2000
Console	\$ 115,086	\$ 115,159	\$ 208,619	\$ 161,804
PC	24,518	29,204	41,562	67,117
Total	\$ 139,604	\$ 144,363	\$ 250,181	\$ 228,921

9. Computation of Earnings Per Share

The following table sets forth the computations of basic and diluted earnings (loss) per share (amounts in thousands, except per share data):

	Three months ended September 30,		Six months ended September 30,	
	2001	2000	2001	2000
<i>Numerator</i>				
Numerator for basic and diluted earnings per share — income (loss) available to common shareholders	\$ 2,215	\$ 4,306	\$ 2,244	\$ (873)
<i>Denominator</i>				
Denominator for basic earnings per share- weighted average common shares outstanding	33,241	23,835	31,683	24,388
Effect of dilutive securities:				
Employee stock options	4,485	1,891	4,663	—
Warrants to purchase common stock	374	73	406	—
Potential dilutive common shares	4,859	1,964	5,069	—
Denominator for diluted earnings per share — weighted average common shares outstanding plus assumed conversions	38,100	25,799	36,752	24,388
Basic earnings (loss) per share	\$ 0.07	\$ 0.18	\$ 0.07	\$ (0.04)
Diluted earnings (loss) per share	\$ 0.06	\$ 0.17	\$ 0.06	\$ (0.04)

Options to purchase 56,050 shares of common stock at exercise prices ranging from \$32.70 to \$37.90 and options to purchase 38,145 shares of common stock at exercise prices ranging from \$31.05 to \$37.90 were outstanding for the three and six months ended September 30, 2001, respectively, but were not included in the calculation of diluted earnings per share because their effect would be

antidilutive. Options to purchase 3,212,806 of common stock at exercise prices ranging from \$11.05 to \$23.04 and options to purchase 10,804,882 shares of common stock at exercise prices ranging from \$0.75 to \$23.04 were outstanding for the three and six months ended September 30, 2000, respectively, but were not included in the calculation of diluted earnings (loss) per share because their effect would be antidilutive. Shares issuable upon the conversion of convertible subordinated notes were not included in the calculation of diluted earnings (loss) per share for the three and six months ended September 30, 2000 because their effect would be antidilutive.

10. Commitments

Bank Lines of Credit

In June 1999, we obtained a \$100.0 million revolving credit facility and a \$25.0 million term loan with a syndicate of banks (the "U.S. Facility"). The revolving portion of the U.S. Facility provided us with the ability to borrow up to \$100.0 million and issue letters of credit up to \$80 million on a revolving basis against eligible accounts receivable and inventory. The term loan had a three year term with principal amortization on a straight-line quarterly basis beginning December 31, 1999 and a borrowing rate based on the banks' base rate (which is generally equivalent to the published prime rate) plus 2% or LIBOR plus 3% and was to expire June 2002. The revolving portion of the U.S. Facility had a borrowing rate based on the banks' base rate plus 1.75% or LIBOR plus 2.75%. In May 2001, we accelerated our repayment of the outstanding balance under the term loan portion of the U.S. Facility. In connection with the accelerated repayment, we amended the U.S. Facility (the "Amended and Restated U.S. Facility"). The Amended and Restated U.S. Facility eliminated the term loan, reduced the revolver to \$78.0 million and reduced the interest rate to the banks' base rate plus 1.25% or LIBOR plus 2.25%. We pay a commitment fee of 1/4% on the unused portion of the revolver. The Amended

and Restated U.S. Facility is collateralized by substantially all of our assets and expires June 2002. The Amended and Restated U.S. Facility contains various covenants that limit our ability to incur additional indebtedness, pay dividends or make other distributions, create certain liens, sell assets, or enter into certain mergers or acquisitions. We are also required to maintain specified financial ratios related to net worth and fixed charges. We were in compliance with these covenants as of September 30, 2001. As of September 30, 2001, there were no borrowings outstanding under the Amended and Restated U.S. Facility. Letters of credit of \$27.4 million were outstanding against the Amended and Restated U.S. Facility as of September 30, 2001.

We have a revolving credit facility through our CD Contact subsidiary in the Netherlands (the "Netherlands Facility"). The Netherlands Facility permits revolving credit loans and letters of credit up to Netherlands Guilders ("NLG") 10 million (\$4.2 million) as of September 30, 2001, based upon eligible accounts receivable and inventory balances. The Netherlands Facility is due on demand, bears interest at a Eurocurrency rate plus 1.50% and expires August 2003. Borrowings outstanding and letters of credit outstanding under the Netherlands Facility were \$1.6 million and NLG 0.3 million (\$0.1 million), respectively, as of September 30, 2001.

We also have revolving credit facilities with our CentreSoft subsidiary located in the United Kingdom (the "UK Facility") and our NBG subsidiary located in Germany (the "German Facility"). The UK Facility provides for British Pounds ("GBP") 7.0 million (\$10.3 million) of revolving loans and GBP 1.5 million (\$2.2 million) of letters of credit as of September 30, 2001. The UK Facility bears interest at LIBOR plus 2%, is collateralized by substantially all of the assets of the subsidiary and expires in October 2002. The UK Facility also contains various covenants that require the subsidiary to maintain specified financial ratios related to, among others, fixed charges. As of September 30, 2001, we were in compliance with these covenants. No borrowings were outstanding against the UK facility as of September 30, 2001. Letters of credit of GBP 1.5 million (\$2.2 million) were outstanding against the UK Facility as of September 30, 2001. As of September 30, 2001, the German Facility provides for revolving loans up to Euro dollar ("EUR") 2.6 million (\$2.3 million), bears interest at 7.0%, is

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collateralized by a cash deposit of approximately GBP 650,000 (\$1.0 million) made by our CentreSoft subsidiary and has no expiration date. Borrowings outstanding against the German Facility as of September 30, 2001 were \$0.6 million.

Private Placement of Convertible Subordinated Notes

In December 1997, we completed the private placement of \$60.0 million principal amount of 6³/₄% convertible subordinated notes due 2005 (the "Notes"). The Notes were convertible, in whole or in part, at the option of the holder at any time after December 22, 1997 (the date of original issuance) and prior to the close of business on the business day immediately preceding the maturity date, unless previously redeemed or repurchased, into our common stock, \$.000001 par value, at a conversion price of \$18.875 per share, (equivalent to a conversion rate of 52.9801 shares per \$1,000 principal amount of Notes), subject to adjustment in certain circumstances. During the three months ended June 30, 2001, we called for the redemption of the Notes. In connection with that call, holders converted to common stock approximately \$59.9 million aggregate principal amount of their Notes. The remaining Notes were redeemed for cash.

Developer Contracts

In the normal course of business, we enter into contractual arrangements with third parties for the development of products. Under these agreements, we commit to provide specified payments to a developer, contingent upon the developer's achievement of contractually specified milestones. Assuming all contractually specified milestones are achieved, the total future minimum contract commitment for contracts in place as of September 30, 2001 is approximately \$61.7 million and is scheduled to be distributed as follows (amounts in thousands):

Fiscal year ending March 31,	
2002	\$ 23,178
2003	25,314
2004	6,070
2005	2,925
2006	1,675
Thereafter	2,500
Total	\$ 61,662

Legal Proceedings

We are party to routine claims and suits brought against us in the ordinary course of business, including disputes arising over the ownership of intellectual property rights and collection matters. In the opinion of management, the outcome of such routine claims will not have a material adverse effect on our business, financial condition, results of operations or liquidity.

11. Subsequent Events

Registration Statement

On July 30, 2001, we filed with the Securities and Exchange Commission a Registration Statement on Form S-3, as amended, for purposes of registering 6,000,000 shares of our common stock, \$.000001 par value (excluding shares registered to cover the underwriters' over-allotment option), in connection with a proposed public offering of such shares. On October 22, 2001, we withdrew the registration statement.

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Acquisition

Effective October 1, 2001, we acquired all of the outstanding capital of Treyarch Invention, LLC ("Treyarch"), a privately held interactive software development company in exchange for 545,974 shares of Activision, Inc. common stock with a market value of \$14.9 million based on our opening stock price as of October 1, 2001. Additional shares of Activision common stock also may be issued to Treyarch's equity holders and employees over the course of several years, depending on the satisfaction of certain performance requirements and other criteria.

Stock Split

On October 23, 2001, the Board of Directors authorized a three-for-two split of our outstanding common shares. The split is payable on November 20, 2001 to shareholders of record as of November 6, 2001. The par value of our common stock will be maintained at the pre-split amount of \$.000001. Following is the pro forma effect of the split on earnings per share data (in thousands, except per share data).

	(Unaudited)			
	Three months ended September 30,		Six months ended September 30,	
	2001	2000	2001	2000
Basic earnings (loss) per share	\$ 0.04	\$ 0.12	\$ 0.05	\$ (0.02)
Weighted average common shares outstanding	49,862	35,753	47,525	36,582
Diluted earnings (loss) per share	\$ 0.04	\$ 0.11	\$ 0.04	\$ (0.02)
Weighted average common shares outstanding assuming dilution	57,150	38,699	55,128	36,582

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Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

OVERVIEW

We are a leading international publisher of interactive entertainment software products. We have built a company with a diverse portfolio of products that spans a wide range of categories and target markets and that is used on a variety of game hardware platforms and operating systems.

Our products cover the action, adventure, extreme sports, racing, role playing, simulation and strategy game categories. We offer our products in versions which operate on the Sega Dreamcast, Sony PlayStation, Sony PlayStation 2 and Nintendo 64 console systems, the Nintendo Game Boy Color and Game Boy Advance hand held devices, as well as on personal computers ("PC's"). Over the next few years, we plan to produce many titles for the recently released Sony PlayStation 2 console system and Game Boy Advance hand held device, and the Microsoft Xbox and Nintendo GameCube console systems, which are expected to launch in North America in November 2001 and in Europe in the next calendar year. Driven partly by the enhanced capabilities of the next generation platforms, we believe that in the next few years there will be significant growth in the market for interactive entertainment software and we plan to leverage our skills and resources to extend our leading position in the industry.

We operate two business segments: (i) publishing of interactive entertainment software and (ii) distribution of interactive entertainment software and hardware products. Publishing refers to the development, marketing and sale of products, either directly, by license or through our affiliate label program with third party publishers. Distribution refers to our operations in Europe that provide logistical and sales services to third party publishers of interactive entertainment software, our own publishing operations and manufacturers of interactive entertainment hardware.

We recognize revenue from the sale of our products once they are shipped and are available for general release to customers. Subject to certain limitations, we permit customers to exchange and return our products within certain specified periods and we provide our customers with price protection on certain unsold merchandise. Price protection policies, when negotiated and applicable, allow customers to take a deduction on unsold merchandise.

Revenue from product sales is reflected after deducting the estimated allowance for returns and price protection. We estimate the amount of future returns and price protection based upon historical results and current known circumstances. With respect to license agreements that provide customers the right to make multiple copies in exchange for guaranteed amounts, revenue is recognized upon delivery. Per copy royalties on sales that exceed the guarantee are recognized as earned.

Cost of sales-product costs represents the cost to purchase, manufacture and distribute personal computer and console product units. Manufacturers of our software are located worldwide and are readily available. Console compact discs and cartridges are manufactured by the respective video game console manufacturers, Sony and Nintendo or our agents.

Cost of sales-royalties and software amortization represents amounts due to developers, product owners and other royalty participants as a result of product sales, as well as amortization of capitalized software development costs. Our costs to develop products are accounted for in accordance with accounting standards that provide for the capitalization of certain software development costs once technological feasibility is established and such costs are determined to be recoverable. Additionally, various contracts are maintained with developers, product owners or other royalty participants, which state a royalty rate, territory and term of agreement, among other items. Upon product release, prepaid royalties and capitalized software costs are amortized to cost of sales-royalties and software amortization based on the ratio of current revenues to total projected revenues, generally resulting in an amortization period of one year or less.

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For products that have been released, we evaluate the future recoverability of prepaid royalties and capitalized software costs on a quarterly basis based on actual title performance. Prior to a product's release, we expense, as part of product development costs, capitalized costs when we believe that such amounts are not recoverable. The following criteria are used to evaluate recoverability of unreleased titles: historical performance of comparable products; the commercial acceptance of prior products released on a given game engine; orders for the product prior to its release; estimated performance of a sequel product based on the performance of the product on which the sequel is based; and actual development costs of a product as compared to our budgeted amount.

Our profitability is directly affected by the mix of revenues from our publishing and distribution segments. Publishing operating margins are substantially higher than margins realized from our distribution segment. Operating margins in our distribution segment are also affected by the mix of hardware and software sales, with software producing higher margins than hardware.

The following table sets forth certain consolidated statements of operations data for the periods indicated as a percentage of total net revenues and also breaks down net revenues by territory, platform and segment (amounts in thousands):

	Three months ended September 30,				Six months ended September 30,			
	2001		2000		2001		2000	
Net revenues	\$ 139,604	100%	\$ 144,363	100%	\$ 250,181	100%	\$ 228,921	100%
Costs and expenses:								
Cost of sales—product costs	88,157	63%	64,351	45%	152,281	61%	107,984	47%
Cost of sales—royalties and software amortization	13,165	9%	24,819	17%	23,161	9%	38,465	17%
Product development	9,020	7%	11,107	8%	18,210	7%	18,531	8%
Sales and marketing	16,425	12%	23,909	16%	35,181	14%	41,779	18%
General and administrative	9,693	7%	10,641	7%	19,439	8%	19,124	9%
Total costs and expenses	136,460	98%	134,827	93%	248,272	99%	225,883	99%
Operating income	3,144	2%	9,536	7%	1,909	1%	3,038	1%
Interest income (expense), net	372	1%	(2,683)	(2%)	1,653	1%	(4,406)	(2%)
Income (loss) before income tax provision	3,516	3%	6,853	5%	3,562	2%	(1,368)	(1%)
Income tax provision (benefit)	1,301	1%	2,547	2%	1,318	1%	(495)	0%
Net income (loss)	\$ 2,215	2%	\$ 4,306	3%	\$ 2,244	1%	\$ (873)	(1%)
NET REVENUES BY TERRITORY:								
United States	\$ 71,680	51%	\$ 92,308	64%	\$ 137,944	55%	\$ 138,303	61%
Europe	65,537	47%	48,039	33%	107,370	43%	85,409	37%
Other	2,387	2%	4,016	3%	4,867	2%	5,209	2%
Total net revenues	\$ 139,604	100%	\$ 144,363	100%	\$ 250,181	100%	\$ 228,921	100%
ACTIVITY/PLATFORM MIX:								
Publishing:								
Console	\$ 79,490	81%	\$ 99,057	81%	\$ 148,699	82%	\$ 129,100	71%
PC	18,137	19%	22,573	19%	31,758	18%	53,529	29%
Total publishing net revenues	97,627	70%	121,630	84%	180,457	72%	182,629	80%
Distribution:								
Console	35,596	85%	16,102	71%	59,920	86%	32,704	71%
PC	6,381	15%	6,631	29%	9,804	14%	13,588	29%
Total distribution net revenues	41,977	30%	22,733	16%	69,724	28%	46,292	20%
Total net revenues	\$ 139,604	100%	\$ 144,363	100%	\$ 250,181	100%	\$ 228,921	100%
OPERATING INCOME (LOSS) BY SEGMENT:								
Publishing	\$ 2,118	2%	\$ 10,461	7%	\$ 812	0%	\$ 4,554	2%
Distribution	1,026	0%	(925)	0%	1,097	0%	(1,516)	(1%)

Total operating income	\$	3,144	2%	\$	9,536	7%	\$	1,909	0%	\$	3,038	1%
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Results of Operations—Three and Six Months Ended September 30, 2001 and 2000

Net Revenues

Net revenues for the three months ended September 30, 2001 decreased 3% over the same period last year, from \$144.4 million to \$139.6 million. This decrease was primarily attributable to a decline in publishing net revenues, partially offset by an increase in distribution net revenues. Net revenues for the six months ended September 30, 2001 increased 9% over the same period last year, from \$228.9 million to \$250.2 million. This increase was driven primarily by our distribution business.

Publishing net revenues decreased 20% for the three months ended September 30, 2001, over the same period last year, from \$121.6 million to \$97.6 million. Publishing console net revenues decreased from \$99.1 million to \$79.5 million, and publishing PC net revenues decreased from \$22.6 million to \$18.1 million. These decreases are due to the fact that in the prior year, we released most of our major holiday titles by September 30th, including Tony Hawk's Pro Skater 2, Spider-Man, Tenchu II and X-Men Mutant Academy for the PlayStation and two Star Trek titles for the PC. However, in fiscal 2002, a number of our major holiday titles, including Tony Hawk's Pro Skater 3 and Shaun Palmer's Pro Snowboarder for the PlayStation 2, Spider-Man 2: Enter Electro for the PlayStation and Return to Castle Wolfenstein for the PC, have been slated to be released in the third quarter. Additionally, the release of our titles for the Microsoft Xbox and Nintendo GameCube platforms will coincide with the North American hardware launches, which are expected to occur in November 2001. The decrease in our publishing net revenues was offset by the increase in net revenues from our distribution business. Distribution net revenues for the three months ended September 30, 2001 increased 85% from the same period last year, from \$22.7 million to \$42.0 million, primarily driven by an increase in our distribution console net revenues. Distribution console net revenues for the three months ended September 30, 2001 increased 121% over the same period last year, from \$16.1 million to \$35.6 million. We are the sole distributor of Sony products in the independent channel in the UK. Accordingly, we have benefited from the launch of the PlayStation 2, as well as from the subsequent price reduction, effective September 28, 2001, on the hardware. Additionally, in fiscal 2002, we began distributing Nintendo products within the UK, including titles for the recently released Game Boy Advance. These items, along with the improved market conditions in Europe, have resulted in the improvements in our distribution business.

For the six months ended September 30, 2001, publishing net revenues remained flat, at \$180.5 million as of September 30, 2001, compared to \$182.6 as of September 30, 2000. We experienced a 15% increase in publishing console net revenues over the same period last year, from \$129.1 million to \$148.7 million due to the release of several titles that sold well in the marketplace, including titles for Nintendo's Game Boy Advance hand held device which was released early in June 2001. Such titles included Tony Hawk's Pro Skater 2 for the Game Boy Advance and the Nintendo 64 and Matt Hoffman's Pro BMX and Spiderman: Mystério's Menace for the PlayStation. This publishing console net revenue increase was offset by a decrease in our publishing PC net revenues. For the six months ended September 30, 2001, publishing PC net revenues decreased 41% over the same period last year, from \$53.5 million to \$31.8 million. This decrease was primarily attributable to the fact that there were several PC launches in the six months ended September 30, 2000 that performed well in the marketplace, including Vampire: The Masquerade Redemption and Star Trek Voyager: Elite Force. We did not have such PC releases in the six months ended September 30, 2001 as our major holiday PC titles such as Return to Castle Wolfenstein and Star Trek Armada 2 are not being released until the third quarter. Distribution net revenues for the six months ended September 30, 2001 increased 51% from \$46.3 million to \$69.7 million, primarily driven by an increase in our distribution console net revenues. For the six months ended September 30, 2001, our distribution console net revenues increased 83% from \$32.7 million for the six months ended September 30, 2000 to \$59.9 million for the six months ended September 30, 2001. As described above, our distribution console net revenues reflect

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the accelerating benefits our distribution business has experienced from the introduction of next generation console systems and hand held devices.

Domestic net revenues decreased 22% for three months ended September 30, 2001, over the same period last year, from \$92.3 million to \$71.7 million. This decrease is due to the decrease in our publishing net revenues as described above. Domestic net revenues for the six months ended September 30, 2001 remained level with the comparable prior year period.

International net revenues increased 30% and 24% for the three months and six months ended September 30, 2001, respectively, over the same period last year, from \$52.1 million to \$67.9 million for the three month period and from \$90.6 million to \$112.2 million for the six month period. These increases are due primarily to the increase in net revenues from our distribution business as described above.

Costs and Expenses

Cost of sales—product costs represented 63% and 45% of net revenues for the three months ended September 30, 2001 and 2000, respectively. Cost of sales—product costs represented 61% and 47% of net revenues for the six months ended September 30, 2001 and 2000, respectively. The increase in cost of sales—product costs as a percentage of net revenues for the three months and six months ended September 30, 2001 was due to the increase in distribution net revenues as a percentage of total net revenues, as well as an increase in console net revenues as a percentage of total net revenues. Distribution net revenues and console net revenues have a higher per unit cost as compared to publishing net revenues and PC net revenues, respectively. Additionally, of console net revenues, the product mix for the three months and six months ended September 30, 2001 reflects a heavier concentration of hand held devices due to the release of Game Boy Advance in June 2001. Hand held devices generally have a higher manufacturing per unit cost than PC's and other console systems.

Cost of sales—royalty and software amortization expense represented 9% and 17% of net revenues for the three months ended September 30, 2001 and 2000, respectively. Cost of sales—royalty and software amortization expense also represented 9% and 17% of net revenues for the six months ended September 30, 2001 and 2000, respectively. The decrease in cost of sales—royalty and software amortization expense as a percentage of net revenues is reflective of the increase in net revenues from hand held devices as a percentage of our total net revenues as hand

held devices generally have lower product development costs than PC's or other console systems.

Product development expenses of \$9.0 million and \$11.1 million represented 7% and 8% of net revenues for the three months ended September 30, 2001 and 2000, respectively. Product development expenses of \$18.2 million and \$18.5 million represented 7% and 8% of net revenues for the six months ended September 30, 2001 and 2000, respectively. Product development expenses for the three and six months ended September 30, 2001 remained level with the comparable prior year period, reflecting our continued investment in next generation console systems and hand held devices.

Sales and marketing expenses for the three months ended September 30, 2001 and 2000 were \$16.4 million, 12% of net revenues, and \$23.9 million, 16% of net revenues, respectively. Sales and marketing expenses for the six months ended September 30, 2001 and 2000 were \$35.2 million, 14% of net revenues, and \$41.8 million, 18% of net revenues, respectively. These decreases reflect our ability to generate savings by building on the existing awareness of our branded products and sequel titles sold during fiscal 2002.

General and administrative expenses remained level with prior year amounts. General and administrative expenses for the three months ended September 30, 2001 and 2000 were \$9.7 million, 7% of net revenues, and \$10.6 million, 7% of net revenues, respectively. General and administrative

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expenses for the six months ended September 30, 2001 and 2000 were \$19.4 million, 8% of net revenues, and \$19.1 million, 9% of net revenues, respectively.

Operating Income (Loss)

Operating income for the three months ended September 30, 2001 and 2000 was \$3.1 million and \$9.5 million, respectively. Operating income for the six months ended September 30, 2001 and 2000 was \$1.9 million and \$3.0 million, respectively.

The decrease in operating income for the three months ended September 30, 2001 over the same period last year was primarily due to a decrease in publishing operating income from \$10.5 million to \$2.1 million, slightly offset by an increase in distribution operating income, from an operating loss of (\$925,000) to operating income of \$1.0 million. The decrease in operating income for the six months ended September 30, 2001 over the same period last year was primarily due to a decrease in publishing operating income, from operating income of \$4.6 million to \$812,000, partially offset by an increase in the distribution operating income, from an operating loss of (\$1.5) million to operating income of \$1.1 million. Publishing operating income decreases were primarily the result of a change in our product mix. Our product mix for the three months and six months ended September 30, 2001, reflects a heavier concentration of hand held devices due to the release of Game Boy Advance in June 2001. Hand held devices generally have a higher manufacturing per unit cost than PC's and other console systems. The increases in distribution operating income is reflective of the accelerating benefits our distribution business has experienced from the introduction of next generation console systems and hand held devices as previously described.

Other Income (Expense)

Interest income (expense), net increased to \$372,000 and \$1.7 million for the three months and six months ended September 30, 2001, respectively, from (\$2.7) million and (\$4.4) million for the three months and six months ended September 30, 2000, respectively. This change was due to our improved cash position resulting in higher investment income and elimination of borrowings and the conversion and/or redemption of our \$60.0 million convertible subordinated notes.

Provision for Income Taxes

The income tax provision of \$1.3 million for the three months and six months ended September 30, 2001, reflects our effective income tax rate of approximately 37%. The significant item that generated the variance between our effective rate and our statutory rate of 35% was state taxes. The realization of deferred tax assets primarily is dependent on the generation of future taxable income. We believe that it is more likely than not that we will generate taxable income sufficient to realize the benefit of net deferred tax assets recognized.

Liquidity and Capital Resources

Our cash and cash equivalents were \$122.2 million at September 30, 2001 compared to \$125.6 million at March 31, 2001. This was in comparison to the comparable prior year periods of \$25.2 million at September 30, 2000 compared to \$50.0 million at March 31, 2000. This change in cash and cash equivalents for the six months ended September 30, 2001, resulted from \$15.9 million and \$4.3 million utilized in operating and investing activities, respectively, offset by \$15.8 million provided by financing activities. Cash used in operating activities was primarily the result of our continued investment in product development and changes in accounts receivable and accounts payable, driven by a seasonal change in working capital needs. Approximately \$37.2 million was utilized in connection with the acquisition of publishing or distribution rights to products being developed by third parties, the execution of new license agreements granting us long-term rights to intellectual property of third

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parties, as well as the capitalization of product development costs relating to internally developed products. The cash used in investing activities primarily was the result of capital expenditures. The cash provided by financing activities primarily was the result of proceeds from the issuance of common stock pursuant to employee option and stock purchase plans and common stock warrants, offset by the accelerated repayment of our term loan.

In connection with our purchases of Nintendo 64 and Game Boy hardware and software cartridges for distribution in North America and Europe, Nintendo requires us to provide irrevocable letters of credit prior to accepting purchase orders. Furthermore, Nintendo maintains a policy of not accepting returns of Nintendo 64 and Game Boy hardware and software cartridges. Because of these and other factors, the carrying of an inventory of Nintendo 64 and Game Boy hardware and software cartridges entails significant capital and risk. As of September 30, 2001, we had \$2.5 million of Nintendo 64 and \$7.0 million of Game Boy hardware and software cartridge inventory on hand, which represented approximately 8% and 20%, respectively, of all inventory.

In December 1997, we completed the private placement of \$60.0 million principal amount of 6³/₄% convertible subordinated notes due 2005 (the "Notes"). During the three months ended June 30, 2001, we called for the redemption of the Notes. In connection with that call, holders converted to common stock approximately \$59.9 million aggregate principal amount of their Notes. The remaining Notes were redeemed for cash.

In June 1999, we obtained a \$100.0 million revolving credit facility and a \$25.0 million term loan with a syndicate of banks (the "U.S. Facility"). The revolving portion of the U.S. Facility provided us with the ability to borrow up to \$100.0 million and issue letters of credit up to \$80 million on a revolving basis against eligible accounts receivable and inventory. The term loan had a three year term with principal amortization on a straight-line quarterly basis beginning December 31, 1999 and a borrowing rate based on the banks' base rate (which is generally equivalent to the published prime rate) plus 2% or LIBOR plus 3% and was to expire June 2002. The revolving portion of the U.S. Facility had a borrowing rate based on the banks' base rate plus 1.75% or LIBOR plus 2.75%. In May 2001, we accelerated our repayment of the outstanding balance under the term loan portion of the U.S. Facility. In connection with the accelerated repayment, we amended the U.S. Facility (the "Amended and Restated U.S. Facility"). The Amended and Restated U.S. Facility eliminated the term loan, reduced the revolver to \$78.0 million and reduced the interest rate to the banks' base rate plus 1.25% or LIBOR plus 2.25%. We pay a commitment fee of 1/4% on the unused portion of the revolver. The Amended and Restated U.S. Facility is collateralized by substantially all of our assets and expires June 2002. The Amended and Restated U.S. Facility contains various covenants that limit our ability to incur additional indebtedness, pay dividends or make other distributions, create certain liens, sell assets, or enter into certain mergers or acquisitions. We are also required to maintain specified financial ratios related to net worth and fixed charges. We were in compliance with these covenants as of September 30, 2001. As of September 30, 2001, there were no borrowings outstanding under the Amended and Restated U.S. Facility. Letters of credit of \$27.4 million were outstanding against the Amended and Restated U.S. Facility as of September 30, 2001.

We have a revolving credit facility through our CD Contact subsidiary in the Netherlands (the "Netherlands Facility"). The Netherlands Facility permits revolving credit loans and letters of credit up to Netherlands Guilders ("NLG") 10 million (\$4.2 million) as of September 30, 2001, based upon eligible accounts receivable and inventory balances. The Netherlands Facility is due on demand, bears interest at a Eurocurrency rate plus 1.50% and expires August 2003. Borrowings outstanding and letters of credit outstanding under the Netherlands Facility were \$1.6 million and NLG 0.3 million (\$0.1 million), respectively, as of September 30, 2001.

We also have revolving credit facilities with our CentreSoft subsidiary located in the United Kingdom (the "UK Facility") and our NBG subsidiary located in Germany (the "German Facility").

The UK Facility provides for British Pounds ("GBP") 7.0 million (\$10.3 million) of revolving loans and GBP 1.5 million (\$2.2 million) of letters of credit as of September 30, 2001. The UK Facility bears interest at LIBOR plus 2%, is collateralized by substantially all of the assets of the subsidiary and expires in October 2002. The UK Facility also contains various covenants that require the subsidiary to maintain specified financial ratios related to, among others, fixed charges. As of September 30, 2001, we were in compliance with these covenants. No borrowings were outstanding against the UK facility as of September 30, 2001. Letters of credit of GBP 1.5 million (\$2.2 million) were outstanding against the UK Facility as of September 30, 2001. As of September 30, 2001, the German Facility provides for revolving loans up to Euro dollar ("EUR") 2.6 million (\$2.3 million), bears interest at 7.0%, is collateralized by a cash deposit of approximately GBP 650,000 (\$1.0 million) made by our CentreSoft subsidiary and has no expiration date. Borrowings outstanding against the German Facility as of September 30, 2001 were \$0.6 million.

In the normal course of business, we enter into contractual arrangements with third parties for the development of products. Under these agreements, we commit to provide specified payments to a developer, contingent upon the developer's achievement of contractually specified milestones. Assuming all contractually specified milestones are achieved, the total future minimum contract commitment for contracts in place as of September 30, 2001 is approximately \$61.7 million and is scheduled to be distributed as follows (amounts in thousands):

Fiscal year ending March 31,	
2002	\$ 23,178
2003	25,314
2004	6,070
2005	2,925
2006	1,675
Thereafter	2,500
Total	\$ 61,662

We have historically financed our acquisitions through the issuance of shares of common stock. We will continue to evaluate potential acquisition candidates as to the benefit they bring to us and as to our ability to make such acquisitions and maintain compliance with our bank facilities.

On July 30, 2001, we filed with the Securities and Exchange Commission a Registration Statement on Form S-3, as amended, for purposes of registering 6,000,000 shares of our common stock, \$.000001 par value (excluding shares registered to cover the underwriters' over-allotment option), in connection with a proposed public offering of such shares. On October 22, 2001, we withdrew the registration statement.

We believe that we have sufficient working capital (\$201.8 million at September 30, 2001), as well as proceeds available from the U.S. Facility, the UK Facility, the Netherlands Facility and the German Facility, to finance our operational requirements for at least the next twelve months, including acquisitions of inventory and equipment, the funding of the development, production, marketing and sale of new products and the acquisition of intellectual property rights for future products from third parties.

Factors Affecting Future Performance

In connection with the Private Securities Litigation Reform Act of 1995 (the "Litigation Reform Act"), we have disclosed certain cautionary information to be used in connection with written materials (including this Quarterly Report on Form 10-Q) and oral statements made by or on

the Litigation Reform Act. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward-looking terminology such as "may," "expect," "anticipate," "estimate" or "continue" or the negative thereof or other variations thereon or comparable terminology. The listener or reader is cautioned that all forward-looking statements are necessarily speculative and there are numerous risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward-looking statements. For a discussion that highlights some of the more important risks identified by management, but which should not be assumed to be the only factors that could affect future performance, see our Annual Report on Form 10-K for the fiscal year ended March 31, 2001 and Registration Statement on Form S-3, Registration No. 333-66280, filed with the Securities and Exchange Commission on July 30, 2001, as amended, which are incorporated herein by reference. The reader or listener is cautioned that we do not have a policy of updating or revising forward-looking statements and thus he or she should not assume that silence by management over time means that actual events are bearing out as estimated in such forward-looking statements.

Recently Issued Accounting Standards

Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations", was issued on July 20, 2001 and addresses financial accounting and reporting for business combinations. SFAS No. 141 requires that the purchase method be used to account and report for all business combinations. The provisions of this Statement apply to all business combinations initiated after June 30, 2001. This Statement also applies to all business combinations accounted for using the purchase method for which the date of acquisition is July 1, 2001 or later.

SFAS No. 142 "Goodwill and Other Intangibles", was issued July 20, 2001 and addresses financial accounting and reporting for acquired goodwill and other intangible assets. SFAS No. 142 addresses how intangible assets should be accounted for after they have been initially recognized in the financial statements. The provisions of this Statement are required to be applied starting with fiscal years beginning after December 15, 2001. Early application is permitted for entities with fiscal years beginning after March 15, 2001, provided that the first interim financial statements have not previously been issued. The Company has adopted the provisions of this Statement effective April 1, 2001.

In August 2001, SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" was issued, which supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed of," and the accounting and reporting provisions of Accounting Principles Board ("APB") No. 30, "Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions." SFAS No. 144 addresses financial accounting and reporting for the impairment or disposal of long-lived assets and is effective for fiscal years beginning after December 15, 2001, and interim periods within those fiscal years. We believe the adoption of SFAS No. 144 will not have a material impact on our financial statements.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Market risk is the potential loss arising from fluctuations in market rates and prices. Our market risk exposures primarily include fluctuations in interest rates and foreign currency exchange rates. Our market risk sensitive instruments are classified as "other than trading." Our exposure to market risk as discussed below includes "forward-looking statements" and represents an estimate of possible changes in fair value or future earnings that would occur assuming hypothetical future movements in interest rates or foreign currency exchange rates. Our views on market risk are not necessarily indicative of actual results that may occur and do not represent the maximum possible gains and losses that may occur, since actual gains and losses will differ from those estimated, based upon actual fluctuations in foreign currency exchange rates, interest rates and the timing of transactions.

Interest Rate Risk

We have had a number of variable rate and fixed rate debt obligations, denominated both in U.S. dollars and various foreign currencies as detailed in Note 10 to the Consolidated Financial Statements appearing elsewhere in this Quarterly Report. We manage interest rate risk by monitoring our ratio of fixed and variable rate debt obligations in view of changing market conditions. Additionally, in the future, we may consider the use of interest rate swap agreements to further manage potential interest rate risk.

During the three months ended June 30, 2001, our holdings of market risk sensitive instruments changed. During that period, we called for the redemption of \$60.0 million of the Notes. In connection with that call, holders converted to common stock approximately \$59.9 million aggregate principal amount of their Notes. The remaining Notes were redeemed for cash. Additionally, in May 2001, we repaid in full the remaining \$8.5 million balance of the term loan portion of the U.S. Facility.

As of September 30, 2001, the carrying value of our variable rate debt was approximately \$2.2 million. A hypothetical 1% increase in the applicable interest rates of our variable rate debt would increase annual interest expense by approximately \$22,000.

Foreign Currency Exchange Rate Risk

We transact business in many different foreign currencies and may be exposed to financial market risk resulting from fluctuations in foreign currency exchange rates, particularly GBP. The volatility of GBP (and all other applicable currencies) will be monitored frequently throughout the coming year. While we have not traditionally engaged in foreign currency hedging, we may in the future use hedging programs, currency forward contracts, currency options and/or other derivative financial instruments commonly utilized to reduce financial market risks if it is determined that such hedging activities are appropriate to reduce risk.

Item 1. Legal Proceedings

We are party to routine claims and suits brought against us in the ordinary course of business including disputes arising over the ownership of intellectual property rights and collection matters. In the opinion of management, the outcome of such routine claims will not have a material adverse effect on our business, financial condition or results of operations.

Item 4. Submission of Matters to a Vote of Security Holders

The Company held its 2001 Annual Meeting of the Stockholders on August 23, 2001 in Beverly Hills, California. Four items were submitted to a vote of the stockholders: (1) the election of six directors to hold office for one year terms and until their respective successors are duly elected and qualified; (2) the approval of an amendment to our Amended and Restated Certificate of Incorporation, as amended, to increase the number of authorized shares of common stock from 50,000,000 to 125,000,000; (3) the approval of the adoption of the Company's 2001 Incentive Plan; and (4) the approval of the selection of PricewaterhouseCoopers LLP as our independent auditors for the fiscal year ending March 31, 2002.

All six directors were recommended by the Board of Directors and all were elected. Set forth below are the results of the voting for each director.

	<u>For</u>	<u>Withheld</u>
Kenneth L. Henderson	27,638,824	1,700,902
Barbara S. Isgur	28,483,589	856,137
Brian G. Kelly	23,983,240	5,356,486
Robert A. Kotick	23,936,038	5,403,688
Steven T. Mayer	28,456,038	883,688
Robert J. Morgado	28,488,411	851,315

The approval of the amendment to our Amended and Restated Certificate of Incorporation, as amended, to increase the number of authorized shares of common stock from 50,000,000 to 125,000,000 was approved. Set forth below are the results of the voting.

<u>For</u>	<u>Against</u>	<u>Abstain</u>
21,913,885	7,419,439	6,402

The approval of the adoption of the Company's 2001 Incentive Plan was approved. Set forth below are the results of the voting.

<u>For</u>	<u>Against</u>	<u>Abstain</u>
15,334,756	13,887,654	117,316

The approval of the selection of PricewaterhouseCoopers LLP as the Company's independent auditors for the fiscal year ending March 31, 2002 was approved. Set forth below are the results of the voting.

<u>For</u>	<u>Against</u>	<u>Abstain</u>
29,169,975	165,358	4,393
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Item 6. Exhibits and Reports on Form 8-K

(a)

Exhibits

- 3.1 Our Amended and Restated Certificate of Incorporation, dated June 1, 2000 (incorporated by reference to Exhibit 2.5 of our Current Report on Form 8-K, filed on June 16, 2000).
- 3.2 Our certificate of Amendment of Amended and Restated Certificate of Incorporation, dated June 9, 2000 (incorporated by reference to Exhibit 2.7 of our Current Report on Form 8-K, filed on June 16, 2000).
- 3.3 Our Certificate of Amendment of Amended and Restated Certificate of Incorporation, dated August 23, 2001 (incorporated by reference to Exhibit 3.3 of our Registration Statement on Form S-3, Registration No. 333-66280, filed on July 30, 2001).
- 3.4 Our Amended and Restated By-laws dated August 1, 2000 (incorporated by reference to our Current Report on Form 8-K, filed July 11, 2001).
- 4.1 Rights Agreement dated as of April 18, 2000, between us and Continental Stock Transfer & Trust Company, which includes as exhibits the form of Right Certificates as Exhibit A, the Summary of Rights to Purchase Series A Junior Preferred Stock as Exhibit B and the form of Certificate of Designation of Series A Junior Preferred Stock of the Company as Exhibit C (incorporated by reference to our Registration Statement on Form 8-A, Registration No. 001-15839, filed April 19, 2000).
- 10.1 Our 2001 Incentive Plan adopted on July 11, 2001 (incorporated by reference to our Proxy Statement on Schedule 14A for the 2001 Annual Meeting of Stockholders filed on July 30, 2001).
- 10.2 Our 2001 Incentive Plan as amended through October 17, 2001.
- 10.3 Our 1999 Incentive Plan as amended through October 17, 2001.
- 10.4 Our 1998 Incentive Plan as amended through October 17, 2001.
- 10.5 Our 1991 Stock Option and Stock Award Plan as amended through October 17, 2001.

(b)

Reports on Form 8-K

- 1.1 We have filed a Form 8-K on October 4, 2001, reporting under "Item 5. Other Events" the acquisition of Treyarch Inventions LLC, under "Item 7. Financial Statements, Pro Forma Financial Statements and Exhibits" and under "Item 9. Regulation FD Disclosure" the postponement of our proposed common stock offering.
- 1.2 We have filed a Form 8-K on July 31, 2001, reporting under "Item 7. Financial Statements, Pro Forma Financial Statements and Exhibits" and "Item 9. Regulation FD Disclosure", reaffirming our Fiscal 2002 and 2003 earnings guidance.
- 1.3 We have filed a Form 8-K on July 11, 2001, reporting under "Item 5. Other Events" and "Items 7. Financial Statements, Pro Forma Financial Statements and Exhibits" the adoption by the Board of Directors of certain amendments to our by-laws and the execution of new employment agreements with Kathy Vrabeck and Lawrence Goldberg.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: November 12, 2001

ACTIVISION, INC.

/s/ WILLIAM J. CHARDAVOYNE

William J. Chardavoyne
Chief Financial Officer and Chief Accounting Officer

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As Adopted by the Board of Directors
on July 11, 2001, and amended on
October 17, 2001

**ACTIVISION, INC.
2001 INCENTIVE PLAN**

ACTIVISION, INC., a corporation formed under the laws of the State of Delaware (the "Company"), hereby establishes and adopts the following 2001 Incentive Plan (the "Plan").

RECITALS

WHEREAS, the Company desires to encourage high levels of performance by those individuals who are key to the success of the Company, to attract new individuals who are highly motivated and who will contribute to the success of the Company and to encourage such individuals to remain as directors and/or employees of the Company and its subsidiaries by increasing their proprietary interest in the Company's growth and success.

WHEREAS, to attain these ends, the Company has formulated the Plan embodied herein to authorize the granting of incentive awards through grants of share options ("Options"), grants of share appreciation rights, grants of Share Purchase Awards (hereafter defined), grants of Restricted Share Awards (hereafter defined), grants of Performance-Based Awards (hereafter defined), or any other award made under the Plan to those persons (each such person, a "Participant") whose judgment, initiative and efforts are or have been or will be responsible for the success of the Company.

NOW, THEREFORE, the Company hereby constitutes, establishes and adopts the following Plan and agrees to the following provisions:

ARTICLE 1.

PURPOSE OF THE PLAN

1.1. *Purpose.* The purpose of the Plan is to assist the Company and its subsidiaries in attracting and retaining selected individuals to serve as directors, officers, consultants, advisors and other key employees of the Company and its subsidiaries who will contribute to the Company's success and to achieve long-term objectives which will inure to the benefit of all shareholders of the Company through the additional incentive inherent in the ownership or increased ownership of the Company's shares of common stock ("Shares"). Options granted under the Plan will be either "incentive share options," intended to qualify as such under the provisions of Section 422 of the Internal Revenue Code of 1986, as amended from time to time (the "Code"), or "nonqualified share options." For purposes of the Plan, the term "subsidiary" shall mean "subsidiary corporation," as such term is defined in Section 424(f) of the Code, and "affiliate" shall have the meaning set forth in Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). For purposes of the Plan, the term "Award" shall mean a grant of an Option, a grant of a share appreciation right, a grant of a Share Purchase Award, a grant of a Restricted Share Award, or any other award made under the terms of the Plan.

ARTICLE 2.

SHARES SUBJECT TO AWARDS

2.1. *Number of Shares.* Subject to the adjustment provisions of Section 9.10 hereof, the aggregate number of Shares which may be issued under Awards under the Plan, whether pursuant to Options, share appreciation rights, Share Purchase Awards, Restricted Share Awards or Performance-Based Awards shall not exceed 1,500,000. No Options to purchase fractional Shares shall be granted or

issued under the Plan. For purposes of this Section 2.1, the Shares that shall be counted toward such limitation shall include all Shares:

- (1) issued or issuable pursuant to Options that have been or may be exercised;
- (2) issued or issuable pursuant to Share Purchase Awards;
- (3) issued as, or subject to issuance as a Restricted Share Award; and
- (4) issued or issuable under any other Award granted under the terms of the Plan.

2.2. *Shares Subject to Terminated Awards.* The Shares covered by any unexercised portions of terminated Options granted under Articles 4 and 6, Shares forfeited as provided in Section 8.2(a) and Shares subject to any Awards which are otherwise surrendered by the Participant without receiving any payment or other benefit with respect thereto may again be subject to new Awards under the Plan, other than grants of Options intended to qualify as incentive share options. In the event the purchase price of an Option is paid in whole or in part through the delivery of

Shares, the number of Shares issuable in connection with the exercise of the Option shall not again be available for the grant of Awards under the Plan. Shares subject to Options, or portions thereof, which have been surrendered in connection with the exercise of share appreciation rights shall not again be available for the grant of Awards under the Plan.

2.3. *Character of Shares.* Shares delivered under the Plan may be authorized and unissued Shares or Shares acquired by the Company, or both.

2.4. *Limitations on Grants to Individual Participant.* Subject to adjustments pursuant to the provisions of Section 10.10 hereof, the maximum number of Shares with respect to which Options or stock appreciation rights may be granted hereunder to any employee during any fiscal year of the Company shall be 500,000 Shares (the "Limitation"). If an Option is cancelled, the cancelled Option shall continue to be counted toward the Limitation for the year granted. An Option (or a stock appreciation right) that is repriced during any fiscal year is treated as the cancellation of the Option (or stock appreciation right) and a grant of a new Option (or stock appreciation right) for purposes of the Limitation for that fiscal year.

ARTICLE 3.

ELIGIBILITY AND ADMINISTRATION

3.1. *Awards to Employees, Directors and Others.* (a) Participants who receive (i) Options under Articles 4 and 6 hereof or share appreciation rights under Article 5 ("Optionees"), and (ii) Share Purchase Awards under Article 7, Restricted Share Awards under Article 8, Deferred Share Awards (as defined herein) under Article 9, Performance Based Awards (defined herein) under Article 11, or any other Award granted under the Plan shall consist of such officers, key employees, consultants, advisors and Directors (hereinafter defined) of the Company or any of its subsidiaries or affiliates as the Committee shall select from time to time. The Committee's designation of an Optionee or Participant in any year shall not require the Committee to designate such person to receive Awards or grants in any other year. The designation of an Optionee or Participant to receive Awards or grants under one portion of the Plan shall not require the Committee to include such Optionee or Participant under other portions of the Plan.

- (b) No Option that is intended to qualify as an "incentive share option" may be granted (x) to any individual that is not an employee of the Company or any subsidiary thereof, or (y) to any employee who, at the time of such grant, owns, directly or indirectly (within the meaning of Sections 422(b)(6) and 424(d) of the Code), shares possessing more than 10% of the total combined voting power of all classes of shares of the Company or any of its subsidiaries or affiliates, unless at the time of such grant, (i) the option price is fixed at not less than 110%

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of the Fair Market Value (as defined below) of the Shares subject to such Option, determined on the date of the grant, and (ii) the exercise of such Option is prohibited by its terms after the expiration of five years from the date such Option is granted.

3.2. *Administration.* (a) The Plan shall be administered by a committee (the "Committee") consisting of not fewer than two Directors of the Company (the directors of the Company being hereinafter referred to as the "Directors"), as designated by the Directors. The Directors may remove from, add members to, or fill vacancies in the Committee. Unless otherwise determined by the Directors, each member of the Committee will be a "non-employee director" within the meaning of Rule 16b-3 (or any successor rule) of the Exchange Act and an "outside director" within the meaning of Section 162(m)(4)(C)(i) of the Code and the regulations thereunder.

Notwithstanding any other provision of this Plan, any Award to a member of the Committee must be approved by the Board of Directors of the Company (excluding Directors who are also members of the Committee) to be effective.

- (b) The Committee is authorized, subject to the provisions of the Plan, to establish such rules and regulations as it may deem appropriate for the conduct of meetings and proper administration of the Plan. All actions of the Committee shall be taken by majority vote of its members.
- (c) Subject to the provisions of the Plan, the Committee shall have authority, in its sole discretion, to grant Awards under the Plan, to interpret the provisions of the Plan and, subject to the requirements of applicable law, including Rule 16b-3 of the Exchange Act, to prescribe, amend, and rescind rules and regulations relating to the Plan or any Award thereunder as it may deem necessary or advisable. All decisions made by the Committee pursuant to the provisions of the Plan shall be final, conclusive and binding on all persons, including the Company, its shareholders, Directors and employees, and other Plan participants.

ARTICLE 4.

OPTIONS

4.1. *Grant of Options.* The Committee shall determine, within the limitations of the Plan, those key officers, employees, consultants, advisors and Directors of the Company and its subsidiaries and affiliates to whom Options are to be granted under the Plan, the number of Shares that may be purchased under each such Option and the option price, and shall designate such Options at the time of the grant as either "incentive share options" or "nonqualified share options"; *provided, however,* that Options granted to employees of an affiliate (that is not also a subsidiary) or to non-employees of the Company may only be "nonqualified share options."

4.2. *Share Option Agreements; etc.* All Options granted pursuant to Article 4 and Article 6 herein (a) shall be authorized by the Committee and (b) shall be evidenced in writing by share option agreements ("Share Option Agreements") in such form and containing such terms and conditions as the Committee shall determine that are not inconsistent with the provisions of the Plan, and, with respect to any Share Option Agreement granting Options that are intended to qualify as "incentive share options," are not inconsistent with Section 422 of the Code. Granting of an Option

pursuant to the Plan shall impose no obligation on the recipient to exercise such Option. Any individual who is granted an Option pursuant to this Article 4 and Article 6 herein may hold more than one Option granted pursuant to such Articles at the same time and may hold both "incentive share options" and "nonqualified share options" at the same time. To the extent that any Option does not qualify as an "incentive share option" (whether because of its provisions, the time or manner of its exercise or otherwise) such Option or the portion thereof which does not so qualify shall constitute a separate "nonqualified share option."

4.3. *Option Price.* Subject to Section 3.1(b), the option exercise price per each Share purchasable under any "incentive share option" granted pursuant to this Article 4, any "nonqualified share option" granted pursuant to Article 6, and Options intended to be performance based under Section 162(m) of the Code shall not be less than 100% of the Fair Market Value (as hereinafter defined) of such Share on the date of the grant of such Option. The option exercise price per share of each Share purchasable under any "nonqualified share option" that is not intended to be performance-based under Section 162(m) of the Code and is granted pursuant to this Article 4 shall be determined by the Committee at the time of the grant of such Option, but shall not be less than 85% of the Fair Market Value of such Share on the date of the grant of such Option.

4.4. *Other Provisions.* Options granted pursuant to this Article 4 shall be made in accordance with the terms and provisions of Article 10 hereof and any other applicable terms and provisions of the Plan.

ARTICLE 5.

SHARE APPRECIATION RIGHTS

5.1. *Grant and Exercise.* Share appreciation rights may be granted in conjunction with all or part of any Option granted under the Plan, as follows: (i) in the case of a nonqualified share option, such rights may be granted either at the time of the grant of such option or at any subsequent time during the term of the option; and (ii) in the case of an incentive share option, such rights may be granted only at the time of the grant of such option. A "share appreciation right" is a right to receive cash or whole Shares, as provided in this Article 5, in lieu of the purchase of a Share under a related Option. A share appreciation right or applicable portion thereof shall terminate and no longer be exercisable upon the termination or exercise of the related Option, and a share appreciation right granted with respect to less than the full number of Shares covered by a related Option shall not be reduced until, and then only to the extent that, the exercise or termination of the related Option exceeds the number of Shares not covered by the share appreciation right. A share appreciation right may be exercised by the holder thereof (the "Holder"), in accordance with Section 5.2 of this Article 5, by giving written notice thereof to the Company and surrendering the applicable portion of the related Option. Upon giving such notice and surrender, the Holder shall be entitled to receive an amount determined in the manner prescribed in Section 5.2 of this Article 5. Options which have been so surrendered, in whole or in part, shall no longer be exercisable to the extent the related share appreciation rights have been exercised.

5.2. *Terms and Conditions.* Share appreciation rights shall be subject to such terms and conditions, not inconsistent with the provisions of the Plan, as shall be determined from time to time by the Committee, including the following:

- (a) Share appreciation rights shall be exercisable only at such time or times and to the extent that the Options to which they relate shall be exercisable in accordance with the provisions of the Plan.
- (b) Upon the exercise of a share appreciation right, a Holder shall be entitled to receive up to, but no more than, an amount in cash or whole Shares as determined by the Committee in its sole discretion equal to the excess of the then Fair Market Value of one Share over the option exercise price per Share specified in the related Option multiplied by the number of Shares in respect of which the share appreciation right shall have been exercised. The Holder shall specify in his written notice of exercise, whether payment shall be made in cash or in whole Shares. Each share appreciation right may be exercised only at the time and so long as a related Option, if any, would be exercisable or as otherwise permitted by applicable law.

- (c) Upon the exercise of a share appreciation right, the Option or part thereof to which such share appreciation right is related shall be deemed to have been exercised for the purpose of the limitation of the number of Shares to be issued under the Plan, as set forth in Section 2.1 of the Plan.
- (d) With respect to share appreciation rights granted in connection with an Option that is intended to be an "incentive share option," the following shall apply:
 - (i) No share appreciation right shall be transferable by a Holder otherwise than by will or by the laws of descent and distribution, and share appreciation rights shall be exercisable, during the Holder's lifetime, only by the Holder.
 - (ii) Share appreciation rights granted in connection with an Option may be exercised only when the Fair Market Value of the Shares subject to the Option exceeds the option exercise price at which Shares can be acquired pursuant to the Option.

ARTICLE 6.

RELOAD OPTIONS

6.1. *Authorization of Reload Options.* Concurrently with the award of any Option (such Option hereinafter referred to as the "Underlying Option") to any Participant in the Plan, the Committee may grant one or more reload options (each, a "Reload Option") to such Participant to purchase for cash or Shares (held for at least six months or such other period to avoid accounting charges against the Company's earnings) a number of Shares as specified below. A Reload Option shall be exercisable for an amount of Shares equal to (i) the number of Shares delivered by the Optionee to the Company to exercise the Underlying Option, and (ii) to the extent authorized by the Committee, the number of Shares used to satisfy any tax withholding requirement incident to the exercise of the Underlying Option, subject to the availability of Shares under the Plan at the time of such exercise. Any Reload Option may provide for the grant, when exercised, of subsequent Reload Options to the extent and upon such terms and conditions consistent with this Article 6, as the Committee in its sole discretion shall specify at or after the time of grant of such Reload Option. Except as otherwise determined by the Committee, a Reload Option will vest and become exercisable six months after the exercise of an Underlying Option or Reload Option by the Participant delivering to the Company Shares owned by the Optionee for at least six months in payment of the exercise price and/or tax withholding obligations. Notwithstanding the fact that the Underlying Option may be an "incentive share option," a Reload Option is not intended to qualify as an "incentive share option" under Section 422 of the Code.

6.2. *Reload Option Amendment.* Each Share Option Agreement shall state whether the Committee has authorized Reload Options with respect to the Underlying Option. Upon the exercise of an Underlying Option or other Reload Option, the Reload Option will be evidenced by an amendment to the underlying Share Option Agreement.

6.3. *Reload Option Price.* The option exercise price per Share payable upon the exercise of a Reload Option shall be the Fair Market Value of a Share on the date the corresponding Underlying Option is exercised.

6.4. *Term and Exercise.* Except as otherwise determined by the Committee, each Reload Option vests and is fully exercisable six months after its grant (i.e., six months after the corresponding Underlying Option is exercised). The term of each Reload Option shall be equal to the remaining option term of the Underlying Option.

6.5. *Termination of Employment.* No additional Reload Options shall be granted to Optionees when Options and/or Reload Options are exercised pursuant to the terms of this Plan following

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termination of the Optionee's employment unless the Committee, in its sole discretion, shall determine otherwise.

6.6. *Applicability of Other Sections.* Except as otherwise provided in this Article 6, the provisions of Article 9 applicable to Options shall apply equally to Reload Options.

ARTICLE 7.

SHARE PURCHASE AWARDS

7.1. *Grant of Share Purchase Award.* The term "Share Purchase Award" means the right to purchase Shares of the Company and to pay for such Shares through a loan made by the Company to the Participant (a "Purchase Loan") as set forth in this Article 7.

7.2. *Terms of Purchase Loans.* (a) *Purchase Loan.* Each Purchase Loan shall be evidenced by a promissory note. The term of the Purchase Loan shall be for a period of years, as determined by the Committee, and the proceeds of the Purchase Loan shall be used exclusively by the Participant for purchase of Shares from the Company at a purchase price equal to the Fair Market Value on the date of the Share Purchase Award.

(b) *Interest on Purchase Loan.* A Purchase Loan shall be non-interest bearing or shall bear interest at whatever rate the Committee shall determine (but not in excess of the maximum rate permissible under applicable law), payable in a manner and at such times as the Committee shall determine. Those terms and provisions as the Committee shall determine shall be incorporated into the promissory note evidencing the Purchase Loan.

(c) *Forgiveness of Purchase Loan.* Subject to Section 7.4 hereof, the Company may forgive the repayment of up to 100% of the principal amount of the Purchase Loan, subject to such terms and conditions as the Committee shall determine and set forth in the promissory note evidencing the Purchase Loan. A Participant's Purchase Loan can be prepaid at any time, and from time to time, without penalty.

7.3. *Security for Loans.* (a) *Stock Power and Pledge.* Purchase Loans granted to Participants shall be secured by a pledge of the Shares acquired pursuant to the Share Purchase Award. Such pledge shall be evidenced by a pledge agreement (the "Pledge Agreement") containing such terms and conditions as the Committee shall determine. Purchase Loans shall be recourse or non-recourse with respect to a Participant, as determined from time to time by the Committee. The share certificates for the Shares purchased by a Participant pursuant to a Share Purchase Award shall be issued in the Participant's name, but shall be held by the Company as security for repayment of the Participant's Purchase Loan together with a stock power executed in blank by the Participant (the execution and delivery of which by the Participant shall be a condition to the issuance of the Share Purchase Award). Unless otherwise determined by the Committee, the Participant shall be entitled to exercise all rights applicable to such Shares, including, but not limited to, the right to vote such Shares and the right to receive dividends and other distributions made with respect to such Shares. When the Purchase Loan and any accrued but unpaid interest thereon has been repaid or otherwise satisfied in full, the Company shall deliver to the Participant the share certificates for the Shares purchased by a Participant under the Share Purchase Award.

(b) *Release and Delivery of Share Certificates During the Term of the Purchase Loan.* The Company shall release and deliver to each Participant certificates for Shares purchased by a Participant pursuant to a Share Purchase Award, in such amounts and on such terms and conditions as the Committee shall determine, which shall be set forth in the Pledge Agreement.

(c)

Release and Delivery of Share Certificates Upon Repayment of the Purchase Loan. The Company shall release and deliver to each Participant certificates for the Shares purchased by the

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Participant under the Share Purchase Award and then held by the Company, provided the Participant has paid or otherwise satisfied in full the balance of the Purchase Loan and any accrued but unpaid interest thereon. In the event the balance of the Purchase Loan is not repaid, forgiven or otherwise satisfied within 90 days after (i) the date repayment of the Purchase Loan is due (whether in accordance with its term, by reason of acceleration or otherwise), or (ii) such longer time as the Committee, in its discretion, shall provide for repayment or satisfaction, the Company shall retain those Shares then held by the Company in accordance with the Pledge Agreement.

(d)

Recourse Purchase Loans. Notwithstanding Sections 7.3(a), (b) and (c) above, in the case of a recourse Purchase Loan, the Committee may make a Purchase Loan on such terms as it determines, including without limitation, not requiring a pledge of the acquired Shares.

7.4. Termination of Employment. (a) *Termination of Employment by Death, Disability or by the Company Without Cause; Change of Control.* In the event of a Participant's termination of employment or separation from service by reason of death, "disability" or by the Company without "cause," or in the event of a "change of control," the Committee shall have the right (but shall not be required) to forgive the remaining unpaid amount (principal and interest) of the Purchase Loan in whole or in part as of the date of such occurrence. "Change of Control," "disability" and "cause" shall have the respective meanings as set forth in the promissory note evidencing the Purchase Loan.

(b)

Other Termination of Employment. Subject to Section 7.4(a) above, in the event of a Participant's termination of employment or separation from service for any reason, the Participant shall repay to the Company the entire balance of the Purchase Loan and any accrued but unpaid interest thereon, which amounts shall become immediately due and payable, unless otherwise determined by the Committee.

7.5. Restrictions on Transfer. No Share Purchase Award or Shares purchased through such an Award and pledged to the Company as collateral security for the Participant's Purchase Loan (and accrued and unpaid interest thereon) may be otherwise pledged, sold, assigned or transferred (other than by will or by the laws of descent and distribution).

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ARTICLE 8.

RESTRICTED SHARE AWARDS

8.1. Restricted Share Awards. (a) *Grant.* A grant of Shares made pursuant to this Article 8 is referred to as a "Restricted Share Award." The Committee may grant to any Participant an amount of Shares in such manner, and subject to such terms and conditions relating to vesting, forfeitability and restrictions on delivery and transfer (whether based on performance standards, periods of service or otherwise) as the Committee shall establish (such Shares, "Restricted Shares"). The terms of any Restricted Share Award granted under this Plan shall be set forth in a written agreement (a "Restricted Share Agreement") which shall contain provisions determined by the Committee and not inconsistent with this Plan. The provisions of Restricted Share Awards need not be the same for each Participant receiving such Awards.

(b)

Issuance of Restricted Shares. As soon as practicable after the date of grant of a Restricted Share Award by the Committee, the Company shall cause to be transferred on the books of the Company, Shares registered in the name of the Company, as nominee for the Participant, evidencing the Restricted Shares covered by the Award; provided, however, such Shares shall be subject to forfeiture to the Company retroactive to the date of grant, if a Restricted Share Agreement delivered to the Participant by the Company with respect to the Restricted Shares covered by the Award is not duly executed by the Participant and timely returned to the Company. All Restricted Shares covered by Awards under this Article 8 shall be subject to the restrictions, terms and conditions contained in the Plan and the Restricted Share Agreement entered into by and between the Company and the Participant. Until the lapse or release of all restrictions applicable to an Award of Restricted Shares, the share certificates representing such Restricted Shares shall be held in custody by the Company or its designee.

(c)

Shareholder Rights. Beginning on the date of grant of the Restricted Share Award and subject to execution of the Restricted Share Agreement as provided in Sections 8.1(a) and (b), the Participant shall become a shareholder of the Company with respect to all Shares subject to the Restricted Share Agreement and shall have all of the rights of a shareholder, including, but not limited to, the right to vote such Shares and the right to receive distributions made with respect to such Shares; *provided, however,* that any Shares or any other property (other than cash) distributed as a dividend or otherwise with respect to any Restricted Shares as to which the restrictions have not yet lapsed shall be subject to the same restrictions as such Restricted Shares and shall be represented by book entry and held as prescribed in Section 8.1(b).

(d)

Restriction on Transferability. None of the Restricted Shares may be assigned or transferred (other than by will or the laws of descent and distribution), pledged or sold prior to lapse or release of the restrictions applicable thereto.

(e)

Delivery of Shares Upon Release of Restrictions. Upon expiration or earlier termination of the forfeiture period without a forfeiture and the satisfaction of or release from any other conditions prescribed by the Committee, the restrictions applicable to the Restricted Shares shall lapse. As promptly as administratively feasible thereafter, subject to the requirements of Section 12.1, the Company shall deliver to the Participant or, in case of the Participant's death, to the Participant's beneficiary, one or more stock certificates for the appropriate number of Shares, free of all such restrictions, except for any restrictions that may be imposed by law.

8.2. *Terms of Restricted Shares.* (a) *Forfeiture of Restricted Shares.* Subject to Section 8.2(b), all Restricted Shares shall be forfeited and returned to the Company and all rights of the Participant with respect to such Restricted Shares shall terminate unless the Participant continues in the service of the

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Company as an employee until the expiration of the forfeiture period for such Restricted Shares and satisfies any and all other conditions set forth in the Restricted Share Agreement. The Committee in its sole discretion, shall determine the forfeiture period (which may, but need not, lapse in installments) and any other terms and conditions applicable with respect to any Restricted Share Award and the Committee has the discretion to modify the terms and conditions of a Restricted Share award as long as the rights of the Participant are not impaired.

(b)

Waiver of Forfeiture Period. Notwithstanding anything contained in this Article 8 to the contrary, the Committee may, in its sole discretion and subject to the limitations imposed under Section 162(m) of the Code and the Treasury Regulations thereunder in the case of a Restricted Share Award intended to comply with the performance-based exception under Code Section 162(m), waive the forfeiture period and any other conditions set forth in any Restricted Share Agreement under appropriate circumstances (including the death, disability or retirement of the Participant or a material change in circumstances arising after the date of an Award) and subject to such terms and conditions (including forfeiture of a proportionate number of the Restricted Shares) as the Committee shall deem appropriate.

ARTICLE 9.

DEFERRED SHARE AWARDS

9.1. *Shares and Administration.* Awards of the right to receive Shares that are not to be distributed to the Participant until after a specified deferral period (such Award and the deferred Shares delivered thereunder hereinafter as the context shall require, the "Deferred Shares") may be made either alone or in addition to share Options, share appreciation rights, or Restricted Share Awards, or Other Share-based Awards (hereafter defined) granted under the Plan. The Committee shall determine the Directors, officers, employees, consultants and advisors of the Company and its subsidiaries to whom and the time or times at which Deferred Shares shall be awarded, the number of Deferred Shares to be awarded to any Participant, the duration of the period (the "Deferral Period") during which, and the conditions under which, receipt of the Shares will be deferred, and the terms and conditions of the award in addition to those contained in Section 9.2. In its sole discretion, the Committee may provide for a minimum payment at the end of the applicable Deferral Period based on a stated percentage of the Fair Market Value on the date of grant of the number of Shares covered by a Deferred Share award. The Committee may also provide for the grant of Deferred Shares upon the completion of a specified performance period. The provisions of Deferred Share awards need not be the same with respect to each recipient.

9.2. *Terms and Conditions.* Deferred Share awards made pursuant to this Article 9 shall be subject to the following terms and conditions:

(a)

Subject to the provisions of the Plan, the Shares to be issued pursuant to a Deferred Share award may not be sold, assigned, transferred, pledged or otherwise encumbered during the Deferral Period or Elective Deferral Period (defined below), where applicable, and may be subject to a risk of forfeiture during all or such portion of the Deferral Period as shall be specified by the Committee. At the expiration of the Deferral Period and Elective Deferral Period, share certificates shall be delivered to the Participant, or the Participant's legal representative, in a number equal to the number of shares covered by the Deferred Share award.

(b)

Amounts equal to any dividends declared during the Deferral Period with respect to the number of Shares covered by a Deferred Share award will be paid to the Participant currently, or deferred and deemed to be reinvested in additional deferred Shares or otherwise reinvested, as determined at the time of the Award by the Committee, in its sole discretion.

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(c)

Subject to the provisions of paragraph 9.2(d) of this Article 9, upon termination of employment for any reason during the Deferral Period for a given Award, the Deferred Shares in question shall be forfeited by the Participant.

(d)

In the event of the Participant's death or permanent disability during the Deferral Period (or Elective Deferral Period, where applicable), or in cases of special circumstances, the Committee may, in its sole discretion, when it finds that a waiver would be in the best interests of the Company, waive in whole or in part any or all of the remaining deferral limitations imposed hereunder with respect to any or all of the Participant's Deferred Shares.

(e)

Prior to completion of the Deferral Period, a Participant may elect to further defer receipt of the Award for a specified period or until a specified event (the "Elective Deferral Period"), subject in each case to the approval of the Committee and under such terms as are determined by the Committee, all in its sole discretion.

(f)

Each Award shall be confirmed by a Deferred Share agreement or other instrument executed by the Company and the Participant.

ARTICLE 10.

GENERALLY APPLICABLE PROVISIONS

10.1. *Option Period.* Subject to Section 3.1(b), the period for which an Option is exercisable shall be set by the Committee and shall not exceed ten years from the date such Option is granted, *provided, however,* in the case of an Option that is not intended to be an "incentive share option," the Committee may prescribe a period in excess of ten years. After the Option is granted, the option period may not be reduced, subject to expiration due to termination of employment or otherwise.

10.2. *Fair Market Value.* The "Fair Market Value" of a Share shall be determined in good faith by the Committee in its sole discretion from time to time. In no case shall Fair Market Value be less than the par value of a Share. An Option shall be considered granted on the date the Committee acts to grant the Option or such later date as the Committee shall specify.

10.3. *Exercise of Options.* Vested Options granted under the Plan shall be exercised by the Optionee or by a Permitted Assignee thereof (or by his or her executors, administrators, guardian or legal representative, as provided in Sections 10.6 and 10.7 hereof) as to all or part of the Shares covered thereby, by the giving of written notice of exercise to the Company, specifying the number of Shares to be purchased, accompanied by payment of the full purchase price for the Shares being purchased. Full payment of such purchase price shall be made at the time of exercise and shall be made (i) in cash or by certified check or bank check or wire transfer of immediately available funds, (ii) with the consent of the Committee, by delivery of a promissory note in favor of the Company upon such terms and conditions as determined by the Committee, (iii) with the consent of Committee, by tendering previously acquired Shares (valued at its Fair Market Value, as determined by the Committee as of the date of tender) that have been owned for a period of at least six months (or such other period to avoid accounting charges against the Company's earnings), (iv) if Shares are traded on a national securities exchange, the Nasdaq Stock Market, Inc. or quoted on a national quotation system sponsored by the National Association of Securities Dealers, Inc. and the Committee authorizes this method of exercise, through the delivery of irrevocable instructions to a broker approved by the Committee to deliver promptly to the Company an amount equal to the purchase price, or (v) with the consent of the Committee, any combination of (i), (ii), (iii) and (iv). In connection with a tender of previously acquired Shares pursuant to clause (iii) above, the Committee, in its sole discretion, may permit the Optionee to constructively exchange Shares already owned by the Optionee in lieu of actually tendering such Shares to the Company, provided that adequate documentation concerning the ownership of the Shares to be constructively tendered is furnished in form satisfactory to the

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Committee. The notice of exercise, accompanied by such payment, shall be delivered to the Company at its principal business office or such other office as the Committee may from time to time direct, and shall be in such form, containing such further provisions consistent with the provisions of the Plan, as the Committee may from time to time prescribe. In no event may any Option granted hereunder be exercised for a fraction of a Share. The Company shall, subject to Section 10.4 herein, effect the transfer of Shares purchased pursuant to an Option as soon as practicable, and, within a reasonable time thereafter, such transfer shall be evidenced on the books of the Company. No person exercising an Option shall have any of the rights of a holder of Shares subject to an Option until certificates for such Shares shall have been issued following the exercise of such Option. No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date of such issuance.

10.4. *Transferability.* No Option that is intended to qualify as an "incentive stock option" under Section 422 of the Code shall be assignable or transferable by the Optionee, other than by will or the laws of descent and distribution, and such Option may be exercised during the life of the Optionee only by the Optionee or his guardian or legal representative. "Non-qualified share options" and any share appreciation rights granted in tandem therewith are transferable (together and not separately) with the consent of the Committee by the Optionee or Holder, as the case may be, to any one or more of the following persons (each, a "Permitted Assignee"): (i) the spouse, parent, issue, spouse of issue, or issue of spouse ("issue" shall include all descendants whether natural or adopted) of such Optionee or Holder, as the case may be; (ii) a trust for the benefit of one or more of those persons described in clause (i) above or for the benefit of such Optionee or Holder, as the case may be; (iii) an entity in which the Optionee or Holder or any Permitted Assignee thereof is a beneficial owner; or (iv) in the case of a transfer by an Optionee who is a non-employee director, another non-employee director of the Company; provided that such Permitted Assignee shall be bound by and subject to all of the terms and conditions of this Plan and the Share Option Agreement relating to the transferred Option and shall execute an agreement satisfactory to the Company evidencing such obligations; and provided further that such Optionee or Holder shall remain bound by the terms and conditions of this Plan. In the case of a transfer by a non-employee director to another non-employee director, the vesting and exercisability shall after such transfer be determined by reference to the service of the assignee, rather than the assignor. The Company shall cooperate with any Permitted Assignee and the Company's transfer agent in effectuating any transfer permitted under this Section 10.4.

10.5. *Termination of Employment.* Unless the Committee determines otherwise, in the event of the termination of employment of an Optionee or the termination or separation from service of an advisor, consultant or a Director (who is an Optionee) for any reason (other than death or disability as provided below), any Option(s) held by such Optionee (or Permitted Assignee) under this Plan and not previously exercised or expired shall be deemed cancelled and terminated on the day of such termination or separation, *provided, however,* that in no instance may the term of the Option, if extended by the Committee, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above. Notwithstanding the foregoing, in the event of the termination or separation from service of an Optionee for any reason other than death or disability, under conditions satisfactory to the Company, the Committee may, in its sole discretion, allow any "nonqualified share options" granted to such Optionee under the Plan and not previously exercised or expired to be exercisable for a period of time to be specified by the Committee, *provided, however,* that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 10.1 above.

10.6. *Death.* In the event an Optionee dies while employed by the Company or any of its subsidiaries or affiliates or during his term as a Director, advisor or consultant of the Company or any of its subsidiaries or affiliates, as the case may be, any Option(s) held by such Optionee (or his Permitted Assignee) and not previously exercised or expired shall, to the extent exercisable on the date of death, be exercisable by the estate of such Optionee or by any person who acquired such Option by bequest or inheritance, or by the Permitted Assignee at any time within one year after the death of the

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Optionee, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of such Option would expire by its terms within six months after the Optionee's death, the term of such Option shall be extended until six months after the Optionee's death, *provided further, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above.

10.7. *Disability.* In the event of the termination of employment of an Optionee or the separation from service of a Director (who is an Optionee), advisor or consultant of the Company, due to total disability, the Optionee, or his guardian or legal representative, or a Permitted Assignee shall have the unqualified right to exercise any Option(s) that have not expired or been previously exercised and that the Optionee was eligible to exercise as of the first date of total disability (as determined by the Committee), at any time within one year after such termination or separation, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of such Option would expire by its terms within six months after such termination or separation, the term of such Option shall be extended until six months after such termination or separation, *provided further, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above. The term "total disability" shall, for purposes of this Plan, be defined in the same manner as such term is defined in Section 22(e)(3) of the Code.

10.8. *Amendment and Modification of the Plan.* The Committee may, from time to time, alter, amend, suspend or terminate the Plan as it shall deem advisable, subject to any requirement for shareholder approval imposed by applicable law or any rule of any stock exchange or quotation system on which Shares are listed or quoted; provided that the Committee may not amend the Plan, without the approval of the Company's shareholders, to increase the number of Shares that may be the subject of Options under the Plan (except for adjustments pursuant to Section 10.9 hereof). In addition, no amendments to, or termination of, the Plan shall in any way impair the rights of an Optionee or a Participant (or a Permitted Assignee thereof) under any Award previously granted without such Optionee's or Participant's consent.

10.9. *Adjustments.* In the event that the Committee shall determine that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities, the issuance of warrants or other rights to purchase Shares or other securities, or other similar corporate transaction or event affects the Shares with respect to which Awards have been or may be issued under the Plan, such that an adjustment is determined in good faith by the Committee to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Committee shall, in such manner as the Committee may deem equitable, adjust any or all of (i) the number and type of Shares that thereafter may be made the subject of Awards, (ii) the number and type of Shares subject to outstanding Awards and share appreciation rights, and (iii) the grant or exercise price with respect to any Award, or, if deemed appropriate, make provision for a cash payment to the holder of any outstanding Award; provided, in each case, that with respect to "incentive stock options," no such adjustment shall be authorized to the extent that such adjustment would cause such options to violate Section 422(b) of the Code or any successor provision; and provided further, that the number of Shares subject to any Award denominated in Shares shall always be a whole number. In the event of any reorganization, merger, consolidation, split-up, spin-off, or other business combination involving the Company (collectively, a "Reorganization"), the Committee or the Board of Directors of the Company may cause any Award outstanding as of the effective date of the Reorganization to be cancelled in consideration of a cash payment or alternate Award (whether from the Company or another entity that is a party to the Reorganization) or a combination thereof made to the holder of such cancelled Award substantially equivalent in value to the fair market value of such cancelled

Award. The determination of fair market value shall be made by the Committee or the Board of Directors, as the case may be, in their sole discretion.

10.10. *Change of Control.* The terms of any Award may provide in the Share Option Agreement, Restricted Share Agreement, Purchase Loan or other document evidencing the Award, that upon a "Change of Control" of the Company (as that term may be defined therein), (i) Options (and share appreciation rights) immediately vest and become fully exercisable, (ii) restrictions on Restricted Shares lapse and the shares become fully vested, (iii) Purchase Loans are forgiven in whole or in part, and (iv) such other additional benefits as the Committee deems appropriate shall apply, subject in each case to any terms and conditions contained in the applicable document evidencing such Award. For purposes of this Plan, a "Change of Control" shall mean an event described in the applicable document evidencing the Award or such other event as determined in the sole discretion of the Board of Directors of the Company. The Committee, in its discretion, may determine that, upon the occurrence of a Change of Control of the Company, each Option and share appreciation right outstanding hereunder shall terminate within a specified number of days after notice to the Participant or Holder, and such Participant or Holder shall receive, with respect to each Share subject to such Option or share appreciation right, an amount equal to the excess of the Fair Market Value of such Share immediately prior to the occurrence of such Change of Control over the exercise price per share of such Option or share appreciation right; such amount to be payable in cash, in one or more kinds of property (including the property, if any, payable in the transaction) or in a combination thereof, as the Committee, in its discretion, shall determine.

10.11. *Employment Violation.* Each Share Option Agreement evidencing an Option granted hereunder shall include and be subject to the following terms:

- (a) The terms of this Section 10.11 shall apply to the Option if the Optionee is or shall become subject to an employment agreement with the Company.
- (b) If the Optionee materially breaches his or her employment agreement (it being understood that any breach of the post-termination obligations contained therein shall be deemed to be material) for so long as the terms of such employment agreement shall apply to the Optionee (each an "Employment Violation"), the Company shall have the right to require (i) the termination and cancellation of the unexercised portion of the Option, if any, whether vested or unvested, and (ii) payment by the Optionee to the Company of the Recapture Amount (as defined below). Such termination of unexercised Options and payment of the Recapture Amount, as the case may be, shall be in addition to, and not in lieu of, any other right or remedy available to the Company arising out of or in connection with any such Employment Violation including, without limitation, the right to terminate Optionee's employment if not already terminated, seek injunctive relief and additional monetary damages.

(c) "Recapture Amount" shall mean the gross gain realized or unrealized by the Optionee upon each exercise of his Option during the period beginning on the date which is twelve (12) months prior to the date of the Optionee's Employment Violation and ending on the date of computation (the "Look-back Period"), which gain shall be calculated as the sum of:

- (i) if the Optionee has exercised any portion of his Option during the Look-back Period and sold any of the Shares acquired on exercise thereafter, an amount equal to the product of (x) the sales price per Share sold minus the exercise price per Share times (y) the number of Shares as to which the Option was exercised and which were sold at such sales price; plus
- (ii) if the Optionee has exercised any portion of his Option during the Look-back Period and not sold any of the Shares acquired on exercise thereafter, with respect to each of such Shares an amount equal to the product of (x) the greatest of the following:
 - (1) the Fair

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Market Value per Share on the date of exercise, (2) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of the Company's written notice of its exercise of its rights under this clause (h), or (3) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of computation, minus the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were not sold;

provided, however, in lieu of payment by the Optionee to the Company of the Recapture Amount determined pursuant to subclause (ii) above, the Optionee, in his or her discretion, may tender to the Company the Shares acquired upon exercise of this Option during the Look-back Period and the Optionee shall not be entitled to receive any consideration from the Company in exchange therefor.

With respect to any other Awards granted hereunder, the terms of any Restricted Share Agreement, share appreciation right, Share Purchase Award or any other document evidencing an Award under the Plan, may include comparable provisions to those set forth in this Section 10.11.

10.12. *Other Provisions.* (a) The Committee may require each Participant purchasing Shares pursuant to an Award under the Plan to represent to and agree with the Company in writing that such Participant is acquiring the Shares without a view to distribution thereof. The certificates for such Shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer.

- (b) All certificates for Shares delivered under the Plan pursuant to any Award shall be subject to such share-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other restrictions of the Securities and Exchange Commission, any stock exchange upon which the Shares are then listed, and any applicable Federal or state securities law, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.
- (c) Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution for, any other Awards granted under the Plan. If Awards are granted in substitution for other Awards, the Committee shall require the surrender of such other Awards in consideration for the grant of the new Awards. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.
- (d) Nothing contained in this Plan shall prevent the Board of Directors from adopting other or additional compensation arrangements, subject to shareholder approval if such approval is required; and such arrangements may be either generally applicable or applicable only in specific cases.
- (e) A Participant shall have no right as a shareholder until he or she becomes the holder of record.
- (f) The Company will provide to its shareholders, at least annually, reports containing financial statements and management's discussion and analysis of financial conditions and results of operations.

10.13. *Terms of Option Grant.* Notwithstanding anything in Section 10.4, 10.5, 10.6, 10.7, 10.10 and 10.11 to the contrary, the Committee may grant an Option under such terms and conditions as may be provided in the Share Option Agreement given to the Optionee and the Committee has the discretion to modify the terms and conditions of an Option after grant as long as the rights of the Optionee are not impaired unless the Optionee otherwise consents, *provided, however*, that in no instance may the term of the Option, as so granted, exceed the maximum term established pursuant to Section 10.1 above.

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PERFORMANCE-BASED AWARDS.

11.1. *General.* (a) Certain Awards granted under the Plan may be granted in a manner such that the Awards qualify as "performance-based compensation"(as such term is used in Section 162(m) of the Code and the regulations thereunder) and thus be exempt from the deduction limitation imposed by Section 162(m) of the Code ("Performance-Based Awards"). Awards shall only qualify as Performance-Based Awards if, among other things, at the time of grant the Committee is comprised solely of two or more "outside directors" (as such term is used in Section 162(m) of the Code and the regulations thereunder).

- (b) Performance-Based Awards may be granted to Participants at any time and from time to time, as shall be determined by the Committee. The Committee shall have complete discretion in determining the number, amount and timing of awards granted to each Participant. Such Performance-Based Awards may take the form of, without limitation, cash, Shares or any combination thereof.
- (c) The Committee shall set performance goals at its discretion which, depending on the extent to which they are met, will determine the number and/or value of such Performance-Based Awards that will be paid out to the Participants, and may attach to such Performance-Based Awards one or more restrictions. The maximum amount of Performance-Based Awards to be awarded to any employee during any fiscal year shall be \$1,000,000.

11.2. *Options and Share Appreciation Rights.* Options and share appreciation rights granted under the Plan with an exercise price at or above the Fair Market Value of the Shares on the date of grant should qualify as Performance-Based Awards.

11.3. *Other Awards.* Either the granting or vesting of Performance-Based Awards granted under the Plan shall be subject to the achievement of a performance target or targets, as determined by the Committee in its sole discretion, based on one or more of the performance measures specified in Section 11.4 below. With respect to such Performance-Based Awards:

- (1) the Committee shall establish in writing (x) the objective performance-based goals applicable to a given period and (y) the individual employees or class of employees to which such performance-based goals apply no later than 90 days after the commencement of such period (but in no event after 25 percent of such period has elapsed);
- (2) no Performance-Based Awards shall be payable to or vest with respect to, as the case may be, any Participant for a given period until the Committee certifies in writing that the objective performance goals (and any other material terms) applicable to such period have been satisfied; and
- (3) after the establishment of a performance goal, the Committee shall not revise such performance goal or increase the amount of compensation payable thereunder (as determined in accordance with Section 162(m) of the Code) upon the attainment of such performance goal.

11.4. *Performance Measures.* The Committee may use the following performance measures (either individually or in any combination) to set performance targets with respect to Awards intended to qualify as Performance-Based Awards: net sales; pretax income before allocation of corporate overhead and bonus; budget; earnings per share; net income; division, group or corporate financial goals; return on stockholders= equity; return on assets; attainment of strategic and operational initiatives; appreciation in and/or maintenance of the price of the common stock or any other publicly-traded securities of the Company; market share; gross profits; earnings before taxes; earnings before

interest and taxes; earnings before interest, taxes, depreciation and amortization; economic value-added models; comparisons with various stock market indices; and/or reductions in costs.

ARTICLE 12.

MISCELLANEOUS

12.1. *Tax Withholding.* The Company shall have the right to make all payments or distributions pursuant to the Plan to an Optionee or Participant (or a Permitted Assignee thereof) net of any applicable Federal, State and local taxes required to be paid as a result of the grant of any Award, exercise of an Option or share appreciation rights or any other event occurring pursuant to this Plan. The Company or any subsidiary or affiliate thereof shall have the right to withhold from wages or other amounts otherwise payable to such Optionee or Participant (or a Permitted Assignee thereof) such withholding taxes as may be required by law, or to otherwise require the Optionee or Participant (or a Permitted Assignee thereof) to pay such withholding taxes. If the Optionee or Participant (or a Permitted Assignee thereof) shall fail to make such tax payments as are required, the Company or its subsidiaries or affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to such Optionee or Participant or to take such other action as may be necessary to satisfy such withholding obligations. In satisfaction of the requirement to pay withholding taxes, the Optionee or Participant (or Permitted Assignee) may make a written election, which may be accepted or rejected in the discretion of the Committee, to have withheld a portion of the Shares then issuable to the Optionee (or Permitted Assignee) pursuant to the Plan having an aggregate Fair Market Value equal to the withholding taxes.

12.2. *Right of Discharge Reserved.* Nothing in the Plan nor the grant of an Award hereunder shall confer upon any employee, Director or other individual the right to continue in the employment or service of the Company or any subsidiary or affiliate of the Company or affect any right that the Company or any subsidiary or affiliate of the Company may have to terminate the employment or service of (or to demote or to exclude from future Options under the Plan) any such employee, Director or other individual at any time for any reason. Except as specifically provided by the Committee, the Company shall not be liable for the loss of existing or potential profit with respect to an Award in the event of termination of an employment or other relationship even if the termination is in violation of an obligation of the Company or any subsidiary or affiliate of the Company

to the employee, Director, advisor or consultant.

12.3. *Nature of Payments.* All Awards made pursuant to the Plan are in consideration of services performed or to be performed for the Company or any subsidiary or affiliate of the Company. Any income or gain realized pursuant to Awards under the Plan and any share appreciation rights constitutes a special incentive payment to the Optionee, Participant or Holder and shall not be taken into account, to the extent permissible under applicable law, as compensation for purposes of any of the employee benefit plans of the Company or any subsidiary or affiliate of the Company except as may be determined by the Committee or by the Directors or directors of the applicable subsidiary or affiliate of the Company.

12.4. *Unfunded Status of the Plan.* The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant or Optionee by the Company, nothing contained herein shall give any such Participant or Optionee any rights that are greater than those of a general creditor of the Company. In its sole discretion, the Committee may authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver the Shares or payments in lieu of or with respect to Awards hereunder; provided, however, that the existence of such trusts or other arrangements is consistent with the unfunded status of the Plan.

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12.5. *Severability.* If any provision of the Plan shall be held unlawful or otherwise invalid or unenforceable in whole or in part, such unlawfulness, invalidity or unenforceability shall not affect any other provision of the Plan or part thereof, each of which remain in full force and effect. If the making of any payment or the provision of any other benefit required under the Plan shall be held unlawful or otherwise invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not prevent any other payment or benefit from being made or provided under the Plan, and if the making of any payment in full or the provision of any other benefit required under the Plan in full would be unlawful or otherwise invalid or unenforceable, then such unlawfulness, invalidity or unenforceability shall not prevent such payment or benefit from being made or provided in part, to the extent that it would not be unlawful, invalid or unenforceable, and the maximum payment or benefit that would not be unlawful, invalid or unenforceable shall be made or provided under the Plan.

12.6. *Gender and Number.* In order to shorten and to improve the understandability of the Plan document by eliminating the repeated usage of such phrases as "his or her" and any masculine terminology herein shall also include the feminine, and the definition of any term herein in the singular shall also include the plural except when otherwise indicated by the context.

12.7. *Governing Law.* The Plan and all determinations made and actions taken thereunder, to the extent not otherwise governed by the Code or the laws of the United States, shall be governed by the laws of the State of Delaware and construed accordingly.

12.8. *Effective Date of Plan; Termination of Plan.* The Plan shall be effective on the date of the approval of the Plan by the Board of Directors. Notwithstanding the foregoing, no Option intended to qualify as an incentive share option shall be granted hereunder until the Plan shall be approved by the holders of a majority of the shares entitled to vote thereon, provided such approval is obtained within 12 months after the date of adoption of the Plan by the Board of Directors. Awards may be granted under the Plan at any time and from time to time prior to July 10, 2011, on which date the Plan will expire except as to Awards and related share appreciation rights then outstanding under the Plan. Such outstanding Awards and share appreciation rights shall remain in effect until they have been exercised or terminated, or have expired.

12.9. *Captions.* The captions in this Plan are for convenience of reference only, and are not intended to narrow, limit or affect the substance or interpretation of the provisions contained herein.

12.10. *Dissolution or Liquidation.* In the event of the proposed dissolution or liquidation of the Company, the Committee shall notify each Optionee and Participant as soon as practicable prior to the effective date of such proposed transaction. The Committee in its sole discretion may permit an Optionee to exercise an Option until ten days prior to such transaction with respect to all vested and exercisable Shares covered thereby and with respect to such number of unvested Shares as the Committee shall determine. In addition, the Committee may provide that any forfeiture provision or Company repurchase option applicable to any Restricted Share Award shall lapse as to such number of Shares as the Committee shall determine, contingent upon the occurrence of the proposed dissolution or liquidation at the time and in the manner contemplated. To the extent an Option has not been previously exercised, the Option shall terminate automatically immediately prior to the consummation of the proposed action. To the extent a forfeiture provision applicable to a Restricted Share Award has not been waived by the Committee, the related Restricted Share Award shall be forfeited automatically immediately prior to the consummation of the proposed action.

12.11. *Successors and Assigns.* This Plan shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Company, Optionees and Participants.

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STOCK OPTION AGREEMENT

(Non-Transferable)

Stock Option #

For Shares

Issued Pursuant to the
2001 Incentive Plan of
ACTIVISION, INC.

THIS CERTIFIES that on _____ (the "Issuance Date") _____ (the "Holder") was granted an option (the "Option") to purchase at the option price of \$ _____ per share, all or any part of _____ fully paid and non-assessable shares ("Shares") of common stock, par value \$.000001 per share, of ACTIVISION, INC., a Delaware corporation (the "Company"), upon and subject to the following terms and conditions:

(a)

Terms of the Plan. The Option is granted pursuant to, and is subject to the terms and conditions of, the Company's 2001 Incentive Plan (the "Plan"), the terms, conditions and definitions of which are hereby incorporated herein as though set forth at length, and the receipt of a copy of which the Holder hereby acknowledges by his signature below. Capitalized terms used herein shall have the meanings set forth in the Plan, unless otherwise defined herein.

[The Company intends that this Option qualify as an "incentive" share option within the meaning of Section 422 of the Internal Revenue Code to the maximum extent permissible under the Internal Revenue Code. To the extent that the Option does not qualify as an incentive share option, the Option or the portion thereof which does not so qualify shall constitute a separate "nonqualified" share option.]

- (b) *Expiration.* This Option shall expire on [ten (10) years less one day from date of issuance], unless extended or earlier terminated in accordance herewith.
- (c) *Exercise.* This Option may be exercised or surrendered during the Holder's lifetime only by the Holder or his/her guardian or legal representative. THIS OPTION SHALL NOT BE TRANSFERABLE BY THE HOLDER OTHERWISE THAN BY WILL OR BY THE LAWS OF DESCENT AND DISTRIBUTION, SUBJECT TO THE TERMS AND CONDITIONS OF THE PLAN.

This Option shall vest and be exercisable as follows:

Vesting Date	Shares Vested at Vesting Date	Cumulative Shares Vested at Vesting Date
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[vesting schedule]

This Option shall be exercised by the Holder (or by her executors, administrators, guardian or legal representative) as to all or part of the Shares, by the giving of written notice of exercise to the Company, specifying the number of Shares to be purchased, accompanied by payment of the full purchase price for the Shares being purchased. Full payment of such purchase price shall be made at the time of exercise and shall be made (i) in cash or by certified check or bank check or wire transfer of immediately available funds, (ii) with the consent of the Company, by tendering previously acquired Shares (valued at its Fair Market Value (as defined in the Plan), as determined by the Company as of the date of tender), or (iii) with the consent of the Company, a combination of (i) and (ii). Such notice

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of exercise, accompanied by such payment, shall be delivered to the Company at its principal business office or such other office as the Company may from time to time direct, and shall be in such form, containing such further provisions as the Company may from time to time prescribe. In no event may this Option be exercised for a fraction of a Share. The Company shall effect the transfer of Shares purchased pursuant to an Option as soon as practicable, and, within a reasonable time thereafter, such transfer shall be evidenced on the books of the Company. No person exercising this Option shall have any of the rights of a holder of Shares subject to this Option until certificates for such Shares shall have been issued following the exercise of such Option. No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date of such issuance.

- (d) *Termination of Employment.* In the event of the termination of employment or separation from service of the Holder for any reason (other than death or disability as provided below), this Option, to the extent not previously exercised or expired, shall be deemed cancelled and terminated on the day of such termination or separation, unless the Company decides, in its sole discretion, to extend the term of this Option, subject to the terms of the Plan.
- (e) *Death.* In the event the Holder dies while employed by the Company or any of its subsidiaries or affiliates, or during his term as a Director of the Company or any of its subsidiaries or affiliates, as the case may be, this Option, to the extent not previously exercised or exercised, shall, to the extent exercisable on the date of death, be exercisable by the estate of the Holder or by any person who acquired this Option by bequest or inheritance, at any time within one year after the death of the Holder, *provided, however,* that if the term of such Option would expire by its terms within six months after the Optionee's death, the term of such Option shall be extended until six months after the Optionee's death, *provided further, however,* that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Sections 3.1(b)(ii) or 10.1 of the Plan.
- (f) *Disability.* In the event of the termination of employment of the Holder or the separation from service of a Director who is a Holder due to total disability, the Holder, or her guardian or legal representative, shall have the unqualified right to exercise any portion of this Option which has not been previously exercised or expired and which the Holder was eligible to exercise as of the first date of total disability (as determined by the Company), at any time within one year after such termination or separation, *provided, however,* that if the term of such Option would expire by its terms within six months after such termination or separation, the term of such Option shall be extended until six months after such termination or separation, *provided further, however,* that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 of the Plan. The term "total disability" shall, for purposes of this Share Option Agreement, be defined in the same manner as such term is defined in Section 22(e)(3) of the Internal Revenue Code of 1986, as amended.
- (g) *Change of Control.* If the Holder is an active employee of the Company or any of its subsidiaries at the time there occurs a "Change of Control" of the Company (as defined below) and the Holder's employment is terminated by the Company or any of its subsidiaries other than for Cause (as defined below) within twelve (12) months following such Change of Control, or such longer period as the Committee may determine, the portion, if any, of this Option with respect to which the right to exercise has not yet accrued, shall

immediately vest and be exercisable in full, effective upon such termination, for a period of 30 days thereafter, or such longer period as the Committee may determine. For purposes of this Option, a "Change of Control" of the Company shall be deemed to occur if:

- (i) there shall have occurred a Change of Control of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under

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the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as in effect on the date hereof, whether or not the Company is then subject to such reporting requirement, provided, however, that there shall not be deemed to be a Change of Control of the Company if immediately prior to the occurrence of what would otherwise be a Change of Control of the Company (a) the Holder is the other party to the transaction (a "Control Event") that would otherwise result in a Change of Control of the Company or (b) the Holder is an executive officer, trustee, director or more than 5% equity holder of the other party to the Control Event or of any entity, directly or indirectly, controlling such other party;

- (ii) the Company merges or consolidates with, or sells all or substantially all of its assets to, another company (each, a "Transaction"), provided, however, that a Transaction shall not be deemed to result in a Change of Control of the Company if (a) immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist, or (b) (1) the shareholders of the Company, immediately before such Transaction own, directly or indirectly, immediately following such Transaction in excess of fifty percent (50%) of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Transaction (the "Surviving Corporation") in substantially the same proportion as their ownership of the voting securities of the Company immediately before such Transaction and (2) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Transaction constitute at least a majority of the members of the board of directors or the board of trustees, as the case may be, of the Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Surviving Corporation; or

- (iii) the Company acquires assets of another company or a subsidiary of the Company merges or consolidates with another company (each, an "Other Transaction") and (a) the shareholders of the Company, immediately before such Other Transaction own, directly or indirectly, immediately following such Other Transaction 50% or less of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Other Transaction (the "Other Surviving Corporation") in substantially the same proportion as their ownership of the voting securities of the Company immediately before such Other Transaction or (b) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Other Transaction constitute less than a majority of the members of the board of directors or the board of trustees, as the case may be, of the Other Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Other Surviving Corporation, provided, however, that an Other Transaction shall not be deemed to result in a Change of Control of the Company if immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist.

For purposes of this clause (g), "Cause" shall mean (unless a different definition is used in the Holder's written employment agreement with the Company, if any, in which case such different definition shall apply to the Holder) any of the following:

- (i) material breach by the Holder of his or her employment agreement, if any, or material failure by the Holder to perform his or her duties (other than as a result of incapacity due to physical or mental illness) during his or her employment with the Company after written notice of such breach or failure and the Holder failed to cure such breach or failure to the Company's reasonable satisfaction within five (5) days after receiving such written notice;

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- (ii) material breach by the Holder of his or her Employee Proprietary Information Agreement or other similar arrangement entered into by the Holder in connection with his or her employment by the Company; or

- (iii) any act of fraud, misappropriation, misuse, embezzlement or any other material act of dishonesty in respect of the Company or its funds, properties, assets or other employees.

- (h) *Employment Violation.* In consideration of the granting and by acceptance of this Option, the Holder hereby agrees that the terms of this clause (h) shall apply to the Option. The Holder acknowledges and agrees that each exercise of this Option and each written notice of exercise delivered to the Company and executed by the Holder shall serve as a reaffirmation of and continuing agreement by the Holder to comply with the terms contained in this clause (h).

The Company and the Holder acknowledge and agree that if the Holder materially breaches his or her employment agreement (it being understood that any breach of the post-termination obligations contained therein shall be deemed to be material) for so long as the terms of such employment agreement shall apply to the Holder (each an "Employment Violation"), the Company shall have the right to require (i) the termination and cancellation of the unexercised portion of this Option, if any, whether vested or unvested, and (ii) payment by the Holder to the Company of

the Recapture Amount (as defined below). The Company and the Holder further agree that such termination of unexercised Options and payment of the Recapture Amount, as the case may be, shall be in addition to, and not in lieu of, any other right or remedy available to the Company arising out of or in connection with any such Employment Violation including, without limitation, the right to terminate the Holder's employment if not already terminated, seek injunctive relief and additional monetary damages.

For purposes of this clause (h), the "Recapture Amount" shall mean the gross gain realized or unrealized by the Holder upon each exercise of this Option during the period beginning on the date which is twelve (12) months prior to the date of the Holder's Employment Violation and ending on the date of computation (the "Look-back Period"), which gain shall be calculated as the sum of:

- (i) if the Holder has exercised any portion of this Option during the Look-back Period and sold any of the Shares acquired on exercise thereafter, an amount equal to the product of (x) the sales price per Share sold minus the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were sold at such sales price; plus
- (ii) if the Holder has exercised any portion of this Option during the Look-back Period and not sold any of the Shares acquired on exercise thereafter, with respect to each of such Shares an amount equal to the product of (x) the greatest of the following: (1) the Fair Market Value per Share on the date of exercise, (2) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of the Company's written notice of its exercise of its rights under this clause (h), or (3) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of computation, minus the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were not sold;

provided, however, in lieu of payment by the Holder to the Company of the Recapture Amount determined pursuant to subclause (ii) above, the Holder, in his or her discretion, may tender to the Company the Shares acquired upon exercise of this Option during the Look-back Period and the Optionee shall not be entitled to receive any consideration from the Company in exchange therefor.

- (i) *Adjustments.* In the event that the Company shall determine that any dividend or other distribution (whether in the form of cash, shares of common stock of the Company, other

securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of shares of common stock of the Company or other securities, the issuance of warrants or other rights to purchase shares of common stock of the Company, or other securities, or other similar corporate transaction or event affects the Shares, such that an adjustment is determined by the Company to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available to the Holder, then the Company shall, in such manner as the Company may deem equitable, adjust any or all of (i) the number and type of shares of common stock of the Company subject to this Option, and (ii) the grant or exercise price with respect to this Option, or, if deemed appropriate, make provision for a cash payment to the Holder.

- (j) *Delivery of Share Certificates.* Within a reasonable time after the exercise of this Option, the Company shall cause to be delivered to the person entitled thereto a certificate for the Shares purchased pursuant to the exercise of this Option. If this Option shall have been exercised with respect to less than all of the Shares subject to this Option, the Company shall also cause to be delivered to the person entitled thereto a new Stock Option Agreement in replacement of this Stock Option Agreement if surrendered at the time of the exercise of this Option, indicating the number of Shares with respect to which this Option remains available for exercise, or the Company shall make a notation in its books and records to reflect the partial exercise of this Option.
- (k) *Withholding.* In the event that the Holder elects to exercise this Option or any part thereof, and if the Company or any subsidiary or affiliate of the Company shall be required to withhold any amounts by reasons of any federal, state or local tax laws, rules or regulations in respect of the issuance of Shares to the Holder pursuant to this Option, the Company or such subsidiary or affiliate shall be entitled to deduct and withhold such amounts from any payments to be made to the Holder. In any event, the Holder shall make available to the Company or such subsidiary or affiliate, promptly when requested by the Company or such subsidiary or affiliate, sufficient funds to meet the requirements of such withholding; and the Company or such subsidiary or affiliate shall be entitled to take and authorize such steps as it may deem advisable in order to have such funds available to the Company or such subsidiary or affiliate out of any funds or property due or to become due to the Holder.
- (l) *Reservation of Shares.* The Company hereby agrees that at all times there shall be reserved for issuance and/or delivery upon exercise of this Option such number of Shares as shall be required for issuance or delivery upon exercise hereof.
- (m) *Rights of Holder.* Nothing contained herein shall be construed to confer upon the Holder any right to be continued in the employ of the Company and/or any subsidiary or affiliate of the Company or derogate from any right of the Company and/or any subsidiary or affiliate of the Company to retire, request the resignation of, or discharge the Holder at any time, with or without cause. The Holder shall not, by virtue hereof, be entitled to any rights of a shareholder in the Company, either at law or in equity, and the rights of the Holder are limited to those expressed herein and are not enforceable against the Company except to the extent set forth herein.
- (n) *Exclusion from Pension Computations.* By acceptance of the grant of this Option, the Holder hereby agrees that any income realized upon the receipt or exercise hereof, or upon the disposition of the Shares received upon its exercise, is special incentive

compensations and, to the extent permissible under applicable law, shall not be taken into account as "wages", "salary" or "compensation" in determining the amount of any payment under any pension,

retirement, incentive, profit sharing, bonus or deferred compensation plan of the Company or any of its subsidiaries or affiliates.

- (o) *Registration; Legend.* The Company may postpone the issuance and delivery of Shares upon any exercise of this Option until (a) the admission of such Shares to listing on any stock exchange or exchanges on which Shares of the Company of the same class are then listed and (b) the completion of such registration or other qualification of such Shares under any state or federal law, rule or regulation as the Company shall determine to be necessary or advisable. The Holder shall make such representations and furnish such information as may, in the opinion of counsel for the Company, be appropriate to permit the Company, in light of the then existence or non-existence with respect to such Shares of an effective Registration Statement under the Securities Act of 1933, as amended, to issue the Shares in compliance with the provisions of that or any comparable act.

The Company may cause the following or a similar legend to be set forth on each certificate representing Shares or any other security issued or issuable upon exercise of this Option unless counsel for the Company is of the opinion as to any such certificate that such legend is unnecessary:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY NOT BE OFFERED FOR SALE, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT, THE AVAILABILITY OF WHICH IS ESTABLISHED BY AN OPINION FROM COUNSEL TO THE COMPANY.

- (p) *Amendment.* The Company may, with the consent of the Holder, at any time or from time to time amend the terms and conditions of this Option, and may at any time or from time to time amend the terms of the Plan.

- (q) *Notices.* Any notice which either party hereto may be required or permitted to give to the other shall be in writing, and may be delivered personally or by mail, postage prepaid, or overnight courier, addressed as follows: if to the Company, at its office at 3100 Ocean Park Boulevard, Santa Monica, California 90405, Attn: General Counsel, or at such other address as the Company by notice to the Holder may designate in writing from time to time; and if to the Holder, at the address shown below her signature on this Stock Option Agreement, or at such other address as the Holder by notice to the Company may designate in writing from time to time. Notices shall be effective upon receipt.

- (r) *Interpretation.* A determination of the Committee as to any questions which may arise with respect to the interpretation of the provisions of this Option and of the Plan shall be final and binding. The Committee may authorize and establish such rules, regulations and revisions thereof as it may deem advisable.

IN WITNESS WHEREOF, the parties have executed this Stock Option Agreement as of the date set forth above.

ACTIVISION, INC.

By: _____

Name: _____

Title: _____

Date: _____

Attest: _____

ACCEPTED:

Option Holder

Address

City State Zip Code

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[STOCK OPTION AGREEMENT \(Non-Transferable\)](#)

As Adopted by the Board of Directors
on April 26, 1999, and amended on
April 1, 2001 and October 17, 2001

**ACTIVISION, INC.
1999 INCENTIVE PLAN**

ACTIVISION, INC., a corporation formed under the laws of the State of Delaware (the "Company"), hereby establishes and adopts the following 1999 Incentive Plan (the "Plan").

RECITALS

WHEREAS, the Company desires to encourage high levels of performance by those individuals who are key to the success of the Company, to attract new individuals who are highly motivated and who will contribute to the success of the Company and to encourage such individuals to remain as directors and/or employees of the Company and its subsidiaries by increasing their proprietary interest in the Company's growth and success.

WHEREAS, to attain these ends, the Company has formulated the Plan embodied herein to authorize the granting of incentive awards through grants of share options ("Options"), grants of share appreciation rights, grants of Share Purchase Awards (hereafter defined) and grants of Restricted Share Awards (hereafter defined) to those individuals whose judgment, initiative and efforts are or have been responsible for the success of the Company.

NOW, THEREFORE, the Company hereby constitutes, establishes and adopts the following Plan and agrees to the following provisions:

ARTICLE 1.

PURPOSE OF THE PLAN

1.1. *Purpose.* The purpose of the Plan is to assist the Company and its subsidiaries in attracting and retaining selected individuals to serve as directors, officers, consultants, advisors and other key employees of the Company and its subsidiaries who will contribute to the Company's success and to achieve long-term objectives which will inure to the benefit of all shareholders of the Company through the additional incentive inherent in the ownership or increased ownership of the Company's shares of common stock ("Shares"). Options granted under the Plan will be either "incentive share options," intended to qualify as such under the provisions of Section 422 of the Internal Revenue Code of 1986, as amended from time to time (the "Code"), or "nonqualified share options." For purposes of the Plan, the term "subsidiary" shall mean "subsidiary corporation," as such term is defined in Section 424(f) of the Code, and "affiliate" shall have the meaning set forth in Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). For purposes of the Plan, the term "Award" shall mean a grant of an Option, a grant of a share appreciation right, a grant of a Share Purchase Award, a grant of a Restricted Share Award, or any other award made under the terms of the Plan.

ARTICLE 2.

SHARES SUBJECT TO AWARDS

2.1. *Number of Shares.* Subject to the adjustment provisions of Section 9.10 hereof, the aggregate number of Shares which may be issued under Awards under the Plan, whether pursuant to Options, share appreciation rights, Share Purchase Awards or Restricted Share Awards shall not exceed 5,000,000. No Options to purchase fractional Shares shall be granted or issued under the Plan. For

purposes of this Section 2.1, the Shares that shall be counted toward such limitation shall include all Shares:

- (1) issued or issuable pursuant to Options that have been or may be exercised;
- (2) issued or issuable pursuant to Share Purchase Awards; and
- (3) issued as, or subject to issuance as a Restricted Share Award.

2.2. *Shares Subject to Terminated Awards.* The Shares covered by any unexercised portions of terminated Options granted under Articles 4 and 6, Shares forfeited as provided in Section 8.2(a) and Shares subject to any Awards which are otherwise surrendered by the Participant without receiving any payment or other benefit with respect thereto may again be subject to new Awards under the Plan. In the event the purchase price of an Option is paid in whole or in part through the delivery of Shares, the number of Shares issuable in connection with the exercise of the Option shall not again be available for the grant of Awards under the Plan. Shares subject to Options, or portions thereof, which have been surrendered in connection with the exercise of share appreciation rights shall not again be available for the grant of Awards under the Plan.

2.3. *Character of Shares.* Shares delivered under the Plan may be authorized and unissued Shares or Shares acquired by the Company, or both.

2.4. *Limitations on Grants to Individual Participant.* Subject to adjustments pursuant to the provisions of Section 10.10 hereof, the maximum number of Shares with respect to which Options or stock appreciation rights may be granted hereunder to any employee during any fiscal year shall be 500,000 Shares (the "Limitation"). If an Option is cancelled, the cancelled Option shall continue to be counted toward the Limitation for the year granted. An Option (or a stock appreciation right) that is repriced during any fiscal year is treated as the cancellation of the Option (or stock appreciation right) and a grant of a new Option (or stock appreciation right) for purposes of the Limitation for that fiscal year.

ARTICLE 3.

ELIGIBILITY AND ADMINISTRATION

3.1. *Awards to Employees and Directors.* (a) Participants who receive (i) Options under Articles 4 and 6 hereof or share appreciation rights under Article 5 ("Optionees"), and (ii) Share Purchase Awards under Article 7 or Restricted Share Awards under Article 8 (in either case, a "Participant"), shall consist of such officers, key employees, consultants, representatives and other contractors and agents and Directors (hereinafter defined) of the Company or any of its subsidiaries or affiliates as the Committee shall select from time to time, *provided, however*, that an Option that is intended to qualify as an "incentive share option" may be granted only to an individual that is an employee of the Company or any of its subsidiaries. The Committee's designation of an Optionee or Participant in any year shall not require the Committee to designate such person to receive Awards or grants in any other year. The designation of an Optionee or Participant to receive Awards or grants under one portion of the Plan shall not require the Committee to include such Optionee or Participant under other portions of the Plan.

- (b) No Option which is intended to qualify as an "incentive share option" may be granted to any employee or Director who, at the time of such grant, owns, directly or indirectly (within the meaning of Sections 422(b)(6) and 424(d) of the Code), shares possessing more than 10% of the total combined voting power of all classes of shares of the Company or any of its subsidiaries or affiliates, unless at the time of such grant, (i) the option price is fixed at not less than 110% of the Fair Market Value (as defined below) of the Shares subject to such

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Option, determined on the date of the grant, and (ii) the exercise of such Option is prohibited by its terms after the expiration of five years from the date such Option is granted.

3.2. *Administration.* (a) The Plan shall be administered by a committee (the "Committee") consisting of not fewer than two Directors of the Company (the directors of the Company being hereinafter referred to as the "Directors"), as designated by the Directors. The Directors may remove from, add members to, or fill vacancies in the Committee. Unless otherwise determined by the Directors, each member of the Committee will be a "non-employee director" within the meaning of Rule 16b-3 (or any successor rule) of the Exchange Act and an "outside director" within the meaning of Section 162(m)(4)(C)(i) of the Code and the regulations thereunder.

Notwithstanding any other provision of this Plan, any Award to a member of the Committee must be approved by the Board of Directors of the Company (excluding Directors who are also members of the Committee) to be effective.

- (b) The Committee is authorized, subject to the provisions of the Plan, to establish such rules and regulations as it may deem appropriate for the conduct of meetings and proper administration of the Plan. All actions of the Committee shall be taken by majority vote of its members.
- (c) Subject to the provisions of the Plan, the Committee shall have authority, in its sole discretion, to grant Awards under the Plan, to interpret the provisions of the Plan and, subject to the requirements of applicable law, including Rule 16b-3 of the Exchange Act, to prescribe, amend, and rescind rules and regulations relating to the Plan or any Award thereunder as it may deem necessary or advisable. All decisions made by the Committee pursuant to the provisions of the Plan shall be final, conclusive and binding on all persons, including the Company, its shareholders, Directors and employees, and other Plan participants.

ARTICLE 4.

OPTIONS

4.1. *Grant of Options. Directors, Officers and Other Key Employees.* The Committee shall determine, within the limitations of the Plan, those Directors, officers and other key employees of the Company and its subsidiaries and affiliates to whom Options are to be granted under the Plan, the number of Shares that may be purchased under each such Option and the option price, and shall designate such Options at the time of the grant as either "incentive share options" or "nonqualified share options"; *provided, however*, that Options granted to employees of an affiliate (that is not also a subsidiary) or to non-employees of the Company may only be "nonqualified share options."

4.2. *Share Option Agreements; etc.* All Options granted pursuant to Article 4 and Article 6 herein (a) shall be authorized by the Committee and (b) shall be evidenced in writing by share option agreements ("Share Option Agreements") in such form and containing such terms and conditions as the Committee shall determine which are not inconsistent with the provisions of the Plan, and, with respect to any Share Option Agreement granting Options which are intended to qualify as "incentive share options," are not inconsistent with Section 422 of the Code. Granting of an Option pursuant to the Plan shall impose no obligation on the recipient to exercise such option. Any individual who is granted an Option pursuant to this Article 4 and Article 6 herein may hold more than one Option granted pursuant to such Articles at the same time and may hold both "incentive share options" and "nonqualified share options" at the same time. To the extent that any Option does not qualify as an "incentive share option" (whether because of its provisions, the time or manner of its exercise or otherwise) such Option or the portion thereof which does not so qualify shall constitute a separate "nonqualified share option."

4.3. *Option Price.* Subject to Section 3.1(b), the option price per each Share purchasable under any "incentive share option" granted pursuant

granted pursuant to Article 6 herein shall be determined by the Committee, but in the case of an "incentive share option" shall not be less than 100% of the Fair Market Value (as hereinafter defined) of such Share on the date of the grant of such Option. The option price per share of each Share purchasable under any "nonqualified share option" granted pursuant to this Article 4 shall be determined by the Committee at the time of the grant of such Option, but shall not be less than 85% of the Fair Market Value of such Share on the date of the grant of such Option.

4.4. *Other Provisions.* Options granted pursuant to this Article 4 shall be made in accordance with the terms and provisions of Article 10 hereof and any other applicable terms and provisions of the Plan.

ARTICLE 5.

SHARE APPRECIATION RIGHTS

5.1. *Grant and Exercise.* Share appreciation rights may be granted in conjunction with all or part of any Option granted under the Plan, as follows: (i) in the case of a nonqualified share option, such rights may be granted either at the time of the grant of such option or at any subsequent time during the term of the option; and (ii) in the case of an incentive share option, such rights may be granted only at the time of the grant of such option. A "share appreciation right" is a right to receive cash or Shares, as provided in this Article 5, in lieu of the purchase of a Share under a related Option. A share appreciation right or applicable portion thereof shall terminate and no longer be exercisable upon the termination or exercise of the related Option, and a share appreciation right granted with respect to less than the full number of Shares covered by a related Option shall not be reduced until, and then only to the extent that, the exercise or termination of the related Option exceeds the number of Shares not covered by the share appreciation right. A share appreciation right may be exercised by the holder thereof (the "Holder"), in accordance with Section 5.2 of this Article 5, by giving written notice thereof to the Company and surrendering the applicable portion of the related Option. Upon giving such notice and surrender, the Holder shall be entitled to receive an amount determined in the manner prescribed in Section 5.2 of this Article 5. Options which have been so surrendered, in whole or in part, shall no longer be exercisable to the extent the related share appreciation rights have been exercised.

5.2. *Terms and Conditions.* Share appreciation rights shall be subject to such terms and conditions, not inconsistent with the provisions of the Plan, as shall be determined from time to time by the Committee, including the following:

- (a) Share appreciation rights shall be exercisable only at such time or times and to the extent that the Options to which they relate shall be exercisable in accordance with the provisions of the Plan.
- (b) Upon the exercise of a share appreciation right, a Holder shall be entitled to receive up to, but no more than, an amount in cash or whole Shares as determined by the Committee in its sole discretion equal to the excess of the then Fair Market Value of one Share over the option price per Share specified in the related Option multiplied by the number of Shares in respect of which the share appreciation right shall have been exercised. The Holder shall specify in his written notice of exercise, whether payment shall be made in cash or in whole Shares. Each share appreciation right may be exercised only at the time and so long as a related Option, if any, would be exercisable or as otherwise permitted by applicable law.
- (c) Upon the exercise of a share appreciation right, the Option or part thereof to which such share appreciation right is related shall be deemed to have been exercised for the purpose of the limitation of the number of Shares to be issued under the Plan, as set forth in Section 2.1 of the Plan.

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- (d) With respect to share appreciation rights granted in connection with an Option that is intended to be an "incentive share option," the following shall apply:
 - (i) No share appreciation right shall be transferable by a Holder otherwise than by will or by the laws of descent and distribution, and share appreciation rights shall be exercisable, during the Holder's lifetime, only by the Holder.
 - (ii) Share appreciation rights granted in connection with an Option may be exercised only when the Fair Market Value of the Shares subject to the Option exceeds the option price at which Shares can be acquired pursuant to the Option.

ARTICLE 6.

RELOAD OPTIONS

6.1. *Authorization of Reload Options.* Concurrently with the award of any Option (such Option hereinafter referred to as the "Underlying Option") to any participant in the Plan, the Committee may grant one or more reload options (each, a "Reload Option") to such participant to purchase for cash or Shares a number of Shares as specified below. A Reload Option shall be exercisable for an amount of Shares equal to (i) the number of Shares delivered by the Optionee to the Company to exercise the Underlying Option, and (ii) to the extent authorized by the Committee,

the number of Shares used to satisfy any tax withholding requirement incident to the exercise of the Underlying Option, subject to the availability of Shares under the Plan at the time of such exercise. Any Reload Option may provide for the grant, when exercised, of subsequent Reload Options to the extent and upon such terms and conditions consistent with this Article 6, as the Committee in its sole discretion shall specify at or after the time of grant of such Reload Option. The grant of a Reload Option will become effective upon the exercise of an Underlying Option or Reload Option by the Optionee delivering to the Company Shares owned by the Optionee in payment of the exercise price and/or tax withholding obligations. Notwithstanding the fact that the Underlying Option may be an "incentive share option," a Reload Option is not intended to qualify as an "incentive share option" under Section 422 of the Code.

6.2. *Reload Option Amendment.* Each Share Option Agreement shall state whether the Committee has authorized Reload Options with respect to the Underlying Option. Upon the exercise of an Underlying Option or other Reload Option, the Reload Option will be evidenced by an amendment to the underlying Share Option Agreement.

6.3. *Reload Option Price.* The option price per Share payable upon the exercise of a Reload Option shall be the Fair Market Value of a Share on the date the grant of the Reload Option becomes effective.

6.4. *Term and Exercise.* Each Reload Option is fully exercisable immediately from the effective date of grant. The term of each Reload Option shall be equal to the remaining option term of the Underlying Option.

6.5. *Termination of Employment.* No additional Reload Options shall be granted to Optionees when Options and/or Reload Options are exercised pursuant to the terms of this Plan following termination of the Optionee's employment unless the Committee, in its sole discretion, shall determine otherwise.

6.6. *Applicability of Other Sections.* Except as otherwise provided in this Article 6, the provisions of Article 9 applicable to Options shall apply equally to Reload Options.

ARTICLE 7.

SHARE PURCHASE AWARDS

7.1. *Grant of Share Purchase Award.* The term "Share Purchase Award" means the right to purchase Shares of the Company and to pay for such Shares through a loan made by the Company to an employee (a "Purchase Loan") as set forth in this Article 7.

7.2. *Terms of Purchase Loans.* (a) *Purchase Loan.* Each Purchase Loan shall be evidenced by a promissory note. The term of the Purchase Loan shall be a period of years, as determined by the Committee, and the proceeds of the Purchase Loan shall be used exclusively by the Participant for purchase of Shares from the Company at a purchase price equal to the Fair Market Value on the date of the Share Purchase Award.

(b) *Interest on Purchase Loan.* A Purchase Loan shall be non-interest bearing or shall bear interest at whatever rate the Committee shall determine (but not in excess of the maximum rate permissible under applicable law), payable in a manner and at such times as the Committee shall determine. Those terms and provisions as the Committee shall determine shall be incorporated into the promissory note evidencing the Purchase Loan.

(c) *Forgiveness of Purchase Loan.* Subject to Section 7.4 hereof, the Company may forgive the repayment of up to 100% of the principal amount of the Purchase Loan, subject to such terms and conditions as the Committee shall determine and set forth in the promissory note evidencing the Purchase Loan. A Participant's Purchase Loan can be prepaid at any time, and from time to time, without penalty.

7.3. *Security for Loans.* (a) *Stock Power and Pledge.* Purchase Loans granted to Participants shall be secured by a pledge of the Shares acquired pursuant to the Share Purchase Award. Such pledge shall be evidenced by a pledge agreement (the "Pledge Agreement") containing such terms and conditions as the Committee shall determine. Purchase Loans shall be recourse or non-recourse with respect to a Participant, as determined from time to time by the Committee. The share certificates for the Shares purchased by a Participant pursuant to a Share Purchase Award shall be issued in the Participant's name, but shall be held by the Company as security for repayment of the Participant's Purchase Loan together with a stock power executed in blank by the Participant (the execution and delivery of which by the Participant shall be a condition to the issuance of the Share Purchase Award). The Participant shall be entitled to exercise all rights applicable to such Shares, including, but not limited to, the right to vote such Shares and the right to receive dividends and other distributions made with respect to such Shares. When the Purchase Loan and any accrued but unpaid interest thereon has been repaid or otherwise satisfied in full, the Company shall deliver to the Participant the share certificates for the Shares purchased by a Participant under the Share Purchase Award.

(b) *Release and Delivery of Share Certificates During the Term of the Purchase Loan.* The Company shall release and deliver to each Participant certificates for Shares purchased by a Participant pursuant to a Share Purchase Award, in such amounts and on such terms and conditions as the Committee shall determine, which shall be set forth in the Pledge Agreement.

(c) *Release and Delivery of Share Certificates Upon Repayment of the Purchase Loan.* The Company shall release and deliver to each Participant certificates for the Shares purchased by the Participant under the Share Purchase Award and then held by the Company, provided the Participant has paid or otherwise satisfied in full the balance of the Purchase Loan and any accrued but unpaid interest thereon. In the event the balance of the Purchase Loan is not repaid, forgiven or otherwise satisfied within 90 days after (i) the date repayment of the Purchase Loan is due (whether in accordance with its term, by reason of acceleration or otherwise), or (ii) such longer time as the Committee, in its discretion, shall provide for

repayment or satisfaction, the Company shall retain those Shares then held by the Company in accordance with the Pledge Agreement.

(d)

Recourse Purchase Loans. Notwithstanding Sections 7.3(a), (b) and (c) above, in the case of a recourse Purchase Loan, the Committee may make such Purchase Loan on such terms as it determines, including without limitation, not requiring a pledge of the acquired Shares.

7.4. Termination of Employment. (a) *Termination of Employment by Death, Disability or by the Company Without Cause; Change of Control.* In the event of a Participant's termination of employment by reason of death, "disability" or by the Company without "cause," or in the event of a "change of control," the Committee shall have the right (but shall not be required) to forgive the remaining unpaid amount (principal and interest) of the Purchase Loan in whole or in part as of the date of such occurrence. "Change of Control," "disability" and "cause" shall have the respective meanings as set forth in the promissory note evidencing the Purchase Loan.

(b)

Other Termination of Employment. Subject to Section 7.4(a) above, in the event of a Participant's termination of employment for any reason, the Participant shall repay to the Company the entire balance of the Purchase Loan and any accrued but unpaid interest thereon, which amounts shall become immediately due and payable, unless otherwise determined by the Committee.

7.5. Restrictions on Transfer. No Share Purchase Award or Shares purchased through such an Award and pledged to the Company as collateral security for the Participant's Purchase Loan (and accrued and unpaid interest thereon) may be otherwise pledged, sold, assigned or transferred (other than by will or by the laws of descent and distribution).

ARTICLE 8.

RESTRICTED AWARDS

8.1. Restricted Share Awards. (a) *Grant.* A grant of Shares made pursuant to this Article 8 is referred to as a "Restricted Share Award." The Committee may grant to any employee an amount of Shares in such manner, and subject to such terms and conditions relating to vesting, forfeitability and restrictions on delivery and transfer (whether based on performance standards, periods of service or otherwise) as the Committee shall establish (such Shares, "Restricted Shares"). The terms of any Restricted Share Award granted under this Plan shall be set forth in a written agreement (a "Restricted Share Agreement") which shall contain provisions determined by the Committee and not inconsistent with this Plan. The provisions of Restricted Share Awards need not be the same for each Participant receiving such Awards.

(b)

Issuance of Restricted Shares. As soon as practicable after the date of grant of a Restricted Share Award by the Committee, the Company shall cause to be transferred on the books of the Company, Shares registered in the name of the Company, as nominee for the Participant, evidencing the Restricted Shares covered by the Award; provided, however, such Shares shall be subject to forfeiture to the Company retroactive to the date of grant, if a Restricted Share Agreement delivered to the Participant by the Company with respect to the Restricted Shares covered by the Award is not duly executed by the Participant and timely returned to the Company. All Restricted Shares covered by Awards under this Article 8 shall be subject to the restrictions, terms and conditions contained in the Plan and the Restricted Share Agreement entered into by and between the Company and the Participant. Until the lapse or release of all restrictions applicable to an Award of Restricted Shares, the share certificates representing such Restricted Shares shall be held in custody by the Company or its designee.

(c)

Shareholder Rights. Beginning on the date of grant of the Restricted Share Award and subject to execution of the Restricted Share Agreement as provided in Sections 8.1(a) and (b),

the Participant shall become a shareholder of the Company with respect to all Shares subject to the Restricted Share Agreement and shall have all of the rights of a shareholder, including, but not limited to, the right to vote such Shares and the right to receive distributions made with respect to such Shares; *provided, however*, that any Shares distributed as a dividend or otherwise with respect to any Restricted Shares as to which the restrictions have not yet lapsed shall be subject to the same restrictions as such Restricted Shares and shall be represented by book entry and held as prescribed in Section 8.1(b).

(d)

Restriction on Transferability. None of the Restricted Shares may be assigned or transferred (other than by will or the laws of descent and distribution), pledged or sold prior to lapse or release of the restrictions applicable thereto.

(e)

Delivery of Shares Upon Release of Restrictions. Upon expiration or earlier termination of the forfeiture period without a forfeiture and the satisfaction of or release from any other conditions prescribed by the Committee, the restrictions applicable to the Restricted Shares shall lapse. As promptly as administratively feasible thereafter, subject to the requirements of Section 12.1, the Company shall deliver to the Participant or, in case of the Participant's death, to the Participant's beneficiary, one or more stock certificates for the appropriate number of Shares, free of all such restrictions, except for any restrictions that may be imposed by law.

8.2. Terms of Restricted Shares. (a) *Forfeiture of Restricted Shares.* Subject to Section 8.2(b), all Restricted Shares shall be forfeited and returned to the Company and all rights of the Participant with respect to such Restricted Shares shall terminate unless the Participant continues in the service of the Company as an employee until the expiration of the forfeiture period for such Restricted Shares and satisfies any and all other

conditions set forth in the Restricted Share Agreement. The Committee in its sole discretion, shall determine the forfeiture period (which may, but need not, lapse in installments) and any other terms and conditions applicable with respect to any Restricted Share Award.

- (b) *Waiver of Forfeiture Period.* Notwithstanding anything contained in this Article 8 to the contrary, the Committee may, in its sole discretion, waive the forfeiture period and any other conditions set forth in any Restricted Share Agreement under appropriate circumstances (including the death, disability or retirement of the Participant or a material change in circumstances arising after the date of an Award) and subject to such terms and conditions (including forfeiture of a proportionate number of the Restricted Shares) as the Committee shall deem appropriate.

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ARTICLE 9.

DEFERRED SHARE AWARDS

9.1. *Shares and Administration.* Awards of the right to receive Shares that are not to be distributed to the Participant until after a specified deferral period (such Award and the deferred Shares delivered thereunder hereinafter as the context shall require, the "Deferred Shares") may be made either alone or in addition to share options, share appreciation rights, or Restricted Share Awards, or Other Share-based Awards (hereafter defined) granted under the Plan. The Committee shall determine the Directors, officers and other key employees of the Company and its subsidiaries to whom and the time or times at which Deferred Shares shall be awarded, the number of Deferred Shares to be awarded to any Participant, the duration of the period (the "Deferral Period") during which, and the conditions under which, receipt of the Shares will be deferred, and the terms and conditions of the award in addition to those contained in Section 9.2. In its sole discretion, the Committee may provide for a minimum payment at the end of the applicable Deferral Period based on a stated percentage of the Fair Market Value on the date of grant of the number of Shares covered by a Deferred Share award. The Committee may also provide for the grant of Deferred Shares upon the completion of a specified performance period. The provisions of Deferred Share awards need not be the same with respect to each recipient.

9.2. *Terms and Conditions.* Deferred Share awards made pursuant to this Article 9 shall be subject to the following terms and conditions:

- (a) Subject to the provisions of the Plan, the Shares to be issued pursuant to a Deferred Share award may not be sold, assigned, transferred, pledged or otherwise encumbered during the Deferral Period or Elective Deferral Period (defined below), where applicable, and may be subject to a risk of forfeiture during all or such portion of the Deferral Period as shall be specified by the Committee. At the expiration of the Deferral Period and Elective Deferral Period, share certificates shall be delivered to the Participant, or the Participant's legal representative, in a number equal to the number of shares covered by the Deferred Share award.
- (b) Amounts equal to any dividends declared during the Deferral Period with respect to the number of Shares covered by a Deferred Share award will be paid to the Participant currently, or deferred and deemed to be reinvested in additional deferred Shares or otherwise reinvested, as determined at the time of the award by the Committee, in its sole discretion.
- (c) Subject to the provisions of paragraph 9.2(d) of this Article 9, upon termination of employment for any reason during the Deferral Period for a given award, the Deferred Shares in question shall be forfeited by the Participant.
- (d) In the event of the Participant's death or permanent disability during the Deferral Period (or Elective Deferral Period, where applicable), or in cases of special circumstances, the Committee may, in its sole discretion, when it finds that a waiver would be in the best interests of the Company, waive in whole or in part any or all of the remaining deferral limitations imposed hereunder with respect to any or all of the Participant's Deferred Shares.
- (e) Prior to completion of the Deferral Period, a Participant may elect to further defer receipt of the award for a specified period or until a specified event (the "Elective Deferral Period"), subject in each case to the approval of the Committee and under such terms as are determined by the Committee, all in its sole discretion.
- (f) Each award shall be confirmed by a Deferred Share agreement or other instrument executed by the Company and the Participant.

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ARTICLE 10.

GENERALLY APPLICABLE PROVISIONS

10.1. *Option Period.* Subject to Section 3.1(b), the period for which an Option is exercisable shall not exceed ten years from the date such Option is granted, *provided, however,* in the case of an Option that is not intended to be an "incentive share option," the Committee may prescribe a period in excess of ten years. After the Option is granted, the option period may not be reduced.

10.2. *Fair Market Value.* If the Shares are listed or admitted to trading on a securities exchange registered under the Exchange Act or listed as a national market security on the National Association of Securities Dealers, Inc. Automated Quotations System ("NASDAQ"), the "Fair Market Value" of a Share as of a specified date shall mean the closing price of a share on the day immediately preceding the date as of which Fair Market Value is being determined (or if there was no reported sale on such date, on the last preceding date on which any reported sale occurred) on the principal securities exchange or NASDAQ on which the Shares are listed or admitted to trading. If the Shares are not listed or admitted to trading on any such exchange but are traded in the over-the-counter market or listed or traded on any similar system then in use, the Fair Market Value of a Share shall be the average of the high bid and low asked prices of the Shares for the day immediately preceding the date as of which the Fair

Market Value is being determined (or if there was no reported sale on such date, on the last preceding date on which any reported sale occurred) reported on such system. If the Shares are not publicly traded, Fair Market Value shall be determined by the Committee in its sole discretion using appropriate criteria. In no case shall Fair Market Value be less than the par value of a Share. An Option shall be considered granted on the date the Committee acts to grant the Option or such later date as the Committee shall specify.

10.3. *Exercise of Options.* Options granted under the Plan shall be exercised by the Optionee or by a Permitted Assignee thereof (or by his executors, administrators, guardian or legal representative, as provided in Sections 10.6 and 10.7 hereof) as to all or part of the Shares covered thereby, by the giving of written notice of exercise to the Company, specifying the number of Shares to be purchased, accompanied by payment of the full purchase price for the Shares being purchased. Full payment of such purchase price shall be made within five business days following the date of exercise and shall be made (i) in cash or by certified check or bank check, (ii) with the consent of the Committee, by delivery of a promissory note in favor of the Company upon such terms and conditions as determined by the Committee, (iii) with the consent of Committee, by tendering previously acquired Shares (valued at its Fair Market Value, as determined by the Committee as of the date of tender), or (iv) with the consent of the Committee, any combination of (i), (ii) and (iii). In connection with a tender of previously acquired Shares pursuant to clause (iii) above, the Committee, in its sole discretion, may permit the Optionee to constructively exchange Shares already owned by the Optionee in lieu of actually tendering such Shares to the Company, provided that adequate documentation concerning the ownership of the Shares to be constructively tendered is furnished in form satisfactory to the Committee. The notice of exercise, accompanied by such payment, shall be delivered to the Company at its principal business office or such other office as the Committee may from time to time direct, and shall be in such form, containing such further provisions consistent with the provisions of the Plan, as the Committee may from time to time prescribe. In no event may any Option granted hereunder be exercised for a fraction of a Share. The Company shall effect the transfer of Shares purchased pursuant to an Option as soon as practicable, and, within a reasonable time thereafter, such transfer shall be evidenced on the books of the Company. No person exercising an Option shall have any of the rights of a holder of Shares subject to an Option until certificates for such Shares shall have been issued following the exercise of such Option. No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date of such issuance.

10.4. *Transferability.* No Option that is intended to qualify as an "incentive stock option" under Section 422 of the Code shall be assignable or transferable by the Optionee, other than by will or the

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laws of descent and distribution, and such Option may be exercised during the life of the Optionee only by the Optionee or his guardian or legal representative. "Non-qualified share options" and any share appreciation rights granted in tandem therewith are transferable (together and not separately) with the consent of the Committee by the Optionee or Holder, as the case may be, to any one or more of the following persons (each, a "Permitted Assignee"): (i) the spouse, parent, issue, spouse of issue, or issue of spouse ("issue" shall include all descendants whether natural or adopted) of such Optionee or Holder, as the case may be; (ii) a trust for the benefit of one or more of those persons described in clause (i) above or for the benefit of such Optionee or Holder, as the case may be; (iii) an entity in which the Optionee or Holder or any Permitted Assignee thereof is a beneficial owner; or (iv) in the case of a transfer by an Optionee who is a non-employee director, another non-employee director of the Company; provided that such Permitted Assignee shall be bound by and subject to all of the terms and conditions of this Plan and the Share Option Agreement relating to the transferred Option and shall execute an agreement satisfactory to the Company evidencing such obligations; and provided further that such Optionee or Holder shall remain bound by the terms and conditions of this Plan. In the case of a transfer by a non-employee director to another non-employee director, the vesting and exercisability shall after such transfer be determined by reference to the service of the assignee, rather than the assignor. The Company shall cooperate with any Permitted Assignee and the Company's transfer agent in effectuating any transfer permitted under this Section 10.4.

10.5. *Termination of Employment.* In the event of the termination of employment of an Optionee or the termination or separation from service of an advisor or consultant or a Director (who is an Optionee) for any reason (other than death or disability as provided below), any Option(s) granted to such Optionee under this Plan and not previously exercised or expired shall be deemed cancelled and terminated on the day of such termination or separation, unless the Committee decides, in its sole discretion, to extend the term of the Option for a period not to exceed three months after the date of such termination or separation, *provided, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above. Notwithstanding the foregoing, in the event of the termination or separation from service of an Optionee for any reason other than death or disability, under conditions satisfactory to the Company, the Committee may, in its sole discretion, allow any "nonqualified share options" granted to such Optionee under the Plan and not previously exercised or expired to be exercisable for a period of time to be specified by the Committee, *provided, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 10.1 above.

10.6. *Death.* In the event an Optionee dies while employed by the Company or any of its subsidiaries or affiliates or during his term as a Director of the Company or any of its subsidiaries or affiliates, as the case may be, any Option(s) granted to him (or his Permitted Assignee) and not previously expired or exercised shall, to the extent exercisable on the date of death, be exercisable by the estate of such Optionee or by any person who acquired such Option by bequest or inheritance, or by the Permitted Assignee at any time within one year after the death of the Optionee, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of such Option would expire by its terms within six months after the Optionee's death, the term of such Option shall be extended until six months after the Optionee's death, *provided further, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above.

10.7. *Disability.* In the event of the termination of employment of an Optionee or the separation from service of a Director (who is an Optionee) due to total disability, the Optionee, or his guardian or legal representative, or a Permitted Assignee shall have the unqualified right to exercise any Option(s) which have not been previously exercised or expired and which the Optionee was eligible to exercise as of the first date of total disability (as determined by the Committee), at any time within one year after such termination or separation, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of such Option would expire by its terms within six months after such termination or

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separation, the term of such Option shall be extended until six months after such termination or separation, *provided further, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above. The term "total disability" shall, for purposes of this Plan, be defined in the same manner as such term is defined in Section 22(e)(3) of the Code.

10.8. *Amendment and Modification of the Plan.* The Compensation Committee of the Board of Directors of the Company may, from time to time, alter, amend, suspend or terminate the Plan as it shall deem advisable, subject to any requirement for shareholder approval imposed by applicable law or any rule of any stock exchange or quotation system on which Shares are listed or quoted; provided that such Compensation Committee may not amend the Plan, without the approval of the Company's shareholders, to increase the number of Shares that may be the subject of Options under the Plan (except for adjustments pursuant to Section 10.9 hereof). In addition, no amendments to, or termination of, the Plan shall in any way impair the rights of an Optionee or a Participant (or a Permitted Assignee thereof) under any Award previously granted without such Optionee's or Participant's consent.

10.9. *Adjustments.* In the event that the Committee shall determine that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities, the issuance of warrants or other rights to purchase Shares or other securities, or other similar corporate transaction or event affects the Shares with respect to which Options have been or may be issued under the Plan, such that an adjustment is determined by the Committee to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Committee shall, in such manner as the Committee may deem equitable, adjust any or all of (i) the number and type of Shares that thereafter may be made the subject of Options, (ii) the number and type of Shares subject to outstanding Options and share appreciation rights, and (iii) the grant or exercise price with respect to any Option, or, if deemed appropriate, make provision for a cash payment to the holder of any outstanding Option; provided, in each case, that with respect to "incentive stock options," no such adjustment shall be authorized to the extent that such adjustment would cause such options to violate Section 422(b) of the Code or any successor provision; and provided further, that the number of Shares subject to any Option denominated in Shares shall always be a whole number. In the event of any reorganization, merger, consolidation, split-up, spin-off, or other business combination involving the Company (collectively, a "Reorganization"), the Compensation Committee of the Board of Directors or the Board of Directors may cause any Award outstanding as of the effective date of the Reorganization to be cancelled in consideration of a cash payment or alternate Award made to the holder of such cancelled Award equal in value to the fair market value of such cancelled Award. The determination of fair market value shall be made by the Compensation Committee of the Board of Directors or the Board of Directors, as the case may be, in their sole discretion.

10.10. *Change in Control.* The terms of any Award may provide in the Share Option Agreement, Restricted Share Agreement, Purchase Loan or other document evidencing the Award, that upon a "Change in Control" of the Company (as that term may be defined therein), (i) Options (and share appreciation rights) accelerate and become fully exercisable, (ii) restrictions on Restricted Shares lapse and the shares become fully vested, (iii) Purchase Loans are forgiven in whole or in part, and (iv) such other additional benefits as the Committee deems appropriate shall apply. For purposes of this Plan, a "Change in Control" shall mean an event described in the applicable document evidencing the Award or such other event as determined in the sole discretion of the Board of Directors of the Company. The Committee, in its discretion, may determine that, upon the occurrence of a Change in Control of the Company, each Option and share appreciation right outstanding hereunder shall terminate within a specified number of days after notice to the Participant or Holder, and such Participant or Holder shall receive, with respect to each Share subject to such Option or share appreciation right, an amount equal

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to the excess of the Fair Market Value of such Shares immediately prior to the occurrence of such Change in Control over the exercise price per share of such Option or share appreciation right; such amount to be payable in cash, in one or more kinds of property (including the property, if any, payable in the transaction) or in a combination thereof, as the Committee, in its discretion, shall determine.

10.11. *Employment Violation.* Each Share Option Agreement evidencing an Option granted on or after April 1, 2001, shall include and be subject to the following terms:

- (a) The terms of this Section 10.11 shall apply to the Option if the Optionee is or shall become subject to an employment agreement with the Company.
- (b) If the Optionee materially breaches his or her employment agreement (it being understood that any breach of the post-termination obligations contained therein shall be deemed to be material) for so long as the terms of such employment agreement shall apply to the Optionee (each, an "Employment Violation"), the Company shall have the right to require (i) the termination and cancellation of the unexercised portion of the Option, if any, whether vested or unvested, and (ii) payment by the Optionee to the Company of the Recapture Amount (as defined below). Such termination of unexercised Options and payment of the Recapture Amount, as the case may be, shall be in addition to, and not in lieu of, any other right or remedy available to the Company arising out of or in connection with any such Employment Violation including, without limitation, the right to terminate Optionee's employment if not already terminated, seek injunctive relief and additional monetary damages.
- (c) "Recapture Amount" shall mean the gross gain realized or unrealized by the Optionee upon each exercise of his Option during the period beginning on the date which is twelve (12) months prior to the date of the Optionee's Employment Violation and ending on the date of computation (the "Look-back Period"), which gain shall be calculated as the sum of:
 - (i) if the Optionee has exercised any portion of his Option during the Look-back Period and sold any of the Shares acquired on exercise thereafter, an amount equal to the product of (x) the sales price per Share sold minus the exercise price per Share times (y) the number of Shares as to which the Option was exercised and which were sold at such sales price; plus
 - (ii) if the Optionee has exercised any portion of his Option during the Look-back Period and not sold any of the Shares acquired on exercise thereafter, with respect to each of such Shares an amount equal to the product of (x) the greatest of the following: (1) the Fair Market Value per Share on the date of exercise, (2) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of the Company's written notice of its exercise of its rights under this clause (h), or (3) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of computation, minus the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were not sold;

provided, however, in lieu of payment by the Optionee to the Company of the Recapture Amount determined pursuant to subclause (ii) above, the Optionee, in his or her discretion, may tender to the Company the Shares acquired upon exercise of this Option during the Look-back Period and not sold and the Optionee shall not be entitled to receive any consideration from the Company in exchange therefor.

With respect to any other Awards granted hereunder, the terms of any Restricted Share Agreement, share appreciation right, Share Purchase Award or any other document evidencing an Award under the Plan, may include comparable provisions to those set forth in this Section 10.11.

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10.12. *Other Provisions.* (a) The Committee may require each Participant purchasing Shares pursuant to an Award under the Plan to represent to and agree with the Company in writing that such Participant is acquiring the Shares without a view to distribution thereof. The certificates for such Shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer.

- (b) All certificates for Shares delivered under the Plan pursuant to any Award shall be subject to such share-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other restrictions of the Securities and Exchange Commission, any stock exchange upon which the Shares are then listed, and any applicable Federal or state securities law, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.
- (c) Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution for, any other Awards granted under the Plan. If Awards are granted in substitution for other Awards, the Committee shall require the surrender of such other Awards in consideration for the grant of the new Awards. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.
- (d) Nothing contained in this Plan shall prevent the Board of Directors from adopting other or additional compensation arrangements, subject to shareholder approval if such approval is required; and such arrangements may be either generally applicable or applicable only in specific cases.
- (e) A Participant shall have no right as a shareholder until he or she becomes the holder of record.
- (f) The Company will provide to its shareholders, at least annually, reports containing financial statements and management's discussion and analysis of financial conditions and results of operations.

ARTICLE 11.

MISCELLANEOUS

11.1. *Tax Withholding.* The Company shall notify an Optionee or Participant (or a Permitted Assignee thereof) of any income tax withholding requirements arising as a result of the grant of any Award, exercise of an Option or share appreciation rights or any other event occurring pursuant to this Plan. The Company shall have the right to withhold from such Optionee or Participant (or a Permitted Assignee thereof) such withholding taxes as may be required by law, or to otherwise require the Optionee or Participant (or a Permitted Assignee thereof) to pay such withholding taxes. If the Optionee or Participant (or a Permitted Assignee thereof) shall fail to make such tax payments as are required, the Company or its subsidiaries or affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to such Optionee or Participant or to take such other action as may be necessary to satisfy such withholding obligations. In satisfaction of the requirement to pay withholding taxes, the Optionee (or Permitted Assignee) make a written election, which may be accepted or rejected in the discretion of the Committee, to have withheld a portion of the Shares then issuable to the Optionee (or Permitted Assignee) pursuant to the Option having an aggregate Fair Market Value equal to the withholding taxes.

11.2. *Right of Discharge Reserved.* Nothing in the Plan nor the grant of an Award hereunder shall confer upon any employee, Director or other individual the right to continue in the employment or service of the Company or any subsidiary or affiliate of the Company or affect any right that the Company or any subsidiary or affiliate of the Company may have to terminate the employment or service of (or to demote or to exclude from future Options under the Plan) any such employee,

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Director or other individual at any time for any reason. Except as specifically provided by the Committee, the Company shall not be liable for the loss of existing or potential profit from an Award granted in the event of termination of an employment or other relationship even if the termination is in violation of an obligation of the Company or any subsidiary or affiliate of the Company to the employee or Director.

11.3. *Nature of Payments.* All Awards made pursuant to the Plan are in consideration of services performed or to be performed for the Company or any subsidiary or affiliate of the Company. Any income or gain realized pursuant to Awards under the Plan and any share appreciation rights constitutes a special incentive payment to the Optionee, Participant or Holder and shall not be taken into account, to the extent permissible under applicable law, as compensation for purposes of any of the employee benefit plans of the Company or any subsidiary or affiliate of the Company except as may be determined by the Committee or by the Directors or directors of the applicable subsidiary or affiliate of the Company.

11.4. *Unfunded Status of the Plan.* The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant or Optionee by the Company, nothing contained herein shall give any such Participant or Optionee any rights that are greater than those of a general creditor of the Company. In its sole discretion, the Committee may authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver the Shares or payments in lieu of or with respect to Awards hereunder; provided, however, that the existence of such trusts or other arrangements is consistent with the unfunded status of the Plan.

11.5. *Severability.* If any provision of the Plan shall be held unlawful or otherwise invalid or unenforceable in whole or in part, such unlawfulness, invalidity or unenforceability shall not affect any other provision of the Plan or part thereof, each of which remain in full force and effect. If the making of any payment or the provision of any other benefit required under the Plan shall be held unlawful or otherwise invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not prevent any other payment or benefit from being made or provided under the Plan, and if the making of any payment in full or the provision of any other benefit required under the Plan in full would be unlawful or otherwise invalid or unenforceable, then such unlawfulness, invalidity or unenforceability shall not prevent such payment or benefit from being made or provided in part, to the extent that it would not be unlawful, invalid or unenforceable, and the maximum payment or benefit that would not be unlawful, invalid or unenforceable shall be made or provided under the Plan.

11.6. *Gender and Number.* In order to shorten and to improve the understandability of the Plan document by eliminating the repeated usage of such phrases as "his or her" and any masculine terminology herein shall also include the feminine, and the definition of any term herein in the singular shall also include the plural except when otherwise indicated by the context.

11.7. *Governing Law.* The Plan and all determinations made and actions taken thereunder, to the extent not otherwise governed by the Code or the laws of the United States, shall be governed by the laws of the State of Delaware and construed accordingly.

11.8. *Effective Date of Plan; Termination of Plan.* The Plan shall be effective on the date of the approval of the Plan by the Board of Directors. Notwithstanding the foregoing, no Option intended to qualify as an incentive share option shall be granted hereunder until the Plan shall be approved by the holders of a majority of the shares entitled to vote thereon, provided such approval is obtained within 12 months after the date of adoption of the Plan by the Board of Directors. Awards may be granted under the Plan at any time and from time to time prior to May 31, 2009, on which date the Plan will expire except as to Awards and related share appreciation rights then outstanding under the Plan. Such outstanding Awards and share appreciation rights shall remain in effect until they have been exercised or terminated, or have expired.

11.9. *Captions.* The captions in this Plan are for convenience of reference only, and are not intended to narrow, limit or affect the substance or interpretation of the provisions contained herein.

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STOCK OPTION CERTIFICATE

For Shares

**Issued Pursuant to the
1999 Incentive Plan of
ACTIVISION, INC.**

THIS CERTIFIES that on (the "Issuance Date") (the "Holder") was granted an option (the "Option") to purchase at the option price of \$ per share, all or any part of fully paid and non-assessable shares ("Shares") of the Common Stock (no par value) of ACTIVISION, INC., a Delaware corporation (the "Company"), upon and subject to the following terms and conditions:

- (a) Terms of the Plan. The Option is granted pursuant to, and is subject to the terms and conditions of, the 1999 Incentive Plan of the Company (the "Plan"), the terms, conditions and definitions of which are hereby incorporated herein as though set forth at length, and the receipt of a copy of which the Holder hereby acknowledges by his signature below. Capitalized terms used herein shall have the meanings set forth in the Plan, unless otherwise defined herein.

[The Company intends that this Option qualify as an "incentive" share option within the meaning of Section 422 of the Internal Revenue Code to the maximum extent permissible under the Internal Revenue Code. To the extent that the Option does not qualify as an incentive share option, the Option or the portion thereof which does not so qualify shall constitute a separate "nonqualified" share option.]

- (b) Expiration. This Option shall expire , , unless extended or earlier terminated in accordance herewith.
- (c) Exercise. This Option may be exercised or surrendered during the Holder's lifetime only by the Holder or his/her guardian or legal representative. THIS OPTION SHALL NOT BE TRANSFERABLE BY THE HOLDER OTHERWISE THAN BY WILL OR BY THE LAWS OF DESCENT AND DISTRIBUTION, SUBJECT TO THE TERMS AND CONDITIONS OF THE PLAN.

This Option shall vest and be exercisable [commencing on the Issuance Date] [as follows:].

This Option shall be exercised by the Holder (or by her executors, administrators, guardian or legal representative) as to all or part of the Shares, by the giving of written notice of exercise to the Company, specifying the number of Shares to be purchased, accompanied by payment of the full purchase price for the Shares being purchased. Full payment of such purchase price shall be made [within five business days following the date of] [at the time of] exercise and shall be made (i) in cash or by certified check or bank check, (ii) with the consent of the Company, by delivery of a promissory note in favor of the Company upon such terms and conditions as determined by the Company, (iii) with the consent of the Company, by tendering previously acquired Shares (valued at its Fair Market Value (as defined in the Plan), as determined by the Company as of the date of tender), or (iv) with the consent of the Company, any combination of (i), (ii) and (iii). Such notice of exercise, accompanied by such payment, shall be delivered to the Company at its principal business office or such other office as the Company may from time to time direct, and shall be in such form, containing such further provisions as the Company may from time to time prescribe. In no event may this Option be exercised for a fraction of a Share. The Company shall effect the transfer of Shares purchased pursuant to an Option as soon as practicable, and, within a reasonable time thereafter, such transfer

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shall be evidenced on the books of the Company. No person exercising this Option shall have any of the rights of a holder of Shares subject to this Option until certificates for such Shares shall have been issued following the exercise of such Option. No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date of such issuance.

- (d) Termination of Employment. In the event of the termination of employment or separation from service of the Holder for any reason (other than death or disability as provided below), this Option, to the extent not previously exercised or expired, shall be deemed cancelled and terminated on the day of such termination or separation, unless the Company decides, in its sole discretion, to extend the term of this Option for a period not to exceed three months after the date of such termination or separation.
- (e) Death. In the event the Holder dies while employed by the Company or any of its subsidiaries or affiliates, or during his term as a Director of the Company or any of its subsidiaries or affiliates, as the case may be, this Option, to the extent not previously exercised or exercised, shall, to the extent exercisable on the date of death, be exercisable by the estate of the Holder or by any person who acquired this Option by bequest or inheritance, at any time within one year after the death of the Holder, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of this Option would expire by its terms within six months after the Holder's death, the term of this Option shall be extended until six months after the Holder's death.
- (f) Disability. In the event of the termination of employment of the Holder or the separation from service of a Director who is a Holder due to total disability, the Holder, or her guardian or legal representative, shall have the unqualified right to exercise any portion of this Option which has not been previously exercised or expired and which the Holder was eligible to exercise as of the first date of total disability (as determined by the Company), at any time within one year after such termination or separation, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of such Option would expire by its terms within six months after such termination or separation, the term of such Option shall be extended until six months after such termination or separation. The term "total disability" shall, for purposes of this Option Certificate, be defined in the same manner as such term is defined in Section 22(e)(3) of the Internal Revenue Code of 1986, as amended.
- (g) Change in Control. In the event of the occurrence of a change in control (as defined below) of the Company, this Option and all rights granted hereunder shall immediately vest and be exercisable in accordance with its terms with respect to those Shares not already vested and exercisable pursuant to the terms of this Option. For purposes of this Option, a "change in control of the Company" shall be deemed to occur if:

- (i) there shall have occurred a change in control of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as in effect on the date hereof, whether or not the Company is then subject to such reporting requirement, *provided, however*, that there shall not be deemed to be a "change in control" of the Company if immediately prior to the occurrence of what would otherwise be a "change in control" of the Company (a) the Executive is the other party to the transaction (a "Control Event") that would otherwise result in a "change in control" of the Company or (b) the Executive is an executive officer, trustee, director or more than 5% equity holder of the other party to the Control Event or of any entity, directly or indirectly, controlling such other party,
- (ii) the Company merges or consolidates with, or sells all or substantially all of its assets to, another company (each, a "Transaction"), *provided, however*, that a Transaction shall not

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be deemed to result in a "change in control" of the Company if (a) immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist, or (b) (1) the shareholders of the Company, immediately before such Transaction own, directly or indirectly, immediately following such Transaction in excess of fifty percent (50%) of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Transaction (the "Surviving Corporation") in substantially the same proportion as their ownership of the voting securities of the Company immediately before such Transaction and (2) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Transaction constitute at least a majority of the members of the board of directors or the board of trustees, as the case may be, of the Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Surviving Corporation, or

- (iii) the Company acquires assets of another company or a subsidiary of the Company merges or consolidates with another company (each, an "Other Transaction") and (a) the shareholders of the Company, immediately before such Other Transaction own, directly or indirectly, immediately following such Other Transaction 50% or less of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Other Transaction (the "Other Surviving Corporation") in substantially the same proportion as their ownership of the voting securities of the Company immediately before such Other Transaction or (b) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Other Transaction constitute less than a majority of the members of the board of directors or the board of trustees, as the case may be, of the Other Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Other Surviving Corporation, *provided, however*, that an Other Transaction shall not be deemed to result in a "change in control" of the Company if immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist.]

(h) *Adjustments.* In the event that the Company shall determine that any dividend or other distribution (whether in the form of cash, shares of common stock of the Company, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of shares of common stock of the Company or other securities, the issuance of warrants or other rights to purchase shares of common stock of the Company, or other securities, or other similar corporate transaction or event affects the Shares, such that an adjustment is determined by the Company to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available to the Holder, then the Company shall, in such manner as the Company may deem equitable, adjust any or all of (i) the number and type of shares of common stock of the Company subject to this Option, and (ii) the grant or exercise price with respect to this Option, or, if deemed appropriate, make provision for a cash payment to the Holder.

(i) *Delivery of Share Certificates.* Within a reasonable time after the exercise of this Option, the Company shall cause to be delivered to the person entitled thereto a certificate for the Shares purchased pursuant to the exercise of this Option. If this Option shall have been exercised with respect to less than all of the Shares subject to this Option, the Company shall also cause to be delivered to the person entitled thereto a new Option Certificate in replacement of this Option Certificate if surrendered at the time of the exercise of this Option, indicating the

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number of Shares with respect to which this Option remains available for exercise, or this Option Certificate shall be endorsed to give effect to the partial exercise of this Option.

(j) *Withholding.* In the event that the Holder elects to exercise this Option or any part thereof, and if the Company or any subsidiary or affiliate of the Company shall be required to withhold any amounts by reasons of any federal, state or local tax laws, rules or regulations in respect of the issuance of Shares to the Holder pursuant to this Option, the Company or such subsidiary or affiliate shall be entitled to deduct and withhold such amounts from any payments to be made to the Holder. In any event, the Holder shall make available to the Company or such subsidiary or affiliate, promptly when requested by the Company or such subsidiary or affiliate, sufficient funds to meet the requirements of such withholding; and the Company or such subsidiary or affiliate shall be entitled to take and authorize such steps as it may deem advisable in order to have such funds available to the Company or such subsidiary or affiliate out of any funds or property due or to become due to the Holder.

(k) *Reservation of Shares.* The Company hereby agrees that at all times there shall be reserved for issuance and/or delivery upon exercise of this Option such number of Shares as shall be required for issuance or delivery upon exercise hereof.

(l) *Rights of Holder.* Nothing contained herein shall be construed to confer upon the Holder any right to be continued in the employ of the Company and/or any subsidiary or affiliate of the Company or derogate from any right of the Company and/or any subsidiary or affiliate of the Company to retire, request the resignation of, or discharge the Holder at any time, with or without cause. The Holder shall not, by virtue hereof, be entitled to any rights of a shareholder in the Company, either at law or in equity, and the rights of the Holder are limited to those expressed herein and are not enforceable against the Company except to the extent set forth herein.

(m) *Exclusion from Pension Computations.* By acceptance of the grant of this Option, the Holder hereby agrees that any income realized upon the receipt or exercise hereof, or upon the disposition of the Shares received upon its exercise, is special incentive compensations and, to the extent permissible under applicable law, shall not be taken into account as "wages", "salary" or "compensation" in determining the amount of any payment under any pension, retirement, incentive, profit sharing, bonus or deferred compensation plan of the Company or any of its subsidiaries or affiliates.

(n) *Registration; Legend.* The Company may postpone the issuance and delivery of Shares upon any exercise of this Option until (a) the admission of such Shares to listing on any stock exchange or exchanges on which Shares of the Company of the same class are then listed and (b) the completion of such registration or other qualification of such Shares under any state or federal law, rule or regulation as the Company shall determine to be necessary or advisable. The Holder shall make such representations and furnish such information as may, in the opinion of counsel for the Company, be appropriate to permit the Company, in light of the then existence or non-existence with respect to such Shares of an effective Registration Statement under the Securities Act of 1933, as amended, to issue the Shares in compliance with the provisions of that or any comparable act.

The Company may cause the following or a similar legend to be set forth on each certificate representing Shares or any other security issued or issuable upon exercise of this Option unless counsel for the Company is of the opinion as to any such certificate that such legend is unnecessary:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY NOT BE OFFERED FOR SALE, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE

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"ACT"), OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT, THE AVAILABILITY OF WHICH IS ESTABLISHED BY AN OPINION FROM COUNSEL TO THE COMPANY.

(o) *Amendment.* The Company may, with the consent of the Holder, at any time or from time to time amend the terms and conditions of

this Option, and may at any time or from time to time amend the terms of this Option.

(p)

Notices. Any notice which either party hereto may be required or permitted to give to the other shall be in writing, and may be delivered personally or by mail, postage prepaid, or overnight courier, addressed as follows: if to the Company, at its office at 3100 Ocean Park Blvd., Santa Monica, California 90405, Attn: General Counsel, or at such other address as the Company by notice to the Holder may designate in writing from time to time; and if to the Holder, at the address shown below her signature on this Option Certificate, or at such other address as the Holder by notice to the Company may designate in writing from time to time. Notices shall be effective upon receipt.

(q)

Interpretation. A determination of the Company as to any questions which may arise with respect to the interpretation of the provisions of this Option and of the Plan shall be final and binding. The Company may authorize and establish such rules, regulations and revisions thereof as it may deem advisable.

IN WITNESS WHEREOF, the parties have executed this Option Certificate as of the date set forth above.

ACTIVISION, INC.

Dated:

Attest:

By:

Name:

Title:

ACCEPTED:

Option Holder

Address

City State Zip Code

Social Security Number

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As Adopted by the Board of Directors on
June 1, 1998, and amended on April 1, 2001
and October 17, 2001

**ACTIVISION, INC.
1998 INCENTIVE PLAN**

ACTIVISION, INC., a corporation formed under the laws of the State of Delaware (the "Company"), hereby establishes and adopts the following 1998 Incentive Plan (the "Plan").

RECITALS

WHEREAS, the Company desires to encourage high levels of performance by those individuals who are key to the success of the Company, to attract new individuals who are highly motivated and who will contribute to the success of the Company and to encourage such individuals to remain as directors and/or employees of the Company and its subsidiaries by increasing their proprietary interest in the Company's growth and success.

WHEREAS, to attain these ends, the Company has formulated the Plan embodied herein to authorize the granting of incentive awards through grants of share options ("Options"), grants of share appreciation rights, grants of Share Purchase Awards (hereafter defined), grants of Restricted Share Awards (hereafter defined) and grants of Performance-Based Awards (hereafter defined) to those individuals whose judgment, initiative and efforts are or have been responsible for the success of the Company.

NOW, THEREFORE, the Company hereby constitutes, establishes and adopts the following Plan and agrees to the following provisions:

ARTICLE 1.

PURPOSE OF THE PLAN

1.1. *Purpose.* The purpose of the Plan is to assist the Company and its subsidiaries in attracting and retaining selected individuals to serve as directors, officers, consultants, advisors and other key employees of the Company and its subsidiaries who will contribute to the Company's success and to achieve long-term objectives which will inure to the benefit of all shareholders of the Company through the additional incentive inherent in the ownership or increased ownership of the Company's shares of common stock ("Shares"). Options granted under the Plan will be either "incentive share options," intended to qualify as such under the provisions of section 422 of the Internal Revenue Code of 1986, as from time to time amended (the "Code"), or "nonqualified share options." For purposes of the Plan, the term "subsidiary" shall mean "subsidiary corporation," as such term is defined in section 424(f) of the Code, and "affiliate" shall have the meaning set forth in Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). For purposes of the Plan, the term "Award" shall mean a grant of an Option, a grant of a share appreciation right, a grant of a Share Purchase Award, a grant of a Restricted Share Award, or any other award made under the terms of the Plan.

ARTICLE 2.

SHARES SUBJECT TO AWARDS

2.1. *Number of Shares.* Subject to the adjustment provisions of Section 9.10 hereof, the aggregate number of Shares which may be issued under Awards under the Plan, whether pursuant to Options, share appreciation rights, Share Purchase Awards, Restricted Share Awards or Performance-Based Awards shall not exceed 3,000,000. No Options to purchase fractional Shares shall be granted or

issued under the Plan. For purposes of this Section 2.1, the Shares that shall be counted toward such limitation shall include all Shares:

- (1) issued or issuable pursuant to Options that have been or may be exercised;
- (2) issued or issuable pursuant to Share Purchase Awards; and
- (3) issued as, or subject to issuance as a Restricted Share Award.

2.2. *Shares Subject to Terminated Awards.* The Shares covered by any unexercised portions of terminated Options granted under Articles 4 and 6, Shares forfeited as provided in Section 8.2(a) and Shares subject to any Awards which are otherwise surrendered by the Participant without receiving any payment or other benefit with respect thereto may again be subject to new Awards under the Plan. In the event the purchase price of an Option is paid in whole or in part through the delivery of Shares, the number of Shares issuable in connection with the exercise of the Option shall not again be available for the grant of Awards under the Plan. Shares subject to Options, or portions thereof, which have been surrendered in connection with the exercise of share appreciation rights shall not again be available for the grant of Awards under the Plan.

2.3. *Character of Shares.* Shares delivered under the Plan may be authorized and unissued Shares or Shares acquired by the Company, or both.

2.4. *Limitations on Grants to Individual Participant.* Subject to adjustments pursuant to the provisions of Section 10.10 hereof, the maximum

number of Shares with respect to which Options or stock appreciation rights may be granted hereunder to any employee during any fiscal year shall be 500,000 Shares (the "Limitation"). If an Option is cancelled, the cancelled Option shall continue to be counted toward the Limitation for the year granted. An Option (or a stock appreciation right) that is repriced during any fiscal year is treated as the cancellation of the Option (or stock appreciation right) and a grant of a new Option (or stock appreciation right) for purposes of the Limitation for that fiscal year.

ARTICLE 3.

ELIGIBILITY AND ADMINISTRATION

3.1. *Awards to Employees and Directors.* (a) Participants who receive (i) Options under Articles 4 and 6 hereof or share appreciation rights under Article 5 ("Optionees"), and (ii) Share Purchase Awards under Article 7 or Restricted Share Awards under Article 8 (in either case, a "Participant"), shall consist of such officers, key employees, consultants, representatives and other contractors and agents and Directors (hereinafter defined) of the Company or any of its subsidiaries or affiliates as the Committee shall select from time to time, *provided, however*, that an Option that is intended to qualify as an "incentive share option" may be granted only to an individual that is an employee of the Company or any of its subsidiaries. The Committee's designation of an Optionee or Participant in any year shall not require the Committee to designate such person to receive Awards or grants in any other year. The designation of an Optionee or Participant to receive Awards or grants under one portion of the Plan shall not require the Committee to include such Optionee or Participant under other portions of the Plan.

- (b) No Option which is intended to qualify as an "incentive share option" may be granted to any employee or Director who, at the time of such grant, owns, directly or indirectly (within the meaning of sections 422(b)(6) and 424(d) of the Code), shares possessing more than 10% of the total combined voting power of all classes of shares of the Company or any of its subsidiaries or affiliates, unless at the time of such grant, (i) the option price is fixed at not less than 110% of the Fair Market Value (as defined below) of the Shares subject to such Option, determined on the date of the grant, and (ii) the exercise of such Option is prohibited by its terms after the expiration of five years from the date such Option is granted.

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3.2. *Administration.* (a) The Plan shall be administered by a committee (the "Committee") consisting of not fewer than two Directors of the Company (the directors of the Company being hereinafter referred to as the "Directors"), as designated by the Directors. The Directors may remove from, add members to, or fill vacancies in the Committee. Unless otherwise determined by the Directors, each member of the Committee will be a "non-employee director" within the meaning of Rule 16b-3 (or any successor rule) of the Exchange Act and an "outside director" within the meaning of Section 162(m)(4)(C)(i) of the Code and the regulations thereunder.

Notwithstanding any other provision of this Plan, any Award to a member of the Committee must be approved by the Board of Directors of the Company (excluding Directors who are also members of the Committee) to be effective.

- (b) The Committee is authorized, subject to the provisions of the Plan, to establish such rules and regulations as it may deem appropriate for the conduct of meetings and proper administration of the Plan. All actions of the Committee shall be taken by majority vote of its members.
- (c) Subject to the provisions of the Plan, the Committee shall have authority, in its sole discretion, to grant Awards under the Plan, to interpret the provisions of the Plan and, subject to the requirements of applicable law, including Rule 16b-3 of the Exchange Act, to prescribe, amend, and rescind rules and regulations relating to the Plan or any Award thereunder as it may deem necessary or advisable. All decisions made by the Committee pursuant to the provisions of the Plan shall be final, conclusive and binding on all persons, including the Company, its shareholders, Directors and employees, and other Plan participants.

ARTICLE 4.

OPTIONS

4.1. *Grant of Options. Directors, Officers and Other Key Employees.* The Committee shall determine, within the limitations of the Plan, those Directors, officers and other key employees of the Company and its subsidiaries and affiliates to whom Options are to be granted under the Plan, the number of Shares that may be purchased under each such Option and the option price, and shall designate such Options at the time of the grant as either "incentive share options" or "nonqualified share options"; *provided, however*, that Options granted to employees of an affiliate (that is not also a subsidiary) or to non-employees of the Company may only be "nonqualified share options."

4.2. *Share Option Agreements; etc.* All Options granted pursuant to Article 4 and Article 6 herein (a) shall be authorized by the Committee and (b) shall be evidenced in writing by share option agreements ("Share Option Agreements") in such form and containing such terms and conditions as the Committee shall determine which are not inconsistent with the provisions of the Plan, and, with respect to any Share Option Agreement granting Options which are intended to qualify as "incentive share options," are not inconsistent with Section 422 of the Code. Granting of an Option pursuant to the Plan shall impose no obligation on the recipient to exercise such option. Any individual who is granted an Option pursuant to this Article 4 and Article 6 herein may hold more than one Option granted pursuant to such Articles at the same time and may hold both "incentive share options" and "nonqualified share options" at the same time. To the extent that any Option does not qualify as an "incentive share option" (whether because of its provisions, the time or manner of its exercise or otherwise) such Option or the portion thereof which does not so qualify shall constitute a separate "nonqualified share option."

4.3. *Option Price.* Subject to Section 3.1(b), the option price per each Share purchasable under any "incentive share option" granted pursuant to this Article 4 and any "nonqualified share option" granted pursuant to Article 6 herein shall be determined by the Committee, but in the case of an "incentive share option" shall not be less than 100% of the Fair Market Value (as hereinafter defined) of such Share on the date of the grant of such Option. The option price per share of each Share

purchasable under any "nonqualified share option" granted pursuant to this Article 4 shall be determined by the Committee at the time of the grant of such Option, but shall not be less than 85% of the Fair Market Value of such Share on the date of the grant of such Option.

4.4. *Other Provisions.* Options granted pursuant to this Article 4 shall be made in accordance with the terms and provisions of Article 10 hereof and any other applicable terms and provisions of the Plan.

ARTICLE 5.

SHARE APPRECIATION RIGHTS

5.1. *Grant and Exercise.* Share appreciation rights may be granted in conjunction with all or part of any Option granted under the Plan, as follows: (i) in the case of a nonqualified share option, such rights may be granted either at the time of the grant of such option or at any subsequent time during the term of the option; and (ii) in the case of an incentive share option, such rights may be granted only at the time of the grant of such option. A "share appreciation right" is a right to receive cash or Shares, as provided in this Article 5, in lieu of the purchase of a Share under a related Option. A share appreciation right or applicable portion thereof shall terminate and no longer be exercisable upon the termination or exercise of the related Option, and a share appreciation right granted with respect to less than the full number of Shares covered by a related Option shall not be reduced until, and then only to the extent that, the exercise or termination of the related Option exceeds the number of Shares not covered by the share appreciation right. A share appreciation right may be exercised by the holder thereof (the "Holder"), in accordance with Section 5.2 of this Article 5, by giving written notice thereof to the Company and surrendering the applicable portion of the related Option. Upon giving such notice and surrender, the Holder shall be entitled to receive an amount determined in the manner prescribed in Section 5.2 of this Article 5. Options which have been so surrendered, in whole or in part, shall no longer be exercisable to the extent the related share appreciation rights have been exercised.

5.2. *Terms and Conditions.* Share appreciation rights shall be subject to such terms and conditions, not inconsistent with the provisions of the Plan, as shall be determined from time to time by the Committee, including the following:

- (a) Share appreciation rights shall be exercisable only at such time or times and to the extent that the Options to which they relate shall be exercisable in accordance with the provisions of the Plan.
- (b) Upon the exercise of a share appreciation right, a Holder shall be entitled to receive up to, but no more than, an amount in cash or whole Shares as determined by the Committee in its sole discretion equal to the excess of the then Fair Market Value of one Share over the option price per Share specified in the related Option multiplied by the number of Shares in respect of which the share appreciation right shall have been exercised. The Holder shall specify in his written notice of exercise, whether payment shall be made in cash or in whole Shares. Each share appreciation right may be exercised only at the time and so long as a related Option, if any, would be exercisable or as otherwise permitted by applicable law.
- (c) Upon the exercise of a share appreciation right, the Option or part thereof to which such share appreciation right is related shall be deemed to have been exercised for the purpose of the limitation of the number of Shares to be issued under the Plan, as set forth in Section 2.1 of the Plan.
- (d) With respect to share appreciation rights granted in connection with an Option that is intended to be an "incentive share option," the following shall apply:

- (i) No share appreciation right shall be transferable by a Holder otherwise than by will or by the laws of descent and distribution, and share appreciation rights shall be exercisable, during the Holder's lifetime, only by the Holder.
- (ii) Share appreciation rights granted in connection with an Option may be exercised only when the Fair Market Value of the Shares subject to the Option exceeds the option price at which Shares can be acquired pursuant to the Option.

ARTICLE 6.

RELOAD OPTIONS

6.1. *Authorization of Reload Options.* Concurrently with the award of any Option (such Option hereinafter referred to as the "Underlying Option") to any participant in the Plan, the Committee may grant one or more reload options (each, a "Reload Option") to such participant to purchase for cash or Shares a number of Shares as specified below. A Reload Option shall be exercisable for an amount of Shares equal to (i) the number of Shares delivered by the Optionee to the Company to exercise the Underlying Option, and (ii) to the extent authorized by the Committee, the number of Shares used to satisfy any tax withholding requirement incident to the exercise of the Underlying Option, subject to the availability of Shares under the Plan at the time of such exercise. Any Reload Option may provide for the grant, when exercised, of subsequent Reload Options to the extent and upon such terms and conditions consistent with this Article 6, as the Committee in its sole discretion shall specify at or after the time of grant of such Reload Option. The grant of a Reload Option will become effective upon the exercise of an Underlying Option or Reload Option by the Optionee delivering to the Company Shares owned by the Optionee in payment of the exercise price and/or tax withholding

obligations. Notwithstanding the fact that the Underlying Option may be an "incentive share option," a Reload Option is not intended to qualify as an "incentive share option" under Section 422 of the Code.

6.2. *Reload Option Amendment.* Each Share Option Agreement shall state whether the Committee has authorized Reload Options with respect to the Underlying Option. Upon the exercise of an Underlying Option or other Reload Option, the Reload Option will be evidenced by an amendment to the underlying Share Option Agreement.

6.3. *Reload Option Price.* The option price per Share payable upon the exercise of a Reload Option shall be the Fair Market Value of a Share on the date the grant of the Reload Option becomes effective.

6.4. *Term and Exercise.* Each Reload Option is fully exercisable immediately from the effective date of grant. The term of each Reload Option shall be equal to the remaining option term of the Underlying Option.

6.5. *Termination of Employment.* No additional Reload Options shall be granted to Optionees when Options and/or Reload Options are exercised pursuant to the terms of this Plan following termination of the Optionee's employment unless the Committee, in its sole discretion, shall determine otherwise.

6.6. *Applicability of Other Sections.* Except as otherwise provided in this Article 6, the provisions of Article 9 applicable to Options shall apply equally to Reload Options.

ARTICLE 7.

SHARE PURCHASE AWARDS

7.1. *Grant of Share Purchase Award.* The term "Share Purchase Award" means the right to purchase Shares of the Company and to pay for such Shares through a loan made by the Company to an employee (a "Purchase Loan") as set forth in this Article 7.

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7.2. *Terms of Purchase Loans.* (a) *Purchase Loan.* Each Purchase Loan shall be evidenced by a promissory note. The term of the Purchase Loan shall be a period of years, as determined by the Committee, and the proceeds of the Purchase Loan shall be used exclusively by the Participant for purchase of Shares from the Company at a purchase price equal to the Fair Market Value on the date of the Share Purchase Award.

(b) *Interest on Purchase Loan.* A Purchase Loan shall be non-interest bearing or shall bear interest at whatever rate the Committee shall determine (but not in excess of the maximum rate permissible under applicable law), payable in a manner and at such times as the Committee shall determine. Those terms and provisions as the Committee shall determine shall be incorporated into the promissory note evidencing the Purchase Loan.

(c) *Forgiveness of Purchase Loan.* Subject to Section 7.4 hereof, the Company may forgive the repayment of up to 100% of the principal amount of the Purchase Loan, subject to such terms and conditions as the Committee shall determine and set forth in the promissory note evidencing the Purchase Loan. A Participant's Purchase Loan can be prepaid at any time, and from time to time, without penalty.

7.3. *Security for Loans.* (a) *Stock Power and Pledge.* Purchase Loans granted to Participants shall be secured by a pledge of the Shares acquired pursuant to the Share Purchase Award. Such pledge shall be evidenced by a pledge agreement (the "Pledge Agreement") containing such terms and conditions as the Committee shall determine. Purchase Loans shall be recourse or non-recourse with respect to a Participant, as determined from time to time by the Committee. The share certificates for the Shares purchased by a Participant pursuant to a Share Purchase Award shall be issued in the Participant's name, but shall be held by the Company as security for repayment of the Participant's Purchase Loan together with a stock power executed in blank by the Participant (the execution and delivery of which by the Participant shall be a condition to the issuance of the Share Purchase Award). The Participant shall be entitled to exercise all rights applicable to such Shares, including, but not limited to, the right to vote such Shares and the right to receive dividends and other distributions made with respect to such Shares. When the Purchase Loan and any accrued but unpaid interest thereon has been repaid or otherwise satisfied in full, the Company shall deliver to the Participant the share certificates for the Shares purchased by a Participant under the Share Purchase Award.

(b) *Release and Delivery of Share Certificates During the Term of the Purchase Loan.* The Company shall release and deliver to each Participant certificates for Shares purchased by a Participant pursuant to a Share Purchase Award, in such amounts and on such terms and conditions as the Committee shall determine, which shall be set forth in the Pledge Agreement.

(c) *Release and Delivery of Share Certificates Upon Repayment of the Purchase Loan.* The Company shall release and deliver to each Participant certificates for the Shares purchased by the Participant under the Share Purchase Award and then held by the Company, provided the Participant has paid or otherwise satisfied in full the balance of the Purchase Loan and any accrued but unpaid interest thereon. In the event the balance of the Purchase Loan is not repaid, forgiven or otherwise satisfied within 90 days after (i) the date repayment of the Purchase Loan is due (whether in accordance with its term, by reason of acceleration or otherwise), or (ii) such longer time as the Committee, in its discretion, shall provide for repayment or satisfaction, the Company shall retain those Shares then held by the Company in accordance with the Pledge Agreement.

(d) *Recourse Purchase Loans.* Notwithstanding Sections 7.3(a), (b) and (c) above, in the case of a recourse Purchase Loan, the Committee may make such Purchase Loan on such terms as it determines, including without limitation, not requiring a pledge of the acquired Shares.

7.4. *Termination of Employment.* (a) *Termination of Employment by Death, Disability or by the Company Without Cause; Change of Control.* In the event of a Participant's termination of employment

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by reason of death, "disability" or by the Company without "cause," or in the event of a "change of control," the Committee shall have the right (but shall not be required) to forgive the remaining unpaid amount (principal and interest) of the Purchase Loan in whole or in part as of the date of such occurrence. "Change of Control," "disability" and "cause" shall have the respective meanings as set forth in the promissory note evidencing the Purchase Loan.

- (b) *Other Termination of Employment.* Subject to Section 7.4(a) above, in the event of a Participant's termination of employment for any reason, the Participant shall repay to the Company the entire balance of the Purchase Loan and any accrued but unpaid interest thereon, which amounts shall become immediately due and payable, unless otherwise determined by the Committee.

7.5. *Restrictions on Transfer.* No Share Purchase Award or Shares purchased through such an Award and pledged to the Company as collateral security for the Participant's Purchase Loan (and accrued and unpaid interest thereon) may be otherwise pledged, sold, assigned or transferred (other than by will or by the laws of descent and distribution).

ARTICLE 8.

RESTRICTED AWARDS

8.1. *Restricted Share Awards.* (a) *Grant.* A grant of Shares made pursuant to this Article 8 is referred to as a "Restricted Share Award." The Committee may grant to any employee an amount of Shares in such manner, and subject to such terms and conditions relating to vesting, forfeitability and restrictions on delivery and transfer (whether based on performance standards, periods of service or otherwise) as the Committee shall establish (such Shares, "Restricted Shares"). The terms of any Restricted Share Award granted under this Plan shall be set forth in a written agreement (a "Restricted Share Agreement") which shall contain provisions determined by the Committee and not inconsistent with this Plan. The provisions of Restricted Share Awards need not be the same for each Participant receiving such Awards.

- (b) *Issuance of Restricted Shares.* As soon as practicable after the date of grant of a Restricted Share Award by the Committee, the Company shall cause to be transferred on the books of the Company, Shares registered in the name of the Company, as nominee for the Participant, evidencing the Restricted Shares covered by the Award; provided, however, such Shares shall be subject to forfeiture to the Company retroactive to the date of grant, if a Restricted Share Agreement delivered to the Participant by the Company with respect to the Restricted Shares covered by the Award is not duly executed by the Participant and timely returned to the Company. All Restricted Shares covered by Awards under this Article 8 shall be subject to the restrictions, terms and conditions contained in the Plan and the Restricted Share Agreement entered into by and between the Company and the Participant. Until the lapse or release of all restrictions applicable to an Award of Restricted Shares, the share certificates representing such Restricted Shares shall be held in custody by the Company or its designee.

- (c) *Shareholder Rights.* Beginning on the date of grant of the Restricted Share Award and subject to execution of the Restricted Share Agreement as provided in Sections 8.1(a) and (b), the Participant shall become a shareholder of the Company with respect to all Shares subject to the Restricted Share Agreement and shall have all of the rights of a shareholder, including, but not limited to, the right to vote such Shares and the right to receive distributions made with respect to such Shares; *provided, however,* that any Shares distributed as a dividend or otherwise with respect to any Restricted Shares as to which the restrictions have not yet lapsed shall be subject to the same restrictions as such Restricted Shares and shall be represented by book entry and held as prescribed in Section 8.1(b).

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- (d) *Restriction on Transferability.* None of the Restricted Shares may be assigned or transferred (other than by will or the laws of descent and distribution), pledged or sold prior to lapse or release of the restrictions applicable thereto.

- (e) *Delivery of Shares Upon Release of Restrictions.* Upon expiration or earlier termination of the forfeiture period without a forfeiture and the satisfaction of or release from any other conditions prescribed by the Committee, the restrictions applicable to the Restricted Shares shall lapse. As promptly as administratively feasible thereafter, subject to the requirements of Section 12.1, the Company shall deliver to the Participant or, in case of the Participant's death, to the Participant's beneficiary, one or more stock certificates for the appropriate number of Shares, free of all such restrictions, except for any restrictions that may be imposed by law.

8.2. *Terms of Restricted Shares.* (a) *Forfeiture of Restricted Shares.* Subject to Section 8.2(b), all Restricted Shares shall be forfeited and returned to the Company and all rights of the Participant with respect to such Restricted Shares shall terminate unless the Participant continues in the service of the Company as an employee until the expiration of the forfeiture period for such Restricted Shares and satisfies any and all other conditions set forth in the Restricted Share Agreement. The Committee in its sole discretion, shall determine the forfeiture period (which may, but need not, lapse in installments) and any other terms and conditions applicable with respect to any Restricted Share Award.

- (b) *Waiver of Forfeiture Period.* Notwithstanding anything contained in this Article 8 to the contrary, the Committee may, in its sole discretion, waive the forfeiture period and any other conditions set forth in any Restricted Share Agreement under appropriate circumstances (including the death, disability or retirement of the Participant or a material change in circumstances arising after the

date of an Award) and subject to such terms and conditions (including forfeiture of a proportionate number of the Restricted Shares) as the Committee shall deem appropriate.

ARTICLE 9.

DEFERRED SHARE AWARDS

9.1. *Shares and Administration.* Awards of the right to receive Shares that are not to be distributed to the Participant until after a specified deferral period (such Award and the deferred Shares delivered thereunder hereinafter as the context shall require, the "Deferred Shares") may be made either alone or in addition to share options, share appreciation rights, or Restricted Share Awards, or Other Share-based Awards (hereafter defined) granted under the Plan. The Committee shall determine the Directors, officers and other key employees of the Company and its subsidiaries to whom and the time or times at which Deferred Shares shall be awarded, the number of Deferred Shares to be awarded to any Participant, the duration of the period (the "Deferral Period") during which, and the conditions under which, receipt of the Shares will be deferred, and the terms and conditions of the award in addition to those contained in Section 9.2. In its sole discretion, the Committee may provide for a minimum payment at the end of the applicable Deferral Period based on a stated percentage of the Fair Market Value on the date of grant of the number of Shares covered by a Deferred Share award. The Committee may also provide for the grant of Deferred Shares upon the completion of a specified performance period. The provisions of Deferred Share awards need not be the same with respect to each recipient.

9.2. *Terms and Conditions.* Deferred Share awards made pursuant to this Article 9 shall be subject to the following terms and conditions:

- (a) Subject to the provisions of the Plan, the Shares to be issued pursuant to a Deferred Share award may not be sold, assigned, transferred, pledged or otherwise encumbered during the Deferral Period or Elective Deferral Period (defined below), where applicable, and may be

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subject to a risk of forfeiture during all or such portion of the Deferral Period as shall be specified by the Committee. At the expiration of the Deferral Period and Elective Deferral Period, share certificates shall be delivered to the Participant, or the Participant's legal representative, in a number equal to the number of shares covered by the Deferred Share award.

- (b) Amounts equal to any dividends declared during the Deferral Period with respect to the number of Shares covered by a Deferred Share award will be paid to the Participant currently, or deferred and deemed to be reinvested in additional deferred Shares or otherwise reinvested, as determined at the time of the award by the Committee, in its sole discretion.
- (c) Subject to the provisions of paragraph 9.2(d) of this Article 9, upon termination of employment for any reason during the Deferral Period for a given award, the Deferred Shares in question shall be forfeited by the Participant.
- (d) In the event of the Participant's death or permanent disability during the Deferral Period (or Elective Deferral Period, where applicable), or in cases of special circumstances, the Committee may, in its sole discretion, when it finds that a waiver would be in the best interests of the Company, waive in whole or in part any or all of the remaining deferral limitations imposed hereunder with respect to any or all of the Participant's Deferred Shares.
- (e) Prior to completion of the Deferral Period, a Participant may elect to further defer receipt of the award for a specified period or until a specified event (the "Elective Deferral Period"), subject in each case to the approval of the Committee and under such terms as are determined by the Committee, all in its sole discretion.
- (f) Each award shall be confirmed by a Deferred Share agreement or other instrument executed by the Company and the Participant.

ARTICLE 10.

GENERALLY APPLICABLE PROVISIONS

10.1. *Option Period.* Subject to Section 3.1(b), the period for which an Option is exercisable shall not exceed ten years from the date such Option is granted, *provided, however*, in the case of an Option that is not intended to be an "incentive share option," the Committee may prescribe a period in excess of ten years. After the Option is granted, the option period may not be reduced.

10.2. *Fair Market Value.* The "Fair Market Value" of a Share shall be determined in good faith by the Committee in its sole discretion from time to time. In no case shall Fair Market Value be less than the par value of a Share. An Option shall be considered granted on the date the Committee acts to grant the Option or such later date as the Committee shall specify.

10.3. *Exercise of Options.* Options granted under the Plan shall be exercised by the Optionee or by a Permitted Assignee thereof (or by his executors, administrators, guardian or legal representative, as provided in Sections 10.6 and 10.7 hereof) as to all or part of the Shares covered thereby, by the giving of written notice of exercise to the Company, specifying the number of Shares to be purchased, accompanied by payment of the full purchase price for the Shares being purchased. Full payment of such purchase price shall be made within five business days following the date of exercise and shall be made (i) in cash or by certified check or bank check, (ii) with the consent of the Committee, by delivery of a promissory note in favor of the Company upon such terms and conditions as determined by the Committee, (iii) with the consent of Committee, by tendering previously acquired Shares (valued at its Fair Market Value, as determined by the Committee as of the date of tender), or (iv) with the

consent of the Committee, any combination of (i), (ii) and (iii). In connection with a tender of previously acquired Shares pursuant to clause (iii) above, the Committee, in its sole discretion, may permit the Optionee to constructively exchange Shares already owned by the Optionee in lieu of

actually tendering such Shares to the Company, provided that adequate documentation concerning the ownership of the Shares to be constructively tendered is furnished in form satisfactory to the Committee. The notice of exercise, accompanied by such payment, shall be delivered to the Company at its principal business office or such other office as the Committee may from time to time direct, and shall be in such form, containing such further provisions consistent with the provisions of the Plan, as the Committee may from time to time prescribe. In no event may any Option granted hereunder be exercised for a fraction of a Share. The Company shall effect the transfer of Shares purchased pursuant to an Option as soon as practicable, and, within a reasonable time thereafter, such transfer shall be evidenced on the books of the Company. No person exercising an Option shall have any of the rights of a holder of Shares subject to an Option until certificates for such Shares shall have been issued following the exercise of such Option. No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date of such issuance.

10.4. *Transferability.* No Option that is intended to qualify as an "incentive stock option" under Section 422 of the Code shall be assignable or transferable by the Optionee, other than by will or the laws of descent and distribution, and such Option may be exercised during the life of the Optionee only by the Optionee or his guardian or legal representative. "Non-qualified share options" and any share appreciation rights granted in tandem therewith are transferable (together and not separately) with the consent of the Committee by the Optionee or Holder, as the case may be, to any one or more of the following persons (each, a "Permitted Assignee"): (i) the spouse, parent, issue, spouse of issue, or issue of spouse ("issue" shall include all descendants whether natural or adopted) of such Optionee or Holder, as the case may be; (ii) a trust for the benefit of one or more of those persons described in clause (i) above or for the benefit of such Optionee or Holder, as the case may be; (iii) an entity in which the Optionee or Holder or any Permitted Assignee thereof is a beneficial owner; or (iv) in the case of a transfer by an Optionee who is a non-employee director, another non-employee director of the Company; provided that such Permitted Assignee shall be bound by and subject to all of the terms and conditions of this Plan and the Share Option Agreement relating to the transferred Option and shall execute an agreement satisfactory to the Company evidencing such obligations; and provided further that such Optionee or Holder shall remain bound by the terms and conditions of this Plan. In the case of a transfer by a non-employee director to another non-employee director, the vesting and exercisability shall after such transfer be determined by reference to the service of the assignee, rather than the assignor. The Company shall cooperate with any Permitted Assignee and the Company's transfer agent in effectuating any transfer permitted under this Section 10.4.

10.5. *Termination of Employment.* In the event of the termination of employment of an Optionee or the termination or separation from service of an advisor or consultant or a Director (who is an Optionee) for any reason (other than death or disability as provided below), any Option(s) granted to such Optionee under this Plan and not previously exercised or expired shall be deemed cancelled and terminated on the day of such termination or separation, unless the Committee decides, in its sole discretion, to extend the term of the Option for a period not to exceed three months after the date of such termination or separation, *provided, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above. Notwithstanding the foregoing, in the event of the termination or separation from service of an Optionee for any reason other than death or disability, under conditions satisfactory to the Company, the Committee may, in its sole discretion, allow any "nonqualified share options" granted to such Optionee under the Plan and not previously exercised or expired to be exercisable for a period of time to be specified by the Committee, *provided, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 10.1 above.

10.6. *Death.* In the event an Optionee dies while employed by the Company or any of its subsidiaries or affiliates or during his term as a Director of the Company or any of its subsidiaries or affiliates, as the case may be, any Option(s) granted to him (or his Permitted Assignee) and not

previously expired or exercised shall, to the extent exercisable on the date of death, be exercisable by the estate of such Optionee or by any person who acquired such Option by bequest or inheritance, or by the Permitted Assignee at any time within one year after the death of the Optionee, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of such Option would expire by its terms within six months after the Optionee's death, the term of such Option shall be extended until six months after the Optionee's death, *provided further, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above.

10.7. *Disability.* In the event of the termination of employment of an Optionee or the separation from service of a Director (who is an Optionee) due to total disability, the Optionee, or his guardian or legal representative, or a Permitted Assignee shall have the unqualified right to exercise any Option(s) which have not been previously exercised or expired and which the Optionee was eligible to exercise as of the first date of total disability (as determined by the Committee), at any time within one year after such termination or separation, unless earlier terminated pursuant to its terms, *provided, however*, that if the term of such Option would expire by its terms within six months after such termination or separation, the term of such Option shall be extended until six months after such termination or separation, *provided further, however*, that in no instance may the term of the Option, as so extended, exceed the maximum term established pursuant to Section 3.1(b)(ii) or 10.1 above. The term "total disability" shall, for purposes of this Plan, be defined in the same manner as such term is defined in Section 22(e)(3) of the Code.

10.8. *Amendment and Modification of the Plan.* The Compensation Committee of the Board of Directors of the Company may, from time to time, alter, amend, suspend or terminate the Plan as it shall deem advisable, subject to any requirement for shareholder approval imposed by applicable law or any rule of any stock exchange or quotation system on which Shares are listed or quoted; provided that such Compensation Committee may not amend the Plan, without the approval of the Company's shareholders, to increase the number of Shares that may be the subject of Options under the Plan (except for adjustments pursuant to Section 10.9 hereof). In addition, no amendments to, or termination of, the Plan shall in any way impair the rights of an Optionee or a Participant (or a Permitted Assignee thereof) under any Award previously granted without such Optionee's or Participant's consent.

10.9. *Adjustments.* In the event that the Committee shall determine that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities, the issuance of warrants or other rights to purchase Shares or other

securities, or other similar corporate transaction or event affects the Shares with respect to which Options have been or may be issued under the Plan, such that an adjustment is determined by the Committee to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Committee shall, in such manner as the Committee may deem equitable, adjust any or all of (i) the number and type of Shares that thereafter may be made the subject of Options, (ii) the number and type of Shares subject to outstanding Options and share appreciation rights, and (iii) the grant or exercise price with respect to any Option, or, if deemed appropriate, make provision for a cash payment to the holder of any outstanding Option; provided, in each case, that with respect to "incentive stock options," no such adjustment shall be authorized to the extent that such adjustment would cause such options to violate Section 422(b) of the Code or any successor provision; and provided further, that the number of Shares subject to any Option denominated in Shares shall always be a whole number. In the event of any reorganization, merger, consolidation, split-up, spin-off, or other business combination involving the Company (collectively, a "Reorganization"), the Compensation Committee of the Board of Directors or the Board of Directors may cause any Award outstanding as of the effective date of the Reorganization

to be cancelled in consideration of a cash payment or alternate Award made to the holder of such cancelled Award equal in value to the fair market value of such cancelled Award. The determination of fair market value shall be made by the Compensation Committee of the Board of Directors or the Board of Directors, as the case may be, in their sole discretion.

10.10. *Change in Control.* The terms of any Award may provide in the Share Option Agreement, Restricted Share Agreement, Purchase Loan or other document evidencing the Award, that upon a "Change in Control" of the Company (as that term may be defined therein), (i) Options (and share appreciation rights) accelerate and become fully exercisable, (ii) restrictions on Restricted Shares lapse and the shares become fully vested, (iii) Purchase Loans are forgiven in whole or in part, and (iv) such other additional benefits as the Committee deems appropriate shall apply. For purposes of this Plan, a "Change in Control" shall mean an event described in the applicable document evidencing the Award or such other event as determined in the sole discretion of the Board of Directors of the Company. The Committee, in its discretion, may determine that, upon the occurrence of a Change in Control of the Company, each Option and share appreciation right outstanding hereunder shall terminate within a specified number of days after notice to the Participant or Holder, and such Participant or Holder shall receive, with respect to each Share subject to such Option or share appreciation right, an amount equal to the excess of the Fair Market Value of such Shares immediately prior to the occurrence of such Change in Control over the exercise price per share of such Option or share appreciation right; such amount to be payable in cash, in one or more kinds of property (including the property, if any, payable in the transaction) or in a combination thereof, as the Committee, in its discretion, shall determine.

10.11. *Employment Violation.* Each Share Option Agreement evidencing an Option granted on or after April 1, 2001, shall include and be subject to the following terms:

- (a) The terms of this Section 10.11 shall apply to the Option if the Optionee is or shall become subject to an employment agreement with the Company.
- (b) If the Optionee materially breaches his or her employment agreement (it being understood that any breach of the post-termination obligations contained therein shall be deemed to be material) for so long as the terms of such employment agreement shall apply to the Optionee (each, an "Employment Violation"), the Company shall have the right to require (i) the termination and cancellation of the unexercised portion of the Option, if any, whether vested or unvested, and (ii) payment by the Optionee to the Company of the Recapture Amount (as defined below). Such termination of unexercised Options and payment of the Recapture Amount, as the case may be, shall be in addition to, and not in lieu of, any other right or remedy available to the Company arising out of or in connection with any such Employment Violation including, without limitation, the right to terminate Optionee's employment if not already terminated, seek injunctive relief and additional monetary damages.
- (c) "Recapture Amount" shall mean the gross gain realized or unrealized by the Optionee upon each exercise of his Option during the period beginning on the date which is twelve (12) months prior to the date of the Optionee's Employment Violation and ending on the date of computation (the "Look-back Period"), which gain shall be calculated as the sum of:
 - (i) if the Optionee has exercised any portion of his Option during the Look-back Period and sold any of the Shares acquired on exercise thereafter, an amount equal to the product of (x) the sales price per Share sold minus the exercise price per Share times (y) the number of Shares as to which the Option was exercised and which were sold at such sales price; plus
 - (ii) if the Optionee has exercised any portion of his Option during the Look-back Period and not sold any of the Shares acquired on exercise thereafter, with respect to each of such Shares an amount equal to the product of (x) the greatest of the following: (1) the Fair Market Value per Share on the date of exercise, (2) the arithmetic average of the per

Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of the Company's written notice of its exercise of its rights under this clause (h), or (3) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of computation, minus the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were not sold;

provided, however, in lieu of payment by the Optionee to the Company of the Recapture Amount determined pursuant to subclause (ii) above, the Optionee, in his or her discretion, may tender to the Company the Shares acquired upon exercise of this Option during the Look-back Period and

not sold and the Optionee shall not be entitled to receive any consideration from the Company in exchange therefor.

With respect to any other Awards granted hereunder, the terms of any Restricted Share Agreement, share appreciation right, Share Purchase Award or any other document evidencing an Award under the Plan, may include comparable provisions to those set forth in this Section 10.11.

10.12. *Other Provisions.* (a) The Committee may require each Participant purchasing Shares pursuant to an Award under the Plan to represent to and agree with the Company in writing that such Participant is acquiring the Shares without a view to distribution thereof. The certificates for such Shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer.

- (b) All certificates for Shares delivered under the Plan pursuant to any Award shall be subject to such share-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other restrictions of the Securities and Exchange Commission, any stock exchange upon which the Shares are then listed, and any applicable Federal or state securities law, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.
- (c) Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution for, any other Awards granted under the Plan. If Awards are granted in substitution for other Awards, the Committee shall require the surrender of such other Awards in consideration for the grant of the new Awards. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.
- (d) Nothing contained in this Plan shall prevent the Board of Directors from adopting other or additional compensation arrangements, subject to shareholder approval if such approval is required; and such arrangements may be either generally applicable or applicable only in specific cases.
- (e) A Participant shall have no right as a shareholder until he or she becomes the holder of record.
- (f) The Company will provide to its shareholders, at least annually, reports containing financial statements and management's discussion and analysis of financial conditions and results of operations.

ARTICLE 11.

PERFORMANCE-BASED AWARDS.

11.1. *General.* (a) Certain Awards granted under the Plan may be granted in a manner such that the Awards qualify as "performance-based compensation" (as such term is used in Section 162(m) of the Code and the regulations thereunder) and thus be exempt from the deduction limitation imposed by Section 162(m) of the Code ("Performance-Based Awards"). Awards shall only qualify as Performance-Based Awards if, among other things, at the time of grant the Committee is comprised solely of two or more "outside directors" (as such term is used in Section 162(m) of the Code and the regulations thereunder).

- (b) Performance-Based Awards may be granted to Participants at any time and from time to time, as shall be determined by the Committee. The Committee shall have complete discretion in determining the number, amount and timing of awards granted to each Participant. Such Performance-Based Awards may take the form of, without limitation, cash, Shares or any combination thereof.
- (c) The Committee shall set performance goals at its discretion which, depending on the extent to which they are met, will determine the number and/or value of such Performance-Based Awards that will be paid out to the Participants, and may attach to such Performance-Based Awards one or more restrictions. The maximum amount of Performance-Based Awards to be awarded to any employee during any fiscal year shall be \$1,000,000.

11.2. *Options and Share Appreciation Rights.* Options and share appreciation rights granted under the Plan with an exercise price at or above the fair market value of the Shares on the date of grant should qualify as Performance-Based Awards.

11.3. *Other Awards.* Either the granting or vesting of Performance-Based Awards granted under the Plan shall be subject to the achievement of a performance target or targets, as determined by the Committee in its sole discretion, based on one or more of the performance measures specified in Section 11.4 below. With respect to such Performance-Based Awards:

- (1) the Committee shall establish in writing (x) the objective performance-based goals applicable to a given period and (y) the individual employees or class of employees to which such performance-based goals apply no later than 90 days after the commencement of such period (but in no event after 25 percent of such period has elapsed);
- (2) no Performance-Based Awards shall be payable to or vest with respect to, as the case may be, any Participant for a given period until the Committee certifies in writing that the objective performance goals (and any other material terms) applicable to such period have been satisfied; and

(3)

after the establishment of a performance goal, the Committee shall not revise such performance goal or increase the amount of compensation payable thereunder (as determined in accordance with Section 162(m) of the Code) upon the attainment of such performance goal.

11.4. *Performance Measures.* The Committee may use the following performance measures (either individually or in any combination) to set performance targets with respect to Awards intended to qualify as Performance-Based Awards: net sales; pretax income before allocation of corporate overhead and bonus; budget; earnings per share; net income; division, group or corporate financial goals; return on stockholders' equity; return on assets; attainment of strategic and operational initiatives; appreciation in and/or maintenance of the price of the Common Stock or any other publicly-traded securities of the Company; market share; gross profits; earnings before taxes; earnings before

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interest and taxes; earnings before interest, taxes, depreciation and amortization; economic value-added models; comparisons with various stock market indices; and/or reductions in costs.

ARTICLE 12.

MISCELLANEOUS

12.1. *Tax Withholding.* The Company shall notify an Optionee or Participant (or a Permitted Assignee thereof) of any income tax withholding requirements arising as a result of the grant of any Award, exercise of an Option or share appreciation rights or any other event occurring pursuant to this Plan. The Company shall have the right to withhold from such Optionee or Participant (or a Permitted Assignee thereof) such withholding taxes as may be required by law, or to otherwise require the Optionee or Participant (or a Permitted Assignee thereof) to pay such withholding taxes. If the Optionee or Participant (or a Permitted Assignee thereof) shall fail to make such tax payments as are required, the Company or its subsidiaries or affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to such Optionee or Participant or to take such other action as may be necessary to satisfy such withholding obligations. In satisfaction of the requirement to pay withholding taxes, the Optionee (or Permitted Assignee) make a written election, which may be accepted or rejected in the discretion of the Committee, to have withheld a portion of the Shares then issuable to the Optionee (or Permitted Assignee) pursuant to the Option having an aggregate Fair Market Value equal to the withholding taxes.

12.2. *Right of Discharge Reserved.* Nothing in the Plan nor the grant of an Award hereunder shall confer upon any employee, Director or other individual the right to continue in the employment or service of the Company or any subsidiary or affiliate of the Company or affect any right that the Company or any subsidiary or affiliate of the Company may have to terminate the employment or service of (or to demote or to exclude from future Options under the Plan) any such employee, Director or other individual at any time for any reason. Except as specifically provided by the Committee, the Company shall not be liable for the loss of existing or potential profit from an Award granted in the event of termination of an employment or other relationship even if the termination is in violation of an obligation of the Company or any subsidiary or affiliate of the Company to the employee or Director.

12.3. *Nature of Payments.* All Awards made pursuant to the Plan are in consideration of services performed or to be performed for the Company or any subsidiary or affiliate of the Company. Any income or gain realized pursuant to Awards under the Plan and any share appreciation rights constitutes a special incentive payment to the Optionee, Participant or Holder and shall not be taken into account, to the extent permissible under applicable law, as compensation for purposes of any of the employee benefit plans of the Company or any subsidiary or affiliate of the Company except as may be determined by the Committee or by the Directors or directors of the applicable subsidiary or affiliate of the Company.

12.4. *Unfunded Status of the Plan.* The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant or Optionee by the Company, nothing contained herein shall give any such Participant or Optionee any rights that are greater than those of a general creditor of the Company. In its sole discretion, the Committee may authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver the Shares or payments in lieu of or with respect to Awards hereunder; provided, however, that the existence of such trusts or other arrangements is consistent with the unfunded status of the Plan.

12.5. *Severability.* If any provision of the Plan shall be held unlawful or otherwise invalid or unenforceable in whole or in part, such unlawfulness, invalidity or unenforceability shall not affect any other provision of the Plan or part thereof, each of which remain in full force and effect. If the making

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of any payment or the provision of any other benefit required under the Plan shall be held unlawful or otherwise invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not prevent any other payment or benefit from being made or provided under the Plan, and if the making of any payment in full or the provision of any other benefit required under the Plan in full would be unlawful or otherwise invalid or unenforceable, then such unlawfulness, invalidity or unenforceability shall not prevent such payment or benefit from being made or provided in part, to the extent that it would not be unlawful, invalid or unenforceable, and the maximum payment or benefit that would not be unlawful, invalid or unenforceable shall be made or provided under the Plan.

12.6. *Gender and Number.* In order to shorten and to improve the understandability of the Plan document by eliminating the repeated usage of such phrases as "his or her" and any masculine terminology herein shall also include the feminine, and the definition of any term herein in the singular shall also include the plural except when otherwise indicated by the context.

12.7. *Governing Law.* The Plan and all determinations made and actions taken thereunder, to the extent not otherwise governed by the Code or the laws of the United States, shall be governed by the laws of the State of Delaware and construed accordingly.

12.8. *Effective Date of Plan; Termination of Plan.* The Plan shall be effective on the date of the approval of the Plan by the Board of Directors.

Notwithstanding the foregoing, no Option intended to qualify as an incentive share option shall be granted hereunder until the Plan shall be approved by the holders of a majority of the shares entitled to vote thereon, provided such approval is obtained within 12 months after the date of adoption of the Plan by the Board of Directors. Awards may be granted under the Plan at any time and from time to time prior to May 31, 2008, on which date the Plan will expire except as to Awards and related share appreciation rights then outstanding under the Plan. Such outstanding Awards and share appreciation rights shall remain in effect until they have been exercised or terminated, or have expired.

12.9. *Captions.* The captions in this Plan are for convenience of reference only, and are not intended to narrow, limit or affect the substance or interpretation of the provisions contained herein.

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**STOCK OPTION CERTIFICATE
(Non-Transferable)**

Stock Option #9800xxxx

For x,xxx Shares

**Issued Pursuant to the
1998 Incentive Plan of
ACTIVISION, INC.**

THIS CERTIFIES that on _____ (the "Issuance Date") _____ (the "Holder") was granted an option (the "Option") to purchase at the option price of \$xx.xxx per share, all or any part of _____ fully paid and non-assessable shares ("Shares") of the Common Stock (no par value) of ACTIVISION, INC., a Delaware corporation (the "Company"), upon and subject to the following terms and conditions:

1. *Terms of the Plan.* The Option is granted pursuant to, and is subject to the terms and conditions of, the 1998 Incentive Plan of the Company (the "Plan"), the terms, conditions and definitions of which are hereby incorporated herein as though set forth at length, and the receipt of a copy of which the Holder hereby acknowledges by his signature below. Capitalized terms used herein shall have the meanings set forth in the Plan, unless otherwise defined herein.

2. *Expiration.* This Option shall expire on _____, unless extended or earlier terminated in accordance herewith.

3. *Exercise.* This Option may be exercised or surrendered during the Holder's lifetime only by the Holder or his/her guardian or legal representative. THIS OPTION SHALL NOT BE TRANSFERABLE BY THE HOLDER OTHERWISE THAN BY WILL OR BY THE LAWS OF DESCENT AND DISTRIBUTION, SUBJECT TO THE TERMS AND CONDITIONS OF THE PLAN.

This Option shall vest and be exercisable as follows:

Vesting Date	Shares Vested at Vesting Date	Cumulative Shares Vested at Vesting Date
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This Option shall be exercised by the Holder (or by his or her executors, administrators, guardian or legal representative) as to all or part of the Shares, by the giving of written notice of exercise to the Company, specifying the number of Shares to be purchased, accompanied by payment of the full purchase price for the Shares being purchased. Full payment of such purchase price shall be made at the time of exercise and shall be made (i) in cash or by certified check or bank check, (ii) with the consent of the Company, by tendering previously acquired Shares (valued at its Fair Market Value (as defined in the Plan), as determined by the Company as of the date of tender), or (iii) with the consent of the Company, combination of (i) and (ii). Such notice of exercise, accompanied by such payment, shall be delivered to the Company at its principal business office or such other office as the Company may from time to time direct, and shall be in such form, containing such further provisions as the Company may from time to time prescribe. In no event may this Option be exercised for a fraction of a Share. The Company shall effect the transfer of Shares purchased pursuant to an Option as soon as practicable, and, within a reasonable time thereafter, such transfer shall be evidenced on the books of the Company. No person exercising this Option shall have any of the rights of a holder of Shares subject to this Option until certificates for such Shares shall have been issued following the exercise of

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such Option. No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date of such issuance.

4. *Termination of Employment.* In the event of the termination of employment or separation from service of the Holder for any reason (other than death or disability as provided below), this Option, to the extent not previously exercised or expired, shall be deemed cancelled and terminated 30 days after the day of such termination or separation.

5. *Death.* In the event the Holder dies while employed by the Company or any of its subsidiaries or affiliates, or during his term as a Director of the Company or any of its subsidiaries or affiliates, as the case may be, this Option, to the extent not previously expired or exercised, shall, to the extent exercisable on the date of death, be exercisable by the estate of the Holder or by any person who acquired this Option by bequest or inheritance, at any time within one year after the death of the Holder, unless earlier terminated pursuant to its terms, provided, however, that if the term of this Option would expire by its terms within six months after the Holder's death, the term of this Option shall be extended until six months after the Holder's death.

6. *Disability.* In the event of the termination of employment of the Holder or the separation from service of a Director who is a Holder due to total disability, the Holder, or his or her guardian or legal representative, shall have the unqualified right to exercise any portion of this Option which

has not been previously exercised or expired and which the Holder was eligible to exercise as of the first date of total disability (as determined by the Company), at any time within one year after such termination or separation, unless earlier terminated pursuant to its terms, provided, however, that if the term of such Option would expire by its terms within six months after such termination or separation, the term of such Option shall be extended until six months after such termination or separation. The term "total disability" shall, for purposes of this Option Certificate, be defined in the same manner as such term is defined in Section 22(e)(3) of the Internal Revenue Code of 1986, as amended.

7. *Change of Control.* If the Holder is an active employee of the Company or any of its subsidiaries at the time there occurs a "Change of Control" of the Company (as defined below) and the Holder's employment is terminated by the Company or any of its subsidiaries other than for Cause (as defined below) within twelve (12) months following such Change of Control, or such longer period as the Committee may determine, the portion, if any, of this Option with respect to which the right to exercise has not yet accrued, shall immediately vest and be exercisable in full, effective upon such termination, for a period of 30 days thereafter, or such longer period as the Committee may determine. For purposes of this Option, a "Change of Control" of the Company shall be deemed to occur if:

- (i) there shall have occurred a Change of Control of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as in effect on the date hereof, whether or not the Company is then subject to such reporting requirement, provided, however, that there shall not be deemed to be a Change of Control of the Company if immediately prior to the occurrence of what would otherwise be a Change of Control of the Company (a) the Holder is the other party to the transaction (a "Control Event") that would otherwise result in a Change of Control of the Company or (b) the Holder is an executive officer, trustee, director or more than 5% equity holder of the other party to the Control Event or of any entity, directly or indirectly, controlling such other party;
- (ii) the Company merges or consolidates with, or sells all or substantially all of its assets to, another company (each, a "Transaction"), provided, however, that a Transaction shall not be deemed to result in a Change of Control of the Company if (a) immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist, or (b) (1) the shareholders of the Company, immediately before such Transaction own, directly or indirectly, immediately

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following such Transaction in excess of fifty percent (50%) of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Transaction (the "Surviving Corporation") in substantially the same proportion as their ownership of the voting securities of the Company immediately before such Transaction and (2) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Transaction constitute at least a majority of the members of the board of directors or the board of trustees, as the case may be, of the Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Surviving Corporation; or

- (iii) the Company acquires assets of another company or a subsidiary of the Company merges or consolidates with another company (each, an "Other Transaction") and (a) the shareholders of the Company, immediately before such Other Transaction own, directly or indirectly, immediately following such Other Transaction 50% or less of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Other Transaction (the "Other Surviving Corporation") in substantially the same proportion as their ownership of the voting securities of the Company immediately before such Other Transaction or (b) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Other Transaction constitute less than a majority of the members of the board of directors or the board of trustees, as the case may be, of the Other Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Other Surviving Corporation, provided, however, that an Other Transaction shall not be deemed to result in a Change of Control of the Company if immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist.

For purposes of this Option, "Cause" shall mean (unless a different definition is used in the Holder's written employment agreement with the Company, if any, in which case such different definition shall apply to the Holder) any of the following:

- (i) material breach by the Holder of his or her employment agreement, if any, or material failure by the Holder to perform his or her duties (other than as a result of incapacity due to physical or mental illness) during his or her employment with the Company after written notice of such breach or failure and the Holder failed to cure such breach or failure to the Company's reasonable satisfaction within five (5) days after receiving such written notice;
- (ii) material breach by the Holder of his or her Employee Proprietary Information Agreement or other similar arrangement entered into by the Holder in connection with his or her employment by the Company; or
- (iii) any act of fraud, misappropriation, misuse, embezzlement or any other material act of dishonesty in respect of the Company or its funds, properties, assets or other employees.

8. *Employment Violation.* In consideration of the granting of this Option, the Holder hereby agrees that the terms of this paragraph (h) shall apply to the Option. The Holder acknowledges and agrees that each exercise of this Option and each written notice of exercise delivered to the Company and executed by the Holder shall serve as a reaffirmation of and continuing agreement by the Holder to comply with the terms contained in this paragraph (h).

The Company and the Holder acknowledge and agree that if the Holder is or shall become subject to an employment agreement with the

employment agreement (it being understood that any breach of the post-termination obligations contained therein shall be deemed to be material) for so long as the terms of such employment agreement shall apply to the Holder (each, an "Employment Violation"), the Company shall have the right to require (i) the termination and cancellation of the unexercised portion of this Option, if any, whether vested or unvested, and (ii) payment by the Holder to the Company of the Recapture Amount (as defined below). The Company and the Holder further agree that such termination of unexercised Options and payment of the Recapture Amount, as the case may be, shall be in addition to, and not in lieu of, any other right or remedy available to the Company arising out of or in connection with any such Employment Violation including, without limitation, the right to terminate the Holder's employment if not already terminated, seek injunctive relief and additional monetary damages.

For purposes of this Option, the "Recapture Amount" shall mean the gross gain realized or unrealized by the Holder upon each exercise of this Option during the period beginning on the date which is twelve (12) months prior to the date of the Holder's Employment Violation and ending on the date of computation (the "Look-back Period"), which gain shall be calculated as the sum of:

- (i) if the Holder has exercised any portion of this Option during the Look-back Period and sold any of the Shares acquired on exercise thereafter, an amount equal to the product of (x) the sales price per Share sold less the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were sold at such sales price; plus
- (ii) if the Holder has exercised any portion of this Option during the Look-back Period and not sold any of the Shares acquired on exercise thereafter, with respect to each of such Shares an amount equal to the product of (x) the greatest of the following: (1) the Fair Market Value per Share on the date of exercise, (2) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of the Company's written notice of its exercise of its rights under this paragraph (h), or (3) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of computation, minus the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were not sold;

provided, however, in lieu of payment by the Holder to the Company of the Recapture Amount determined pursuant to clause (ii) above, the Holder, in his or her discretion, may tender to the Company the Shares acquired upon exercise of this Option during the Look-back Period and not sold and the Holder shall not be entitled to receive any consideration from the Company in exchange therefor.

9. *Adjustments.* In the event that the Company shall determine that any dividend or other distribution (whether in the form of cash, shares of common stock of the Company, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of shares of common stock of the Company or other securities, the issuance of warrants or other rights to purchase shares of common stock of the Company, or other securities, or other similar corporate transaction or event affects the Shares, such that an adjustment is determined by the Company to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available to the Holder, then the Company shall, in such manner as the Company may deem equitable, adjust any or all of (i) the number and type of shares of common stock of the Company subject to this Option, and (ii) the grant or exercise price with respect to this Option, or, if deemed appropriate, make provision for a cash payment to the Holder.

10. *Delivery of Share Certificates.* Within a reasonable time after the exercise of this Option, the Company shall cause to be delivered to the person entitled thereto a certificate for the Shares purchased pursuant to the exercise of this Option. If this Option shall have been exercised with respect to less than all of the Shares subject to this Option, the Company shall also cause to be delivered to the person entitled thereto a new Option Certificate in replacement of this Option Certificate if surrendered at the time of the exercise of this Option, indicating the number of Shares with respect to which this Option remains available for exercise, or the Company shall make a notation in its books and records to reflect the partial exercise of this Option.

11. *Withholding.* In the event that the Holder elects to exercise this Option or any part thereof, and if the Company or any subsidiary or affiliate of the Company shall be required to withhold any amounts by reasons of any federal, state or local tax laws, rules or regulations in respect of the issuance of Shares to the Holder pursuant to this Option, the Company or such subsidiary or affiliate shall be entitled to deduct and withhold such amounts from any payments to be made to the Holder. In any event, the Holder shall make available to the Company or such subsidiary or affiliate, promptly when requested by the Company or such subsidiary or affiliate, sufficient funds to meet the requirements of such withholding; and the Company or such subsidiary or affiliate shall be entitled to take and authorize such steps as it may deem advisable in order to have such funds available to the Company or such subsidiary or affiliate out of any funds or property due or to become due to the Holder.

12. *Reservation of Shares.* The Company hereby agrees that at all times there shall be reserved for issuance and/or delivery upon exercise of this Option such number of Shares as shall be required for issuance or delivery upon exercise hereof.

13. *Rights of Holder.* Nothing contained herein shall be construed to confer upon the Holder any right to be continued in the employ of the Company and/or any subsidiary or affiliate of the Company or derogate from any right of the Company and/or any subsidiary or affiliate of the Company to retire, request the resignation of, or discharge the Holder at any time, with or without cause. The Holder shall not, by virtue hereof, be entitled to any rights of a shareholder in the Company, either at law or in equity, and the rights of the Holder are limited to those expressed herein and are not enforceable against the Company except to the extent set forth herein.

14. *Exclusion from Pension Computations.* By acceptance of the grant of this Option, the Holder hereby agrees that any income realized upon the receipt or exercise hereof, or upon the disposition of the Shares received upon its exercise, is special incentive compensations and, to the extent permissible under applicable law, shall not be taken into account as "wages", "salary" or "compensation" in determining the amount of any payment under any pension, retirement, incentive, profit sharing, bonus or deferred compensation plan of the Company or any of its subsidiaries or

affiliates.

15. *Registration; Legend.* The Company may postpone the issuance and delivery of Shares upon any exercise of this Option until (a) the admission of such Shares to listing on any stock exchange or exchanges on which Shares of the Company of the same class are then listed and (b) the completion of such registration or other qualification of such Shares under any state or federal law, rule or regulation as the Company shall determine to be necessary or advisable. The Holder shall make such representations and furnish such information as may, in the opinion of counsel for the Company, be appropriate to permit the Company, in light of the then existence or non-existence with respect to such Shares of an effective Registration Statement under the Securities Act of 1933, as amended, to issue the Shares in compliance with the provisions of that or any comparable act.

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The Company may cause the following or a similar legend to be set forth on each certificate representing Shares or any other security issued or issuable upon exercise of this Option unless counsel for the Company is of the opinion as to any such certificate that such legend is unnecessary:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY NOT BE OFFERED FOR SALE, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT, THE AVAILABILITY OF WHICH IS ESTABLISHED BY AN OPINION FROM COUNSEL TO THE COMPANY.

16. *Amendment.* The Company may, with the consent of the Holder, at any time or from time to time amend the terms and conditions of this Option, and may at any time or from time to time amend the terms of this Option.

17. *Notices.* Any notice which either party hereto may be required or permitted to give to the other shall be in writing, and may be delivered personally or by mail, postage prepaid, or overnight courier, addressed as follows: if to the Company, at its office at 3100 Ocean Park Blvd., Santa Monica, California 90405, Attn: General Counsel, or at such other address as the Company by notice to the Holder may designate in writing from time to time; and if to the Holder, at the address shown below his or her signature on this Option Certificate, or at such other address as the Holder by notice to the Company may designate in writing from time to time. Notices shall be effective upon receipt.

18. *Interpretation.* A determination of the Company as to any questions which may arise with respect to the interpretation of the provisions of this Option and of the Plan shall be final and binding. The Company may authorize and establish such rules, regulations and revisions thereof as it may deem advisable.

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IN WITNESS WHEREOF, the parties have executed this Option Certificate as of the date set forth above.

ACTIVISION, INC.

By:

Dated:

Attest:

ACCEPTED:

Address

City State Zip Code

Social Security Number

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As adopted by the Board of Directors on 11/26/91 and amended on 6/24/92, 12/15/92, 1/27/95, 9/19/95, 8/22/96, 9/24/97, 4/1/01 and 10/17/01

ACTIVISION, INC.
1991 STOCK OPTION AND STOCK AWARD PLAN

SECTION 1. Purpose of the Plan. The purpose of the 1991 Stock Option and Stock Award Plan (the "Plan") is to aid Activision, Inc. (the "Corporation") and its subsidiaries in securing and retaining officers and other key employees of outstanding ability and to motivate such employees to exert their best efforts on behalf of the Corporation and its subsidiaries. In addition, the Corporation expects that it will benefit from the added interest which the respective optionees and participants will have in the welfare of the Corporation as a result of their ownership or increased ownership of the Common Stock of the Corporation.

SECTION 2. Administration. (a) The Board of Directors of the Corporation (the "Board") shall designate a Committee of not less than two Directors (the "Committee") who shall serve at the pleasure of the Board. No member of the Committee shall be eligible to participate in the Plan while serving on the Committee, and each member of the Committee shall be a "Disinterested Person" as defined under Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The Committee shall have full power and authority, subject to such resolutions not inconsistent with the provisions of the Plan as may from time to time be issued or adopted by the Board (provided the majority of the Board acting on the matter are Disinterested Persons), to grant to eligible employees pursuant to the provisions of the Plan: (i) stock options to purchase shares, (ii) stock appreciation rights, (iii) restricted stock, (iv) deferred stock, or (v) any other Stock-based awards permitted hereunder (each of the foregoing being an "AWARD" and collectively, the "AWARDS"). The Committee shall also interpret the provisions of the Plan and any AWARD issued under the Plan (and any agreements relating thereto) and supervise the administration of the Plan.

(b) The Committee shall: (i) select the officers and other key employees of the Corporation and its subsidiaries to whom AWARDS may from time to time be granted hereunder; (ii) determine whether incentive stock options (under Section 422 of the Internal Revenue Code of 1986, as the same may be amended from time to time, hereinafter referred to as the "Code"), nonqualified stock options, stock appreciation rights, restricted stock, deferred stock, or other Stock-based awards, or a combination of the foregoing, are to be granted hereunder; (iii) determine the number of shares to be covered by each AWARD granted hereunder; (iv) determine the terms and conditions, not inconsistent with the provisions of the Plan, of any AWARD granted hereunder (including but not limited to any restriction and forfeiture condition on such AWARD and/or the shares of stock relating thereto); (v) determine whether, to what extent and under what circumstances AWARDS may be settled in cash; (vi) determine whether, to what extent and under what circumstances stock and other amounts payable with respect to an AWARD under this Plan shall be deferred either automatically or at the election of the participant; and (vii) determine whether, to what extent and under what circumstances options grants and/or other AWARDS under the Plan are to be made, and operate, on a tandem basis.

(c) All decisions made by the Committee pursuant to the provisions of the Plan and related orders or resolutions of the Board (as and to the extent permitted hereunder) shall be final, conclusive and binding on all persons, including the Corporation, its shareholders, employees and Plan participants.

SECTION 3. Stock Subject to the Plan. Except as otherwise provided by this Section 3, the total number of shares of Common Stock of the Corporation (the "Stock") available for distribution under the Plan is 7,566,667. Such shares may consist, in whole or in part, of authorized and unissued shares or treasury shares, except that treasury shares must be used in the case of restricted stock. If any shares that have been optioned cease to be subject to option because the option has terminated, expired or been cancelled without having been exercised, or if any shares subject to any restricted

stock, deferred stock or other Stock-based award granted hereunder are forfeited or such award otherwise terminates without the actual or deemed delivery of such shares, such shares shall again be available for distribution under the Plan.

In the event of any merger, reorganization, consolidation, recapitalization, stock split, stock dividend, extraordinary cash dividend, or other change in corporate structure affecting the Stock, such adjustment shall be made in the aggregate number of shares which may be delivered under the Plan, in the number and/or option price of shares subject to outstanding options granted under the Plan, and/or in the number of shares subject to restricted stock, deferred stock, or other Stock-based awards granted under the Plan as may be determined to be appropriate by the Committee, in its sole discretion; provided that the number of shares subject to any AWARD shall always be a whole number; and provided further that, with respect to incentive stock options, no such adjustment shall be authorized to the extent that such adjustment would cause the Plan to violate Section 422(b)(1) of the Code or any successor provision thereto. Such adjusted option price shall also be used to determine the amount payable by the Corporation upon the exercise of any stock appreciation right associated with any option. In addition, subject to the limitations provided in Section 10, the Committee is authorized to make adjustments in the terms and conditions of, and performance criteria relating to, AWARDS in recognition of unusual or nonrecurring events (including, without limitation, events described in this paragraph) affecting the Corporation or the financial statements of the Corporation, or in response to changes in applicable laws, regulations or accounting principles.

SECTION 4. Eligibility.

(a) **Employees and Others.** Officers, employees, consultants, representatives and other contractors and agents of the Corporation and its subsidiaries (but excluding members of the Committee and any person who serves only as a Director) who are responsible for the management, growth, profitability and protection of the business of the Corporation and its subsidiaries are eligible to be granted AWARDS under the Plan. The participants under the Plan shall be selected from time to time by the Committee, in its sole discretion, from among those eligible, and the Committee shall determine, in its sole discretion, the number of shares covered by each stock option, the number of stock appreciation rights (if any) granted to each optionee, and the number of shares (if any) subject to restricted stock, deferred stock or other Stock-based awards granted to each participant.

(b) **Ten Percent Stockholders.** No stock options may be granted under the Plan to any person who owns, directly or indirectly (within the meaning of sections 422(b)(6) and 424(d) of the Code), at the time the stock option is granted, stock possessing more than 10% of the total combined voting power or value of all classes of stock of the Corporation or any of its subsidiaries, unless the option price is at least 110% of the "Fair Market Value" (as defined below) of the shares subject to the option, determined on the date of the grant, and the option by its terms is not exercisable after the expiration of five years from the date such option is granted.

For purposes of the Plan, a subsidiary of the Corporation shall be any corporation which at the time qualifies as a subsidiary thereof under the definition of "subsidiary corporation" in Section 424(f) of the Code.

SECTION 5. Stock Options. Any stock option granted under the Plan shall be in such form as the Committee may from time to time approve. Any such option shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall deem desirable. The Committee shall designate stock options at the time of the grant thereof as either "incentive stock options" or "nonqualified stock options."

(a) **Option Price.** Subject to Section 4(b) hereof, the purchase price per share of the Stock purchasable under an incentive stock option shall be determined by the Committee, but will not be less

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than 100% of the Fair Market Value of such Stock on the date of the grant of such option. The purchase price per share of the Stock purchasable under a nonqualified stock option shall be determined by the Committee, but will not be less than 85% of the Fair Market Value of such Stock on the date of the grant of such option.

The "Fair Market Value" of a share of Stock as of a specified date shall be determined in good faith by the Committee in its sole discretion. In no case shall Fair Market Value be less than the par value of a share of Stock.

(b) **Option Period.** Subject to Section 4(b) hereof, the term of each stock option shall be fixed by the Committee, provided, however, no stock option shall be exercisable after the expiration of 10 years from the date the option is granted.

(c) **Exercisability.** Stock options shall be exercisable at such time or times as determined by the Committee at or subsequent to grant; provided, however, all stock options granted hereunder shall be exercisable at the rate of at least 20% per year over five years from the date such option is granted.

(d) **Method of Exercise.** Stock options may be exercised, in whole or in part, by giving written notice of exercise to the Corporation specifying the number of shares to be purchased. Such notice shall be accompanied by payment in full of the purchase price, either by certified or bank check. The Committee may, in its sole discretion, authorize payment in whole or in part of the purchase price to be made in unrestricted stock already owned by the optionee, or, in the case of a nonqualified stock option, in restricted stock, or deferred stock subject to an AWARD hereunder (based upon the Fair Market Value of the Stock on the date the option is exercised as determined by the Committee). The Committee may authorize such payment at or after grant, except that in the case of an incentive stock option, any right to make payment in unrestricted stock already owned must be included in the option at the time of grant. No shares of Stock shall be issued until full payment therefor has been made. Subject to paragraph (j) of this Section 5, an optionee shall have the rights to dividends or other rights of a shareholder with respect to shares subject to the option when the optionee has given written notice of exercise, has paid in full for such shares, and, if requested, has given the representation described in paragraph (a) of Section 12.

(e) **Transferability of Options.** No stock option shall be transferable by the optionee otherwise than by will or the laws of descent and distribution, and such options shall be exercisable during the optionee's lifetime only by the optionee (or his guardian or legal representative); provided, however, stock options shall be transferable, with the consent of the Committee, by an optionee who is a non-employee director to another non-employee director of the Corporation; provided that such assignee shall be bound by and subject to all of the terms and conditions of this Plan and the stock option agreement relating to the transferred option and shall execute an agreement satisfactory to the Corporation evidencing such obligations; and provided further that such optionee shall remain bound by the terms and conditions of this Plan. In the case of a transfer by an optionee who is a non-employee director to another non-employee director, the vesting and exercisability shall after such transfer be determined by reference to the service of the assignee, rather than the assignor. The Corporation shall cooperate with any permitted assignee and the Corporation's transfer agent in effectuating any transfer permitted under this paragraph (e) of Section 5.

(f) **Termination by Death.** Except to the extent otherwise provided by the Committee at or after the time of grant, if an optionee's employment by the Corporation and/or any of its subsidiaries terminates by reason of death, the stock option may thereafter be exercised, to the extent such stock option was exercisable at the time of the death of the optionee, by the legal representative of the estate or by the legatee of the optionee under the will of the optionee, for a period of six months from the date of such death, unless earlier terminated pursuant to its terms.

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(g) **Termination by Reason of Retirement or Permanent Disability.** Except to the extent otherwise provided by the Committee at or after the time of grant, if an optionee's employment by the Corporation and/or any of its subsidiaries terminates by reason of retirement or permanent disability, any stock option held by such optionee may thereafter be exercised, to the extent such stock option was exercisable at the time of the permanent disability of the optionee, unless earlier terminated pursuant to its terms, but may not be exercised after six months from the date of such termination of employment; provided, however, that if the optionee dies within such six-month period, any unexercised stock option held by such optionee shall thereafter be exercisable to the extent to which it was exercisable at the time of death for a period of six months from the date of the optionee's death, unless earlier terminated pursuant to its term. In the event of termination of service by reason of retirement or permanent disability, if an incentive stock option is exercised after the expiration of the exercise periods that apply for purposes of Section 422 of the Code, the option will thereafter be treated as a nonqualified stock option.

(h) **Other Termination.** Unless otherwise determined by the Committee at or after grant, if an optionee's employment terminates for any reason other than death, permanent disability, or retirement, any stock options held by the optionee may be exercised by the optionee until 30 days after such termination to the extent such stock options were exercisable at the time of such termination, unless earlier terminated

pursuant to its term.

(i) **Option Buyout.** The Committee may at any time offer to repurchase an option (other than an option which has been held for less than six months by an optionee who is subject to Section 16 of the Exchange Act) based on such terms and conditions as the Committee shall establish and communicate to the optionee at the time that such offer is made; provided, however, if applicable, the repurchase price must be "reasonable" as determined in accordance with Rule 260.140.41(k) of the California Code of Regulation, Title 10., Ch.3.

(j) **Form of Settlement.** In its sole discretion, the Committee may provide, at the time of grant, that the shares to be issued upon an option's exercise shall be in the form of restricted stock or deferred stock, or may reserve other than with respect to incentive stock options the right to so provide after the time of grant.

(k) **Employment Violation.** Each stock option awarded pursuant to the Plan on or after April 1, 2001, shall include and be subject to the following terms:

- (i) The terms of this paragraph (k) shall apply to the stock option if the optionee is or shall become subject to an employment agreement with the Corporation.
- (ii) If the optionee materially breaches his or her employment agreement (it being understood that any breach of the post-termination obligations contained therein shall be deemed to be material) for so long as the terms of such employment agreement shall apply to the optionee (each an "Employment Violation"), the Corporation shall have the right to require (i) the termination and cancellation of the unexercised portion of the option, if any, whether vested or unvested, and (ii) payment by the optionee to the Corporation of the Recapture Amount (as defined below). Such termination of unexercised options and payment of the Recapture Amount, as the case may be, shall be in addition to, and not in lieu of, any other right or remedy available to the Corporation arising out of or in connection with any such Employment Violation including, without limitation, the right to terminate optionee's employment if not already terminated, seek injunctive relief and additional monetary damages.
- (iii) "Recapture Amount" shall mean the gross gain realized or unrealized by the optionee upon each exercise of his option during the period beginning on the date which is twelve

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(12) months prior to the date of the optionee's Employment Violation and ending on the date of computation (the "Look-back Period"), which gain shall be calculated as the sum of:

- (A) if the optionee has exercised any portion of his option during the Look-back Period and sold any of the Shares acquired on exercise thereafter, an amount equal to the product of (x) the sales price per Share sold minus the exercise price per Share times (y) the number of Shares as to which the option was exercised and which were sold at such sales price; plus
- (B) if the optionee has exercised any portion of his option during the Look-back Period and not sold any of the Shares acquired on exercise thereafter, with respect to each of such Shares an amount equal to the product of (x) the greatest of the following: (1) the Fair Market Value per Share on the date of exercise, (2) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of the Corporation's written notice of its exercise of its rights under this paragraph (k), or (3) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of computation, minus the exercise price per Share times (y) the number of Shares as to which this option was exercised and which were not sold;

provided, however, in lieu of payment by the optionee to the Corporation of the Recapture Amount determined pursuant to subparagraph (B) above, the optionee, in his discretion, may tender to the Corporation the Shares acquired upon exercise of this option during the Look-back Period and the optionee shall not be entitled to receive any consideration from the Corporation in exchange therefor.

With respect to any other AWARDS granted hereunder, the terms of any stock appreciation right, restricted stock, deferred stock or any other Stock-based award, may include comparable provisions to those set forth above in this paragraph (k) of Section 5.

(l) **Change of Control.** The terms of any AWARD may provide in the stock option agreement, restricted stock agreement or other document evidencing the AWARD, that upon a "Change in Control" of the Company (as that term may be defined therein), (i) options (and share appreciation rights) accelerate and become fully exercisable, (ii) restrictions on restricted stock lapse and the shares become fully vested and (iii) such other additional benefits as the Committee deems appropriate shall apply. For purposes of this Plan, a "Change in Control" shall mean an event described in the applicable document evidencing the AWARD or such other event as determined in the sole discretion of the Board of Directors of the Company. The Committee, in its discretion, may determine that, upon the occurrence of a Change in Control of the Company, each Option and stock appreciation right outstanding hereunder shall terminate within a specified number of days after notice to the participant or holder, and such participant or holder shall receive, with respect to each share of Stock subject to such option or stock appreciation right, an amount equal to the excess of the Fair Market Value of such shares of Stock immediately prior to the occurrence of such Change in Control over the exercise price per share of such stock option or stock appreciation right; such amount to be payable in cash, in one or more kinds of property (including the property, if any, payable in the transaction) or in a combination thereof, as the Committee, in its discretion, shall determine.

SECTION 6. **Stock Appreciation Rights.**

(a) **Grant and Exercise.** Stock appreciation rights may be granted in conjunction with (or, in accordance with Section 9, separate from) all or part of any stock option granted under the Plan, as follows: (i) in the case of a nonqualified stock option, such rights may be granted either at the

time of the grant of such option or at any subsequent time during the term of the option; and (ii) in the case of an incentive stock option, such rights may be granted only at the time of the grant of the option.

A "stock appreciation right" is a right to receive cash or Stock, as provided in this Section 6, in lieu of the purchase of a share under a related option. A stock appreciation right or applicable portion thereof shall terminate and no longer be exercisable upon the termination or exercise of the related stock option, except that a stock appreciation right granted with respect to less than the full number of shares covered by a related stock option shall not be reduced until the exercise or termination of the related stock option exceeds the number of shares not covered by the stock appreciation right. A stock appreciation right may be exercised by an optionee, in accordance with paragraph (b) of this Section 6, by surrendering the applicable portion of the related stock option. Upon such exercise and surrender, the optionee shall be entitled to receive an amount determined in the manner prescribed in paragraph (b) of this Section 6. Options which have been so surrendered, in whole or in part, shall no longer be exercisable to the extent the related stock appreciation rights have been exercised.

(b) **Terms and Conditions.** Stock appreciation rights shall be subject to such terms and conditions, not inconsistent with the provisions of the Plan, as shall be determined from time to time by the Committee, including the following:

- (i) Stock appreciation rights shall be exercisable only at such time or times and to the extent that the stock options to which they relate shall be exercisable in accordance with the provisions of Section 5 and this Section 6 of the Plan; provided, however, that any such appreciation right granted subsequent to the grant of the related stock option shall not be exercisable during the first six months of its term by an optionee who is subject to Section 16 of the Exchange Act, except that this limitation shall not apply in the event of death or permanent disability of the optionee prior to the expiration of the six month period.
- (ii) Upon the exercise of a stock appreciation right, an optionee shall be entitled to receive up to, but no more than, an amount in cash or whole shares of the Stock as determined by the Committee in its sole discretion equal to the excess of the Fair Market Value of one share of Stock over the option price per share specified in the related stock option multiplied by the number of shares in respect of which the stock appreciation right shall have been exercised. Each stock appreciation right may be exercised only at the time and so long as a related option, if any, would be exercisable or as otherwise permitted by applicable law; provided, however, that no stock appreciation right granted under the Plan to a person then subject to Section 16 of the Exchange Act shall be exercised during the first six months of its term for cash.
- (iii) No stock appreciation right shall be transferable by a participant otherwise than by will or by the laws of descent and distribution, and stock appreciation rights shall be exercisable, during the participant's lifetime, only by the participant.
- (iv) Upon the exercise of a stock appreciation right, the Stock option or part thereof to which such stock appreciation right is related shall be deemed to have been exercised for the purpose of the limitation of the number of shares of the Stock to be issued under the Plan, as set forth in Section 3 of the Plan.
- (v) Stock appreciation rights granted in connection with the incentive stock options may be exercised only when the market price of the Stock subject to the incentive stock option exceeds the option price of the incentive stock option.

SECTION 7. **Restricted Stock.**

(a) **Stock and Administration.** Shares of restricted stock may be issued either alone or in addition to stock options, stock appreciation rights, deferred stock or other Stock-based awards granted under the Plan. The Committee shall determine the officers and key employees of the Corporation and its subsidiaries to whom, and the time or times at which, grants of restricted stock will be made, the number of shares to be awarded, the time or times within which such awards may be subject

to forfeiture, and all other conditions of the awards. The provisions of restricted stock awards need not be the same with respect to each recipient.

(b) **Awards and Certificates.** The prospective recipient of an award of shares of restricted stock shall not, with respect to such award, be deemed to have become a participant, or to have any rights with respect to such award, until and unless such recipient shall have executed an agreement or other instrument evidencing the award and delivered a fully executed copy thereof to the Corporation, and otherwise complied with the then applicable terms and conditions.

- (i) Each participant shall be issued a stock certificate in respect of shares of restricted stock awarded under the Plan. Such certificate shall be registered in the name of the participant, and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such award, substantially in the following form:

"The transferability of this certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture) of the Activision, Inc. 1991 Stock Option and Stock Award Plan and an Agreement entered into between the registered owner and Activision, Inc. Copies of such Plan and Agreement are on file in the offices of Activision, Inc., 3100 Ocean Park Boulevard, Santa Monica, California 90405."

- (ii) The Committee shall require that the stock certificates evidencing such shares be held in custody by the Corporation until the restrictions thereon shall have lapsed, and shall require, as a condition of any restricted stock award, that the participant shall have

delivered a stock power, endorsed in blank, relating to the Stock covered by such award.

(c) **Restrictions and Conditions.** The shares of restricted stock awarded pursuant to the Plan shall be subject to the following restrictions and conditions:

- (i) Subject to the provisions of this Plan, during a period set by the Committee commencing with the date of such award (the "restriction period"), the participant shall not be permitted to sell, transfer, pledge, or assign shares of restricted stock awarded under the Plan. Within these limits the Committee may provide for the lapse of such restrictions in installments where deemed appropriate.
- (ii) Except as provided in paragraph (c) of this Section 7, the participant shall have, with respect to the shares of restricted stock, all of the rights of a shareholder of the Corporation, including the right to receive any cash dividends. The Committee, in its sole discretion, may permit or require the payment of cash dividends to be deferred and, if the Committee so determines, reinvested in additional restricted stock or otherwise reinvested. Certificates for shares of unrestricted stock shall be delivered to the participant promptly after, and only after, the period of forfeiture shall expire without forfeiture in respect of such shares of restricted stock.
- (iii) Subject to the provisions of paragraph (c)(iv) of this Section 7, upon termination of employment for any reason during the restriction period, all shares still subject to restriction shall be forfeited by the participant and reacquired by the Corporation.
- (iv) In the event of a participant's retirement, permanent disability, or death, or in cases of special circumstances, the Committee may, in its sole discretion, when it finds that a waiver would be in the best interests of the Corporation, waive in whole or in part any or all remaining restrictions with respect to such participant's shares of restricted stock.

SECTION 8. **Deferred Stock Awards.**

(a) **Stock and Administration.** Awards of the right to receive Stock that is not to be distributed to the participant until after a specified deferral period (such AWARD and the deferred stock

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delivered thereunder hereinafter as the context shall require, the "deferred stock") may be made either alone or in addition to stock options, stock appreciation rights, or restricted stock, or other Stock-based awards granted under the Plan. The Committee shall determine the officers and key employees of the Corporation and its subsidiaries to whom and the time or times at which deferred stock shall be awarded, the number of shares of deferred stock to be awarded to any participant, the duration of the period (the "Deferral Period") during which, and the conditions under which, receipt of the Stock will be deferred, and the terms and conditions of the award in addition to those contained in paragraph (b) of this Section 8. In its sole discretion, the Committee may provide for a minimum payment at the end of the applicable Deferral Period based on a stated percentage of the Fair Market Value on the date of grant of the number of shares covered by a deferred stock award. The Committee may also provide for the grant of deferred stock upon the completion of a specified performance period. The provisions of deferred stock awards need not be the same with respect to each recipient.

(b) **Terms and Conditions.** Deferred stock awards made pursuant to this Section 8 shall be subject to the following terms and conditions:

- (i) Subject to the provisions of the Plan, the shares to be issued pursuant to a deferred stock award may not be sold, assigned, transferred, pledged or otherwise encumbered during the Deferral Period or Elective Deferral Period (defined below), where applicable, and may be subject to a risk of forfeiture during all or such portion of the Deferral Period as shall be specified by the Committee. At the expiration of the Deferral Period and Elective Deferral Period, share certificates shall be delivered to the participant, or the participant's legal representative, in a number equal to the number of shares covered by the deferred stock award.
- (ii) Amounts equal to any dividends declared during the Deferral Period with respect to the number of shares covered by a deferred stock award will be paid to the participant currently, or deferred and deemed to be reinvested in additional deferred stock or otherwise reinvested, as determined at the time of the award by the Committee, in its sole discretion.
- (iii) Subject to the provisions of paragraph (b)(iv) of this Section 8, upon termination of employment for any reason during the Deferral Period for a given award, the deferred stock in question shall be forfeited by the participant.
- (iv) In the event of the participant's retirement, permanent disability or death during the Deferral Period (or Elective Deferral Period, where applicable), or in cases of special circumstances, the Committee may, in its sole discretion, when it finds that a waiver would be in the best interests of the Corporation, waive in whole or in part any or all of the remaining deferral limitations imposed hereunder with respect to any or all of the participant's deferred stock.
- (v) Prior to completion of the Deferral Period, a participant may elect to further defer receipt of the award for a specified period or until a specified event (the "Elective Deferral Period"), subject in each case to the approval of the Committee and under such terms as are determined by the Committee, all in its sole discretion.
- (vi) Each award shall be confirmed by a deferred stock agreement or other instrument executed by the Corporation and the participant.

SECTION 9. Other Stock-Based Awards.

(a) **Stock and Administration.** Other awards of the Stock and other awards that are valued in whole or in part by reference to, or are otherwise based on the Stock ("Other Stock-based awards"), including (without limitation) performance shares and convertible debentures, may be granted either alone or in addition to other AWARDS granted under the Plan. Subject to the provisions of the Plan, the Committee shall have sole and complete authority to determine the officers and key employees of

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the Corporation and/or any of its subsidiaries to whom and the time or times at which such other Stock-based awards shall be made, and the number of shares of the Stock to be awarded pursuant to such other Stock-based awards. The Committee may also provide for the grant of the Stock upon the completion of a specified performance period. The provisions of other Stock-based awards need not be the same with respect to each recipient.

(b) **Terms and Conditions.** Other Stock-based awards made pursuant to this Section 9 shall be subject to the following terms and conditions:

- (i) Subject to the provisions of this Plan, shares or interests in shares subject to AWARDS made under this Section 9 may not be sold, assigned, transferred, pledged or otherwise encumbered prior to the date on which the shares are issued, or, if later, the date on which any applicable restriction, performance or deferral period lapses.
- (ii) Subject to the provisions of this Plan and the award agreement, the recipient of AWARDS under this Section 9 shall be entitled to receive, currently or on a deferred basis, interest or dividends or interest or dividend equivalents with respect to the number of shares or interests therein covered by the AWARDS, as determined at the time of the AWARDS by the Committee, in its sole discretion, and the Committee may provide that such amounts (if any) shall be deemed to have been reinvested in additional Stock or otherwise reinvested.
- (iii) Any AWARDS under this Section 9 and any Stock covered by any such award may be forfeited to the extent so provided in the award agreement, as determined by the Committee, in its sole discretion.
- (iv) In the event of the participant's retirement, permanent disability or death, or in cases of special circumstances, the Committee may, in its sole discretion, when it finds that a waiver would be in the best interests of the Corporation, waive in whole or in part any or all of the remaining limitations imposed hereunder (if any) with respect to any or all AWARDS under this Section 9.
- (v) Each AWARD under this Section 9 shall be confirmed by an agreement or other instrument executed by the Corporation and by the participant.
- (vi) The Stock or interests therein (including securities convertible into the Stock) paid or awarded on a bonus basis under this Section 9 shall be issued for no cash consideration; the Stock or interests therein (including securities convertible into the Stock) purchased pursuant to a purchase right awarded under this Section 9 shall be priced at least (50%) of the Fair Market Value of the Stock on the date of grant.
- (vii) No other Stock-based award in the nature of a purchase right shall be transferable by the participant otherwise than by will or by the laws of descent and distribution, and such purchase rights shall be exercisable during the participant's lifetime only by the participant.

SECTION 10. Amendments and Termination. The Board may amend, alter, or discontinue the Plan, but no amendment, alteration, or discontinuation shall be made which would impair the rights of an optionee or participant under an AWARD theretofore granted, without the optionee's or participants' consent, or which without the approval of the shareholders would:

- (a) except as is provided in Section 3 of the Plan, increase the total number of shares available for the purpose of the Plan.
- (b) subsequent to the date of grant decrease the option price of any stock option;
- (c) extend the maximum option period under Section 5(b) of the Plan; and

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(d) otherwise materially increase the benefits accruing to participants under, or materially modify the requirements as to eligibility for participation in, the Plan.

The Committee may amend the terms of any AWARD theretofore granted, prospectively or retroactively, but no such amendment shall impair the rights of any holder without such holder's consent. Notwithstanding the foregoing, the Board or the Committee may, in its discretion, amend the Plan or terms of any outstanding AWARD held by a person then subject to Section 16 of the Exchange Act without the consent of any holder in order to preserve exemptions under said Section 16 which are or become available from time to time under rules of the Securities and Exchange Commission.

SECTION 11. Unfunded Status of the Plan. The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation.

With respect to any payments not yet made to a participant or optionee by the Corporation, nothing contained herein shall give any such participant or optionee any rights that are greater than those of a general creditor of the Corporation. In its sole discretion, the Committee may authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver the Stock or payments in lieu of or with respect to AWARDS hereunder; provided, however, that the existence of such trusts or other arrangements is consistent with the unfunded status of the Plan.

SECTION 12. **General Provisions.**

(a) The Committee may require each participant purchasing shares pursuant to an AWARD under the Plan to represent to and agree with the Corporation in writing that such participant is acquiring the shares without a view to distribution thereof. The certificates for such shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer.

(b) All certificates for shares of Stock delivered under the Plan pursuant to any AWARD shall be subject to such stock-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other restrictions as the Committee may deem advisable under the rules, regulations and requirements of the Securities and Exchange Commission, any stock exchange upon which the Stock is then listed, and any applicable Federal or state securities law, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

(c) Recipients of shares of restricted stock, deferred stock and other Stock-based awards under the Plan (other than options) shall not be required to make any payment or provide consideration other than the rendering of services.

(d) AWARDS granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution for, any other AWARDS granted under the Plan. If AWARDS are granted in substitution for other AWARDS, the Committee shall require the surrender of such other AWARDS in consideration for the grant of the new AWARDS. AWARDS granted in addition to or in tandem with other AWARDS may be granted either at the same time as or at a different time from the grant of such other AWARDS. The exercise price of any option or the purchase price of any other Stock-based award in the nature of a purchase right:

- (i) granted in substitution for outstanding AWARDS or in lieu of any other right to payment by the Corporation shall be the fair market value of shares at the date such substitute AWARDS are granted or shall be such Fair Market Value at that date reduced to reflect the Fair Market Value of the AWARDS or other right to payment required to be surrendered by the participant as a condition to receipt of the substitute AWARD; or
- (ii) retroactively granted in tandem with outstanding AWARDS shall be either the Fair Market Value of shares at the date of grant of later AWARDS or the Fair Market Value of shares at the date of grant of earlier AWARDS.

(e) Nothing contained in this Plan shall prevent the Board of Directors from adopting other or additional compensation arrangements, subject to shareholder approval if such approval is required; and such arrangements may be either generally applicable or applicable only in specific cases.

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(f) Nothing in the Plan shall confer upon any employee the right to continue in the employment of the Corporation or any of its subsidiaries or affect any right that the Corporation or any of its subsidiaries may have to terminate the employment (or to demote or to exclude from future AWARDS under the Plan) to any such employee.

(g) A participant shall have no right as a shareholder until he or she becomes the holder of record.

(h) The Company will provide to its shareholders, at least annually, reports containing financial statements and management's discussion and analysis of financial conditions and results of operations.

SECTION 13. **Taxes.**

(a) If any participant properly elects, within 30 days of the date on which an AWARD is granted, to include in gross income for Federal income tax purposes an amount equal to the Fair Market Value (on the date of grant of the AWARD) of the Stock subject to the AWARD, such participant shall make arrangements satisfactory to the Committee to pay to the Corporation, in the calendar quarter of such AWARD, any Federal, state or local taxes required to be withheld with respect to such shares. If such employee shall fail to make such tax payments as are required, the Corporation and its subsidiaries shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the participant.

(b) Any participant who does not or cannot make the election described in paragraph (a) of this Section 13 with respect to an AWARD, shall, no later than the date as of which the value of the AWARD first becomes includible in the gross income of the participant for Federal income tax purposes, pay to the Corporation, or make arrangements satisfactory to the Committee regarding payment of, any Federal, state, or local taxes of any kind required by law to be withheld with respect to the Stock subject to such AWARD and the Corporation and its subsidiaries shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the participant. Anything contained herein to the contrary notwithstanding, the Committee may, in its sole discretion, authorize acceptance of Stock received in connection with the AWARD or option being taxed or otherwise previously acquired in satisfaction of withholding requirements.

(c) If and to the extent authorized by the Committee, the Corporation or any of its subsidiaries are authorized to withhold from any distribution of stock relating to any AWARD granted under the plan, or to receive shares from the participant, and to pay the value of such stock to the appropriate taxing authority, in order to satisfy obligations of the participant for the payment of Federal, state and local taxes in connection with such AWARD (including but not necessarily limited to amounts required to be withheld by the Corporation).

SECTION 14. **Effective Date of the Plan.** The Plan shall be effective on the date it is approved by the Board of Directors, but its continuance shall be subject to the approval, obtained in accordance with Rule 16b-3(b) of the Securities and Exchange Act of 1934, as amended, of the holders of a majority of all outstanding shares of Common Stock within twelve months after the date the Plan is adopted by the Board. Any stock option granted hereunder and exercised by the optionee before shareholder approval is obtained must be rescinded if shareholder approval is not

obtained within twelve months after the Plan is adopted by the Board. The shares of Common Stock relating to such stock option shall not be counted in determining whether shareholder approval is obtained.

SECTION 15. **Governing Law.** The validity, construction and effect of the Plan and any action taken or relating to the Plan shall be determined in accordance with the laws of the state of California and applicable Federal law.

SECTION 16. **Term of the Plan.** No AWARDS shall be granted pursuant to the Plan after the tenth anniversary of the earlier of either the date the Plan is adopted by the Board or the date the Plan is approved by the shareholders of the Corporation as provided for in Section 14 above, but AWARDS theretofore granted may extend beyond that date.

**STOCK OPTION CERTIFICATE
(Non-Transferable)**

Stock Option #0000xxxx

x,xxx Shares

**Issued Pursuant to the
1991 Stock Option and Stock Award Plan of
ACTIVISION, INC.**

THIS CERTIFIES that on _____ ("Issuance Date") _____ (the "Holder") was granted an option (the "Option") to purchase, at the option price of \$xx.xxx per share, all or any part of _____ fully paid and non-assessable shares ("Shares") of the Common Stock (par value of \$.000001) of ACTIVISION, INC., a Delaware corporation (the "Company"), upon and subject to the following terms and conditions:

1. *Terms of the Plan.* This Option is granted pursuant to, and is subject to the terms and conditions of, the 1991 Stock Option and Stock Award Plan of the Company (the "Plan"), the terms, conditions and definitions of which are hereby incorporated herein as though set forth at length, and the receipt of a copy of which the Holder hereby acknowledges by his signature below. Capitalized terms used herein shall have the meanings set forth in the Plan, unless otherwise defined herein.

2. *Expiration.* This Option shall expire _____ ("expiration date"), unless earlier terminated in accordance with the terms of the Plan in the event of the death, retirement, disability, or termination of employment of the Holder.

3. *Exercise.* This Option may be exercised or surrendered during the Holder's lifetime only by the Holder. THIS OPTION SHALL NOT BE TRANSFERABLE BY THE HOLDER OTHERWISE THAN BY WILL OR BY THE LAWS OF DESCENT AND DISTRIBUTION, SUBJECT TO THE TERMS AND CONDITIONS OF THE PLAN.

This Option shall vest and be exercisable as follows:

<u>Vesting Date</u>	<u>Shares Vested at Vesting Date</u>	<u>Cumulative Shares Vested at Vesting Date</u>
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Payment for the Shares purchased pursuant to the exercise of this Option shall be made in full at the time of the exercise of the Option by one or more of the following methods: (i) in cash or by check payable to the order of the Company for the full exercise price, or (ii) by delivery of Shares having a fair market value (determined in accordance with the Plan as of the date the Option is exercised) equal to all or part of the exercise price and, if applicable, cash or a check payable to the order of the Company for any remaining portion of the purchase price.

4. *Termination of Employment.* In the event of the termination of employment or separation from service of the Holder for any reason (other than death or disability as provided below), this Option, to the extent not previously exercised or expired, shall be deemed cancelled and terminated 30 days after the day of such termination or separation.

5. *Death.* In the event the Holder dies while employed by the Company or any of its subsidiaries or affiliates, or during the term as a Director of the Company or any of its subsidiaries or affiliates, as the case may be, this Option, to the extent not previously exercised or expired, shall, to the extent exercisable on the date of death, be exercisable by the estate of the Holder or by any person who acquired this Option by bequest or inheritance, at any time within six months after the death of the Holder, unless earlier terminated pursuant to its terms.

6. *Disability.* In the event of the termination of employment of the Holder or the separation from service of a Director who is a Holder due to permanent disability, the Holder, or his or her guardian or legal representative, shall have the unqualified right to exercise any portion of this Option which has not been previously exercised or expired and which the Holder was eligible to exercise as of the first date of permanent disability (as determined by the Company), at any time within six months after such termination or separation, unless earlier terminated pursuant to its terms, provided, however, that if the Holder dies within such six month period, any unexercised portion of this Option shall thereafter be exercisable, to the extent exercisable on the date of death, at any time within six months from the date of the Holder's death, unless earlier terminated pursuant to its terms.

7. *Change of Control.* If the Holder is an active employee of the Company or any of its subsidiaries at the time there occurs a "Change of Control" of the Company (as defined below) and the Holder's employment is terminated by the Company or any of its subsidiaries other than for Cause (as defined below) within twelve (12) months following such Change of Control, or such longer period as the Committee may determine, the

portion, if any, of this Option with respect to which the right to exercise has not yet accrued, shall immediately vest and be exercisable in full, effective upon such termination, for a period of 30 days thereafter, or such longer period as the Committee may determine. For purposes of this Option, a "Change of Control" of the Company shall be deemed to occur if:

- (i) there shall have occurred a Change of Control of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as in effect on the date hereof, whether or not the Company is then subject to such reporting requirement, provided, however, that there shall not be deemed to be a Change of Control of the Company if immediately prior to the occurrence of what would otherwise be a Change of Control of the Company (a) the Holder is the other party to the transaction (a "Control Event") that would otherwise result in a Change of Control of the Company or (b) the Holder is an executive officer, trustee, director or more than 5% equity holder of the other party to the Control Event or of any entity, directly or indirectly, controlling such other party;
- (ii) the Company merges or consolidates with, or sells all or substantially all of its assets to, another company (each, a "Transaction"), provided, however, that a Transaction shall not be deemed to result in a Change of Control of the Company if (a) immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist, or (b) (1) the shareholders of the Company, immediately before such Transaction own, directly or indirectly, immediately following such Transaction in excess of fifty percent (50%) of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Transaction (the "Surviving Corporation") in substantially the same proportion as their ownership of the voting securities of the Company immediately before such Transaction and (2) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Transaction constitute at least a majority of the members of the board of directors or the board of trustees, as the case may be, of the Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Surviving Corporation; or
- (iii) the Company acquires assets of another company or a subsidiary of the Company merges or consolidates with another company (each, an "Other Transaction") and (a) the shareholders of the Company, immediately before such Other Transaction own, directly or indirectly, immediately following such Other Transaction 50% or less of the combined voting power of the outstanding voting securities of the corporation or other entity resulting from such Other Transaction (the "Other Surviving Corporation") in

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substantially the same proportion as their ownership of the voting securities of the Company immediately before such Other Transaction or (b) the individuals who were members of the Company's Board of Directors immediately prior to the execution of the agreement providing for such Other Transaction constitute less than a majority of the members of the board of directors or the board of trustees, as the case may be, of the Other Surviving Corporation, or of a corporation or other entity beneficially directly or indirectly owning a majority of the outstanding voting securities of the Other Surviving Corporation, provided, however, that an Other Transaction shall not be deemed to result in a Change of Control of the Company if immediately prior thereto the circumstances in (i)(a) or (i)(b) above exist.

For purposes of this Option, "Cause" shall mean (unless a different definition is used in the Holder's written employment agreement with the Company, if any, in which case such different definition shall apply to the Holder) any of the following:

- (i) material breach by the Holder of his or her employment agreement, if any, or material failure by the Holder to perform his or her duties (other than as a result of incapacity due to physical or mental illness) during his or her employment with the Company after written notice of such breach or failure and the Holder failed to cure such breach or failure to the Company's reasonable satisfaction within five (5) days after receiving such written notice;
- (ii) material breach by the Holder of his or her Employee Proprietary Information Agreement or other similar arrangement entered into by the Holder in connection with his or her employment by the Company; or
- (iii) any act of fraud, misappropriation, misuse, embezzlement or any other material act of dishonesty in respect of the Company or its funds, properties, assets or other employees.

8. *Employment Violation.* In consideration of the granting of this Option, the Holder hereby agrees that the terms of this Section 4 shall apply to the Option. The Holder acknowledges and agrees that each exercise of this Option and each written notice of exercise delivered to the Company and executed by the Holder shall serve as a reaffirmation of and continuing agreement by the Holder to comply with the terms contained in this Section 4.

The Company and the Holder acknowledge and agree that if the Holder is or shall become subject to an employment agreement with the Company and the Holder materially breaches his or her employment agreement (it being understood that any breach of the post-termination obligations contained therein shall be deemed to be material) for so long as the terms of such employment agreement shall apply to the Holder (each, an "Employment Violation"), the Company shall have the right to require (i) the termination and cancellation of the unexercised portion of this Option, if any, whether vested or unvested, and (ii) payment by the Holder to the Company of the Recapture Amount (as defined below). The Company and the Holder further agree that such termination of unexercised Options and payment of the Recapture Amount, as the case may be, shall be in addition to, and not in lieu of, any other right or remedy available to the Company arising out of or in connection with any such Employment Violation including, without limitation, the right to terminate the Holder's employment if not already terminated, seek injunctive relief and additional monetary damages.

For purposes of this Option, the "Recapture Amount" shall mean the gross gain realized or unrealized by the Holder upon each exercise of this Option during the period beginning on the date which is twelve (12) months prior to the date of the Holder's Employment Violation and ending on the date of computation (the "Look-back Period"), which gain shall be calculated as the sum of:

- (i) if the Holder has exercised any portion of this Option during the Look-back Period and sold any of the Shares acquired on exercise thereafter, an amount equal to the product of

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(x) the sales price per Share sold less the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were sold at such sales price; plus

- (ii) if the Holder has exercised any portion of this Option during the Look-back Period and not sold any of the Shares acquired on exercise thereafter, with respect to each of such Shares an amount equal to the product of (x) the greatest of the following: (1) the Fair Market Value per Share on the date of exercise, (2) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of the Company's written notice of its exercise of its rights under this Section 4, or (3) the arithmetic average of the per Share closing sales prices as reported on NASDAQ for the thirty (30) trading day period ending on the trading day immediately preceding the date of computation, minus the exercise price per Share times (y) the number of Shares as to which this Option was exercised and which were not sold;

provided, however, in lieu of payment by the Holder to the Company of the Recapture Amount determined pursuant to clause (ii) above, the Holder, in his or her discretion, may tender to the Company the Shares acquired upon exercise of this Option during the Look-back Period and not sold and the Holder shall not be entitled to receive any consideration from the Company in exchange therefor.

9. *Delivery of Share Certificates.* Within a reasonable time after the exercise of the Option, the Company shall cause to be delivered to the person entitled thereto a certificate for the Shares purchased pursuant to the exercise of the Option. If the Option shall have been exercised with respect to less than all of the Shares subject to the Option, the Company shall also cause to be delivered to the person entitled thereto a new Option Certificate in replacement of this Option Certificate if surrendered at the time of the exercise of the Option, indicating the number of Share with respect to which this Option remains available for exercise, or this Option Certificate shall be endorsed to give effect to the partial exercise of the Option.

10. *Withholding.* In the event that the Holder elects to exercise this Option or any part thereof, and if the Company or any subsidiary of the Company shall be required to withhold any amounts by reason of any federal, state or local tax rules or regulations in respect of the issuance of Shares to the Holder pursuant to the Option, the Company or such subsidiary shall be entitled to deduct and withhold such amounts from any payments to be made to the Holder. In any event, the Holder shall make available to the Company or such subsidiary, promptly when requested by the Company or such subsidiary, sufficient funds to meet the requirements of such withholding; and the Company or such subsidiary shall be entitled to take and authorize such steps as it may deem advisable in order to have such funds available to the Company or such subsidiary out of any funds or property due or to become due to the Holder.

11. *Reservation of Shares.* The Company hereby agrees that at all times there shall be reserved for issuance and/or delivery upon exercise of the Option such number of Shares as shall be required for issuance or delivery upon exercise hereof.

12. *Adjustments.* The number of Shares subject to this Option, and the exercise price, shall be subject to adjustment in accordance with Section 3 of the Plan.

13. *Rights of Holder.* Nothing contained herein shall be construed to confer upon the Holder any right to be continued in the employ of the Company and/or any subsidiary of the Company or derogate from any right of the Company and/or a subsidiary to retire, request the resignation of, or discharge the Holder at any time, with or without cause. The Holder shall not, by virtue hereof, be entitled to any rights of a shareholder in the Company, either at law or equity, and the rights of the Holder are

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limited to those expressed herein and in the Plan and are not enforceable against the Company except to the extent set forth herein.

14. *Exclusion from Pension Computations.* By acceptance of the grant of this Option, the Holder hereby agrees that any income realized upon the receipt or exercise hereof, or upon the disposition of the Shares received upon its exercise, is special incentive compensation and shall not be taken into account as "wages," "salary" or "compensation" in determining the amount of any payment under any pension, retirement, incentive, profit sharing, bonus or deferred compensation plan of the Company or any of its subsidiaries or parents.

15. *Registration; Legend.* The Company may postpone the issuance and delivery of Shares upon any exercise of the Option until (a) the admission of such Shares to listing on any stock exchange or exchanges on which Shares of the Company of the same class are then listed and (b) the completion of such registration or other qualification of such Shares under any state or federal law, rule or regulation as the Company shall determine to be necessary or advisable. The Holder shall make such representations and furnish such information as may, in the opinion of counsel for the Company, be appropriate to permit the Company, in the light of the then existence or non-existence with respect to such Shares of an effective Registration Statement under the Act, to issue the shares in compliance with the provisions of that or any comparable act.

The Company may cause the following legend to be set forth on each certificate representing Shares or any other security issued or issuable upon exercise of the Option unless counsel for the Company is of the opinion as to any such certificate that such legend is unnecessary:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY NOT BE OFFERED FOR SALE, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE

"ACT"), OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT, THE AVAILABILITY OF WHICH IS ESTABLISHED BY AN OPINION FROM COUNSEL TO THE COMPANY.

16. *Amendment.* The Board of Directors or the Committee may, with the consent of the Holder, at any time or from time to time amend the terms and conditions of the Option, and may at any time or from time to time amend the terms of this Option in accordance with the Plan.

17. *Notices.* Any notice which either party hereto may be required or permitted to give to the other shall be in writing, and may be delivered personally or by mail, postage prepaid, addressed as follows: to the Company, at its office at 11601 Wilshire Boulevard, Los Angeles, California 90025, or at such other address as the Company by notice to the Holder may designate in writing from time to time; to the Holder, at the address shown below his signature on this Option Certificate, or at such other address as the Holder by notice to the Company may designate in writing from time to time. Notices shall be effective upon receipt.

18. *Interpretation.* A determination of the Committee as to any questions which may arise with respect to the interpretation of the provisions of this Option and of the Plan shall be final and binding. The Committee may authorize and establish such rules, regulations and revisions thereof not inconsistent with the provisions of the Plan, as it may deem advisable.

IN WITNESS WHEREOF, the parties have executed this Option Certificate as of the date set forth below.

ACTIVISION, INC.

By:

Dated:

Attest:

ACCEPTED:

Date

Address

City State Zip Code

QuickLinks

[ACTIVISION, INC. 1991 STOCK OPTION AND STOCK AWARD PLAN
STOCK OPTION CERTIFICATE \(Non-Transferable\)](#)