

# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## FORM 10-K

(Mark one)

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

For the fiscal year ended March 31, 2002

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 Blvd., Santa Monica, CA**

(Address of principal executive offices)

**90405**

(Zip Code)

**Registrant's telephone number, including area code: (310) 255-2000**

**Securities registered pursuant to Section 12(b) of the Act:**

Preferred Stock Purchase Rights

**Securities registered pursuant to Section 12(g) of the Act:**

Common Stock, par value \$.000001 per share

(Title of Class)

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 for 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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

The aggregate market value of the Common Stock of the registrant held by non-affiliates of the registrant on June 18, 2002 was \$1,930,944,806.

The number of shares of the registrant's Common Stock outstanding as of June 18, 2002 was 66,610,565.

#### Documents Incorporated by Reference

Portions of the registrant's definitive Proxy Statement, to be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year covered by this Form 10-K, with respect to the 2002 Annual Meeting of Shareholders, are incorporated by reference into Part III of this Annual Report.

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## PART I

### Item 1. BUSINESS

#### (a) General

Activision, Inc. ("Activision" or "we") is 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. We have created, licensed and acquired a group of highly recognizable brands which we market to a growing variety of consumer demographics.

Our products cover the action, adventure, action-sports, racing, role-playing, simulation and strategy game categories. Over the next few years, we plan to produce products in versions that operate on the Sony PlayStation 2, Nintendo GameCube and Microsoft Xbox console systems, the Nintendo Game Boy hand held devices, as well as on personal computers. Driven partly by the enhanced capabilities of these next generation of 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, experience and resources to extend our leading position in the industry.

Our publishing business involves the development, marketing and sale of products, either directly, by license or through our affiliate label program with third party publishers. In addition to publishing, we maintain distribution 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 were originally incorporated in California in 1979. In December 1992, we reincorporated in Delaware. In June 2000, we reorganized into a holding company organizational structure. As a result of this reorganization, Activision, Inc. as it previously existed became our primary operating subsidiary and changed its name to Activision Publishing, Inc.

#### (b) Business Combinations

Over the years, we have consummated a number of acquisitions of both software development companies and software distribution companies. The interactive entertainment industry is consolidating, and we intend to continue to expand our resources through acquisitions, strategic relationships and key license transactions. We expect to focus our acquisition strategy on increasing our development capacity through the acquisition of or investment in selected experienced development firms.

During fiscal 2002, we completed the acquisition of three privately held interactive software development companies. These acquisitions further enable us to implement our multi-platform development strategy by bolstering our internal product development capabilities for the next generation console systems and personal computers and strengthen our position in the first person action, action and action-sports genres. Effective October 1, 2001, we acquired all of the

outstanding ownership interests of Treyarch Invention, LLC ("Treyarch"), a privately held interactive software development company. Treyarch is a console software developer with a focus on action and action-sports video games. On December 30, 1999, we acquired a 40% interest in the outstanding capital stock of Gray Matter Interactive Studios, Inc., formerly known as Video Games West ("Gray Matter"), a privately held software development company, as well as an option to purchase the remaining 60% of outstanding capital stock. Effective January 9, 2002, we exercised our option to acquire the remaining 60% equity interest in Gray Matter. Gray Matter was the developer for our first person action PC product, *Return to Castle Wolfenstein* and is working on a sequel to such product and a new original action product. On March 27, 2002, we acquired all of the outstanding ownership interests of Shaba Games, LLC ("Shaba"), a privately held interactive software development company. Shaba is a console software developer with a focus on action and action-sports video games.

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Subsequent to March 31, 2002, we acquired a fourth privately held interactive software development company and made a 30% equity investment in a fifth company. On May 20, 2002, we acquired all of the outstanding capital of Z-Axis Ltd. ("Z-Axis"), a privately held interactive software development company. Z-Axis is a console software developer with a focus on action and action-sports video games. On May 10, 2002, we acquired 30% of the outstanding capital stock of Infinity Ward, Inc. ("Infinity Ward"), as well as an option to purchase the remaining 70% of the outstanding capital stock of Infinity Ward. Infinity Ward is a privately held interactive software development company with a focus on first person action games for personal computers.

See the Consolidated Financial Statements and Notes thereto included in Item 8 of this Annual Report on Form 10-K for additional information regarding these and prior acquisitions.

(c) Financial Information About Industry Segments

We have two reportable segments: publishing and distribution. Publishing relates to the development (both internally and externally), marketing and sale of CD-based and cartridge-based interactive entertainment software products owned or controlled by us, either directly, by license or through our affiliate label program with third party publishers. Distribution primarily refers to logistical and sales services provided by our European distribution subsidiaries to third party publishers of interactive entertainment software and manufacturers of interactive entertainment hardware. See the Consolidated Financial Statements and Notes thereto included in Item 8 of this Annual Report on Form 10-K for certain financial information required by Item 1.

(d) Narrative Description of Business

**Factors Affecting Future Performance**

In connection with the Private Securities Litigation Reform Act of 1995 (the "Litigation Reform Act"), we are hereby disclosing certain cautionary information to be used in connection with written materials (including this Annual Report on Form 10-K) and oral statements made by or on behalf of our employees and representatives that may contain "forward-looking statements" within the meaning of 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. The discussion below highlights some of the more important risks identified by management, but should not be assumed to be the only factors that could affect future performance. 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.

**We depend on a relatively small number of brands for a significant portion of our revenues and profits.**

A significant portion of our revenues is derived from products based on a relatively small number of popular brands each year. In addition, many of these products have substantial production or acquisition costs and marketing budgets. In fiscal 2002, 50% of our worldwide net publishing revenues (35% of consolidated net revenues) was derived from two brands, one of which accounted for 44% and the other of which accounted for 6% of worldwide net publishing revenues (31% and 4%, respectively, of consolidated net revenues). In fiscal 2001, two brands accounted for 49% of our worldwide net publishing revenues (37% of consolidated net revenues), one of which accounted for 39% and the other of which accounted for 10% of worldwide net publishing revenues (29% and 8%, respectively, of

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consolidated net revenues). We expect that a limited number of popular brands will continue to produce a disproportionately large amount of our revenues. Due to this dependence on a limited number of brands, the failure of one or more products based on these brands to achieve anticipated results may significantly harm our business and financial results.

**Our future success depends on our ability to release popular products.**

The life of any one game product is relatively short, in many cases less than one year. It is therefore important for us to be able to continue to develop many high quality new products that are popularly received. If we are unable to do this, our business and financial results may be negatively affected.

We focus our development and publishing activities principally on products that are, or have the potential to become, franchise brand properties. Many of these products are based on intellectual property and other character or story rights acquired or licensed from third parties. These license and distribution agreements are limited in scope and time, and we may not be able to renew key licenses when they expire or to include new products in existing licenses. The loss of a significant number of our intellectual property licenses or of our relationships with licensors could have a material adverse effect on our ability to develop new products and therefore on our business and financial results.

**Transitions in console platforms have a material impact on the market for interactive entertainment software.**

When new console platforms are announced or introduced into the market, consumers typically reduce their purchases of game console entertainment software products for current console platforms in anticipation of new platforms becoming available. During these periods, sales of our game console entertainment software products can be expected to slow down or even decline until new platforms have been introduced and have achieved wide consumer acceptance. Each of the three current principal hardware producers launched a new platform in recent years. Sony made the first shipments of its PlayStation 2 console system in North America and Europe in the fourth quarter of calendar year 2000. Microsoft made the first shipments of its Xbox console system in North America in November 2001 and in Europe and Japan in the first quarter of calendar 2002. Nintendo made the first shipments of its Nintendo GameCube console system in North America in November 2001 and in Europe in May 2002. Additionally, in June 2001, Nintendo launched its Game Boy Advance hand held device. We believe the next hardware transition cycle will occur in 2005. Delays in the launch, shortages, technical problems or lack of consumer acceptance of these platforms could adversely affect our sales of products for these platforms.

**We must make significant expenditures to develop products for new platforms which may not be successful or released when anticipated.**

The interactive entertainment software industry is subject to rapid technological change. New technologies could render our current products or products in development obsolete or unmarketable. We must continually anticipate and assess the emergence and market acceptance of new interactive entertainment software platforms well in advance of the time the platform is introduced to consumers. New platforms have historically required the development of new software and also have the effect of undermining demand for products based on older technologies. Because product development cycles are difficult to predict, we must make substantial product development and other investments in a particular platform well in advance of introduction of the platform. If the platforms for which we develop new software products or modify existing products are not released on a timely basis or do not attain significant market penetration, or if we develop products for a delayed or unsuccessful platform, we may not be able to recover in revenues our development costs which could be significant and our business and financial results could be significantly harmed. An announcement by Sega Corporation in

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calendar 2001 that it was discontinuing its Dreamcast platform shows that even experienced hardware manufacturers are not immune to failure.

**We are exposed to seasonality in the purchases of our products.**

The interactive entertainment software industry is highly seasonal, with the highest levels of consumer demand occurring during the year-end holiday buying season. As a result, our net revenues, gross profits and operating income have historically been highest during the second half of the year. Additionally, in a platform transition period, sales of game console software products can be significantly affected by the timeliness of introduction of game console platforms by the manufacturers of those platforms, such as Sony, Microsoft and Nintendo. The timing of hardware platform introduction is also often tied to holidays and is not within our control. Further, delays in development, licensor approvals or manufacturing can also affect the timing of the release of our products, causing us to miss key selling periods such as the year-end holiday buying season.

**We depend on skilled personnel.**

Our success depends to a significant extent on our ability to identify, hire and retain skilled personnel. The software industry is characterized by a high level of employee mobility and aggressive recruiting among competitors for personnel with technical, marketing, sales, product development and management skills. We may not be able to attract and retain skilled personnel or may incur significant costs in order to do so. If we are unable to attract additional qualified employees or retain the services of key personnel, our business and financial results could be negatively impacted.

**We depend on Sony and Nintendo for the manufacture of products that we develop for their hardware platforms.**

Generally, when we develop interactive entertainment software products for hardware platforms offered by Sony or Nintendo, the products are manufactured exclusively by that hardware manufacturer. Our hardware platform licenses with Sony and Nintendo provide that the manufacturer may change prices for the manufacturing of products.

In addition, these agreements include other provisions such as approval rights of all products and related promotional materials that give the manufacturer substantial control over our costs and the release of new titles. Since each of the manufacturers is also a publisher of games for its own hardware platforms and manufactures products for all of its other licensees, a manufacturer may give priority to its own products or those of our competitors in the event of insufficient manufacturing capacity. Our business and financial results could be materially harmed by unanticipated delays in the manufacturing and delivery of our products by Sony and Nintendo. In addition, our business and financial results could be materially harmed if Sony or Nintendo used their rights under these agreements to delay the manufacture or delivery of our products, limit the costs recoverable by us to manufacture software for their consoles, or elect to manufacture software themselves or use developers other than us.

**If our products contain defects, our business could be harmed significantly.**

Software products as complex as the ones we publish may contain undetected errors when first introduced or when new versions are released. We cannot assure you that, despite extensive testing prior to release, errors will not be found in new products or releases after shipment, resulting in loss of or delay in market acceptance. This loss or delay could significantly harm our business and financial results.

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**Inadequate intellectual property protections could prevent us from enforcing or defending our proprietary technology.**

We regard our software as proprietary and rely on a combination of copyright, trademark and trade secret laws, employee and third party nondisclosure agreements and other methods to protect our proprietary rights. We own or license various copyrights and trademarks. While we provide "shrinkwrap" license agreements or limitations on use with our software, it is uncertain to what extent these agreements and limitations are enforceable. We are aware that some unauthorized copying occurs within the computer software industry, and if a significantly greater amount of unauthorized copying of our interactive entertainment software products were to occur, it could cause material harm to our business and financial results.

Policing unauthorized use of our products is difficult, and software piracy can be a persistent problem, especially in some international markets. Further, the laws of some countries where our products are or may be distributed either do not protect our products and intellectual property rights to the same extent as the laws of the United States, or are poorly enforced. Legal protection of our rights may be ineffective in such countries, and as we leverage our software products using emerging technologies such as the Internet and online services, our ability to protect our intellectual property rights and to avoid infringing intellectual property rights of others may diminish. We cannot assure you that existing intellectual property laws will provide adequate protection for our products in connection with these emerging technologies.

### **We may be subject to intellectual property claims.**

As the number of interactive entertainment software products increases and the features and content of these products continue to overlap, software developers increasingly may become subject to infringement claims. Many of our products are highly realistic and feature materials that are based on real world examples, which may inadvertently infringe upon the intellectual property rights of others. Although we believe that we make reasonable efforts to ensure that our products do not violate the intellectual property rights of others, it is possible that third parties still may claim infringement. From time to time, we receive communications from third parties regarding such claims. Existing or future infringement claims against us, whether valid or not, may be time consuming and expensive to defend.

Intellectual property litigation or claims could force us to do one or more of the following:

- Cease selling, incorporating or using products or services that incorporate the challenged intellectual property;
- Obtain a license from the holder of the infringed intellectual property, which if available at all, may not be available on commercially favorable terms; or
- Redesign our interactive entertainment software products, which could cause us to incur additional costs, delay introduction and possibly reduce commercial appeal of our products.

Any of these actions may cause material harm to our business and financial results.

### **We rely on independent third parties to develop many of our software products.**

We often rely on independent third party interactive entertainment software developers to develop many of our software products. Since we depend on these developers in the aggregate, we remain subject to the following risks:

- Continuing strong demand for developers' resources, combined with recognition they receive in connection with their work, may cause developers who worked for us in the past to either work for our competitors in the future or to renegotiate our agreements with them on terms less favorable for us.

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- Limited financial resources and business expertise and inability to retain skilled personnel may force developers out of business prior to completing our products or require us to fund additional costs.
  - Our competitors may acquire the businesses of key developers or sign them to exclusive development arrangements. In either case, we would not be able to engage such developers' services for our products.

Increased competition for skilled third party software developers also has compelled us to agree to make significant advance payments on royalties to game developers. If the products subject to these arrangements do not generate sufficient revenues to recover these royalty advances, we would have to write-off unrecovered portions of these payments, which could cause material harm to our business and financial results. In a few cases, we also agree to pay developers fixed per unit product royalties after royalty advances are fully recouped. To the extent that sales prices of products on which we have agreed to pay a fixed per unit royalty are marked down, our profitability could be adversely affected.

### **We operate in a highly competitive industry.**

The interactive entertainment software industry is intensely competitive and new interactive entertainment software products and platforms are regularly introduced. Our competitors vary in size from small companies to very large corporations with significantly greater financial, marketing and product development resources than we have. Due to these greater resources, certain of our competitors can undertake more extensive marketing campaigns, adopt more aggressive pricing policies, pay higher fees to licensors for desirable motion picture, television, sports and character properties and pay more to third party software developers than we can. We believe that the main competitive factors in the interactive entertainment software industry include: product features; brand name recognition; compatibility of products with popular platforms; access to distribution channels; quality of products; ease of use; price; marketing support; and quality of customer service.

We compete primarily with other publishers of personal computer and video game console interactive entertainment software. Significant third party software competitors currently include, among others: Acclaim Entertainment, Inc.; Capcom Co. Ltd.; Eidos PLC; Electronic Arts Inc.; Infogrames SA; Konami Company Ltd.; Namco Ltd.; Midway Games, Inc.; Sega Enterprises, Ltd.; Take-Two Interactive Software, Inc.; THQ Inc. and Vivendi Universal Publishing. In addition, integrated video game console hardware and software companies such as Sony Computer Entertainment, Nintendo Co. Ltd. and Microsoft Corporation compete directly with us in the development of software titles for their respective platforms.

We also compete with other forms of entertainment and leisure activities. For example, we believe that the overall growth in the use of the Internet and online services by consumers may pose a competitive threat if customers and potential customers spend less of their available time using interactive entertainment software and more using the Internet and online services.

### **We may face difficulty obtaining access to retail shelf space necessary to market and sell our products effectively.**

Retailers of our products typically have a limited amount of shelf space and promotional resources, and there is intense competition among consumer interactive entertainment software products for high quality retail shelf space and promotional support from retailers. To the extent that the number of products

and platforms increases, competition for shelf space may intensify and may require us to increase our marketing expenditures. Retailers with limited shelf space typically devote the most and highest quality shelf space to the best selling products. We cannot assure you that our new products will consistently achieve such "best seller" status. Due to increased competition for limited shelf space, retailers and distributors are in an increasingly better position to negotiate favorable terms of sale,

including price discounts, price protection, marketing and display fees and product return policies. Our products constitute a relatively small percentage of any retailer's sales volume, and we cannot assure you that retailers will continue to purchase our products or to provide our products with adequate levels of shelf space and promotional support on acceptable terms. A prolonged failure in this regard may significantly harm our business and financial results.

**Our sales may decline substantially without warning and in a brief period of time because we generally do not have long-term contracts for the sale of our products.**

We currently sell our products directly through our own sales force to mass merchants, warehouse club stores, large computer and software specialty chains and through catalogs, as well as to a limited number of distributors, in the United States and Canada. Outside North America, we sell our products directly to retailers as well as third party distributors in certain territories. Our sales are made primarily on a purchase order basis without long-term agreements or other forms of commitments. The loss of, or significant reduction in sales to, any of our principal retail customers or distributors could significantly harm our business and financial results. Our two largest customers, Wal-Mart Stores, Inc. and Toys "R" Us, Inc., accounted for approximately 14% and 7%, respectively, of our consolidated net revenues for fiscal 2002. Our five largest retailers including Wal-Mart and Toys "R" Us, accounted for approximately 35% of our consolidated net revenues for fiscal 2002. Wal-Mart and Toys "R" Us, accounted for approximately 10% and 9%, respectively, of our consolidated net revenues for fiscal 2001. Our five largest retailers, including Wal-Mart and Toys "R" Us, accounted for approximately 34% of our consolidated net revenues for fiscal 2001.

**We may permit our customers to return our products and to receive pricing concessions which could reduce our net revenues and results of operations.**

We are exposed to the risk of product returns and price protection with respect to our distributors and retailers. Return policies allow distributors and retailers to return defective, shelf-worn and damaged products in accordance with terms granted. Price protection policies, when granted and applicable, allow customers a credit against amounts they owe us with respect to merchandise unsold by them. We may permit product returns from or grant price protection to our customers under certain conditions. The conditions our customers must meet to be granted the right to return products or price protection are, among other things, compliance with applicable payment terms, delivery to us of weekly inventory and sell-through reports, and consistent participation in the launches of our premium title releases. We may also consider other factors, including the facilitation of slow moving inventory and other market factors. When we offer price protection, we offer it with respect to a particular product to all of our retail customers, however, only those customers who meet the conditions detailed above can avail themselves of such price protection. We also offer a 90-day limited warranty to our end users that our products will be free from manufacturing defects. Although we maintain a reserve for returns and price protection, and although we may place limits on product returns and price protection, we could be forced to accept substantial product returns and provide price protection to maintain our relationships with retailers and our access to distribution channels. Product returns and price protection that exceed our reserves could significantly harm our business and financial results.

**We may be burdened with payment defaults and uncollectible accounts if our distributors or retailers cannot honor their credit arrangement with us.**

Distributors and retailers in the interactive entertainment software industry have from time to time experienced significant fluctuations in their businesses, and a number of them have failed. The insolvency or business failure of any significant retailer or distributor of our products could materially harm our business and financial results. We typically make sales to most of our retailers and some distributors on unsecured credit, with terms that vary depending upon the customer's credit history,

solvency, credit limits and sales history, as well as whether we can obtain sufficient credit insurance. Although we have insolvency risk insurance to protect against our customers' bankruptcy, insolvency or liquidation, this insurance contains a significant deductible and a co-payment obligation, and the policy does not cover all instances of non-payment. In addition, while we maintain a reserve for uncollectible receivables, the reserve may not be sufficient in every circumstance. As a result, a payment default by a significant customer could significantly harm our business and financial results.

**We may not be able to maintain our distribution relationships with key vendors.**

Our CD Contact, NBG and CentreSoft subsidiaries distribute interactive entertainment software and hardware products and provide related services in the Benelux territories, Germany and the United Kingdom, respectively, and via export, in other European territories for a variety of entertainment software publishers, many of which are our competitors, and hardware manufacturers. These services are generally performed under limited term contracts. While we expect to use reasonable efforts to retain these vendors, we may not be successful in this regard. The cancellation or non-renewal of one or more of these contracts could significantly harm our business and financial results. Sony and Nintendo products accounted for approximately 34% and 8%, respectively, of our worldwide net distribution revenues for fiscal 2002.

**Our international revenues may be subject to regulatory requirements as well as currency fluctuations.**

Our international revenues have accounted for a significant portion of our total revenues. International sales and licensing accounted for 49%, 43% and 51% of our total net revenues in fiscal 2002, 2001 and 2000, respectively. We expect that international revenues will continue to account for a significant portion of our total revenues in the future. International sales may be subject to unexpected regulatory requirements, tariffs and other barriers. Additionally, foreign sales which are made in local currencies may fluctuate. Presently, we engage in limited currency hedging activities. Although exposure to currency fluctuations to date has been insignificant, fluctuations in currency exchange rates may in the future have a material negative impact on revenues from international sales and licensing and thus our business and financial results.

**Our software may be subject to governmental restrictions or rating systems.**

Legislation is periodically introduced at the local, state and federal levels in the United States and in foreign countries to establish a system for providing consumers with information about graphic violence and sexually explicit material contained in interactive entertainment software products. In addition, many foreign countries have laws that permit governmental entities to censor the content and advertising of interactive entertainment software. We believe that mandatory government-run rating systems eventually may be adopted in many countries that are significant markets or potential markets for our products. We may be required to modify our products or alter our marketing strategies to comply with new regulations, which could delay the release of our products in those countries.

Due to the uncertainties regarding such rating systems, confusion in the marketplace may occur, and we are unable to predict what effect, if any, such rating systems would have on our business. In addition to such regulations, certain retailers have in the past declined to stock some of our products because they believed that the content of the packaging artwork or the products would be offensive to the retailer's customer base. While to date these actions have not caused material harm to our business, we cannot assure you that similar actions by our distributors or retailers in the future would not cause material harm to our business.

#### **Our software may be subject to legal claims.**

Within the past three years, two lawsuits, *Linda Sanders, et al. v. Meow Media, Inc., et al*, United States District Court for the District of Colorado, and *Joe James, et al. v. Meow Media, Inc., et al*, United States District Court for the Western District of Kentucky, Paducah Division, have been filed against numerous video game companies, including us, by the families of victims who were shot and killed by teenage gunmen in attacks perpetrated at schools. These lawsuits allege that the video game companies manufactured and/or supplied these teenagers with violent video games, teaching them how to use a gun and causing them to act out in a violent manner. Both lawsuits referenced in this paragraph have been dismissed and are currently undergoing various stages of the appeals process. While our general liability insurance carrier has agreed to defend us in these lawsuits, it is uncertain whether or not the insurance carrier would cover all or any amounts which we might be liable for if the lawsuits are not decided in our favor. If either of the lawsuits are ultimately decided against us and our insurance carrier does not cover the amounts we are liable for, it could have a material adverse effect on our business and financial results. It is possible that similar additional lawsuits may be filed in the future. Payment of significant claims by insurance carriers may make such insurance coverage materially more expensive or unavailable in the future, thereby exposing our business to additional risk.

#### **We may face limitations on our ability to integrate additional acquired businesses or to find suitable acquisition opportunities.**

We intend to pursue additional acquisitions of companies, properties and other assets that can be purchased or licensed on acceptable terms and which we believe can be operated or exploited profitably. Some of these transactions could be material in size and scope. While we will continually be searching for additional acquisition opportunities, we may not be successful in identifying suitable acquisitions. As the interactive entertainment software industry continues to consolidate, we face significant competition in seeking and consummating acquisition opportunities. We may not be able to consummate potential acquisitions or an acquisition may not enhance our business or may decrease rather than increase our earnings. In the future, we may issue additional shares of our common stock in connection with one or more acquisitions, which may dilute our existing shareholders. Future acquisitions could also divert substantial management time and result in short term reductions in earnings or special transaction or other charges. In addition, we cannot guarantee that we will be able to successfully integrate the businesses that we may acquire into our existing business. Our shareholders may not have the opportunity to review, vote on or evaluate future acquisitions.

#### **Our shareholder rights plan, charter documents and other agreements may make it more difficult to acquire us without the approval of our Board of Directors.**

We have adopted a shareholder rights plan under which one right entitling the holder to purchase one one-hundredth of a share of our Series A Junior Preferred Stock price at an exercise price of \$40 per share (subject to adjustment) is attached to each outstanding share of common stock. Such shareholder rights plan makes an acquisition of control in a transaction not approved by our Board of Directors more difficult. Our Amended and Restated By-laws have advance notice provisions for nominations for election of nominees to the Board of Directors which may make it more difficult to acquire control of us. Our long-term incentive plans provide for acceleration of stock options following a change in control, which has the effect of making an acquisition of control more expensive. A change in control constitutes a default under our revolving credit facility. In addition, some of our officers have severance compensation agreements that provide for substantial cash payments and accelerations of other benefits in the event of a change in control. These agreements and arrangements may also inhibit a change in control and may have a negative effect on the market price of our common stock.

#### **Our stock price is highly volatile.**

The trading price of our common stock has been and could continue to be subject to wide fluctuations in response to certain factors, including:

- Quarter to quarter variations in results of operations
- Our announcements of new products
- Our competitors' announcements of new products
- Our product development or release schedule
- General conditions in the computer, software, entertainment, media or electronics industries
- Timing of the introduction of new platforms and delays in the actual release of new platforms
- Changes in earnings estimates or buy/sell recommendations by analysts
- Investor perceptions and expectations regarding our products, plans and strategic position and those of our competitors and customers

In addition, the public stock markets experience extreme price and trading volume volatility, particularly in high technology sectors of the market. This volatility has significantly affected the market prices of securities of many technology companies for reasons often unrelated to the operating performance of the specific companies. These broad market fluctuations may adversely affect the market price of our common stock.

**We do not pay cash dividends on our common stock.**

We have not paid any cash dividends on our common stock and do not anticipate paying dividends in the near future. In addition, our revolving credit facility currently prohibits us from paying cash dividends on our common stock.

**Strategy**

Our objective is to be a worldwide leader in the development, publishing and distribution of quality interactive entertainment software products that deliver a highly satisfying consumer entertainment experience. Our strategy includes the following elements:

*Create and Maintain Diversity in Product Mix, Platforms and Markets.* We believe that maintaining a diversified mix of products can reduce our operating risks and enhance profitability. Therefore, we develop and publish products spanning a wide range of product categories, including action, adventure, action-sports, racing, role playing, simulation and strategy, and products designed for target audiences ranging from game enthusiasts and children to mass market consumers and "value priced" buyers. Presently, we concentrate on developing, publishing and distributing products that operate on Sony PlayStation 2, Nintendo GameCube and Microsoft Xbox console systems, Nintendo Game Boy hand held devices and the personal computer. We typically offer our products for use on multiple platforms in order to reduce the risks associated with any single platform, leverage our costs over a larger installed base and increase unit sales.

*Create, Acquire and Maintain Strong Brands.* We focus development and publishing activities principally on products that are, or have the potential to become, franchise properties with sustainable consumer appeal and brand recognition. These products can thereby serve as the basis for sequels, prequels and related new products that can be released over an extended period of time. We believe that the publishing and distribution of products based in large part on franchise properties enhances predictability of revenues and the probability of high unit volume sales and operating profits. We have entered into a series of strategic relationships with the owners of intellectual property pursuant to

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which we have acquired the rights to publish products based on franchises such as Star Trek, various Disney films such as Toy Story 2 and Marvel Comics' properties such as Spider-Man, X-Men, Blade, Iron Man and Fantastic Four. We have also capitalized on the success of our Tony Hawk's Pro Skater products to sign long-term agreements, many of which are exclusive, with numerous other action-sports athletes including superstars Mat Hoffman in BMX biking, Kelly Slater in surfing, Shaun Palmer in snowboarding, Shaun Murray in wakeboarding and Travis Pastrana in motorcross biking and establish the "Activision O<sub>2</sub>" brand as the dominant brand in the action-sports category.

*Enforce Disciplined Product Selection and Development Processes.* The success of our publishing business depends, in significant part, on our ability to develop games that will generate high unit volume sales and that can be completed up to our high quality standards. Our publishing units have implemented a formal control process for the selection, development, production and quality assurance of our products. We apply this process, which we refer to as the "Greenlight Process," to products under development with external, as well as internal resources. The Greenlight Process includes in-depth reviews of each project at five intervals during the development process by a team that includes several of our highest ranking operating managers and coordination between our sales and marketing personnel and development staff at each step in the process.

We develop our products using a strategic combination of our internal development resources and external development resources acting under contract with us, some of who are independent and in some of which we have a capital investment. We typically select our external developers based on their track record and expertise in producing products in the same category. One developer will often produce the same game for multiple platforms and will produce sequels to the original game. We believe that this selection process allows us to strengthen and leverage the particular expertise of our internal and external development resources.

*Continue to Improve Profitability.* We are continually striving to reduce our risk and increase our operating leverage and efficiency with the goal of increased profitability. We believe the key factor affecting our profitability will be the success rate of our product releases. Therefore, our product selection and development process includes, as a significant component, periodic evaluations of the expected commercial success of products under development. Through this process, titles that we determine to be less promising are either discontinued before we incur additional development costs, or if necessary, corrections can be made in the development process. In addition, our focus on cross platform releases and branded products will, we believe, contribute to this strategic goal.

In order to further our emphasis on improved profitability, we have implemented a number of operational initiatives. We have increased our product development capabilities by allocating a portion of our product development investments to experienced independent development companies working under contract with us, thereby taking advantage of specialized third party developers without incurring the fixed overhead obligations associated with increased internally employed staff. Additionally, we have acquired certain experienced and specialized developers when, in our opinion, we can enhance profitability through the elimination of royalty obligations. Our sales and marketing operations work with our studio resources to increase the visibility of new product launches and to coordinate timing and promotion of product releases. Our finance and administration and sales and marketing personnel work together to improve inventory management and receivables collections. We have broadly instituted objective-based reward programs that provide incentives to management and staff throughout the organization to produce results that meet our financial objectives.

*Grow Through Continued Strategic Acquisitions and Alliances.* The interactive entertainment industry is consolidating, and we believe that success in this industry will be driven in part by the ability to take advantage of scale. Specifically, smaller companies are more capital constrained, enjoy less predictability of revenues and cash flow, lack product diversity and must spread fixed costs over a smaller revenue base. Several industry leaders are emerging that combine the entrepreneurial and



creative spirit of the industry with professional management, the ability to access the capital markets and the ability to maintain favorable relationships with strategic developers, property owners and retailers. Through 13 completed acquisitions since 1997, we believe that we have successfully diversified our operations, our channels of distribution, our development talent pool and our library of titles, and have emerged as one of the industry's leaders. We intend to continue to expand our resources through acquisitions, strategic relationships and key license transactions. We expect to focus our acquisition strategy on increasing our development capacity through the acquisition of or investment in selected experienced development firms, and expanding our intellectual property library through licenses and strategic relationships with intellectual property owners.

## Products

We historically have been best known for our action, adventure, strategy and simulation products. With the successful introduction of our series of Activision O<sub>2</sub> branded products, such as our Tony Hawk's Pro Skater, Mat Hoffman's Pro BMX and Shaun Palmer's Pro Snowboarding series, we have also become the leader in the action-sports category. We have also established ourselves as a leader in the "value priced" software publishing business with such products as Cabela's Big Game Hunter series and Ski Resort Tycoon. Products published by us in this category are generally developed by third parties, often under contract with us, and are marketed under the Activision Value Publishing name. Value priced software is typically less sophisticated and complex, both in terms of the development process and consumer ease of use. We also publish products in other categories such as leisure and role playing, and we may in the future expand our product offerings into new categories.

*Hardware Licenses.* Our products currently are being developed or published primarily for Sony PlayStation 2, Nintendo GameCube and Microsoft Xbox console systems, Nintendo Game Boy hand held devices and personal computers. In order to maintain general access to the console systems and hand held device marketplace, we have maintained licenses for Sony PlayStation 2, Nintendo GameCube and Microsoft Xbox console systems and Game Boy hand held devices with owners of such platforms. Each license allows us to create multiple products for the applicable system, subject to certain approval rights as to quality which are reserved by each licensor. Each license also requires that we pay the licensor a per unit license fee for each unit manufactured. In contrast, we currently are not required to obtain any license for the development and production of products for personal computers.

*Intellectual Property Rights.* Our current and planned releases are based on intellectual property and other character or story rights licensed from third parties, as well as a combination of characters, worlds and concepts derived from our extensive library of titles, and original characters and concepts owned and created by us. In publishing products based on licensed intellectual property rights, we generally seek to capitalize on the name recognition, marketing efforts and goodwill associated with the underlying property.

In acquiring intellectual property rights from third parties, we seek to obtain rights to publish titles across a variety of platforms, to include the ability to produce multiple titles and to retain rights over an extended period of time. In past years, we have been able to enter into a series of long-term or multi-product agreements with owners of various intellectual properties that are well known throughout the world, and to create products based on these recognizable characters, story lines or concepts. These agreements typically provide us with exclusive publishing rights for a specific period of time, and in some cases for specified platforms. The scope of our licensing activities includes theatrical motion pictures, television shows, animated films and series, comic books, literary works, sports personalities and events and celebrities. We intend to continue expanding relationships with our existing intellectual property partners and to enter into agreements with other intellectual property owners for other recognizable properties, characters, story lines and concepts. We may not, however, be able to maintain or expand our existing relationships or to seek out and sustain new long-term relationships of similar caliber in the future.

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## Product Development and Support

We use a strategic mix of internal and external resources to develop our products. In addition to product developers we own entirely or control, we consider production developers in which we have a significant minority equity investment and those with which we have long-term agreements to develop multiple titles or sequels to be part of our internal product development effort. All of our product development efforts are managed under our "Greenlight Process," a formal management control process for the selection, development and quality assurance of our products.

We develop and produce titles using a model in which a core group of creative, production and technical professionals, in cooperation with our marketing and finance departments, have overall responsibility for the entire development and production process and for the supervision and coordination of internal and external resources. This team assembles the necessary creative elements to complete a title using, where appropriate, outside programmers, artists, animators, scriptwriters, musicians and songwriters, sound effects and special effects experts, and sound and video studios. We believe that this model allows us to supplement internal expertise with top quality external resources on an as needed basis.

In addition, we often seek out and engage independent third party developers to create products on our behalf. Such products are usually owned by us, and we have unlimited rights to commercially exploit these products. We typically select these independent third party developers based on their expertise in developing products in a specific category and use the same developer to produce the same game for multiple platforms. Each of our third party developers is under contract with us for specific or multiple titles. From time to time, we also license or acquire software products independently created by third party developers and brought to us for publishing and/or distribution. In such cases, the agreements with such developers provide us with exclusive publishing and/or distribution rights for a specific period of time, often for specified platforms and territories. In either case, we often have the ability to publish and/or distribute sequels, conversions, enhancements and add-ons to the product initially being produced by the independent developer and frequently have the right to engage the services of the original developer in regards to the development of such products.

In consideration for the services provided by independent third party developers, the developer receives a royalty generally based on net sales of the product that it has developed. Typically, the developer also receives an advance, which is recoupable by us from the royalties otherwise required to be paid to the developer. The advance generally is paid in stages with the payment of each stage tied to the completion of a detailed performance milestone. Working with independent developers allows us to reduce our fixed development costs, share development risks with another company, take advantage of third party developers' expertise in connection with certain categories of products or certain platforms and gain access to proprietary development technologies.

From time to time, we may make a capital investment and hold a minority interest in a third party developer in connection with entertainment software products to be developed by such developer for us, which we believe helps to create a closer relationship between us and the developer. We have a minority interest in, among others, Infinity Ward, Pandemic Studios and Raster Productions. We account for those capital investments in which we have a 20% or greater ownership interest, such as Infinity Ward, or over which we have the ability to exercise significant influence, using the equity method. For those investments in which we hold less than a 20% ownership interest, such as Pandemic Studios and Raster Productions, or over which we do not have the ability to exercise

significant influence, we account for our investment using the cost method. There can be no assurance that we will realize long-term benefits from such type of investments or that we will continue to carry such investments at their current value.

### *"Greenlight Process"*

We have adopted and implemented a rigorous procedure for the selection, development, production and quality assurance of our internally and externally produced entertainment software titles. The process, entitled the "Greenlight Process," involves five phases throughout the pre-development, development and production phases of the title, each of which includes a number of specific performance milestones. The five phases of our "Greenlight Process" are the concept phase, assessment phase, prototype phase, first playable phase and alpha phase. This procedure is designed to enable us to manage and control production and development budgets and timetables, to identify and address production and technical issues at the earliest opportunity, and to coordinate marketing and quality control strategies throughout the production and development phases, all in an environment that fosters creativity. Checks and balances are intended to be provided through the structured interaction of the project team with our creative, technical, marketing and quality assurance/customer support personnel, as well as the legal, accounting and finance departments.

### *Product Support*

We provide various forms of product support to both our internally and externally developed titles. Our quality assurance personnel are involved throughout the development and production processes for each title published by us. All such products are subjected to extensive testing before release in order to ensure compatibility with the widest possible array of hardware configurations and to minimize the number of bugs and other defects found in the products. To support our products after release, we provide online access to our customers on a 24-hour basis as well as operator help lines during regular business hours. The customer support group tracks customer inquiries, and this data is used to help improve the development and production processes.

### **Publishing Activities**

#### *Marketing*

Our marketing efforts include online activities (such as the creation of World Wide Web pages to promote specific titles), public relations, print and broadcast advertising, coordinated in-store and industry promotions including merchandising and point of purchase displays, participation in cooperative advertising programs, direct response vehicles, and product sampling through demonstration software distributed through the Internet or on compact discs. From time to time, we also receive marketing support from hardware manufacturers and retailers in connection with their own promotional efforts. In addition, our products contain software that enables customers to "electronically register" their purchases with us online.

We believe that certain of our franchise properties have loyal and devoted audiences who purchase our sequels as a result of dedication to the property and satisfaction from previous product purchases. Marketing of these sequels is therefore directed both toward the established market as well as broader audiences. In addition, in marketing titles based on licensed properties, we believe that we derive benefits from the marketing and promotional activities of the property owners.

#### *Sales and Distribution*

*Domestic.* Our products are available for sale or rental in thousands of retail outlets domestically. Our domestic customers include Best Buy, Blockbuster, Circuit City, Electronic Boutique, GameStop, Kaybee Toys, Target, Toys "R" Us and Wal-Mart. Our two largest customers, Wal-Mart and Toys "R" Us, accounted for approximately 14% and 7%, respectively, of our consolidated net revenues for fiscal 2002. Our five largest retailers, including Wal-Mart and Toys "R" Us, accounted for approximately 35% of our consolidated net revenues for fiscal 2002. Wal-Mart and Toys "R" Us accounted for approximately 10% and 9%, respectively, of our consolidated net revenues for fiscal 2001. Our five

largest retailers, including Wal-Mart and Toys "R" Us, accounted for approximately 34% of our consolidated net revenues for fiscal 2001.

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 and discount warehouses and mail order companies. We believe that a direct relationship with retail accounts results in more effective inventory management, merchandising and communications than would be possible through indirect relationships. We have implemented electronic data interchange linkages with many of our retailers to facilitate the placing and shipping of orders. We seek to continue to increase the number of retail outlets reached directly through our internal sales force. We sell our products to distributors, such as Ingram Entertainment, for distribution to independent channels.

*International.* We conduct our international publishing activities through offices in the United Kingdom, Germany, France, Canada, Sweden, Australia, and Japan. We seek to maximize our worldwide revenues and profits by releasing high quality foreign language releases concurrently with English language releases, whenever practicable, and by continuing to expand the number of direct selling relationships we maintain with key retailers in major territories. We sell directly to large retailers and retail chains in the United Kingdom and Europe. We also sell through third party distributors in these territories and throughout the world.

*Affiliate Labels.* In addition to our own products, we distribute interactive entertainment products that are developed and marketed by other third party publishers through our "affiliate label" programs in North America and Europe. The distribution of other publishers' products allows us to increase the efficiencies of our sales force and provides us with the ability to better ensure adequate shelf presence at retail stores for all of the products that we distribute. We also mitigate the risk associated with a particular title or titles published by us failing to achieve expectations. Services provided by us under our affiliate label program include order solicitation, in-store marketing, logistics and order fulfillment, sales channel management, as well as other accounting and general administrative functions. Our current affiliate label partner is Lucas Arts. Each affiliate label relationship is unique and may pertain only to distribution in certain geographic territories such as the United States or Europe and may be further limited only to specific titles or titles for specific platforms.

### **Distribution**

We distribute interactive entertainment hardware and software products in Europe through our European distribution subsidiaries, CentreSoft in the United Kingdom, NBG in Germany and CD Contact in the Benelux territories. These subsidiaries act as wholesalers in the distribution of products and also provide packaging, logistical and sales services and, in some cases, product localization for certain vendors. They provide services to our publishing operations and to various third party publishers, including Sony and Nintendo. CentreSoft is Sony's exclusive distributor of PlayStation products to the independent channel in the United Kingdom. In the fiscal year ended March 31, 2002, sales for Sony and Nintendo accounted for approximately 34% and 8%, respectively, of our worldwide net distribution revenues.

We acquired CentreSoft and NBG in 1997 and CD Contact in 1998. We entered into the distribution business to obtain distribution capacity in Europe for our own products, while at the same time supporting the distribution infrastructure with third party sales, and in order to diversify our operations into the European market. CentreSoft and our other distribution subsidiaries operate in accordance with strict confidentiality procedures in order to provide independent services to various third party publishers.

### **Online, Broadband and Wireless Technologies**

We believe that there will be opportunities for further exploitation of titles through the Internet, online services, hand held and other wireless devices and dedicated Internet online gaming services as platform standards evolve and become more accepted. We are actively exploring the establishment of online game playing opportunities and Internet and wireless services as a method for realizing additional revenue from our products and as an additional platform for our products. We also plan to develop online components for products developed for next generation consoles that support online play. Many of our products released for the personal computer contain multi-player gaming capabilities. We released an online version of *Tony Hawk's Pro Skater 3* on the PS2 platform. We have licensed rights to various text-based computer games in our library for hand held wireless devices. We believe that many of our other properties may have the potential to be exploited as wireless and online technologies evolve.

### **Manufacturing**

We prepare a set of master program copies, documentation and packaging materials for our products for each respective hardware platform on which the product will be released. Except with respect to products for use on the Sony and Nintendo systems, our disk duplication, packaging, printing, manufacturing, warehousing, assembly and shipping are performed by third party subcontractors.

In order to maintain protection over their hardware technologies, Sony and Nintendo generally specify or control the manufacturing and assembly of finished products. We deliver the master materials to the licensor or its approved replicator, which then manufactures finished goods and delivers them to us for distribution under our label. At the time our product unit orders are filled by the manufacturer, we become responsible for the costs of manufacturing and the applicable per unit royalty on such units, even if the units do not ultimately sell.

To date, we have not experienced any material difficulties or delays in the manufacture and assembly of our products or material returns due to product defects.

### **Competition**

The interactive entertainment industry is intensely competitive. The availability of significant financial resources has become a major competitive factor in this industry primarily as a result of the escalating development, acquisition, production and marketing budgets required to publish quality titles. In addition, competitors with large product lines and popular titles typically have greater leverage with retailers, distributors and other customers who may be willing to promote titles with less consumer appeal in return for access to such competitor's most popular titles.

### **Employees**

As of March 31, 2002, we had 1,034 employees, including 467 in product development, 97 in North American publishing, 87 in international publishing, 107 in operations, corporate finance and administration, and 276 in European distribution activities.

As of March 31, 2002, approximately 160 of our full-time employees were subject to term employment agreements with us. These agreements generally commit such employees to employment terms of between one and three years from the commencement of their respective agreements. Most of the employees subject to such agreements are executives or members of the product development, sales or marketing divisions. These individuals perform services for us as executives, directors, producers, associate producers, computer programmers, game designers, sales directors and marketing product managers. The execution by us of employment agreements with such employees, in our experience,

reduces our turnover during the development and production of our entertainment software products and allows us to plan more effectively for future development activities.

None of our employees are subject to a collective bargaining agreement, and we have not experienced any labor-related work stoppages.

### **Financial Information about Foreign and Domestic Operations and Export Sales**

See Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Note 8 of Notes to Consolidated Financial Statements included in Item 8.

## Item 2. PROPERTIES

Our principal corporate, administrative and product development offices are located in approximately 98,000 square feet of leased space in a building located at 3100 Ocean Park Boulevard, Santa Monica, California 90405. The following is a listing of the principal offices maintained by us on June 18, 2002:

Location of Principal Facilities	Square Feet	Lease Expiration Date
Santa Monica, California	98,000	April 30, 2007
Woodland Hills, California	13,700	July 31, 2005
Santa Monica, California	31,000	May 31, 2004
Sausalito, California	6,300	December 31, 2002
Hayward, California	14,300	May 15, 2005
Los Angeles, California	7,500	November 30, 2003
Madison, Wisconsin	14,600	June 30, 2005
Eden Prairie, Minnesota	14,000	May 31, 2008
Eagan, Minnesota	2,800	November 30, 2004
Dallas, Texas	2,300	February 28, 2003
New York, New York	500	April 30, 2006
Ontario, Canada	1,900	June 30, 2003
Berkshire, United Kingdom	11,600	September 29, 2006 — September 8, 2010
Birmingham, United Kingdom	81,000	May 20, 2011 — May 31, 2012
Birmingham, United Kingdom	43,300	Month to Month
Breda, The Netherlands	4,200	January 31, 2007
Eemnes, The Netherlands	1,900	January 1, 2003
Venlo, The Netherlands	44,600	Owned
Bezons, France	3,100	October 31, 2003
Sydney, Australia	3,300	October 31, 2002
Burglengenfeld, Germany	58,000	Owned
Tokyo, Japan	2,300	June 10, 2003
Stockholm, Sweden	160	March 31, 2004

## Item 3. 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.

## Item 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

Not applicable.

## PART II

## Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

Our common stock is quoted on The Nasdaq National Market under the symbol "ATVI."

The following table sets forth for the periods indicated the high and low reported sale prices for our common stock. As of June 18, 2002, there were approximately 3,200 holders of record of our common stock.

	High	Low
<b>Fiscal 2001</b>		
First Quarter ended June 30, 2000	\$ 8.10	\$ 3.58
Second Quarter ended September 30, 2000	10.42	4.21
Third Quarter ended December 31, 2000	10.17	6.88
Fourth Quarter ended March 31, 2001	16.83	9.08
<b>Fiscal 2002</b>		
First Quarter ended June 30, 2001	\$ 27.43	\$ 13.92
Second Quarter ended September 30, 2001	27.00	15.07
Third Quarter ended December 31, 2001	28.72	16.35
Fourth Quarter ended March 31, 2002	32.75	22.77

On June 18, 2002, the last reported sales price of our common stock was \$29.59.

## Dividends

We paid no cash dividends in 2002 or 2001 and we do not intend to pay any cash dividends at any time in the foreseeable future. We expect that earnings will be retained for the continued growth and development of the business. In addition, our bank credit facility currently prohibits us from paying cash dividends on our common stock. Future dividends, if any, will depend upon our earnings, financial condition, cash requirements, future prospects and other factors deemed relevant by our Board of Directors.

### Stock Split

In October 2001, the Board of Directors approved a three-for-two stock split effected in the form of a 50% stock dividend. The stock split was paid at the close of business on November 20, 2001 to shareholders of record as of November 6, 2001. All share and per share data included in this Annual Report on Form 10-K has been restated as if the stock split had occurred as of the earliest period presented.

### Sales of Unregistered Equity Securities

On December 30, 1999, we issued 115,547 shares of our common stock to acquire a 40% interest in the outstanding capital stock of Gray Matter Interactive Studios, Inc., formerly known as Video Games West, ("Gray Matter"), a privately held software development company, as well as an option to purchase the remaining 60% of outstanding capital stock. Effective January 9, 2002, we exercised our option to acquire the remaining 60% of outstanding capital stock of Gray Matter in exchange for 133,690 shares of our common stock.

Effective October 1, 2001, we acquired all of the outstanding ownership interests of Treyarch Invention, LLC ("Treyarch"), a privately held interactive software development company, in exchange for 818,961 shares of our common stock. Additional shares of our 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 product performance requirements and other criteria.

On March 27, 2002, we acquired all of the outstanding ownership interests of Shaba Games, LLC ("Shaba"), a privately held interactive software development company, in exchange for 258,621 shares of our common stock. Additional shares of our common stock also may be issued to Shaba's equity holders and employees over the course of several years, depending on the satisfaction of certain product performance requirements and other criteria.

None of the shares were registered under the Securities Act of 1933, as amended (the "Securities Act"), by reason of the exemption under Section 4(2) of the Securities Act. We subsequently registered the shares issued in connection with the Gray Matter, Treyarch and Shaba transactions for resale by the holders thereof.

### Repurchase Plan

As of May 9, 2000, our Board of Directors authorized the purchase of up to \$15.0 million of our common stock as well as our convertible subordinated notes. The shares and notes could be purchased from time to time through the open market or in privately negotiated transactions. During the year ended March 31, 2001, we repurchased 3.6 million shares of our common stock for approximately \$15.0 million. We financed the purchase of such shares with available cash.

### Shareholders' Rights Plan

On April 18, 2000, our Board of Directors approved a shareholders rights plan (the "Rights Plan"). Under the Rights Plan, each common shareholder at the close of business on April 19, 2000 received a dividend of one right for each share of common stock held. Each right represents the right to purchase one one-hundredth (1/100) of a share of our Series A Junior Preferred Stock at an exercise price of \$40.00. Initially, the rights are represented by our common stock certificates and are neither exercisable nor traded separately from our common stock. The rights will only become exercisable if a person or group acquires 15% or more of the common stock of Activision, or announces or commences a tender or exchange offer which would result in the bidder's beneficial ownership of 15% or more of our common stock.

In the event that any person or group acquires 15% or more of our outstanding common stock, each holder of a right (other than such person or members of such group) will thereafter have the right to receive upon exercise of such right, in lieu of shares of Series A Junior Preferred Stock, the number of shares of common stock of Activision having a value equal to two times the then current exercise price of the right. If we are acquired in a merger or other business combination transaction after a person has acquired 15% or more of our common stock, each holder of a right will thereafter have the right to receive upon exercise of such right a number of the acquiring company's common shares having a market value equal to two times the then current exercise price of the right. For persons who, as of the close of business on April 18, 2000, beneficially own 15% or more of the common stock of Activision, the Rights Plan "grandfathers" their current level of ownership, so long as they do not purchase additional shares in excess of certain limitations.

We may redeem the rights for \$.01 per right at any time until the first public announcement of the acquisition of beneficial ownership of 15% of our common stock. At any time after a person has acquired 15% or more (but before any person has acquired more than 50%) of our common stock, we may exchange all or part of the rights for shares of common stock at an exchange ratio of one share of common stock per right. The rights expire on April 18, 2010.

### Securities Authorized for Issuance Under Equity Compensation Plans

Information for our equity compensation plans in effect as of March 31, 2002 is as follows (amounts in thousands, except per share amounts):

	(a)	(b)	(c)
<b>Plan Category</b>	<b>Number of securities to be issued upon exercise of outstanding options, warrants and rights</b>	<b>Weighted-average exercise price of outstanding options, warrants and rights</b>	<b>Number of securities remaining available for future issuance under equity compensation plans</b>

Equity compensation plans approved by security holders	4,376	\$12.71	716
Equity compensation plans not approved by security holders	9,264	\$8.48	677
Total	13,640	\$9.83	1,393

On April 4, 2002, our Board of Directors approved the Activision 2002 Incentive Plan (the "2002 Plan"). The total number of shares of common stock available for distribution under the 2002 Plan is 2,350,000. The 2002 Plan is not approved by security holders.

Also on April 4, 2002, our Board of Directors approved a 1.5 million share increase in the total number of shares available for distribution under the Activision 2001 Incentive Plan (the "2001 Plan"). This increase in the 2001 Plan will be put before our shareholders for approval in connection with our 2002 Annual Meeting of Shareholders.

See Note 13 of the Notes to Consolidated Financial Statements included in Item 8 for the material features of each equity compensation plan that was adopted without security holder approval.

## Item 6. SELECTED CONSOLIDATED FINANCIAL DATA

The following table summarizes certain selected consolidated financial data, which should be read in conjunction with our Consolidated Financial Statements and Notes thereto and with Management's Discussion and Analysis of Financial Condition and Results of Operations included elsewhere herein. The selected consolidated financial data presented below as of and for each of the fiscal years in the five-year period ended March 31, 2002 are derived from our audited consolidated financial statements. The Consolidated Balance Sheets as of March 31, 2002 and 2001 and the Consolidated Statements of Operations and Consolidated Statements of Cash Flows for each of the fiscal years in the three-year period ended March 31, 2002, and the reports thereon, are included elsewhere in this Form 10-K.

	Fiscal years ended March 31,				
	2002 (2)	Restated (1)			
		2001	2000	1999	1998
(In thousands, except per share data)					
<b>Statement of Operations Data:</b>					
Net revenues	\$ 786,434	\$ 620,183	\$ 572,205	\$ 436,526	\$ 312,906
Cost of sales — product costs	435,725	324,907	319,422	260,041	176,188
Cost of sales — intellectual property licenses and software royalties and amortization	99,006	89,702	91,238	36,990	29,840
Income (loss) from operations	80,574	39,807	(30,325)	26,667	9,218
Income (loss) before income tax provision	83,120	32,544	(38,736)	23,636	8,106
Net income (loss)	52,238	20,507	(34,088)	14,891	4,970
Basic earnings (loss) per share	1.03	0.55	(0.92)	0.43	0.15
Diluted earnings (loss) per share	0.88	0.50	(0.92)	0.41	0.14
Basic weighted average common shares outstanding	50,651	37,298	37,037	34,292	33,057
Diluted weighted average common shares outstanding	59,455	41,100	37,037	35,898	34,364
<b>Selected Operating Data:</b>					
EBITDA (3)	86,791	46,075	15,541	33,155	14,564
<b>Cash provided by (used in):</b>					
Operating activities	111,792	81,565	2,883	(42,341)	(1,986)
Investing activities	(8,701)	(8,631)	(25,041)	(3,800)	(10,158)
Financing activities	50,402	2,547	42,028	7,220	62,862
As of March 31,					
	2002 (2)	Restated (1)			
		2001	2000	1999	1998

## Balance Sheet Data:

Working capital	\$ 333,199	\$ 182,980	\$ 158,225	\$ 136,355	\$ 115,782
Cash and cash equivalents	279,007	125,550	49,985	33,037	74,319
Goodwill	35,992	10,316	12,347	21,647	23,473
Total assets	556,887	359,957	309,737	283,345	229,366
Long-term debt	3,122	63,401	73,778	61,143	61,192
Shareholders' equity	430,091	181,306	132,009	127,190	97,475

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- (1) Consolidated financial information for fiscal years 2001 - 1998 has been restated for the effect of our three-for-two stock split effected in the form of a 50% stock dividend to shareholders of record as of November 6, 2001, paid November 20, 2001.
  - (2) Effective April 1, 2001, we adopted the provisions of Statement of Financial Accounting Standards ("SFAS") No. 142, "Goodwill and Other Intangibles." SFAS No. 142 addresses financial accounting and reporting requirements for acquired goodwill and other intangible assets. Under SFAS No. 142, goodwill is deemed to have an indefinite useful life and should not be amortized but rather tested at least annually for impairment. In accordance with SFAS No. 142, we have not amortized goodwill during the year ended March 31, 2002. See Note 6 of Notes to the Consolidated Financial Statements included in Item 8.
  - (3) EBITDA represents income (loss) before interest, income taxes and depreciation and amortization on property and equipment and goodwill. We believe that EBITDA provides useful information regarding our ability to service our debt; however, EBITDA does not represent cash flow from operations as defined by generally accepted accounting principles and should not be considered as a substitute for net income (loss), as an indicator of our operating performance or cash flow as a measure of liquidity.

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## Item 7. 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. We have created, licensed and acquired a group of highly recognizable brands which we market to a growing variety of consumer demographics.

Our products cover the action, adventure, action-sports, racing, role-playing, simulation and strategy game categories. Historically, we have offered our products in versions that operate on the Sony PlayStation ("PS1"), Sony PlayStation 2 ("PS2"), Nintendo 64 ("N64"), Nintendo GameCube ("GameCube") and Microsoft Xbox ("Xbox") console systems, Nintendo Game Boy Advance ("GBA") and Game Boy Color ("GBC") hand held devices, as well as on personal computers ("PC"). Driven partly by the enhanced capabilities of the next generation of 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, experience and resources to extend our leading position in the industry.

Our publishing business involves 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, Sweden, 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. In addition to publishing, we maintain distribution 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.

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.

### Critical Accounting Policies

We have identified the policies below as critical to our business operations and the understanding of our financial results. The impact and any associated risks related to these policies on our business operations is discussed throughout Management's Discussion and Analysis of Financial Condition and Results of Operations where such policies affect our reported and expected financial results. For a detailed discussion on the application of these and other accounting policies, see Note 1 to the Notes to the Consolidated Financial Statements in Item 8 of this Annual Report on Form 10-K. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

*Revenue Recognition.* We recognize revenue from the sale of our products upon the transfer of title and risk of loss to our customers. We may permit product returns from or grant price protection to our customers on unsold merchandise under certain conditions. Price protection policies, when granted and applicable, allow customers a credit against amounts they owe us with respect to merchandise

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unsold by them. With respect to license agreements that provide customers the right to make multiple copies in exchange for guaranteed amounts, revenue is recognized upon delivery of such copies. Per copy royalties on sales that exceed the guarantee are recognized as earned. In addition, in order to recognize revenue for both product sales and licensing transactions, persuasive evidence of an arrangement must exist and collection of the related receivable must be probable. Revenue recognition also determines the timing of certain expenses, including cost of sales—intellectual property licenses and cost of sales—software royalties and amortization.

*Allowances for Returns, Price Protection, Doubtful Accounts and Inventory Obsolescence.* We may permit product returns from or grant price protection to our customers under certain conditions. The conditions our customers must meet to be granted the right to return products or price protection are, among other things, compliance with applicable payment terms, delivery to us of weekly inventory and sell-through reports, and consistent participation in the launches of our premium title releases. We may also consider other factors, including the facilitation of slow moving inventory and other market factors. Management must make estimates of potential future product returns and price protection related to current period product revenue. Revenue from product sales is recognized after deducting the estimated allowance for returns and price protection. We estimate the amount of future returns and price protection based upon historical experience, customer inventory levels, current economic trends and changes in the demand and acceptance of our products by the end consumer. Significant management judgments and estimates must be made and used in connection with establishing the allowance for returns and price protection in any accounting period. Material differences may result in the amount and timing of our revenue for any period if management made different judgments or utilized different estimates.

Similarly, management must make estimates of the uncollectibility of our accounts receivable. In estimating allowance for doubtful accounts, we analyze historical bad debts, customer concentrations, customer credit worthiness, current economic trends and changes in our customers' payment terms and their economic condition. Any significant changes in any of these criteria would impact management's estimates in establishing our allowance for doubtful accounts.

We value inventory at the lower of cost or market. We regularly review inventory quantities on hand and in the retail channel and record a provision for excess or obsolete inventory based on the future expected demand for our products. Significant changes in demand for our products would impact management's estimates in establishing our inventory provision.

*Software Development Costs.* Software development costs include payments made to independent software developers under development agreements, as well as direct costs incurred for the internal development of products.

We account for software development costs in accordance with Statement of Financial Accounting Standards ("SFAS") No. 86, "Accounting for the Costs of Computer Software to be Sold, Leased, or Otherwise Marketed." Software development costs are capitalized once technological feasibility of a product 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

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

Significant management judgment and estimates are utilized in the assessment of when technological feasibility is established, as well as in the ongoing assessment of the recoverability of capitalized costs.

*Intellectual Property Licenses.* Intellectual property license costs represent license fees paid to intellectual property rights holders for use of their trademarks or copyrights in the development of our products.

We evaluate the future recoverability of capitalized amounts on a quarterly basis. The recoverability of capitalized intellectual property license costs is evaluated based on the expected performance of the specific products in which the licensed trademark or copyright is used. The following criteria is used to evaluate expected product performance: 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 the related product's release, capitalized intellectual property license costs are amortized to cost of sales—intellectual property licenses based on the ratio of current revenues to total projected revenues. 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.

Significant management judgment and estimates are utilized in the assessment of the recoverability of capitalized costs.

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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 and platform, as well as operating income (loss) by business segment:

	Fiscal years ended March 31,								
	2002		2001		2000				
	(In thousands)								
Net revenues	\$	786,434	100%	\$	620,183	100%	\$	572,205	100%



**Costs and expenses:**

Cost of sales — product costs	435,725	56	324,907	52	319,422	56
Cost of sales — intellectual property licenses	40,114	5	39,838	6	49,174	9
Cost of sales — software royalties and amortization	58,892	7	49,864	8	42,064	7
Product development	40,960	5	41,396	8	26,275	5
Sales and marketing	86,161	11	85,378	14	87,303	15
General and administrative	44,008	6	37,491	6	36,674	6
Amortization of intangibles	—	—	1,502	—	41,618	7
<b>Total costs and expenses</b>	<b>705,860</b>	<b>90</b>	<b>580,376</b>	<b>94</b>	<b>602,530</b>	<b>105</b>
<b>Income (loss) from operations</b>	<b>80,574</b>	<b>10</b>	<b>39,807</b>	<b>6</b>	<b>(30,325)</b>	<b>(5)</b>
Interest income (expense), net	2,546	1	(7,263)	(1)	(8,411)	(2)
<b>Income (loss) before income tax provision</b>	<b>83,120</b>	<b>11</b>	<b>32,544</b>	<b>5</b>	<b>(38,736)</b>	<b>(7)</b>
Income tax provision (benefit)	30,882	4	12,037	2	(4,648)	(1)
<b>Net income (loss)</b>	<b>\$ 52,238</b>	<b>7%</b>	<b>\$ 20,507</b>	<b>3%</b>	<b>\$ (34,088)</b>	<b>(6%)</b>

**NET REVENUES BY TERRITORY:**

United States	\$ 404,905	51%	\$ 352,893	57%	\$ 282,847	49%
Europe	368,799	47	256,228	41	277,485	49
Other	12,730	2	11,062	2	11,873	2
<b>Total net revenues</b>	<b>\$ 786,434</b>	<b>100%</b>	<b>\$ 620,183</b>	<b>100%</b>	<b>\$ 572,205</b>	<b>100%</b>

**SEGMENT/PLATFORM MIX:**
**Publishing:**

Console	\$ 432,163	79%	\$ 349,528	75%	\$ 281,204	71%
PC	117,345	21	116,534	25	115,487	29
<b>Total publishing net revenues</b>	<b>549,508</b>	<b>70</b>	<b>466,062</b>	<b>75</b>	<b>396,691</b>	<b>69</b>

**Distribution:**

Console	207,574	88	117,365	76	129,073	74
PC	29,352	12	36,756	24	46,441	26
<b>Total distribution net revenues</b>	<b>236,926</b>	<b>30</b>	<b>154,121</b>	<b>25</b>	<b>175,514</b>	<b>31</b>
<b>Total net revenues</b>	<b>\$ 786,434</b>	<b>100%</b>	<b>\$ 620,183</b>	<b>100%</b>	<b>\$ 572,205</b>	<b>100%</b>

**OPERATING INCOME (LOSS) BY SEGMENT:**

Publishing	\$ 68,675	9%	\$ 35,687	5%	\$ (35,049)	(6%)
Distribution	11,899	1	4,120	1	4,724	1
<b>Total operating income (loss)</b>	<b>\$ 80,574</b>	<b>10%</b>	<b>\$ 39,807</b>	<b>6%</b>	<b>\$ (30,325)</b>	<b>(5%)</b>

**Results of Operations—Fiscal Years Ended March 31, 2002 and 2001**

Net income for fiscal year 2002 was \$52.2 million or \$0.88 per diluted share, as compared to \$20.5 million or \$0.50 per diluted share in fiscal year 2001.

**Net Revenues**

Net revenues for the year ended March 31, 2002 increased 27% from the prior fiscal year, from \$620.2 million to \$786.4 million. This increase was driven by the performance of both our publishing segment and our distribution segment.

Publishing net revenues for the year ended March 31, 2002 increased 18% from \$466.1 million to \$549.5 million. This increase primarily was due to publishing console net revenues increasing 24% from \$349.5 million to \$432.2 million. The increase in publishing console net revenues was attributable to the release in fiscal 2002 of several titles for next generation platforms that sold very well in both the domestic and international marketplaces, as well as continuing strong worldwide sales for titles released on existing platforms. Such titles included *Tony Hawk's Pro Skater 3* for PS2, GameCube and PS1, *Tony Hawk's Pro*

*Skater 2* for GBA, N64 and PS1, *Wreckless: The Yakuza Missions* for Xbox, as well as *Mat Hoffman's Pro BMX* for PS1, GBA and GBC. A significant portion of our revenues is derived from products based on a relatively small number of popular brands each year. In fiscal 2002, 50% of our worldwide net publishing revenues (35% of consolidated net revenues) was derived from two brands, one of which accounted for 44% and the other of which accounted for 6% of worldwide net publishing revenues (31% and 4%, respectively, of consolidated net revenues). In fiscal 2001, two brands accounted for 49% of our worldwide net publishing revenues (37% of consolidated net revenues), one of which accounted for 39% and the other of which accounted for 10% of worldwide net publishing revenues (29% and 8%, respectively, of consolidated net revenues). We expect that a limited number of popular brands will continue to produce a disproportionately large amount of our revenues. In fiscal 2002, 56% of publishing console net revenues were derived from sales of titles for next generation platforms while 44% were derived from sales of titles for existing platforms. When new console platforms are announced or introduced into the market, consumers typically reduce their purchases of game console entertainment software products for current console platforms in anticipation of new platforms becoming available. We expect sales from existing generation platform titles to decline and sales from next generation platform titles to increase as the installed base of next generation platforms grows. Publishing PC net revenues for the year ended March 31, 2002 remained relatively consistent with the prior year, increasing from \$116.5 million to \$117.3 million. Our PC business was flat primarily due to the fact that, despite the successful launch of *Return to Castle Wolfenstein* for the PC in the third quarter of fiscal 2002, there was a lower number of premium PC titles released in the year ended March 31, 2002, as compared to the year ended March 31, 2001.

Distribution net revenues for the year ended March 31, 2002 increased 54% from the prior fiscal year, from \$154.1 million to \$236.9 million, primarily driven by an increase in our distribution console net revenues. Distribution console net revenues for the year ended March 31, 2002 increased 77% over the prior fiscal year, from \$117.4 million to \$207.6 million. We are the sole distributor of Sony products in the independent channel in the United Kingdom ("UK"). Accordingly, we benefited from the price reduction on PS2 hardware that was effective September 2001, as this resulted in both an increase in sales of PS2 hardware, as well as an increase in sales of PS2 software due to the corresponding larger installed hardware base. Additionally, in fiscal 2002, we began distributing Nintendo products within the UK. These items, along with the improved market conditions in Europe, have resulted in the continued improvements in our distribution business.

Domestic net revenues grew 15% from \$352.9 million to \$404.9 million. International net revenues increased by 43% from \$267.3 million to \$381.5 million. The increase in domestic net revenues is reflective of the improvements in our publishing segment as described above, and the increase in

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international net revenues is reflective of the improvements in our publishing and distribution segments as described above.

#### *Costs and Expenses*

Cost of sales—product costs represented 56% and 52% of consolidated net revenues for the year ended March 31, 2002 and 2001, respectively. The increase in cost of sales—product costs as a percentage of consolidated net revenues for the year ended March 31, 2002 was due to the increase in distribution net revenues as a percentage of total consolidated net revenues, as well as a change in the product mix of our publishing business. Distribution net revenues have a higher per unit cost as compared to publishing net revenues. The product mix of our publishing business for the year ended March 31, 2002 reflects a heavier concentration of console products and hand held devices. Console products generally have a higher manufacturing per unit cost than PCs. Hand held devices generally have the highest manufacturing per unit cost of all platforms.

Cost of sales—intellectual property licenses decreased as a percentage of publishing net revenues to 7% for the year ended March 31, 2002, from 9% for the year ended March 31, 2001. The decrease is reflective of the fact that in the year ended March 31, 2001, several of our top performing titles were products with high intellectual property royalty rates.

Cost of sales—software royalties and amortization remained flat at 11% of publishing net revenues for the years ended March 31, 2002 and 2001.

Product development expenses of \$41.0 million and \$41.4 million represented 7% and 9% of publishing net revenues for the year ended March 31, 2002 and 2001, respectively. The decrease in product development expenses as a percentage of publishing net revenue is reflective of the fact that during the year ended March 31, 2002, a higher proportion of product development expenditures were incurred subsequent to the establishment of technological feasibility as compared to the prior fiscal year in which more product development expenditures were incurred prior to the establishment of technological feasibility and were, accordingly, charged directly to product development expense. In addition, our "Greenlight Process" for the selection, development, production and quality assurance of our products has exercised rigorous control over product development expenditures.

Sales and marketing expenses of \$86.2 million and \$85.4 million represented 11% and 14% of consolidated net revenues for the year ended March 31, 2002 and 2001, respectively. This decrease as a percentage of consolidated net revenues reflects our ability to generate savings by building on the existing awareness of our branded products and sequel titles sold during fiscal 2002. It also reflects the savings we receive from the increased success of releasing a higher proportion of our branded products simultaneously on multiple platforms.

General and administrative expense for the year ended March 31, 2002, increased 17%, from \$37.5 million to \$44.0 million. As a percentage of consolidated net revenues, general and administrative expenses remained relatively constant at approximately 6%. The increase in the dollar amount of general and administrative expenses was due to an increase in worldwide administrative support needs and headcount related expenses.

Amortization of intangibles decreased from \$1.5 million for the year ended March 31, 2001 to zero for the year ended March 31, 2002. Effective April 1, 2001, we adopted the provisions of SFAS No. 142, "Goodwill and Other Intangibles." SFAS No. 142 addresses financial accounting and reporting requirements for acquired goodwill and other intangible assets. Under SFAS No. 142, goodwill is deemed to have an indefinite useful life and should not be amortized but rather tested at least annually for impairment. As such, we did not record goodwill amortization for the year ended March 31, 2002.

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Operating income for the year ended March 31, 2002, was \$80.6 million, compared to \$39.8 million in the prior fiscal year. The increase in operating income for the year ended March 31, 2002 over the prior fiscal year was primarily due to an increase in the success of our publishing business due to branding, cross platform releases and operating efficiencies obtained via the leveraging of our infrastructure and, to a lesser degree, an increase in our distribution business resulting from the growth of the next generation hardware and software markets.

#### Interest Income (Expense), Net

Interest income (expense), net changed to \$2.5 million of interest income for the year ended March 31, 2002, from \$(7.3) million of interest expense for the year ended March 31, 2001. This change was due to our improved cash position resulting in higher investment income, the elimination of bank borrowings and the conversion and/or redemption of our \$60.0 million convertible subordinated notes in the first quarter of fiscal 2002.

#### Provision for Income Taxes

The income tax provision of \$30.9 million for the year ended March 31, 2002, reflects our effective income tax rate of approximately 37%. The significant items generating the variance between our effective rate and our statutory rate of 35% are state taxes and an increase in our deferred tax asset valuation allowance which is partially offset by research and development tax credits and the impact of foreign tax rate differentials. The realization of deferred tax assets is dependent on the generation of future taxable income. Management believes that it is more likely than not that we will generate sufficient taxable income to realize the benefit of net deferred tax assets recognized.

#### Results of Operations—Fiscal Years Ended March 31, 2001 and 2000

Net income (loss) for fiscal year 2001 was \$20.5 million or \$0.50 per diluted share, as compared to net loss of \$(34.1) million or \$(0.92) per diluted share in fiscal year 2000. The 2000 results were negatively impacted by a strategic restructuring charge totaling \$70.2 million, approximately \$61.8 million net of tax, or \$(1.67) per diluted share.

#### Strategic Restructuring Plan

In the fourth quarter of fiscal 2000, we finalized a strategic restructuring plan to accelerate the development and sale of interactive entertainment products for the next generation consoles and the Internet. Costs associated with this plan amounted to \$70.2 million, approximately \$61.8 million net of taxes, and were recorded in the consolidated statement of operations in the fourth quarter of fiscal year 2000 and classified as follows (amounts in millions):

Net revenues	\$ 11.7
Cost of sales—intellectual property licenses and software royalties and amortization	11.9
Product development	4.2
General and administrative	5.2
Amortization of intangible assets	37.2
	\$ 70.2

The component of the charge included in amortization of intangible assets represented a write down of intangibles including goodwill, relating to Expert Software, Inc. ("Expert"), one of our value publishing subsidiaries, totaling \$26.3 million. We consolidated Expert into our Head Games subsidiary, forming one integrated business unit, Activision Value Publishing, Inc. As part of this consolidation, we discontinued substantially all of Expert's product lines, terminated substantially all of Expert's employees and phased out the use of the Expert name. In addition, a \$10.9 million write down of goodwill relating to TDC, an OEM business unit, was recorded. During fiscal 2000, the OEM market went through radical changes due to price declines of PCs and hardware accessories. The sum of the undiscounted future cash flow of these assets was not sufficient to cover the carrying value of these assets and as such was written down to fair market value.

The component of the charge included in net revenues and general and administrative expense represents costs associated with the planned termination of a substantial number of our third party distributor relationships in connection with our realignment of our worldwide publishing business to leverage our existing sales and marketing organizations and improve the control and management of our products. These actions resulted in an increase in the allowance for sales returns of \$11.7 million and the allowance for doubtful accounts of \$3.4 million. The plan also included a severance charge of \$1.2 million for employee redundancies.

The components of the \$11.9 million charge included in cost of sales included the write-down of capitalized software costs and licensor warrants granted in connection with the development of software and the acquisition of licensing rights for intellectual property. The product lines to which these write-downs related, for example Heavy Gear, Interstate 82 and Battlezone, were strictly PC lines that appealed primarily to a smaller subset of gaming enthusiasts. Based upon the growth of the console market and the upcoming release of the next generation console platforms, we determined not to exploit these titles going forward as we did not believe that they would have a viable future with the next generation platforms. Of the \$11.9 million charge, approximately \$8.6 million was related to future releases of products and approximately \$3.3 million was related to the cessation of certain existing product lines.

During fiscal 2001, we completed the restructuring initiatives associated with the fiscal 2000 restructuring plan without any significant adjustments.

Details of activity in the restructuring plan during fiscal 2001 were as follows (amounts in millions):

	Balance March 31, 2000		Adjustments		Activity		Balance March 31, 2001
<b>Non-Cash Components:</b>							
Goodwill	\$ 37.2	\$	—	\$	(37.2)	\$	—
Software development costs and intellectual property licenses write-downs	16.1		—		(16.1)		—

Allowance for doubtful accounts	3.4	—	(3.4)	—
Allowance for sales returns	11.7	0.8	(12.5)	—
	<u>68.4</u>	<u>0.8</u>	<u>(69.2)</u>	<u>—</u>
<b>Cash Components:</b>				
Severance	1.2	—	(1.2)	—
Lease costs	0.6	—	(0.6)	—
	<u>1.8</u>	<u>—</u>	<u>(1.8)</u>	<u>—</u>
	<u>\$ 70.2</u>	<u>\$ 0.8</u>	<u>\$ (71.0)</u>	<u>\$ —</u>

### Net Revenues

Net revenues for the year ended March 31, 2001 increased 8% from the prior fiscal year, from \$572.2 million to \$620.2 million. This increase was driven by the performance of our publishing segment, partially offset by declines experienced in our distribution segment.

Publishing net revenues for the year ended March 31, 2001 increased 17% from \$396.7 million to \$466.1 million. This increase primarily was due to publishing console net revenues increasing 24% from \$281.2 million to \$349.5 million. The increase in publishing console net revenues was attributable to the release in fiscal 2001 of several titles that sold very well in the marketplace, including *Tony Hawk's Pro Skater 2* (PS1, Sega Dreamcast and GBC), *Spiderman* (PS1, N64 and GBC), *X-Men Mutant Academy*

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(PS1 and GBC), as well as continuing strong sales of the original *Tony Hawk's Pro Skater* (PS1 and N64). Publishing PC net revenues for the year ended March 31, 2001 remained relatively constant with the prior year, increasing from \$115.5 million to \$116.5 million.

For the year ended March 31, 2001, distribution net revenues decreased 12% from prior fiscal year from \$175.5 million to \$154.1 million. The decrease was mainly attributable to the continued weakness in the European console market as a result of the transition to next generation console systems. Based on previous new hardware launches, we expect that our distribution business will benefit in future periods from the introduction of PS2 and other next generation consoles. In the fourth quarter of fiscal 2001, distribution had its best results in eight quarters, reflecting the accelerating opportunities from the introduction of new console systems.

Domestic net revenues grew 25% from \$282.8 million to \$352.9 million. International net revenues decreased by 8% from \$289.4 million to \$267.3 million. The increase in domestic net revenues is reflective of the increases in our publishing segment as described above and the decrease in international net revenues is reflective of the declines in our distribution segment as described above.

### Costs and Expenses

Cost of sales—product costs represented 52% and 56% of consolidated net revenues for the year ended March 31, 2001 and 2000, respectively. The decrease in cost of sales—product costs as a percentage of consolidated net revenues for the year ended March 31, 2001 was due to the decrease in distribution net revenues, partially offset by a higher publishing console net revenue mix. Distribution products have a higher per unit product cost than publishing products, and console products have a higher per unit product cost than PC products.

Cost of sales—intellectual property licenses and cost of sales—software royalties and amortization, combined, represented 19% and 23% of publishing net revenues for the year ended March 31, 2001 and 2000, respectively. The decrease in cost of sales—intellectual property licenses and cost of sales—software royalties and amortization, combined, as a percentage of publishing net revenues is reflective of the \$11.9 million of write-offs recorded in the fourth quarter of fiscal 2000 relating to our restructuring plan as previously described.

Product development expenses of \$41.4 million and \$26.3 million represented 9% and 7% of publishing net revenues for the fiscal year ended March 31, 2001 and 2000, respectively. These increases in product development expenses in dollars and as a percentage of publishing net revenues reflect our investment in the development of products for next generation console and hand held devices, including PS2, Xbox, GameCube and GBA. The increases are also reflective of the increase in the number of titles expected to be released in fiscal 2002, 52 titles, compared to fiscal 2001, 35 titles. Of the 52 titles expected to be released in fiscal 2002, 19 titles are for next generation platforms, which have higher development costs than existing platform titles.

Sales and marketing expenses of \$85.4 million and \$87.3 million represented 14% and 15% of consolidated net revenues for the fiscal year ended March 31, 2001 and 2000, respectively. This decrease reflects our ability to generate savings by building on the existing awareness of our branded products and sequel titles sold during fiscal 2001.

General and administrative expenses for the year ended March 31, 2001 remained constant with the prior fiscal year, increasing 2% from \$36.7 million to \$37.5 million. As a percentage of consolidated net revenues, fiscal 2001 general and administrative expenses also remained relatively constant with the prior fiscal year at approximately 6%.

Amortization of intangibles decreased substantially from \$41.6 million in fiscal 2000 to \$1.5 million in fiscal 2001. This was due to the write-off in fiscal 2000 of goodwill acquired in purchase acquisitions in conjunction with our restructuring plan as previously described.

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## Operating Income (Loss)

Operating income (loss) for the year ended March 31, 2001, was \$39.8 million, compared to \$(30.3) million in fiscal 2000. This increase in consolidated operating income is primarily the result of increased operating income in our publishing business.

Publishing operating income (loss) for the year ended March 31, 2001 increased to \$35.7 million, compared to \$(35.0) million in the prior fiscal year. The increase reflects the charges incurred in fiscal 2000 in conjunction with our restructuring plan as previously described, which predominantly impacted our publishing segment. Distribution operating income for the year ended March 31, 2001 remained flat at \$4.1 million, compared to \$4.7 million in the prior fiscal year.

## Interest Income (Expense), Net

Interest income (expense), net decreased to \$(7.3) million for the year ended March 31, 2001, from \$(8.4) million for the year ended March 31, 2000. This decrease in interest expense was due to lower average borrowings on the revolving portion of our \$125.0 million term loan and revolving credit facility (the "U.S. Facility") during fiscal 2001 when compared to prior fiscal year, as well as increased interest earned as a result of higher investable cash balances throughout the year.

## Provision for Income Taxes

The income tax provision of \$12.0 million for the fiscal year ended March 31, 2001, reflects our effective income tax rate of approximately 37%. The significant items generating the variance between our effective rate and our statutory rate of 35% are state taxes and nondeductible goodwill amortization, partially offset by a decrease in our deferred tax asset valuation allowance and research and development tax credits. The realization of deferred tax assets primarily is dependent on the generation of future taxable income. Management believes that it is more likely than not that we will generate taxable income sufficient to realize the benefit of net deferred tax assets recognized.

## Quarterly Operating Results

Our quarterly operating results have in the past varied significantly and will likely vary significantly in the future, depending on numerous factors, several of which are not under our control. See Item 1 "Business—Factors Affecting Future Performance." Our business also has experienced and is expected to continue to experience significant seasonality, in part due to consumer buying patterns. Net revenues typically are significantly higher during the fourth calendar quarter, primarily due to the increased demand for consumer software during the year-end holiday buying season. Accordingly, we believe that period-to-period comparisons of our operating results are not necessarily meaningful and should not be relied upon as indications of future performance.

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The following table is a comparative breakdown of our quarterly results for the immediately preceding eight quarters (amounts in thousands, except per share data):

	Quarter ended							
	Restated (1)							
	March 31, 2002	Dec. 31, 2001	Sept. 30, 2001	June 30, 2001	March 31, 2001	Dec. 31, 2000	Sept. 30, 2000	June 30, 2000
Net revenues	\$ 164,912	\$ 371,341	\$ 139,604	\$ 110,577	\$ 126,789	\$ 264,473	\$ 144,363	\$ 84,558
Operating income (loss)	16,862	61,801	3,144	(1,235)	2,015	34,754	9,536	(6,498)
Net income (loss)	10,884	39,110	2,215	29	875	20,505	4,306	(5,179)
Basic earnings (loss) per share	0.20	0.75	0.04	0.00	0.02	0.56	0.12	(0.14)
Diluted earnings (loss) per share	0.17	0.66	0.04	0.00	0.02	0.47	0.11	(0.14)

(1) Per share amounts have been restated to give effect to our three-for-two stock split effected in the form of a 50% stock dividend for shareholders of record as of November 6, 2001, paid November 20, 2001.

## Liquidity and Capital Resources

Our cash and cash equivalents were \$279.0 million at March 31, 2002 compared to \$125.6 million at March 31, 2001. This \$153.4 million increase in cash and cash equivalents for the year ended March 31, 2002, resulted from \$111.8 million and \$50.4 million provided by operating and financing activities, respectively, offset by \$8.7 million utilized in investing activities. The principle components comprising cash flows from operating activities included favorable operating results, tax benefits from stock option and warrant exercises and reductions in inventory levels, partially offset by our continued investment in software development and intellectual property licenses. Approximately \$77.0 million was utilized in fiscal 2002 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 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 equipment purchases. The cash provided by financing activities primarily was the result of proceeds from the issuance of common stock pursuant to employee stock 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, Nintendo GameCube and Game Boy hardware and software cartridges for distribution in North America and Europe, Nintendo requires us to provide either irrevocable or standby letters of credit prior to accepting purchase orders. Furthermore, Nintendo maintains a policy of not accepting returns of Nintendo 64, Nintendo GameCube or Game Boy hardware and software cartridges. Because of these and other factors, the carrying of an inventory of Nintendo 64, Nintendo GameCube and Game Boy hardware and software cartridges entails significant capital and risk. As of March 31, 2002, we had approximately \$1.0 million of Nintendo 64 and Nintendo GameCube and \$5.9 million of Game Boy hardware and software cartridge inventory on hand, which represented approximately 5% and 29%, respectively, of all inventory.

In December 1997, we completed the private placement of \$60.0 million principal amount of 6<sup>3</sup>/<sub>4</sub>% convertible subordinated notes due 2005 (the "Notes"). During the fiscal year ended March 31, 2002, we called for the redemption of the Notes. In connection with that call, holders converted to common stock approximately \$58.7 million aggregate principal amount of their Notes, net of conversion costs. 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, including issuing 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, 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 <sup>1</sup>/<sub>4</sub>% on the unused portion of the revolver. The Amended and Restated U.S. Facility is collateralized by substantially all of our assets and was scheduled to expire in June 2002. However, in June 2002, we obtained an extension of the maturity date for the Amended and Restated U.S. Facility to August 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 March 31, 2002. As of March 31, 2002, there were no borrowings and \$5.8 million of letters of credit outstanding under the Amended and Restated U.S. Facility.

We are currently in negotiations with several lenders, including our existing lenders, regarding our future bank financing. Our current intentions are to reduce our revolving credit facility to \$50.0 million due to our improved cash position and reduced financing requirements.

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 Euro dollars ("EUR") 4.5 million (\$3.9 million) as of March 31, 2002, 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. There were no borrowings and no letters of credit outstanding under the Netherlands Facility as of March 31, 2002.

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 (\$10.0 million) of revolving loans and GBP 1.5 million (\$2.1 million) of letters of credit as of March 31, 2002. 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 March 31, 2002, we were in compliance with these covenants. No borrowings were outstanding against the UK facility as of March 31, 2002. Letters of credit of GBP 1.5 million (\$2.1 million) were outstanding against the UK Facility as of March 31, 2002. As of March 31, 2002, the German Facility provides for revolving loans up to EUR 2.5 million (\$2.2 million), bears interest at a Eurocurrency rate plus 2.5%, is collateralized by a cash deposit of approximately GBP 650,000 (\$926,000) made by our CentreSoft subsidiary and has no expiration date. There were no borrowings outstanding against the German Facility as of March 31, 2002.

In the normal course of business, we enter into contractual arrangements with third parties for the development of products, as well as for the rights to intellectual property ("IP"). Under these agreements, we commit to provide specified payments to a developer or IP holder, based upon contractual arrangements. Assuming all contractual provisions are met, the total future minimum

contract commitment for contracts in place as of March 31, 2002 is approximately \$63.7 million and is scheduled to be distributed as follows (amounts in thousands):

Year ending March 31,	
2003	\$ 44,236
2004	11,785
2005	3,550
2006	1,675
2007	2,500
Total	\$ 63,746

We have historically financed our acquisitions through the issuance of shares of common stock. As described in Item 1 "Business—Business Combinations," during fiscal 2002, we separately completed the acquisition of three privately held interactive software development companies for common stock. We additionally acquired a fourth privately held interactive software development company in May 2002 for the issuance of a combination of cash and 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.

On December 4, 2001, we filed a shelf registration statement on Form S-3 with the Securities and Exchange Commission to register 7,500,000 shares of our common stock. On June 4, 2002, we issued the 7,500,000 shares of common stock in an underwritten public offering for proceeds, before issuance costs, of approximately \$248.3 million. The proceeds from this offering will be used for general corporate purposes, including, among other things, additions to working capital and financing of capital expenditures, joint ventures and/or strategic acquisitions.



We believe that we have sufficient working capital (\$333.2 million at March 31, 2002), as well as proceeds available from the Amended and Restated U.S. Facility, the UK Facility, the Netherlands Facility, the German Facility and our recent equity offering, 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.

## **Inflation**

Our management currently believes that inflation has not had a material impact on continuing operations.

## **Recently Issued Accounting Standards**

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.

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## **Item 7A. 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 11 of the Notes to Consolidated Financial Statements appearing elsewhere in this Annual 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.

As of March 31, 2001 the carrying value of our variable rate debt was approximately \$10.3 million, which included the U.S. Facility (\$8.5 million) and the Netherlands Facility (\$1.8 million). As of March 31, 2001, we additionally had 6<sup>3</sup>/<sub>4</sub>% convertible subordinated notes due 2005 (the "Notes") with a carrying value of \$60.0 million. During the year ended March 31, 2002, our holdings of market risk sensitive instruments changed. During that year, we called for the redemption of the Notes. In connection with that call, holders converted to common stock approximately \$58.7 million aggregate principal amount of their Notes, net of conversion costs. 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 such, as of March 31, 2002, we had no variable rate debt and no material fixed rate debt outstanding.

### **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 and EUR. The volatility of GBP and EUR (and all other applicable currencies) will be monitored frequently throughout the coming year. When appropriate, we enter into hedging transactions in order to mitigate our risk from foreign currency fluctuations. We will continue to use hedging programs in the future and may use 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. We do not hold or purchase any foreign currency contracts for trading purposes. As of March 31, 2002, assuming a change in currency rates of 10% of period end market rates, the potential gain or loss on outstanding hedging contracts would be approximately \$300,000. However any such gain or loss would in turn be offset by the potential gain or loss on the hedged receivable and/or payable.

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## **Item 8. CONSOLIDATED FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

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Report of Independent Accountants	F-1
Consolidated Balance Sheets as of March 31, 2002 and 2001	F-3
Consolidated Statements of Operations for the Years Ended March 31, 2002, 2001 and 2000	F-4
Consolidated Statements of Changes in Shareholders' Equity for the Years Ended March 31, 2002, 2001 and 2000	F-5
Consolidated Statements of Cash Flows for the Years Ended March 31, 2002, 2001 and 2000	F-6
Notes to Consolidated Financial Statements	F-7

## Item 14. Exhibit Index

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All other schedules of the Registrant are omitted because of the absence of conditions under which they are required or because the required information is included elsewhere in the financial statements or in the notes thereto.

**Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

We replaced KPMG LLP ("KPMG") as our principal accountant, effective March 20, 2001. The action was recommended by the Audit Committee of our Board of Directors and was approved by our Board of Directors.

KPMG's reports on our financial statements for the two most recent years prior to their replacement did not contain an adverse opinion or a disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope or accounting principles. During the two fiscal years and any subsequent interim period preceding the decision not to renew KPMG, (i) there were no disagreements with KPMG on any matter of accounting principles or practice, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of KPMG, would have caused it to make a reference to the subject matter of the disagreement in connection with its report, and (ii) there were no reportable events as described in Item 304 of Regulation S-K.

We engaged PricewaterhouseCoopers LLP ("PricewaterhouseCoopers") as our principal accountant to audit our financial statements, effective as of March 20, 2001. During the two fiscal years and three subsequent interim periods prior to engaging PricewaterhouseCoopers, neither we nor anyone on our behalf consulted with PricewaterhouseCoopers regarding the application of accounting principles to a specified transaction, either completed or proposed; or the type of audit opinion that might be rendered on our financial statements, and neither a written report nor oral advice was provided to us by PricewaterhouseCoopers that was an important factor considered by us in reaching a decision as to any accounting, auditing or financial reporting issue.

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**PART III****Item 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT**

The information required by this Item is incorporated by reference to the sections of our definitive Proxy Statement for our 2002 Annual Meeting of Shareholders, entitled "Election of Directors" and "Executive Officers and Key Employees" to be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year covered by this Form 10-K.

**Item 11. EXECUTIVE COMPENSATION**

The information required by this Item is incorporated by reference to the sections of our definitive Proxy Statement for our 2002 Annual Meeting of Shareholders, entitled "Executive Compensation" and "Indebtedness of Management" to be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year covered by this Form 10-K.

**Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The information required by this Item is incorporated by reference to the sections of our definitive Proxy Statement for our 2002 Annual Meeting of Shareholders, entitled "Security Ownership of Certain Beneficial Owners and Management" to be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year covered by this Form 10-K.

**Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS**

The information required by this Item is incorporated by reference to the sections of our definitive Proxy Statement for our 2002 Annual Meeting of Shareholders, entitled "Certain Relationships and Related Transactions" to be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year covered by this Form 10-K.

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**PART IV****Item 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K**

- (a) 1. Financial Statements See Item 8.—Consolidated Financial Statements and Supplementary Data Index for Financial Statements and Schedule on page 40 herein.
2. Financial Statement Schedule The following financial statement schedule of Activision, Inc. for the years ended March 31, 2002, 2001 and 2000 is filed as part of this report and should be read in conjunction with the Consolidated Financial Statements of Activision, Inc.:



Other financial statement schedules are omitted because the information called for is not required or is shown either in the Consolidated Financial Statements or the notes thereto.

3. Exhibits Required by Item 601 of Regulation S-K

Exhibit Number	Exhibit
2.1	Agreement and Plan of Merger dated as of June 9, 2000 among Activision, Inc., Activision Holdings, Inc. and ATVI Merger Sub, Inc. (incorporated by reference to Exhibit 2.4 of Activision's Form 8-K, filed on June 16, 2000).
3.1	Amended and Restated Certificate of Incorporation of Activision Holdings, dated June 1, 2000 (incorporated by reference to Exhibit 2.5 of Activision's Form 8-K, filed on June 16, 2000).
3.2	Amended and Restated Bylaws of Activision Holdings (incorporated by reference to Exhibit 2.6 of Activision's Form 8-K, filed on June 16, 2000).
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation of Activision Holdings dated as of June 9, 2000 (incorporated by reference to Exhibit 2.7 of Activision's Form 8-K, filed on June 16, 2000).
3.4	Certificate of Amendment of Amended and Restated Certificate of Incorporation, as amended, of Activision, Inc. dated as of August 23, 2001.
3.5	Certificate of Designation of Series A Junior Preferred Stock of Activision, Inc. dated as of December 27, 2001.
4.1	Rights Agreement dated as of April 18, 2000, between Activision 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 Activision as Exhibit C, (incorporated by reference to Activision's Registration Statement on Form 8-A, Registration No. 001-15839, filed April 19, 2000).
10.1	Mediagenic 1991 Stock Option and Stock Award Plan, as amended.
10.2	Mediagenic 1991 Director Warrant Plan, as amended (incorporated by reference to Exhibit 28.2 to Activision's Registration Statement on Form S-8, Registration No. 33-63638, filed on June 1, 1993).
10.3	Activision, Inc. Employee Stock Purchase Plan, as amended, (incorporated by reference to Exhibit 4.1 of Activision's Form S-8, Registration No. 333-36272 filed on May 4, 2000).

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10.4	Activision, Inc. 1998 Incentive Plan (incorporated by reference to Appendix I of Activision's 1998 Proxy Statement).
10.5	Activision, Inc. 1999 Incentive Plan (incorporated by reference to Exhibit 10.5 of Activision's Form 10-K for the year ending March 31, 2000).
10.6	Activision, Inc. 2001 Incentive Plan, as amended.
10.7	Activision, Inc. 2002 Incentive Plan.
10.8	Lease Agreement dated as of December 20, 1996 between Activision and Barclay Curci Investment Company (incorporated by reference to Exhibit 10.14 of Activision's Form 10-Q for the quarter ended December 31, 1996).
10.9	Amended and restated employment agreement dated May 22, 2000 between Activision and Robert A. Kotick (incorporated by reference to Exhibit 10.1 of Activision's Form 10-Q for the quarter ended September 30, 2000).
10.10	Employment agreement dated October 19, 1998 between Activision and Ronald Doornink (incorporated by reference to Exhibit 10.12 of Activision's Form 10-K for the year ending March 31, 1999).
10.11	Employment agreement dated April 1, 2000 between Activision and Lawrence Goldberg (incorporated by reference to Exhibit 10.1 of Activision's Form 10-Q for the quarter ending June 30, 2000).
10.12	Employment agreement dated April 1, 2002 between Activision and William J. Chardavoyne.
10.13	Stock option agreement dated May 22, 2000 between Activision and Robert A. Kotick (incorporated by reference to Activision's Form 10-Q for the quarter ending September 30, 2000).

- 10.14 Service Agreement dated March 1, 2002 between Combined Distribution (Holdings) Limited and Richard Andrew Steele.
- 10.15 Amended and restated employment agreement dated May 22, 2000 between Activision and Brian G. Kelly (incorporated by reference to Exhibit 10.3 of Activision's Form 10-Q for the quarter ending September 30, 2000).
- 10.16 Employment agreement dated April 1, 2002 between Activision and Michael Rowe.
- 10.17 Employment agreement dated July 12, 1999 between Activision and Kathy Vrabeck (incorporated by reference to Exhibit 6.2 of Activision's Form 10-Q for the quarter ending June 30, 1999).
- 10.18 Amendment to Employment Agreement between Ronald Doornink and Activision, dated April 30 1999 (incorporated by reference to Exhibit 6.1 of Activision's Form 10-Q for the quarter ending December 31, 1999).
- 10.19 Stock option agreement dated May 22, 2000 between Activision and Brian G. Kelly (incorporated by reference to Activision's Form 10-Q for the quarter ending September 30, 2000).

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- 10.20 Amended and Restated Credit Agreement dated as of May 7, 2001, among Activision Publishing, Inc., a Delaware corporation, Activision, Inc., a Delaware corporation, Activision Value Publishing, Inc., a Minnesota corporation (formerly Head Games Publishing, Inc.) and Expert Software, Inc., a Delaware corporation, various financial institutions and PNC Bank, National Association, a national banking association, as issuing bank, administrative agent and collateral agent for such lenders ("the Loan Agreement") (incorporated by reference to Activision's Form 10-K for the year ending March 31, 2001).
- 10.21 Amendment Agreement dated as of June 21, 2002 amending the Loan Agreement set forth in Exhibit 10.20 above.
- 10.22 Underwriting Agreement dated as of June 4, 2002 between Activision and Goldman Sachs & Co. (incorporated by reference to Exhibit 1.1 of Activision's Form 8-K filed June 6, 2002).
- 16.1 Letter from KPMG, LLP pursuant to Item 304(a)(3) of Regulation S-K (incorporated by reference to Exhibit 16.1 of Activision's Form 8-K/A filed March 23, 2001).
- 21.1 Principal subsidiaries of Activision.
- 23.1 Consent of Independent Accountants.
- 23.2 Consent of Independent Accountants.
- (b) Reports on Form 8-K. We have filed the following reports on Form 8-K during the last quarter of the fiscal year ended March 31, 2002:
  - 1.1 We filed a Form 8-K on January 18, 2002, reporting under "Item 7. Financial Statements, Pro Forma Financial Statements and Exhibits" and "Item 9. Regulation FD Disclosure" our acquisition of Gray Matter Interactive Studios, Inc.

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### SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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: June 28, 2002

ACTIVISION, INC.

By: /s/ RONALD DOORNINK

\_\_\_\_\_  
 (Ronald Doornink)  
 President

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

By: \_\_\_\_\_ /s/ ROBERT A. KOTICK

Chairman, Chief Executive Officer,  
 Activision, Inc., and Director

June 28, 2002

(Robert A. Kotick)

By:	<u>/s/ BRIAN G. KELLY</u>	Co-Chairman and Director	June 28, 2002
	(Brian G. Kelly)		
By:	<u>/s/ RONALD DOORNINK</u>	President, Activision, Inc.; Chief Executive Officer, Activision Publishing, Inc. (Principal Executive Officer)	June 28, 2002
	(Ronald Doornink)		
By:	<u>/s/ WILLIAM J. CHARDAVOYNE</u>	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	June 28, 2002
	(William J. Chardavoyne)		
By:	<u>/s/ KENNETH L. HENDERSON</u>	Director	June 28, 2002
	(Kenneth L. Henderson)		
By:	<u>/s/ BARBARA S. ISGUR</u>	Director	June 28, 2002
	(Barbara S. Isgur)		
By:	<u>/s/ STEVEN T. MAYER</u>	Director	June 28, 2002
	(Steven T. Mayer)		
By:	<u>/s/ ROBERT J. MORGADO</u>	Director	June 28, 2002
	(Robert J. Morgado)		

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#### REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Directors and Shareholders of Activision, Inc.:

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of operations, shareholders' equity and cash flows present fairly, in all material respects, the financial position of Activision, Inc. and its subsidiaries at March 31, 2002 and March 31, 2001, and the results of their operations and their cash flows for each of the two years in the period ended March 31, 2002 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedule listed in the accompanying index presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. These financial statements are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

PricewaterhouseCoopers LLP  
Los Angeles, California  
May 6, 2002

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#### REPORT OF INDEPENDENT ACCOUNTANTS

The Board of Directors and Shareholders Activision, Inc.:

We have audited the accompanying consolidated statements of operations, changes in shareholders' equity and cash flows of Activision, Inc. and subsidiaries for the year ended March 31, 2000. In connection with our audit of the consolidated financial statements, we also have audited financial statement schedule II for the year ended March 31, 2000. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the results of operations and cash flows of Activision, Inc. and subsidiaries for the year ended March 31, 2000, in conformity with accounting principles generally accepted in the United States of America.

Also in our opinion, the related financial statement schedule for the year ended March 31, 2000, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

KPMG LLP

Los Angeles, California  
 May 5, 2000,  
 except as to Note 6,  
 which is as of April 1, 2001,  
 and the first paragraph of Note 14,  
 which is as of November 6, 2001

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**Part I. Financial Information.**

**Item I. Financial Statements.**

**ACTIVISION, INC. AND SUBSIDIARIES  
 CONSOLIDATED BALANCE SHEETS**

(In thousands, except share data)

	March 31, 2002	March 31, 2001
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 279,007	\$ 125,550
Accounts receivable, net of allowances of \$42,019 and \$28,461 at March 31, 2002 and 2001, respectively	76,733	73,802
Inventories	20,736	43,888
Software development	36,263	21,265
Intellectual property licenses	6,326	6,237
Deferred income taxes	22,608	14,292
Other current assets	15,200	13,196
<b>Total current assets</b>	<b>456,873</b>	<b>298,230</b>
Software development	3,254	2,154
Intellectual property licenses	10,899	12,549
Property and equipment, net	17,832	15,240
Deferred income taxes	28,795	13,759
Other assets	3,242	7,709
Goodwill	35,992	10,316
<b>Total assets</b>	<b>\$ 556,887</b>	<b>\$ 359,957</b>
<b>Liabilities and Shareholders' Equity</b>		
Current liabilities:		
Current portion of long-term debt	\$ 168	\$ 10,231
Accounts payable	64,410	60,980
Accrued expenses	59,096	44,039
<b>Total current liabilities</b>	<b>123,674</b>	<b>115,250</b>
Long-term debt, less current portion	3,122	3,401
Convertible subordinated notes	—	60,000
<b>Total liabilities</b>	<b>126,796</b>	<b>178,651</b>
Commitments and contingencies (Note 12)		
Shareholders' equity:		
Preferred stock, \$.000001 par value, 3,750,000 and 5,000,000 shares authorized, no shares issued at March 31, 2002 and 2001, respectively	—	—
Series A Junior Preferred stock, \$.000001 par value, 1,250,000 and no shares authorized, no shares issued at March 31, 2002 and 2001, respectively	—	—
Common stock, \$.000001 par value, 125,000,000 and 50,000,000 shares authorized,	—	—

61,034,263 and 45,249,683 shares issued and 56,705,504 and 40,923,714 shares outstanding at March 31, 2002 and 2001, respectively

Additional paid-in capital	397,528	200,786
Retained earnings	64,384	12,146
Accumulated other comprehensive loss	(11,498)	(11,377)
Less: Treasury stock, at cost, 4,328,759 and 4,325,969 shares as of March 31, 2002 and 2001, respectively	(20,323)	(20,249)
Total shareholders' equity	430,091	181,306
Total liabilities and shareholders' equity	\$ 556,887	\$ 359,957

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

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**ACTIVISION, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS**

(In thousands, except per share data)

	For the years ended March 31,		
	2002	2001	2000
Net revenues	\$ 786,434	\$ 620,183	\$ 572,205
Costs and expenses:			
Cost of sales — product costs	435,725	324,907	319,422
Cost of sales — intellectual property licenses	40,114	39,838	49,174
Cost of sales — software royalties and amortization	58,892	49,864	42,064
Product development	40,960	41,396	26,275
Sales and marketing	86,161	85,378	87,303
General and administrative	44,008	37,491	36,674
Amortization of intangibles	—	1,502	41,618
Total costs and expenses	705,860	580,376	602,530
Income (loss) from operations	80,574	39,807	(30,325)
Interest income (expense), net	2,546	(7,263)	(8,411)
Income (loss) before income tax provision	83,120	32,544	(38,736)
Income tax provision (benefit)	30,882	12,037	(4,648)
Net income (loss)	\$ 52,238	\$ 20,507	\$ (34,088)
Basic earnings (loss) per share	\$ 1.03	\$ 0.55	\$ (0.92)
Weighted average common shares outstanding	50,651	37,298	37,037
Diluted earnings (loss) per share	\$ 0.88	\$ 0.50	\$ (0.92)
Weighted average common shares outstanding — assuming dilution	59,455	41,100	37,037

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

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**ACTIVISION, INC. AND SUBSIDIARIES CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY**

For the years ended March 31, 2002, 2001 and 2000

(In thousands)	Common Stock	Additional	Retained	Treasury Stock	Accumulated Other	Shareholders'
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	Shares	Amount	Paid-In Capital	Earnings (Deficit)	Shares	Amount	Comprehensive Loss	Equity
<b>Balance, March 31, 1999</b>	<b>35,706</b>	<b>\$ —</b>	<b>\$ 109,251</b>	<b>\$ 25,727</b>	<b>(750)</b>	<b>\$ (5,278)</b>	<b>\$ (2,510)</b>	<b>\$ 127,190</b>
Components of comprehensive income:								
Net loss for the year	—	—	—	(34,088)	—	—	—	(34,088)
Foreign currency translation adjustment	—	—	—	—	—	—	(3,556)	(3,556)
<b>Total comprehensive loss</b>								<b>(37,644)</b>
Issuance of common stock and common stock warrants	—	—	8,529	—	—	—	—	8,529
Issuance of common stock and common stock options to employees	3,605	—	22,480	—	—	—	—	22,480
Tax benefit attributable to employee stock options and common stock warrants	—	—	3,017	—	—	—	—	3,017
Tax benefit derived from net operating loss carryforward utilization	—	—	1,266	—	—	—	—	1,266
Issuance of common stock to effect business combinations	421	—	7,171	—	—	—	—	7,171
<b>Balance, March 31, 2000</b>	<b>39,732</b>	<b>—</b>	<b>151,714</b>	<b>(8,361)</b>	<b>(750)</b>	<b>(5,278)</b>	<b>(6,066)</b>	<b>132,009</b>
Components of comprehensive income:								
Net income for the year	—	—	—	20,507	—	—	—	20,507
Foreign currency translation adjustment	—	—	—	—	—	—	(5,311)	(5,311)
<b>Total comprehensive income</b>								<b>15,196</b>
Issuance of common stock and common stock warrants	150	—	1,050	—	—	—	—	1,050
Issuance of common stock and common stock options to employees	5,368	—	32,538	—	—	—	—	32,538
Tax benefit attributable to employee stock options and common stock warrants	—	—	11,832	—	—	—	—	11,832
Tax benefit derived from net operating loss carryforward utilization	—	—	3,652	—	—	—	—	3,652
Purchase of treasury shares	—	—	—	—	(3,576)	(14,971)	—	(14,971)
<b>Balance, March 31, 2001</b>	<b>45,250</b>	<b>—</b>	<b>200,786</b>	<b>12,146</b>	<b>(4,326)</b>	<b>(20,249)</b>	<b>(11,377)</b>	<b>181,306</b>
Components of comprehensive income:								
Net income for the year	—	—	—	52,238	—	—	—	52,238
Foreign currency translation adjustment	—	—	—	—	—	—	(121)	(121)
<b>Total comprehensive income</b>								<b>52,117</b>
Issuance of common stock and common stock warrants	1,037	—	1,044	—	—	—	—	1,044
Issuance of common stock and common stock options to employees	8,773	—	63,053	—	—	—	—	63,053
Tax benefit attributable to employee stock options and common stock warrants	—	—	48,513	—	—	—	—	48,513
Issuance of common stock pursuant to conversion of convertible subordinated notes	4,763	—	58,651	—	—	—	—	58,651
Issuance of common stock to effect business combinations	1,211	—	25,481	—	—	—	—	25,481
Purchase of treasury shares	—	—	—	—	(3)	(74)	—	(74)
<b>Balance, March 31, 2002</b>	<b>61,034</b>	<b>\$ —</b>	<b>\$ 397,528</b>	<b>\$ 64,384</b>	<b>(4,329)</b>	<b>\$ (20,323)</b>	<b>\$ (11,498)</b>	<b>\$ 430,091</b>

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**

(In thousands)

For the years ended March 31,

	2002	2001	2000
<b>Cash flows from operating activities:</b>			
Net income (loss)	\$ 52,238	\$ 20,507	\$ (34,088)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Deferred income taxes	(23,352)	(6,597)	(4,311)
Depreciation and amortization	6,217	6,268	45,866
Amortization of capitalized software development costs and intellectual property licenses	62,456	68,925	78,714
Expense related to common stock warrants	1,133	1,406	5,769
Tax benefit of stock options and warrants exercised	48,513	11,832	3,017
Change in operating assets and liabilities (net of effects of acquisitions):			
Accounts receivable	(2,010)	30,027	9,900

Inventories	23,152	(5,283)	(7,342)
Software development and intellectual property licenses	(76,993)	(65,964)	(74,506)
Other assets	(1,753)	6,062	(6,307)
Accounts payable	3,357	21,361	(8,038)
Accrued expenses and other liabilities	18,834	(6,979)	(5,791)
Net cash provided by operating activities	111,792	81,565	2,883
Cash flows from investing activities:			
Cash used in purchase acquisitions (net of cash acquired)	—	—	(20,523)
Capital expenditures	(9,150)	(9,780)	(4,518)
Proceeds from disposal of property and equipment	639	1,149	—
Other	(190)	—	—
Net cash used in investing activities	(8,701)	(8,631)	(25,041)
Cash flows from financing activities:			
Proceeds from issuance of common stock to employees	59,836	32,538	22,480
Proceeds from issuance of common stock pursuant to warrants	1,044	1,050	—
Borrowing under line-of-credit agreements	—	577,590	361,161
Payment under line-of-credit agreements	—	(581,618)	(355,156)
Payment on term loan	(8,550)	(11,450)	(1,645)
Proceeds from term loan	—	—	25,000
Notes payable, net	(1,792)	(592)	(6,457)
Cash paid to secure line of credit and term loan	—	—	(3,355)
Redemption of convertible subordinated notes	(62)	—	—
Purchase of treasury stock	(74)	(14,971)	—
Net cash provided by financing activities	50,402	2,547	42,028
Effect of exchange rate changes on cash	(36)	84	(2,922)
Net increase in cash and cash equivalents	153,457	75,565	16,948
Cash and cash equivalents at beginning of period	125,550	49,985	33,037
Cash and cash equivalents at end of period	\$ 279,007	\$ 125,550	\$ 49,985

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

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**ACTIVISION, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**1. Summary of Significant Accounting Policies**

*Business*

Activision, Inc. ("Activision" or "we") is a leading international publisher of interactive entertainment software products. We have 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. We have created, licensed and acquired a group of recognizable brands which we market to a growing variety of consumer demographics.

Our products cover the action, adventure, action-sports, racing, role-playing, simulation and strategy game categories. Historically, we have offered our products in versions that operate on the Sony PlayStation ("PS1"), Sony PlayStation 2 ("PS2"), Nintendo 64 ("N64"), Nintendo GameCube ("GameCube") and Microsoft Xbox ("Xbox") console systems, Nintendo Game Boy hand held devices, as well as on personal computers ("PC"). Our target audiences range from game enthusiasts and children to mass-market consumers and "value priced" buyers.

Our publishing business involves the development, marketing and sale of products, either directly, by license or through our affiliate label program with third party publishers. In addition to publishing, we maintain distribution 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 maintain operations in the U.S., Canada, the United Kingdom, France, Germany, Japan, Australia, Sweden, Belgium and the Netherlands. In fiscal year 2002, international operations contributed approximately 49% of net revenues.

*Principles of Consolidation*

The consolidated financial statements include the accounts of Activision, Inc., a Delaware corporation, and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

#### *Basis of Presentation*

The consolidated financial statements have been restated for the effect of our three-for-two stock split effected in the form of a 50% stock dividend to shareholders of record as of November 6, 2001, paid November 20, 2001.

#### *Cash and Cash Equivalents*

Cash and cash equivalents include cash, money markets and short-term investments with original maturities of not more than 90 days.

Our cash and cash equivalents were comprised of the following at March 31, 2002 and 2001 (amounts in thousands):

	March 31,	
	2002	2001
Cash	\$ 61,310	\$ 63,018
Money market funds	217,697	62,532
	<u>\$ 279,007</u>	<u>\$ 125,550</u>

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#### *Concentration of Credit Risk*

Financial instruments which potentially subject us to concentration of credit risk consist principally of temporary cash investments and accounts receivable. We place our temporary cash investments with financial institutions. At various times during the fiscal years ended March 31, 2002 and 2001, we had deposits in excess of the Federal Deposit Insurance Corporation ("FDIC") limit at these financial institutions.

Our customer base includes retail outlets and distributors, including consumer electronics and computer specialty stores, discount chains, video rental stores and toy stores in the United States and countries worldwide. We perform ongoing credit evaluations of our customers and maintain allowances for potential credit losses. We generally do not require collateral or other security from our customers. As of and for the year ended March 31, 2002, we had one customer that accounted for 14% of our consolidated net revenues and 22% of our consolidated accounts receivable, net. This customer was a customer of both our publishing and distribution businesses. As of and for the year ended March 31, 2001, our publishing business had one customer that accounted for 10% of our consolidated net revenues and 9% of our consolidated accounts receivable, net. For the year ended March 31, 2000, no single customer accounted for 10% or more of consolidated net revenues.

#### *Financial Instruments*

The estimated fair values of financial instruments have been determined using available market information and valuation methodologies described below. However, considerable judgment is required in interpreting market data to develop the estimates of fair value. Accordingly, the estimates presented herein may not be indicative of the amounts that we could realize in a current market exchange. The use of different market assumptions or valuation methodologies may have a material effect on the estimated fair value amounts.

The carrying amounts of cash and cash equivalents, accounts receivable, accounts payable and accrued liabilities approximate fair value due to their short-term nature.

The carrying amounts of our variable rate debt approximate fair value because the interest rates are based on floating rates identified by reference to market rates. The fair value of our fixed rate debt is based on quoted market prices, where available, or discounted future cash flows based on our current incremental borrowing rates for similar types of borrowing arrangements as of the balance sheet date. The carrying amount of our long-term debt and convertible subordinated notes of \$13.6 million and \$60.0 million, respectively, approximated fair value as of March 31, 2001. As of March 31, 2002, we had no variable rate debt and no material fixed rate debt outstanding.

Effective July 1, 2000, we adopted SFAS No. 133 "Accounting for Derivative Instruments and Hedging Activities," and SFAS No. 138, "Accounting for Certain Derivative Instruments and Certain Hedging Activities, an amendment of SFAS 133." SFAS No. 133 and 138 require that all derivatives, including foreign exchange contracts, be recognized in the balance sheet at their fair value.

We utilize forward contracts in order to reduce financial market risks. These instruments are used to hedge foreign currency exposures of underlying assets, liabilities, or certain forecasted foreign currency denominated transactions. Our accounting policies for these instruments are based on whether they meet the criteria for designation as hedging transactions. Changes in fair value of derivatives that are designated as cash flow hedges, are highly effective, and qualify as hedging instruments, are recorded in other comprehensive income until the underlying hedged item is recognized in earnings. Any ineffective portion of a derivative change in fair value is immediately recognized in earnings. Changes in fair value of derivatives that do not qualify as hedging instruments are recorded in earnings. The fair value of foreign currency contracts is estimated based on the spot rate of the various hedged

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currencies as of the end of the period. As of March 31, 2002, the fair value of our foreign exchange contracts was immaterial.

#### *Equity Investments*



From time to time, we may make a capital investment and hold a minority interest in a third party developer in connection with entertainment software products to be developed by such developer for us. We account for those capital investments in which we have a 20% or greater ownership interest or over which we have the ability to exercise significant influence using the equity method. For those investments in which we hold less than a 20% ownership interest or over which we do not have the ability to exercise significant influence, we account for our investment using the cost method.

#### *Software Development Costs and Intellectual Property Licenses*

Software development costs include payments made to independent software developers under development agreements as well as direct costs incurred for the internal development of products.

We account for software development costs in accordance with Statement of Financial Accounting Standards ("SFAS") No. 86, "Accounting for the Costs of Computer Software to be Sold, Leased, or Otherwise Marketed." Software development costs are capitalized once technological feasibility of a product 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, capitalized software development costs are amortized to cost of sales—software royalties and amortization based on the ratio of current revenues to total projected revenues, generally resulting in an amortization period of six months or less. For products that have been released in prior periods, we evaluate the future recoverability of capitalized amounts on a quarterly basis. The primary evaluation criterion is actual title performance.

Intellectual property license costs represent license fees paid to intellectual property rights holders for use of their trademarks or copyrights in the development of our products.

We evaluate the future recoverability of capitalized intellectual property licenses on a quarterly basis. The recoverability of capitalized intellectual property license costs is evaluated based on the expected performance of the specific products in which the licensed trademark or copyright is used. The following criteria is used to evaluate expected product performance: 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 the related product's release, capitalized intellectual property license costs are amortized to cost of sales—intellectual property licenses based on the ratio of current revenues to total

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projected revenues. 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 March 31, 2002, capitalized software development costs included \$16.0 million of internally generated software development costs and \$23.5 million of payments made to independent software developers. As of March 31, 2001, capitalized software development costs included \$3.9 million of internally generated software development costs and \$19.5 million of payments made to independent software developers. Capitalized intellectual property licenses were \$17.2 million and \$18.8 million as of March 31, 2002 and 2001, respectively. Amortization of capitalized software development costs and intellectual property licenses was \$62.5 million, \$68.9 million and \$78.7 million for the year ended March 31, 2002, 2001 and 2000, respectively.

#### *Inventories*

Inventories are valued at the lower of cost (first-in, first-out) or market.

#### *Property and Equipment*

Property and equipment are recorded at cost. Depreciation and amortization are provided using the straight-line method over the shorter of the estimated useful lives or the lease term: buildings, 25 to 33 years; computer equipment, office furniture and other equipment, 3 to 5 years; leasehold improvements, through the life of the lease. When assets are retired or disposed of, the cost and accumulated depreciation thereon are removed and any resultant gains or losses are recognized in current operations.

#### *Revenue Recognition*

We recognize revenue from the sale of our products upon the transfer of title and risk of loss to our customers. We may permit product returns from or grant price protection to our customers on unsold merchandise under certain conditions. Price protection policies, when granted and applicable, allow customers a credit against amounts they owe us with respect to merchandise unsold by them. With respect to license agreements that provide customers the right to make multiple copies in exchange for guaranteed amounts, revenue is recognized upon delivery of such copies. Per copy royalties on sales that exceed the guarantee are recognized as earned. In addition, in order to recognize revenue for both product sales and licensing transactions, persuasive evidence of an arrangement must exist and collection of the related receivable must be probable.

Revenue from product sales is reflected after deducting the estimated allowance for returns and price protection. Management must make estimates of potential future product returns and price protection related to current period product revenue. We estimate the amount of future returns and price protection based upon historical experience, customer inventory levels, current economic trends and changes in the demand and acceptance of our products by the end consumer.

## Shipping and Handling

Shipping and handling costs, which consist primarily of packaging and transportation charges incurred to move finished goods to customers, are included in cost of sales—product costs.

## Advertising Expenses

We expense advertising as incurred. Advertising expenses for the year ended March 31, 2002, 2001 and 2000 were approximately \$18.9 million, \$16.5 million and \$18.6 million, respectively, and are included in sales and marketing expense in the consolidated statements of operations.

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## Goodwill

Effective April 1, 2001, we adopted the provisions of SFAS No. 142, "Goodwill and Other Intangibles." SFAS No. 142 addresses financial accounting and reporting requirements for acquired goodwill and other intangible assets. Under SFAS No. 142, goodwill is deemed to have an indefinite useful life and should not be amortized but rather tested at least annually for impairment. An impairment loss should be recognized if the carrying amount of goodwill is not recoverable and its carrying amount exceeds its fair value. In accordance with SFAS No. 142, we have not amortized goodwill during the year ended March 31, 2002.

## Interest Income (Expense), net

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

	March 31,		
	2002	2001	2000
Interest expense	\$ (1,188)	\$ (9,399)	\$ (9,375)
Interest income	3,734	2,136	964
Interest income (expense), net	\$ 2,546	\$ (7,263)	\$ (8,411)

## Income Taxes

We account for income taxes using SFAS No. 109, "Accounting for Income Taxes." Under SFAS No. 109, income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carry forwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

## Foreign Currency Translation

The functional currencies of our foreign subsidiaries are their local currencies. All assets and liabilities of our foreign subsidiaries are translated into U.S. dollars at the exchange rate in effect at the end of the period, and revenue and expenses are translated at weighted average exchange rates during the period. The resulting translation adjustments are reflected as a component of shareholders' equity.

## Accumulated Other Comprehensive Income (Loss)

Comprehensive income (loss) includes net income (loss), foreign currency translation adjustments, and the effective portion of gains or losses on cash flow hedges that are currently presented as a component of shareholders' equity. For the years ended March 31, 2002 and 2001, the accumulated other comprehensive loss balance primarily consisted of foreign currency translation adjustments.

## Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities or the disclosure of gain or loss contingencies at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

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## Earnings Per Common Share

Basic earnings per share is computed by dividing income (loss) available to common shareholders by the weighted average number of common shares outstanding for all periods. Diluted earnings per share is computed by dividing income (loss) available to common shareholders by the weighted average number of common shares outstanding, increased by common stock equivalents. Common stock equivalents are calculated using the treasury stock method and represent incremental shares issuable upon exercise of our outstanding options and warrants and, if applicable in the period, conversion of our convertible debt. However, potential common shares are not included in the denominator of the diluted earnings per share calculation when inclusion of such shares would be anti-dilutive, such as in a period in which a net loss is recorded.

## Stock Based Compensation

Under SFAS No. 123 "Accounting for Stock-Based Compensation," compensation expense is recorded for the issuance of stock options and other stock-based compensation based on the fair value of the stock options and other stock-based compensation on the date of grant or measurement date. Alternatively, SFAS No. 123 allows companies to continue to account for the issuance of stock options and other stock-based compensation in accordance with Accounting Principles Board ("APB") Opinion No. 25, "Accounting for Stock Issued to Employees." Under APB No. 25, compensation expense is recorded for the issuance of stock options and other stock-based compensation based on the intrinsic value of the stock options and other stock-based compensation on the date of grant or measurement date. Under the intrinsic value method, compensation expense is recorded on the date of grant or measurement date only if the current market price of the underlying stock exceeds the stock option or other stock-based compensation exercise price. We have elected to continue to account for stock options and other stock-based compensation in accordance with APB No. 25. In accordance with SFAS No. 123, we provide pro forma net income and pro forma earnings (loss) per share disclosures for employee stock option and other stock-based compensation grants as if the fair value method as prescribed by SFAS No. 123 had been applied.

Stock warrants are granted to non-employees in connection with the development of software and acquisition of licensing rights for intellectual property. In accordance with the Financial Accounting Standards Board's Emerging Issues Task Force ("EITF") No. 96-18, "Accounting for Equity Instruments that are Issued to Other Than Employees for Acquiring or in Connection With Selling Goods or Services," the fair value of stock warrants granted is determined as of the measurement date and is capitalized, expensed and amortized consistent with our policies relating to software development and intellectual property license costs.

#### *Related Parties*

As of March 31, 2002 and 2001, we had \$3.1 million and \$4.3 million, respectively, of loans due from employees. The loans bear interest at 6.75% and are primarily due from Activision executives.

In August 2001, we elected to our Board of Directors an individual who is a partner in a law firm that has provided legal services to Activision for more than ten years. We paid approximately \$600,000 in fiscal 2002 during the period in which the individual served upon our Board of Directors for legal services rendered by the law firm. Total payments made to this law firm represent less than 1% of that firm's revenue.

#### *Recently Issued Accounting Standards*

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 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 consolidated financial statements.

#### *Reclassifications*

Certain amounts in the consolidated financial statements have been reclassified to conform with the current year's presentation. These reclassifications had no effect on net income (loss), shareholders' equity or net increase in cash and cash equivalents.

## **2. Acquisitions**

### ***Fiscal 2002 Transactions***

During the year ended March 31, 2002, we separately completed the acquisition of three privately held interactive software development companies. We accounted for those acquisitions in accordance with SFAS No. 141, "Business Combinations." SFAS No. 141 was issued on July 20, 2001 and addresses financial accounting and reporting for business combinations, requiring that the purchase method be used to account and report for all business combinations. These acquisitions further enable us to implement our multi-platform development strategy by bolstering our internal product development capabilities for the next generation console systems and personal computers and strengthen our position in the first person action, action and action-sports genres.

#### *Acquisition of Treyarch*

Effective October 1, 2001, we acquired all of the outstanding ownership interests of Treyarch Invention, LLC ("Treyarch"), a privately held interactive software development company, in exchange for 818,961 shares of our common stock. Treyarch is a console software developer with a focus on action and action-sports video games. The purchase price of the transaction, including the forgiveness of a note receivable and acquisition costs, was valued at approximately \$15.6 million with approximately \$14.5 million of the purchase price being assigned to goodwill. This goodwill has been included in the publishing segment of our business and is non-deductible for tax purposes. The results of operations of Treyarch are included in our consolidated statement of operations beginning October 1, 2001.

Additional shares of our 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 product performance requirements and other criteria. This contingent consideration will be recorded as an additional element of the purchase price for Treyarch when those contingencies are resolved.

#### *Acquisition of Gray Matter*

On December 30, 1999, we acquired a 40% interest in the outstanding capital stock of Gray Matter Interactive Studios, Inc., formerly known as Video Games West ("Gray Matter"), a privately held software development company, as well as an option to purchase the remaining 60% of outstanding capital stock. Gray Matter was the developer for our first person action PC product, *Return to Castle Wolfenstein*. Effective January 9, 2002, we exercised our option to acquire the remaining 60% of outstanding capital stock of Gray Matter in exchange for 133,690 shares of our common stock. The purchase price of the transaction,

including acquisition costs, was valued at approximately \$3.6 million with a significant portion of the purchase price being assigned to goodwill. This goodwill has been included in the publishing segment of our business and is non-deductible for tax purposes. The results

of operations of Gray Matter are included in our consolidated statement of operations beginning January 9, 2002.

*Acquisition of Shaba*

On March 27, 2002, we acquired all of the outstanding ownership interests of Shaba Games, LLC ("Shaba"), a privately held interactive software development company, in exchange for 258,621 shares of our common stock. Shaba is a console software developer with a focus on action and action-sports video games. The purchase price of the transaction, including acquisition costs, was valued at approximately \$7.4 million with approximately \$6.2 million of the purchase price being assigned to goodwill. This goodwill has been included in the publishing segment of our business and is non-deductible for tax purposes. The results of operations of Shaba are included in our consolidated statement of operations beginning March 27, 2002.

Additional shares of our common stock also may be issued to Shaba's equity holders and employees over the course of several years, depending on the satisfaction of certain product performance requirements and other criteria. This contingent consideration will be recorded as an additional element of the purchase price for Shaba when those contingencies are resolved.

A significant portion of the purchase price for each of these acquisitions was assigned to goodwill as the primary asset we acquired in each transaction was an assembled workforce with proven technical and design talent with a history of high quality product creation. Pro forma consolidated statements of operations reflecting these acquisitions are not shown, as they would not differ materially from reported results.

**Fiscal 2000 Transactions**

*Acquisition of Neversoft*

On September 30, 1999, we acquired Neversoft, a privately held console software developer, in exchange for 1,048,253 shares of our common stock. The acquisition was accounted for as a pooling of interests. Accordingly, in fiscal 2000 we restated the consolidated financial statements for all periods prior to the closing of the transaction.

The following table represents the results of operations of the previously separate companies for the period before the combination was consummated which are included in fiscal year 2000 combined net income (loss) (amounts in thousands).

	Fiscal Year 2000		
	Activision Six Months Ended Sept. 30, 1999	Neversoft Six Months Ended Sept. 30, 1999	Total Six Months Ended Sept. 30, 1999
Revenues	\$ 199,505	\$ —	\$ 199,505
Net income (loss)	\$ (3,028)	\$ (484)	\$ (3,512)

*Acquisition of Elsinore Multimedia*

On June 29, 1999, we acquired Elsinore Multimedia, Inc. ("Elsinore"), a privately held interactive software development company, in exchange for 306,672 shares of our common stock.

The acquisition was accounted for using the purchase method of accounting. Accordingly, the results of operations of Elsinore have been included in our consolidated financial statements from the date of acquisition. The aggregate purchase price has been allocated to the assets and liabilities acquired, consisting mostly of goodwill of \$3.0 million. Pro forma statements of operations reflecting the acquisition of Elsinore are not shown, as they would not differ materially from reported results.

*Acquisition of Expert Software*

On June 22, 1999, we acquired all of the outstanding capital stock of Expert Software, Inc. ("Expert"), a publicly held developer and publisher of value-line interactive leisure products, for approximately \$24.7 million. The aggregate purchase price of approximately \$24.7 million consisted of \$20.3 million in cash payable to the former shareholders of Expert, the valuation of employee stock options in the amount of \$3.3 million, and other acquisition costs.

The acquisition was accounted for using the purchase method of accounting. Accordingly, the results of operations of Expert have been included in our consolidated financial statements from the date of acquisition.

The aggregate purchase price was allocated to the fair values of the assets and liabilities acquired as follows (amounts in thousands):

Tangible assets	\$ 4,743
Existing products	1,123
Goodwill	28,335
Liabilities	(9,532)
	<u>\$ 24,669</u>

However, as more fully described in Note 3, in the fourth quarter of fiscal 2000, we implemented a strategic restructuring plan to accelerate the development of games for the next generation consoles and the Internet. In conjunction with that plan, we consolidated Expert and our Head Games subsidiary, forming one integrated business unit, Activision Value Publishing, Inc., in the value software category. As part of this consolidation, we discontinued substantially all of Expert's product lines and terminated substantially all of Expert's employees. In addition, we phased out the use of the Expert name. As a result of these initiatives, in fiscal 2000 we incurred a nonrecurring charge of \$26.3 million resulting from the write-down of intangibles acquired, including goodwill.

### 3. Strategic Restructuring Plan

In the fourth quarter of fiscal 2000, we finalized a strategic restructuring plan to accelerate the development and sale of interactive entertainment products for the next generation consoles and the Internet. Costs associated with this plan amounted to \$70.2 million, approximately \$61.8 million net of taxes, and were recorded in the consolidated statement of operations in the fourth quarter of fiscal year 2000 and classified as follows (amount in millions):

Net revenues	\$ 11.7
Cost of sales—intellectual property licenses and software royalties and amortization	11.9
Product development	4.2
General and administrative	5.2
Amortization of intangible assets	37.2
	\$ 70.2

The component of the charge included in amortization of intangible assets represented a write down of intangibles including goodwill, relating to Expert Software, Inc. ("Expert"), one of our value publishing subsidiaries, totaling \$26.3 million. We consolidated Expert into our Head Games subsidiary, forming one integrated business unit, Activision Value Publishing, Inc. As part of this consolidation, we discontinued substantially all of Expert's product lines, terminated substantially all of Expert's employees and phased out the use of the Expert name. In addition, a \$10.9 million write down of

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goodwill relating to TDC, an OEM business unit, was recorded. In fiscal 2000, the OEM market went through radical changes due to price declines of PCs and hardware accessories. The sum of the undiscounted future cash flow of these assets was not sufficient to cover the carrying value of these assets and as such was written down to fair market value.

The component of the charge included in net revenues and general and administrative expense represents costs associated with the planned termination of a substantial number of our third party distributor relationships in connection with our realignment of our worldwide publishing business to leverage our existing sales and marketing organizations and improve the control and management of our products. These actions resulted in an increase in the allowance for sales returns of \$11.7 million and the allowance for doubtful accounts of \$3.4 million. The plan also included a severance charge of \$1.2 million for employee redundancies.

The components of the \$11.9 million charge included in cost of sales included the write-down of capitalized software costs and licensor warrants granted in connection with the development of software and the acquisition of licensing rights for intellectual property. The product lines to which these write-downs related, for example Heavy Gear, Interstate 82 and Battlezone, were strictly PC lines that appealed primarily to a smaller subset of gaming enthusiasts. Based upon the growth of the console market and the upcoming release of the next generation console platforms, we determined not to exploit these titles going forward as we did not believe that they would have a viable future with the next generation platforms. Of the \$11.9 million charge, approximately \$8.6 million was related to future releases of products and approximately \$3.3 million was related to the cessation of certain existing product lines.

During fiscal 2001, we completed the restructuring initiatives associated with the fiscal 2000 restructuring plan without any significant adjustments.

Details of activity in the restructuring plan during fiscal 2001 were as follows (amounts in millions):

	Balance March 31, 2000	Adjustments	Activity	Balance March 31, 2001
<b>Non-Cash Components:</b>				
Goodwill	\$ 37.2	\$ —	\$ (37.2)	\$ —
Software development costs and intellectual property licenses write-downs	16.1	—	(16.1)	—
Allowance for doubtful accounts	3.4	—	(3.4)	—
Allowance for sales returns	11.7	0.8	(12.5)	—
	68.4	0.8	(69.2)	—
<b>Cash Components:</b>				
Severance	1.2	—	(1.2)	—
Lease costs	0.6	—	(0.6)	—
	1.8	—	(1.8)	—
	\$ 70.2	\$ 0.8	\$ (71.0)	\$ —

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#### 4. Inventories

Our inventories consist of the following (amounts in thousands):

	March 31,	
	2002	2001
Purchased parts and components	\$ 892	\$ 1,885
Finished goods	19,844	42,003
	<u>\$ 20,736</u>	<u>\$ 43,888</u>

#### 5. Property and Equipment, Net

Property and equipment, net was comprised of the following (amounts in thousands):

	March 31,	
	2002	2001
Land	\$ 214	\$ 214
Buildings	4,236	4,004
Computer equipment	27,618	21,512
Office furniture and other equipment	6,884	5,585
Leasehold improvements	3,740	3,713
	<u>42,692</u>	<u>35,028</u>
Total cost of property and equipment		
Less accumulated depreciation	(24,860)	(19,788)
	<u>\$ 17,832</u>	<u>\$ 15,240</u>

Depreciation expense for the year ended March 31, 2002, 2001 and 2000 was \$6.2 million, \$4.8 million and \$4.2 million, respectively.

#### 6. Goodwill

We adopted SFAS No. 142 effective April 1, 2001. The following table reconciles net income (loss) and earnings per share as reported for the year ended March 31, 2002, 2001 and 2000 to net income

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

	Year ended March 31,		
	2002	2001	2000
Reported net income (loss)	\$ 52,238	\$ 20,507	\$ (34,088)
Add back: Goodwill amortization	—	1,502	4,465
Adjusted net income (loss)	<u>\$ 52,238</u>	<u>\$ 22,009</u>	<u>\$ (29,623)</u>
Basic earnings per share:			
Reported net income (loss)	\$ 1.03	\$ 0.55	\$ (0.92)
Goodwill amortization	—	0.04	0.12
Adjusted net income (loss)	<u>\$ 1.03</u>	<u>\$ 0.59</u>	<u>\$ (0.80)</u>
Diluted earnings per share:			
Reported net income (loss)	\$ 0.88	\$ 0.50	\$ (0.92)
Goodwill amortization	—	0.04	0.12
Adjusted net income (loss)	<u>\$ 0.88</u>	<u>\$ 0.54</u>	<u>\$ (0.80)</u>

As discussed in Note 3, in the year ended March 31, 2000, we additionally recorded a charge relating to the impairment of goodwill of \$37.2 million.

The changes in the carrying amount of goodwill for the year ended March 31, 2002, are as follows (amounts in thousands):

	Publishing	Distribution	Total
Balance as of March 31, 2001	\$ 5,941	\$ 4,375	\$ 10,316
Goodwill acquired during the year	25,685	—	25,685
Effect of foreign currency exchange rates	—	(9)	(9)
Balance as of March 31, 2002	\$ 31,626	\$ 4,366	\$ 35,992

## 7. Accrued Expenses

Accrued expenses were comprised of the following (amounts in thousands):

	March 31,	
	2002	2001
Accrued royalties payable	\$ 13,824	\$ 14,764
Affiliate label payable	2,472	733
Accrued selling and marketing costs	9,169	4,603
Income tax payable	3,055	859
Accrued bonus and vacation pay	13,863	11,958
Other	16,713	11,122
Total	\$ 59,096	\$ 44,039

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## 8. Operations by Reportable Segments and Geographic Area

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, Sweden, 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. Transactions between segments are eliminated in consolidation.

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Information on the reportable segments for the three years ended March 31, 2002 is as follows (amounts in thousands):

	Year ended March 31, 2002		
	Publishing	Distribution	Total
Total segment revenues	\$ 549,508	\$ 236,926	\$ 786,434
Revenue from sales between segments	(50,632)	50,632	—
Revenues from external customers	\$ 498,876	\$ 287,558	\$ 786,434
Operating income	\$ 68,675	\$ 11,899	\$ 80,574
Goodwill	\$ 31,626	\$ 4,366	\$ 35,992

Total assets	\$ 455,432	\$ 101,455	\$ 556,887
Year ended March 31, 2001			
	Publishing	Distribution	Total
Total segment revenues	\$ 466,062	\$ 154,121	\$ 620,183
Revenue from sales between segments	(39,331)	39,331	—
Revenues from external customers	\$ 426,731	\$ 193,452	\$ 620,183
Operating income	\$ 35,687	\$ 4,120	\$ 39,807
Goodwill	\$ 5,941	\$ 4,375	\$ 10,316
Total assets	\$ 271,488	\$ 88,469	\$ 359,957
Year ended March 31, 2000			
	Publishing	Distribution	Total
Total segment revenues	\$ 396,691	\$ 175,514	\$ 572,205
Revenue from sales between segments	(40,255)	40,255	—
Revenues from external customers	\$ 356,436	\$ 215,769	\$ 572,205
Operating income (loss)	\$ (35,049)	\$ 4,724	\$ (30,325)
Goodwill	\$ 7,147	\$ 5,200	\$ 12,347
Total assets	\$ 230,961	\$ 78,776	\$ 309,737

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Geographic information for the three years ended March 31, 2002 is based on the location of the selling entity. Revenues from external customers by geographic region were as follows (amounts in thousands):

	Year ended March 31,		
	2002	2001	2000
United States	\$ 404,905	\$ 352,893	\$ 282,847
Europe	368,799	256,228	277,485
Other	12,730	11,062	11,873
Total	\$ 786,434	\$ 620,183	\$ 572,205

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

	Year ended March 31,		
	2002	2001	2000
Console	\$ 639,737	\$ 466,893	\$ 410,277
PC	146,697	153,290	161,928
Total	\$ 786,434	\$ 620,183	\$ 572,205

## 9. Computation of Earnings (Loss) Per Share

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



	Year ended March 31,		
	2002	2001	2000
<b>Numerator</b>			
Numerator for basic and diluted earnings per share — income (loss) available to common shareholders	\$ 52,238	\$ 20,507	\$ (34,088)
<b>Denominator</b>			
Denominator for basic earnings (loss) per share — weighted average common shares outstanding	50,651	37,298	37,037
Effect of dilutive securities:			
Employee stock options and stock purchase plan	8,288	3,531	—
Warrants to purchase common stock	516	271	—
Potential dilutive common shares	8,804	3,802	—
Denominator for diluted earnings (loss) per share — weighted average common shares outstanding plus assumed conversions	59,455	41,100	37,037
Basic earnings (loss) per share	\$ 1.03	\$ 0.55	\$ (0.92)
Diluted earnings (loss) per share	\$ 0.88	\$ 0.50	\$ (0.92)

Outstanding stock options of 105,301, 3,508,262 and 3,833,096 for the year ended March 31, 2002, 2001 and 2000, respectively, were not included in the calculation of diluted earnings (loss) per share because their effect would be antidilutive. Convertible subordinated notes were also not included in the calculations of diluted earnings per share, for the years applicable, because their effect would be antidilutive.

On December 4, 2001, we filed a shelf registration statement on Form S-3 with the Securities and Exchange Commission to register 7,500,000 shares of our common stock. On June 4, 2002, we issued the 7,500,000 shares of common stock in an underwritten public offering for proceeds, before issuance costs, of approximately \$248.3 million.

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## 10. Income Taxes

Domestic and foreign income (loss) before income taxes and details of the income tax provision (benefit) are as follows (amounts in thousands):

	Year ended March 31,		
	2002	2001	2000
<b>Income (loss) before income taxes:</b>			
Domestic	\$ 67,553	\$ 24,276	\$ (37,115)
Foreign	15,567	8,268	(1,621)
	\$ 83,120	\$ 32,544	\$ (38,736)
<b>Income tax expense (benefit):</b>			
Current:			
Federal	\$ 648	\$ 394	\$ (383)
State	20	112	337
Foreign	5,053	4,351	2,610
Total current	5,721	4,857	2,564
Deferred:			
Federal	(18,751)	(5,610)	(10,047)
State	(4,555)	(1,761)	(1,448)
Foreign	(46)	(479)	—
Total deferred	(23,352)	(7,850)	(11,495)
Add back benefit credited to additional paid-in capital:			
Tax benefit related to stock option and warrant exercises	48,513	11,378	3,017
Tax benefit related to utilization of pre- bankruptcy net operating loss carryforwards	—	3,652	1,266

	48,513	15,030	4,283
Income tax provision (benefit)	\$ 30,882	\$ 12,037	\$ (4,648)

The items accounting for the difference between income taxes computed at the U.S. federal statutory income tax rate and the income tax provision for each of the years are as follows:

	Year ended March 31,		
	2002	2001	2000
Federal income tax provision (benefit) at statutory rate	35.0%	35.0%	(34.0%)
State taxes, net of federal benefit	3.5	3.3	(4.5)
Nondeductible amortization	—	1.3	18.6
Research and development credits	(1.8)	(5.7)	(8.6)
Incremental (decremental) effect of foreign tax rates	(1.8)	0.5	2.8
Increase of valuation allowance	2.4	4.0	13.8
Rate changes	—	(1.5)	—
Other	(0.1)	0.1	(0.1)
	37.2%	37.0%	(12.0%)

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Deferred income taxes reflect the net tax effects of temporary differences between the amounts of assets and liabilities for accounting purposes and the amounts used for income tax purposes. The components of the net deferred tax asset and liability are as follows (amounts in thousands):

	March 31,	
	2002	2001
<b>Deferred asset:</b>		
Allowance for doubtful accounts	\$ 542	\$ 716
Allowance for sales returns	10,670	3,900
Inventory reserve	971	992
Vacation and bonus reserve	2,316	1,663
Amortization and depreciation	4,129	6,816
Tax credit carryforwards	17,193	14,224
Net operating loss carryforwards	55,127	12,362
Other	2,925	1,813
	93,873	42,486
Valuation allowance	(30,479)	(9,895)
	63,394	32,591
<b>Deferred liability:</b>		
Capitalized research expenses	9,105	3,087
State taxes	2,886	1,453
	11,991	4,540
	\$ 51,403	\$ 28,051

In accordance with Statement of Position ("SOP") 90-7, "Financial Reporting by Entities in Reorganization Under the Bankruptcy Code," issued by the AICPA, benefits from loss carryforwards arising prior to our reorganization are recorded as additional paid-in capital. During the year ended March 31, 2001, \$3.7 million was recorded as additional paid-in capital.

As of March 31, 2002, our available federal net operating loss carryforward of \$130.3 million is subject to certain limitations as defined under Section 382 of the Internal Revenue Code. The net operating loss carryforwards expire between 2006 and 2022. We have various state net operating loss carryforwards which are not subject to limitations under Section 382 of the Internal Revenue Code. We have tax credit carryforwards of \$11.2 million and \$6.1 million for federal and state purposes, respectively, which expire between 2006 and 2022.

At March 31, 2002, our deferred income tax asset for tax credit carryforwards and net operating loss carryforwards was reduced by a valuation allowance of \$30.5 million as compared to \$9.9 million in the prior fiscal year. Realization of the deferred tax assets is dependent upon the continued generation of sufficient taxable income prior to expiration of tax credits and loss carryforwards. Although realization is not assured, management believes it is more likely than not that the net carrying value of the deferred tax asset will be realized.

Cumulative undistributed earnings of foreign subsidiaries for which no deferred taxes have been provided approximated \$34.0 million at March 31, 2002. Deferred income taxes on these earnings have not been provided as these amounts are considered to be permanent in duration.

## 11. Long-Term Debt

### Bank Lines of Credit and Other Debt

Our long-term debt consists of the following (amounts in thousands):

	March 31,	
	2002	2001
U.S. Facility	\$ —	\$ 8,432
The Netherlands Facility	—	1,759
Mortgage notes payable and other	3,290	3,441
	3,290	13,632
Less current portion	(168)	(10,231)
Long-term debt, less current portion	\$ 3,122	\$ 3,401

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, including issuing 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, 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 <sup>1</sup>/<sub>4</sub>% on the unused portion of the revolver. The Amended and Restated U.S. Facility is collateralized by substantially all of our assets and was scheduled to expire in June 2002. However, in June 2002, we obtained an extension of the expiration date to August 2002.

The original U.S. Facility had a weighted average interest rate of approximately 9.70% for the year ended March 31, 2001. During the year ended March 31, 2002, we did not borrow against the Amended and Restated U.S. Facility. 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. As of March 31, 2002 and 2001, we were in compliance with these covenants. As of March 31, 2002, there were no borrowings outstanding and \$5.8 million of letters of credit outstanding against the revolving portion of the Amended and Restated U.S. Facility. As of March 31, 2001, approximately \$8.5 million was outstanding under the term loan portion of the original U.S. Facility. As of March 31, 2001, there were no borrowings outstanding and \$18.2 million of letters of credit outstanding against the revolving portion of the original U.S. Facility.

We have a revolving credit facility through our CD Contact subsidiary in the Netherlands (the "Netherlands Facility"). The Netherlands Facility permitted revolving credit loans and letters of credit up to Euro dollars ("EUR") 4.5 million (\$3.9 million) and Netherlands Guilders ("NLG") 26 million (\$10.4 million) as of March 31, 2002 and 2001, respectively, 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. As of March 31, 2002, there were no borrowings and no letters of

credit outstanding under the Netherlands Facility. As of March 31, 2001, there were \$1.8 million of borrowings and no letters of credit outstanding under the Netherlands Facility.

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 provided for British Pounds ("GBP") 7.0 million (\$10.0 million) of revolving loans and GBP 1.5 million (\$2.1 million) of letters of credit as of March 31, 2002 and GBP 7.0 million (\$10.0 million) of revolving loans and GBP 3.0 million (\$4.3 million) of letters of credit as of March 31, 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 March 31, 2002 and 2001, we were in compliance with these covenants. No borrowings were outstanding against the UK Facility at March 31, 2002 or 2001. Letters of credit of GBP 1.5 million (\$2.1 million) and GBP 3.0 million (\$4.3 million) were outstanding against the UK Facility at March 31, 2002 and 2001, respectively. The German Facility provided for revolving loans up to EUR 2.5 million (\$2.2 million) and Deutsche Marks ("DM") 4.0 million (\$1.8 million) as of March 31, 2002 and 2001, respectively, bears interest at a Eurocurrency rate plus 2.5%, is collateralized by a cash deposit of approximately GBP 650,000 (\$926,000) made by our CentreSoft subsidiary and has no expiration date. No borrowings were outstanding against the German Facility as of March 31, 2002 and 2001.

Mortgage notes payable relate to the land, office and warehouse facilities of our German and Netherlands subsidiaries. The notes bear interest at 5.45% and 5.35%, respectively, and are collateralized by the related assets. The Netherlands mortgage note payable is due in quarterly installments of EUR 11,300 (\$9,900)

and matures January 2019. The German mortgage note payable is due in bi-annual installments of EUR 74,100 (\$64,500) beginning June 2002 and matures December 2019.

Annual maturities of long-term debt are as follows (amounts in thousands):

Year ending March 31,	
2003	\$ 168
2004	168
2005	168
2006	168
2007	168
Thereafter	2,450
<b>Total</b>	<b>\$ 3,290</b>

#### *Private Placement of Convertible Subordinated Notes*

In December 1997, we completed the private placement of \$60.0 million principal amount of 6<sup>3</sup>/<sub>4</sub>% 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 at a conversion price of \$12.583 per share, post split, subject to adjustment in certain circumstances. During the year ended March 31, 2002, we called for the redemption of the Notes. In connection with that call, holders converted to common stock approximately \$58.7 million aggregate principal amount of their Notes, net of conversion costs. The remaining Notes were redeemed for cash.

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## **12. Commitments and Contingencies**

### *Developer and Intellectual Property Contracts*

In the normal course of business we enter into contractual arrangements with third parties for the development of products, as well as for the rights to intellectual property ("IP"). Under these agreements, we commit to provide specified payments to a developer, or IP holder, based upon contractual arrangements. Assuming all contractual provisions are met, the total future minimum contract commitment for contracts in place as of March 31, 2002 is approximately \$63.7 million, which is scheduled to be paid as follows (amounts in thousands):

Year ending March 31,	
2003	\$ 44,236
2004	11,785
2005	3,550
2006	1,675
2007	2,500
	\$ 63,746

### *Lease Obligations*

We lease certain of our facilities under non-cancelable operating lease agreements. Total future minimum lease commitments as of March 31, 2002 are as follows (amounts in thousands):

Year ending March 31,	
2003	\$ 5,277
2004	4,901
2005	4,174
2006	3,290
2007	3,073
Thereafter	4,072
<b>Total</b>	<b>\$ 24,787</b>

Facilities rent expense for the years ended March 31, 2002, 2001 and 2000 was approximately \$5.3 million, \$4.7 million and \$4.4 million, respectively.

### *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.

### **13. Stock Compensation and Employee Benefit Plans**

#### *Stock Options*

We sponsor five stock option plans for the benefit of officers, employees, consultants and others.

On February 28, 1992, the shareholders of Activision approved the Activision 1991 Stock Option and Stock Award Plan, as amended, (the "1991 Plan") which permits the granting of "Awards" in the form of non-qualified stock options, incentive stock options ("ISOs"), stock appreciation rights ("SARs"), restricted stock awards, deferred stock awards and other common stock-based awards. The

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total number of shares of common stock available for distribution under the 1991 Plan is 11,350,000. The 1991 Plan requires available shares to consist in whole or in part of authorized and unissued shares or treasury shares. There were no shares remaining available for grant under the 1991 Plan as of March 31, 2002.

On September 23, 1998, the shareholders of Activision approved the Activision 1998 Incentive Plan, as amended (the "1998 Plan"). The 1998 Plan permits the granting of "Awards" in the form of non-qualified stock options, ISOs, SARs, restricted stock awards, deferred stock awards and other common stock-based awards to directors, officers, employees, consultants and others. The total number of shares of common stock available for distribution under the 1998 Plan is 4,500,000. The 1998 Plan requires available shares to consist in whole or in part of authorized and unissued shares or treasury shares. There were approximately 21,000 shares remaining available for grant under the 1998 Plan as of March 31, 2002.

On April 26, 1999, the Board of Directors approved the Activision 1999 Incentive Plan, as amended (the "1999 Plan"). The 1999 Plan permits the granting of "Awards" in the form of non-qualified stock options, ISOs, SARs, restricted stock awards, deferred share awards and other common stock-based awards to directors, officers, employees, consultants and others. The total number of shares of common stock available for distribution under the 1999 Plan is 7,500,000. The 1999 Plan requires available shares to consist in whole or in part of authorized and unissued shares or treasury shares. As of March 31, 2002, there were no shares remaining available for grant under the 1999 Plan.

On August 23, 2001, the shareholders of Activision approved the Activision 2001 Incentive Plan, as amended (the "2001 Plan"). The 2001 Plan permits the granting of "Awards" in the form of non-qualified stock options, ISOs, SARs, restricted stock awards, deferred stock awards and other common stock-based awards to directors, officers, employees, consultants and others. The total number of shares of common stock available for distribution under the 2001 Plan is 2,250,000. The 2001 Plan requires available shares to consist in whole or in part of authorized and unissued shares or treasury shares. There were approximately 694,000 shares remaining available for grant under the 2001 Plan as of March 31, 2002. On April 4, 2002, the Board of Directors approved a 1.5 million increase in the total number of shares of common stock available for distribution under the 2001 Plan. This increase in the 2001 Plan will be put before our shareholders for approval in connection with our 2002 Annual Meeting of Shareholders.

On, April 4, 2002, the Board of Directors approved the Activision 2002 Incentive Plan (the "2002 Plan"). The 2002 Plan permits the granting of "Awards" in the form of non-qualified stock options, ISOs, SARs, restricted stock awards, deferred share awards and other common stock-based awards to officers (other than executive officers), employees, consultants, advisors and others. The total number of shares of common stock available for distribution under the 2002 Plan is 2,350,000. The 2002 Plan requires available shares to consist in whole or in part of authorized and unissued shares or treasury shares.

The exercise price for Awards issued under the 1991 Plan, 1998 Plan, 1999 Plan, 2001 Plan and 2002 Plan (collectively, the "Plans") is determined at the discretion of the Board of Directors (or the Compensation Committee of the Board of Directors, which administers the Plans), and for ISOs, is not to be less than the fair market value of our common stock at the date of grant, or in the case of non-qualified options, must exceed or be equal to 85% of the fair market value at the date of grant. Options typically become exercisable in installments over a period not to exceed five years and must be exercised within 10 years of the date of grant. However, certain options granted to executives vest immediately. Historically, stock options have been granted with exercise prices equal to or greater than the fair market value at the date of grant.

In connection with prior employment agreements between Activision and Robert A. Kotick, Activision's Chairman and Chief Executive Officer, and Brian G. Kelly, Activision's Co-Chairman,

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Mr. Kotick and Mr. Kelly were granted options to purchase common stock. The Board of Directors approved the granting of these options. Relating to such grants, as of March 31, 2002, 4,142,300 and 3,267,300 shares with weighted average exercise prices of \$6.31 and \$6.90 were outstanding and exercisable, respectively.

We additionally have approximately 390,000 options outstanding to employees as of March 31, 2002, with a weighted average exercise price of \$13.92. The Board of Directors approved the granting of these options. Such options have terms similar to those options granted under the Plans.

We also issue stock options in conjunction with acquisition transactions. For the year ended March 31, 2002, 12,000 options with a weighted average exercise price of \$6.67 were outstanding relating to options issued in conjunction with acquisitions completed in fiscal 1999 and 1998. The Board of Directors approved the granting of these options. None of these shares were exercisable as of March 31, 2002.

#### *Director Warrants*

The Director Warrant Plan, which expired on December 19, 1996, provided for the automatic granting of warrants ("Director Warrants") to purchase 25,000 shares of common stock to each director of Activision who was not an officer or employee of Activision or any of its subsidiaries. Director Warrants granted under the Director Warrant Plan vest 25% on the first anniversary of the date of grant, and 12.5% each six months thereafter. The expiration of the Plan had no effect on the outstanding Director Warrants. As of March 31, 2002, there were no shares of common stock available for distribution nor were there any warrants outstanding under the Director Warrant Plan.

During the fiscal year ended March 31, 1997, we issued warrants to purchase 60,000 shares of our common stock, at exercise prices ranging from \$7.87 to \$9.25 to two of our outside directors in connection with their election to the Board. Such warrants have vesting terms identical to the Directors Warrants and expire within 10 years. Relating to such warrants, as of March 31, 2002, 30,000 shares with a weighted average exercise price of \$9.02 were outstanding and exercisable.

#### Employee Stock Purchase Plan

We have an employee stock purchase plan for all eligible employees (the "Purchase Plan"). Under the Purchase Plan, shares of our common stock may be purchased at six-month intervals at 85% of the lower of the fair market value on the first or last day of each six-month period (the "Offering Period"). Employees may purchase shares having a value not exceeding 10% of their gross compensation during an Offering Period. Employees purchased approximately 44,900 and 51,900 shares at a price of \$13.64 and \$6.31 per share during the Purchase Plan's offering period ended September 30, 2001 and 2000, respectively, and approximately 48,000 and 65,900 shares at a price of \$14.23 and \$7.86 per share during the Purchase Plan's offering period ended March 31, 2002 and 2001, respectively.

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#### Activity of Employee and Director Options and Warrants

Activity of all employee and director options and warrants during the last three fiscal years was as follows (amounts in thousands, except weighted average exercise price amounts):

	2002		2001		2000	
	Shares	Wtd Avg Ex Price	Shares	Wtd Avg Ex Price	Shares	Wtd Avg Ex Price
Outstanding at beginning of year	17,916	\$ 6.45	15,498	\$ 7.38	14,924	\$ 7.03
Granted	4,109	16.30	10,151	4.61	5,651	7.68
Exercised	(8,681)	6.74	(5,250)	6.04	(3,497)	6.10
Forfeited	(481)	7.35	(2,483)	6.49	(1,580)	7.94
Outstanding at end of year	12,863	\$ 9.37	17,916	\$ 6.45	15,498	\$ 7.38
Exercisable at end of year	6,334	\$ 8.25	9,816	\$ 6.66	7,073	\$ 6.83

For the year ended March 31, 2002, 4,108,900 options with a weighted average exercise price of \$16.30 were granted at an exercise price equal to the fair market value on the date of grant.

For the year ended March 31, 2001, 6,513,000 options with a weighted average exercise price of \$4.79 were granted at an exercise price equal to the fair market value on the date of grant and 3,637,500 options with a weighted average exercise price of \$4.29 were granted at an exercise price greater than fair market value on the date of grant.

For the year ended March 31, 2000, 3,751,500 options with a weighted average exercise price of \$8.59 were granted at an exercise price equal to the fair market value on the date of grant and 1,057,500 options with a weighted average exercise price of \$7.14 were granted at an exercise price greater than fair market value on the date of grant. Additionally, in conjunction with the acquisition of Expert, 841,500 options with a weighted average exercise price of \$4.32 were granted at an exercise price less than market value on the date of grant. Options granted to Expert were outside any of the Plans.

The following tables summarize information about all employee and director stock options and warrants outstanding as of March 31, 2002 (share amounts in thousands):

	Outstanding Options			Exercisable Options		
	Shares	Remaining Wtd Avg Contractual Life (in years)	Wtd Avg Exercise Price	Shares	Wtd Avg Exercise Price	
Range of exercise prices:						
\$3.17 to \$4.08	1,812	8.06	\$ 4.04	328	\$ 3.99	
\$4.09 to \$6.83	1,692	7.07	5.73	887	6.40	
\$6.88 to \$7.00	3,074	7.05	6.99	2,915	7.00	
\$7.04 to \$8.91	1,380	6.65	7.65	608	7.37	
\$8.92 to \$11.29	1,331	6.23	9.70	630	10.14	
\$11.50 to \$13.92	1,612	8.90	13.73	499	13.89	
\$14.12 to \$16.67	1,394	8.26	15.99	467	15.12	
\$16.81 to \$28.60	565	9.68	24.74	—	—	
\$28.61 to \$28.61	1	9.97	28.61	—	—	
\$31.29 to \$31.29	2	9.95	31.29	—	—	
	12,863	7.55	\$ 9.37	6,334	\$ 8.25	

### Pro Forma Information

Pro forma information regarding net income (loss) and earnings (loss) per share is required by SFAS No. 123. This information is required to be determined as if we had accounted for our employee stock options (including shares issued under the Purchase Plan and Director Warrant Plan and other employee option grants, collectively called "options") granted during fiscal 2002, 2001 and 2000 under the fair value method. The fair value of options granted in the years ended March 31, 2002, 2001 and 2000 reported below has been estimated at the date of grant using a Black-Scholes option pricing model with the following weighted average assumptions:

	Option Plans and Other Employee Options			Purchase Plan			Director Warrant Plan		
	2002	2001	2000	2002	2001	2000	2002	2001	2000
Expected life (in years)	2	2	3	0.5	0.5	0.5	2	2	3
Risk free interest rate	3.24%	4.09%	6.15%	2.16%	4.09%	6.15%	3.24%	4.09%	6.15%
Volatility	70%	70%	67%	70%	70%	67%	70%	70%	67%
Dividend yield	—	—	—	—	—	—	—	—	—

The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options that have no vesting restrictions and are fully transferable. In addition, option valuation models require the input of highly subjective assumptions, including the expected stock price volatility. Because our options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, in the opinion of management, the existing models do not necessarily provide a reliable single measure of the fair value of our options. For options granted during fiscal 2002, the per share weighted average fair value of options with exercise prices equal to market value on date of grant was \$6.86. For options granted during fiscal 2001, the per share weighted average fair value of options with exercise prices equal to market value on date of grant and exercise prices greater than market value were \$2.08, and \$0.89, respectively. For options granted during fiscal 2000, the per share weighted average fair value of options with exercise prices equal to market value on date of grant, exercise prices greater than market value and exercise prices less than market value were \$3.94, \$1.76 and \$5.33, respectively. The per share weighted average estimated fair value of Employee Stock Purchase Plan shares granted during the year ended March 31, 2002, 2001 and 2000 were \$4.41, \$2.32 and \$2.23, respectively.

For purposes of pro forma disclosures, the estimated fair value of the options is amortized to expense over the options' vesting period. Had we determined compensation cost based on the fair value of the stock options at their date of grant as prescribed by SFAS No. 123, our net income (loss) and earnings (loss) per share would have been reported as the pro forma amounts as below (amounts in thousands except for per share information):

	Year ended March 31,		
	2002	2001	2000
Net income (loss)			
As reported	\$ 52,238	\$ 20,507	\$ (34,088)
Pro forma	39,616	11,531	(45,355)
Basic earnings (loss) per share			
As reported	1.03	0.55	(0.92)
Pro forma	0.78	0.31	(1.22)
Diluted earnings (loss) per share			
As reported	0.88	0.50	(0.92)
Pro forma	0.67	0.28	(1.22)

The effects on pro forma disclosures of applying SFAS No. 123 are not likely to be representative of the effects on pro forma disclosures of future years.

### Non-Employee Warrants

In prior years, we have granted stock warrants to third parties in connection with the development of software and the acquisition of licensing rights for intellectual property. The warrants generally vest upon grant and are exercisable over the term of the warrant. The exercise price of third party warrants is generally greater than or equal to the fair market value of our common stock at the date of grant. No non-employee warrants were granted during the years ended March 31, 2002 or 2001. As of March 31, 2002, 777,000 third party warrants to purchase common stock were outstanding with a weighted average exercise price of \$17.58 per share. As of March 31, 2001, 1,974,000 third party warrants to purchase common stock were outstanding with a weighted average exercise price of \$7.26 per share.

During the fiscal year ended March 31, 2000, we granted warrants to a third party to purchase 150,000 shares of our common stock at an exercise price of \$7.75 per share in connection with, and as partial consideration for, a license agreement that allows us to utilize the third party's name in conjunction with certain Activision products. The warrants vested upon grant, have a seven year term and become exercisable ratably in annual installments over the warrant term. The fair value of the warrants was determined using the Black-Scholes pricing model, assuming a risk-free rate of 4.77%, a volatility factor of 66% and expected term as noted above. The weighted average estimated fair value of third party warrants granted during the year ended March 31, 2000 was \$5.26 per share. As of March 31, 2000, 2,370,000 third party warrants to purchase common stock were outstanding with a weighted average exercise price of \$7.35 per share.

In accordance with EITF 96-18, we measure the fair value of the securities on the measurement date. The fair value of each warrant is capitalized and amortized to expense when the related product is released and the related revenue is recognized. During fiscal year 2002, 2001 and 2000, \$1.1 million, \$1.4 million and \$5.8 million, respectively, was amortized and included in royalty expense relating to warrants.

We have a retirement plan covering substantially all of our eligible employees. The retirement plan is qualified in accordance with Section 401(k) of the Internal Revenue Code. Under the plan, employees may defer up to 15% of their pre-tax salary, but not more than statutory limits. We contribute 5% of each dollar contributed by a participant. Our matching contributions to the plan were \$82,000, \$62,000 and \$46,000 during the year ended March 31, 2002, 2001 and 2000, respectively.

#### 14. Shareholders' Equity

##### Stock Split

In October 2001, the Board of Directors approved a three-for-two stock split effected in the form of a 50% stock dividend. The stock split was paid at the close of business on November 20, 2001, to shareholders of record as of November 6, 2001. The consolidated financial statements, including all share and per share data, have been restated to give effect to the stock split.

##### Repurchase Plan

As of May 9, 2000, the Board of Directors authorized the purchase of up to \$15.0 million of our common stock as well as our convertible subordinated notes. The shares and notes could be purchased from time to time through the open market or in privately negotiated transactions. During the year

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ended March 31, 2001, we repurchased 3.6 million shares of our common stock for approximately \$15.0 million. We financed the purchase of such shares with available cash.

##### Shareholders' Rights Plan

On April 18, 2000, our Board of Directors approved a shareholders rights plan (the "Rights Plan"). Under the Rights Plan, each common shareholder at the close of business on April 19, 2000, received a dividend of one right for each share of common stock held. Each right represents the right to purchase one one-hundredth (1/100) of a share of our Series A Junior Preferred Stock at an exercise price of \$40.00. Initially, the rights are represented by our common stock certificates and are neither exercisable nor traded separately from our common stock. The rights will only become exercisable if a person or group acquires 15% or more of the common stock of Activision, or announces or commences a tender or exchange offer which would result in the bidder's beneficial ownership of 15% or more of our common stock.

In the event that any person or group acquires 15% or more of our outstanding common stock each holder of a right (other than such person or members of such group) will thereafter have the right to receive upon exercise of such right, in lieu of shares of Series A Junior Preferred Stock, the number of shares of common stock of Activision having a value equal to two times the then current exercise price of the right. If we are acquired in a merger or other business combination transaction after a person has acquired 15% or more of our common stock, each holder of a right will thereafter have the right to receive upon exercise of such right a number of the acquiring company's common shares having a market value equal to two times the then current exercise price of the right. For persons who, as of the close of business on April 18, 2000, beneficially own 15% or more of the common stock of Activision, the Rights Plan "grandfathers" their current level of ownership, so long as they do not purchase additional shares in excess of certain limitations.

We may redeem the rights for \$.01 per right at any time until the first public announcement of the acquisition of beneficial ownership of 15% of our common stock. At any time after a person has acquired 15% or more (but before any person has acquired more than 50%) of our common stock, we may exchange all or part of the rights for shares of common stock at an exchange ratio of one share of common stock per right. The rights expire on April 18, 2010.

#### 15. Supplemental Cash Flow Information

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

	Years ended March 31,		
	2002	2001	2000
<b>Non-cash investing and financing activities:</b>			
Issuance of stock, options and warrants in exchange for licensing rights and other services	\$ 3,217	\$ —	\$ 8,529
Tax benefit derived from net operating loss carryforward utilization	—	3,652	1,266
Common stock issued to effect business combinations	25,481	—	7,171
Conversion of Notes to common stock, net of conversion costs	58,651	—	—
<b>Supplemental cash flow information:</b>			
Cash paid for income taxes	\$ 3,041	\$ 6,753	\$ 6,333
Cash paid (received) for interest	\$ (2,942)	\$ 5,720	\$ 10,519

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#### 16. Quarterly Financial and Market Information—Restated (Unaudited)

Quarter Ended



(Amounts in thousands, except per share data)

	June 30	Sept 30	Dec 31	Mar 31	Year Ended
<b>Fiscal 2002:</b>					
Net revenues	\$ 110,577	\$ 139,604	\$ 371,341	\$ 164,912	\$ 786,434
Operating income (loss)	(1,235)	3,144	61,801	16,862	80,574
Net income	29	2,215	39,110	10,884	52,238
Basic earnings per share	0.00	0.04	0.75	0.20	1.03
Diluted earnings per share	0.00	0.04	0.66	0.17	0.88
<b>Common stock price per share</b>					
High	27.43	27.00	28.72	32.75	32.75
Low	13.92	15.07	16.35	22.77	13.92
<b>Fiscal 2001:</b>					
Net revenues	\$ 84,558	\$ 144,363	\$ 264,473	\$ 126,789	\$ 620,183
Operating income (loss)	(6,498)	9,536	34,754	2,015	39,807
Net income (loss)	(5,179)	4,306	20,505	875	20,507
Basic earnings (loss) per share	(0.14)	0.12	0.56	0.02	0.55
Diluted earnings (loss) per share	(0.14)	0.11	0.47	0.02	0.50
<b>Common stock price per share</b>					
High	8.10	10.42	10.17	16.83	16.83
Low	3.58	4.21	6.88	9.08	3.58

Per share amounts have been restated to give effect to our three-for-two stock split effected in the form of a 50% stock dividend for shareholders of record as of November 6, 2001, paid November 20, 2001.

### 17. Subsequent Events—Unaudited

On December 4, 2001, we filed a shelf registration statement on Form S-3 with the Securities and Exchange Commission to register 7,500,000 shares of our common stock. On June 4, 2002, we issued the 7,500,000 shares of common stock in an underwritten public offering for proceeds, before issuance costs, of approximately \$248.3 million. The proceeds from this offering will be used for general corporate purposes, including, among other things, additions to working capital and financing of capital expenditures, joint ventures and/or strategic acquisitions.

On May 20, 2002, we acquired all of the outstanding capital of Z-Axis Ltd. ("Z-Axis"), a privately held interactive software development company, in exchange for \$12.5 million in cash and 249,190 shares of our common stock. Additional shares of our common stock also may be issued to Z-Axis' equity holders and employees over the course of several years, depending on the satisfaction of certain product performance requirements and other criteria. Z-Axis is a console software developer with a focus on action and action-sports video games.

On May 10, 2002, we acquired 30% of the outstanding capital stock of Infinity Ward, Inc. ("Infinity Ward"), as well as an option to purchase the remaining 70% of the outstanding capital stock of Infinity Ward. Infinity Ward is a privately held interactive software development company with a focus on first person action games for personal computers.

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## SCHEDULE II

### ACTIVISION, INC. AND SUBSIDIARIES VALUATION AND QUALIFYING ACCOUNTS AND RESERVES (In thousands)

Col. A	Col. B	Col. C	Col. D	Col. E
Description	Balance at Beginning of Period	Additions(A)	Deductions(B)	Balance at End of Period
<b>Year ended March 31, 2002</b>				
Allowance for sales returns and price protection	\$ 25,075	\$ 89,423	\$ (75,285)	\$ 39,213
Allowance for doubtful accounts	3,386	2,681	(3,261)	2,806
Deferred tax valuation allowance	9,895	20,584	—	30,479
<b>Year ended March 31, 2001</b>				
Allowance for sales returns and price protection	27,391	76,784	(79,100)	25,075
Allowance for doubtful accounts	4,130	2,670	(3,414)	3,386
Deferred tax valuation allowance	13,041	—	(3,146)	9,895

Allowance for sales returns and price protection	10,937	93,535	(77,081)	27,391
Allowance for doubtful accounts	4,042	3,827	(3,739)	4,130
Deferred tax valuation allowance	6,916	6,125	—	13,041

(A) Includes increases in allowance for sales returns, price protection and doubtful accounts due to normal reserving terms and allowance accounts acquired in conjunction with acquisitions.

(B) Includes actual write-offs of sales returns, price protection and uncollectible accounts receivable, net of recoveries and foreign currency translation adjustments.

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### EXHIBIT INDEX

Exhibit Number	Exhibit
2.1	Agreement and Plan of Merger dated as of June 9, 2000 among Activision, Inc., Activision Holdings, Inc. and ATVI Merger Sub, Inc. (incorporated by reference to Exhibit 2.4 of Activision's Form 8-K, filed on June 16, 2000).
3.1	Amended and Restated Certificate of Incorporation of Activision Holdings, dated June 1, 2000 (incorporated by reference to Exhibit 2.5 of Activision's Form 8-K, filed on June 16, 2000).
3.2	Amended and Restated Bylaws of Activision Holdings (incorporated by reference to Exhibit 2.6 of Activision's Form 8-K, filed on June 16, 2000).
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation of Activision Holdings dated as of June 9, 2000 (incorporated by reference to Exhibit 2.7 of Activision's Form 8-K, filed on June 16, 2000).
3.4	Certificate of Amendment of Amended and Restated Certificate of Incorporation, as amended, of Activision, Inc. dated as of August 23, 2001.
3.5	Certificate of Designation of Series A Junior Preferred Stock of Activision, Inc. dated as of December 27, 2001.
4.1	Rights Agreement dated as of April 18, 2000, between Activision 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 Activision as Exhibit C, (incorporated by reference to Activision's Registration Statement on Form 8-A, Registration No. 001-15839, filed April 19, 2000).
10.1	Mediagenic 1991 Stock Option and Stock Award Plan, as amended.
10.2	Mediagenic 1991 Director Warrant Plan, as amended (incorporated by reference to Exhibit 28.2 to Activision's Registration Statement on Form S-8, Registration No. 33-63638, filed on June 1, 1993).
10.3	Activision, Inc. Employee Stock Purchase Plan, as amended, (incorporated by reference to Exhibit 4.1 of Activision's Form S-8, Registration No. 333-36272 filed on May 4, 2000).
10.4	Activision, Inc. 1998 Incentive Plan (incorporated by reference to Appendix I of Activision's 1998 Proxy Statement).
10.5	Activision, Inc. 1999 Incentive Plan (incorporated by reference to Exhibit of Activision's Form 10-K for the year ending March 31, 2000).
10.6	Activision, Inc. 2001 Incentive Plan, as amended.
10.7	Activision, Inc. 2002 Incentive Plan.
10.8	Lease Agreement dated as of December 20, 1996 between Activision and Barclay Curci Investment Company (incorporated by reference to Exhibit 10.14 of Activision's Form 10-Q for the quarter ended December 31, 1996).
10.9	Amended and restated employment agreement dated May 22, 2000 between Activision and Robert A. Kotick (incorporated by reference to Exhibit 10.1 of Activision's Form 10-Q for the quarter ended September 30, 2000).

- 10.10 Employment agreement dated October 19, 1998 between Activision and Ronald Doornink (incorporated by reference to Exhibit 10.12 of Activision's Form 10-K for the year ending March 31, 1999).
- 10.11 Employment agreement dated April 1, 2000 between Activision and Lawrence Goldberg (incorporated by reference to Exhibit 10.1 of Activision's Form 10-Q for the quarter ending June 30, 2000).
- 10.12 Employment agreement dated April 1, 2002 between Activision and William J. Chardavoyne.
- 10.13 Stock option agreement dated May 22, 2000 between Activision and Robert A. Kotick (incorporated by reference to Activision's Form 10-Q for the quarter ending September 30, 2000).
- 10.14 Service Agreement dated March 1, 2002 between Combined Distribution (Holdings) Limited and Richard Andrew Steele.
- 10.15 Amended and restated employment agreement dated May 22, 2000 between Activision and Brian G. Kelly (incorporated by reference to Exhibit 10.3 of Activision's Form 10-Q for the quarter ending September 30, 2000).
- 10.16 Employment agreement dated April 1, 2002 between Activision and Michael Rowe.
- 10.17 Employment agreement dated July 12, 1999 between Activision and Kathy Vrabeck (incorporated by reference to Exhibit 6.2 of Activision's Form 10-Q for the quarter ending June 30, 1999).
- 10.18 Amendment to Employment Agreement between Ronald Doornink and Activision, dated April 30 1999 (incorporated by reference to Exhibit 6.1 of Activision's Form 10-Q for the quarter ending December 31, 1999).
- 10.19 Stock option agreement dated May 22, 2000 between Activision and Brian G. Kelly (incorporated by reference to Activision's Form 10-Q for the quarter ending September 30, 2000).
- 10.20 Amended and Restated Credit Agreement dated as of May 7, 2001, among Activision Publishing, Inc., a Delaware corporation, Activision, Inc., a Delaware corporation, Activision Value Publishing, Inc., a Minnesota corporation (formerly Head Games Publishing, Inc.) and Expert Software, Inc., a Delaware corporation, various financial institutions and PNC Bank, National Association, a national banking association, as issuing bank, administrative agent and collateral agent for such lenders ("the Loan Agreement") (incorporated by reference to Activision's Form 10-K for the year ending March 31, 2001).
- 10.21 Amendment Agreement dated as of June 21, 2002 amending the Loan Agreement set forth in Exhibit 10.20 above.
- 10.22 Underwriting Agreement dated as of June 4, 2002 between Activision and Goldman Sachs & Co. (incorporated by reference to Exhibit 1.1 of Activision's Form 8-K filed June 6, 2002).
- 16.1 Letter from KPMG, LLP pursuant to Item 304(a)(3) of Regulation S-K (incorporated by reference to Exhibit 16.1 of Activision's Form 8-K/A filed March 23, 2001).
- 21.1 Principal subsidiaries of Activision.
- 23.1 Consent of Independent Accountants.
- 23.2 Consent of Independent Accountants.

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Reports on Form 8-K. We have filed the following reports on Form 8-K during the last quarter of the fiscal year ended March 31, 2002:

- 1.1 We filed a Form 8-K on January 18, 2002, reporting under "Item 7. Financial Statements, Pro Forma Financial Statements and Exhibits" and "Item 9. Regulation FD Disclosure" our acquisition of Gray Matter Interactive Studios, Inc.

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**CERTIFICATE OF AMENDMENT**  
**OF**  
**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION, AS AMENDED,**  
**OF**  
**ACTIVISION, INC.**

ACTIVISION, INC., a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware, DOES HEREBY CERTIFY as follows:

1. The name of the corporation (hereinafter called the "Corporation") is Activision, Inc.

2. The Amended and Restated Certificate of Incorporation, as amended, of the Corporation is hereby amended by deleting the first paragraph of Article FOURTH and replacing it in its entirety with the following:

"FOURTH: The total number of shares of capital stock which the Corporation shall have authority to issue is 130,000,000 shares, consisting of (i) 4,500,000 shares of Preferred Stock, par value \$.000001 per share ("Preferred Stock"), (ii) 500,000 shares of Series A Junior Preferred Stock, par value \$.000001 per share ("Series A Preferred Stock"), and (iii) 125,000,000 shares of Common Stock, par value \$.000001 per share ("Common Stock")."

3. The foregoing amendment of the certificate of incorporation of the corporation was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, I have subscribed this document on the date set forth below and do hereby affirm, under the penalties of perjury, that this document is the act and deed of the corporation named herein and that the facts stated herein are true.

Dated: August 23, 2001

/s/ GEORGE ROSE

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George Rose, Secretary

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QuickLinks

[Exhibit 3.4](#)

[CERTIFICATE OF AMENDMENT OF AMENDED AND RESTATED CERTIFICATE OF INCORPORATION, AS AMENDED, OF ACTIVISION, INC.](#)

**CERTIFICATE OF DESIGNATION**  
**OF**  
**SERIES A JUNIOR PREFERRED STOCK**  
**OF**  
**ACTIVISION, INC.**

**Pursuant to Section 151 of the Delaware**  
**General Corporation Law**

I, Robert A. Kotick, the Chairman and Chief Executive Officer of Activision, Inc., a corporation organized and existing under the Delaware General Corporation Law (the "**Company**"), in accordance with the provisions of Section 151 of such law, DO HEREBY CERTIFY that pursuant to the authority conferred upon the Board of Directors by the Amended and Restated Certificate of Incorporation of the Company, as amended, the Board of Directors on December 12, 2001 adopted the following resolution:

"RESOLVED, that, pursuant to Section 151(g) of the Delaware General Corporation Law and the authority vested in the Board of Directors of the Company in accordance with the provisions of ARTICLE FOURTH of the Amended and Restated Certificate of Incorporation of the Company, as amended, 750,000 shares of Preferred Stock are hereby designated as Series A Junior Preferred Stock, and the powers, designations, preferences and relative, participating, optional or other special rights of the shares of such series and the qualifications, limitations and restrictions shall be identical in all respects to those of the Series A Junior Preferred Stock authorized by the Amended and Restated Certificate of Incorporation of the Company, as amended."

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IN WITNESS WHEREOF, I have executed and subscribed this Certificate of Designation and do affirm the foregoing as true under the penalties of perjury this 27<sup>th</sup> day of December, 2001.

/s/ ROBERT A. KOTICK

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Name: Robert A. Kotick  
Title: *Chairman and Chief Executive Officer*

ATTEST:

/s/ GEORGE ROSE

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Name: George Rose  
Title: *Secretary*

QuickLinks

[Exhibit 3.5](#)

[CERTIFICATE OF DESIGNATION OF SERIES A JUNIOR PREFERRED STOCK OF ACTIVISION, INC.](#)

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, 10/17/01 and 4/30/02

**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

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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

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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 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 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. "Nonqualified stock options" and any stock 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 Corporation; provided that such Permitted Assignee shall be bound by and subject to all of the terms and conditions of this Plan and the Stock Option Certificate relating to the transferred stock option and shall execute an

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agreement satisfactory to the Corporation 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 Corporation shall cooperate with any Permitted Assignee and the Corporation's transfer agent in effectuating any transfer permitted under this Section 5(e).

(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.

(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

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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 (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

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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.

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(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

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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 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

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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 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

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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

(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.

(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

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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.

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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:

Vesting Date	Shares Vested at Vesting Date	Cumulative Shares Vested at Vesting Date
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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

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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 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

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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 (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

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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 an/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 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

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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.

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

ACTIVISION, INC.

By:

\_\_\_\_\_

Dated:

\_\_\_\_\_

Attest:

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Date

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Address

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City            State            Zip Code

### QuickLinks

[Exhibit 10.1](#)

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

**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 10.9 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 3,750,000. 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;

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- (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 10.9 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 under Article 11, or any other Award granted under the Plan shall consist of such officers, key employees, consultants, advisors and Directors (as defined in Section 3.2 below) of the Company or any of its subsidiaries or affiliates as the Committee (as defined in Section 3.2 below) 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% of the Fair Market Value (as defined in Section 10.2 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.** 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 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

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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.

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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 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 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.

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## 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 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.

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**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).

## 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).

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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 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.

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**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.

## 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,

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(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 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

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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 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), 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

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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.

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(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 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.

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(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.

## 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

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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

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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 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

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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, as amended (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:

<u>Vesting Date</u>	<u>Shares Vested at Vesting Date</u>	<u>Cumulative Shares Vested at Vesting Date</u>
<b>[vesting schedule]</b>		

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 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 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, *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 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;

(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

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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

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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.

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**(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.

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

ACTIVISION, INC.

By: \_\_\_\_\_

Name:

Title:

Date:

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Attest:

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ACCEPTED:

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Option Holder

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Address

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City            State            Zip Code

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Social Security Number

## QuickLinks

[Exhibit 10.6](#)

- [ACTIVISION, INC. 2001 INCENTIVE PLAN](#)
- [RECITALS](#)
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- [STOCK OPTION AGREEMENT \(Non-Transferable\)](#)

**ACTIVISION, INC.**

**2002 INCENTIVE PLAN**

ACTIVISION, INC., a corporation formed under the laws of the State of Delaware (the "Company"), hereby establishes and adopts the following 2002 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 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 officers (other than executive 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 10.9 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 2,350,000. 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;

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- (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 10.9 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 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 under Article 11, or any other Award granted under the Plan shall consist of such officers (other than executive officers), key employees, consultants and advisors of the Company or any of its subsidiaries or affiliates as the Committee (as defined in Section 3.2 below) shall select from time to time. Executive officers and Directors (as defined in Section 3.2 below) of the Company shall not be eligible to receive Awards under the Plan. 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% of the Fair Market Value (as defined in Section 10.2 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.

(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 officers (other than executive officers), key employees, consultants and advisors 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 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

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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.

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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 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 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.

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## 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 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

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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).

## 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.

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(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 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 officers (other than executive 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

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(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.

## 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.

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**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 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.

**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 or consultant 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.

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**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 an 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 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 an 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

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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

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(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 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

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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.

## 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

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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 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 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, 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;

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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 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 April 3, 2012, 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.

**STOCK OPTION AGREEMENT**

**(Non-Transferable)**

Stock Option #		For	Shares
	<p>Issued Pursuant to the 2002 Incentive Plan of</p> <p><b>ACTIVISION, INC.</b></p>		

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 2002 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:

<u>Vesting Date</u>	<u>Shares Vested at Vesting Date</u>	<u>Vested at Vesting Date Cumulative Shares</u>
[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 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 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 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 the 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 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

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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;

(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

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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 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

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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.

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**(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.

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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

\_\_\_\_\_  
Social Security Number

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QuickLinks

[Exhibit 10.7](#)



Mr. William Chardavoyne  
2509 Laurel Avenue  
Manhattan Beach, CA 90266

Dear Mr. Chardavoyne:

This letter confirms the terms of your employment by Activision Publishing, Inc. ("Employer").

**1. Term**

The term of your employment under this agreement shall commence on April 1, 2002 and expire on March 31, 2005, unless earlier terminated as provided below.

**2. Salary**

(a) In full consideration for all rights and services provided by you under this agreement, you shall receive an annual base salary of \$325,000 during the first year of the term, an annual base salary of \$345,000 during the second year of the term and an annual base salary of \$365,000 during the third year of the term.

(b) Base salary payments shall be made in accordance with Employer's then prevailing payroll policy. Each base salary referred to in Paragraph 2(a) shall constitute your minimum base salary during the applicable period, and your base salary may be increased above the minimum at any time if Employer's Board of Directors (or the Compensation Committee of such Board of Directors), in its sole and absolute discretion, elects to do so. In the event of an increase in your base salary beyond the applicable minimum base salary for a particular period, such increased base salary shall then constitute your minimum base salary for all subsequent periods under this agreement, but only to the extent such increased base salary is in excess of the minimum base salary referred to in Paragraph 2(a) for the corresponding period.

(c) Notwithstanding anything to the contrary set forth above but subject to the right of termination granted to you pursuant to Paragraph 10(b), Employer shall not be required to actually use your services, and payment of your base salary during the applicable period of your employment under this agreement will discharge Employer's obligations to you hereunder. Such payment, however, will not discharge your obligations to Employer hereunder.

(d) In addition to your base salary, you shall be eligible to receive an annual performance based bonus targeted at sixty percent (60%) of your annual base salary, in compliance with Employer's standard bonus plan which is established on a yearly basis by Employer's senior management and Board of Directors (or the Compensation Committee of such Board of Directors) and is based on a number of factors that may include, without limitation, the achievement of corporate earning and operating margin goals.

(e) You also are being granted, under Employer's existing or modified Board-approved stock option plan, a non-qualified stock option ("NQSO") to purchase 80,000 shares of the company's common stock. Such option is in addition to the stock options of Employer previously granted to you. The option will be issued on the commencement date of your contract. The option to purchase 80,000 shares referred to above will vest ratably over four years, with one fourth of the amount granted vesting at the end of each year. The option will have an exercise price that will be the market low of such common stock in effect at the time of the grant. You also shall be eligible to receive annual stock options, under Employer's existing or modified stock option plan, if Employer's Board of Directors (or

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the Compensation Committee of such Board of Directors), in its sole and absolute discretion, determines that the grant to you of additional options is appropriate.

**3. Title**

You are being employed under this agreement in the position of Executive Vice President, Finance.

**4. Duties**

You shall personally and diligently perform, on a full-time and exclusive basis, such services as Employer or any of its divisions may reasonably require, provided that such services are consistent with your position with Employer. You shall observe all reasonable rules and regulations adopted by Employer in connection with the operation of its business and carry out all instructions of Employer. You will at all times perform all of the duties and obligations required by you under this agreement in a loyal and conscientious manner and to the best of your ability and experience.

**5. Expenses**

To the extent you incur necessary and reasonable business expenses in the course of your employment, you shall be reimbursed for such expenses, subject to Employer's then current policies regarding reimbursement of such business expenses.

**6. Other Benefits**

You shall be entitled to those benefits which are standard for persons in similar positions with Employer, including coverage under Employer's health, life insurance and disability plans, and eligibility to participate in Employer's 401(k) plan. Nothing paid to you under any such plans and arrangements (nor any bonus

or stock options which Employer's Board of Directors (or the Compensation Committee of such Board of Directors), in its sole and absolute discretion, shall provide to you) shall be deemed in lieu, or paid on account, of your base salary. You expressly agree and acknowledge that after expiration or early termination of the term of your employment under this agreement, you are entitled to no additional benefits not expressly set forth in this agreement, except as specifically provided under the benefit plans referred to above and those benefit plans in which you subsequently may become a participant, and subject in each case to the terms and conditions of each such plan. Notwithstanding anything to the contrary set forth above, you shall be entitled to receive those benefits provided by COBRA upon the expiration or early termination of the term of your employment under this agreement.

## **7. Vacation and Paid Holidays**

(a) You will be entitled to paid vacation days in accordance with the normal vacation policies of Employer in effect from time to time, provided that in no event shall you be entitled to less than twenty (20) days of paid vacation per year.

(b) You shall be entitled to all paid holidays given by Employer to its full-time employees.

## **8. Protection of Employer's Interests**

(a) During the term of your employment by Employer, you will not compete in any manner, whether directly or indirectly, as a principal, employee, agent or owner, with Employer, or any affiliate of Employer, except that the foregoing will not prevent you from holding at any time less than five percent (5%) of the outstanding capital stock of any company whose stock is publicly traded.

(b) All rights worldwide with respect to any and all intellectual or other property of any nature produced, created or suggested by you during the term of your employment or resulting from your services which (i) relate in any manner at the time of conception or reduction to practice to the actual or demonstrably anticipated business of Employer, (ii) result from or are suggested by any task

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assigned to you or any work performed by you on behalf of Employer, or (iii) are based on any property owned or idea conceived by Employer, shall be deemed to be a work made for hire and shall be the sole and exclusive property of Employer. You agree to execute, acknowledge and deliver to Employer, at Employer's request, such further documents, including copyright and patent assignments, as Employer finds appropriate to evidence Employer's rights in such property.

(c) Any confidential and/or proprietary information of Employer or any affiliate of Employer shall not be used by you or disclosed or made available by you to any person except as required in the course of your employment, and upon expiration or earlier termination of the term of your employment, you shall return to Employer all such information which exists in written or other physical form (and all copies thereof) under your control. Without limiting the generality of the foregoing, you acknowledge signing and delivering to Employer the Activision Employee Proprietary Information Agreement and you agree that all terms and conditions contained in such agreement, and all of your obligations and commitments provided for in such agreement, shall be deemed, and hereby are, incorporated into this agreement as if set forth in full herein. The provisions of the immediately preceding four sentences of this paragraph shall survive the expiration or earlier termination of this agreement.

## **9. Services Unique**

You recognize that the services being performed by you under this agreement are of a special, unique, unusual, extraordinary and intellectual character giving them a peculiar value, the loss of which cannot be reasonably or adequately compensated for in damages, and in the event of a breach of this agreement by you (particularly, but without limitation, with respect to the provisions hereof relating to the exclusivity of your services and the provisions of paragraph 8 of this agreement), Employer shall, in addition to all other remedies available to it, be entitled to equitable relief by way of injunction and any other legal or equitable remedies.

## **10. Termination**

(a) At any time during the term of this Agreement, Employer may terminate your employment under this Agreement for your (i) willful, reckless or gross misconduct, (ii) negligent performance of job responsibilities, (iii) conviction of a felony or crime involving dishonesty or moral turpitude, or (iv) commitment of any of the terminable offenses listed in Section 7.2 of Employer's Employee Handbook

(b) You may terminate your employment under this agreement (i) upon Employer's material breach under this agreement, (ii) upon any relocation of the place at which you primarily are performing your services to Employer to a location which is outside the metropolitan Los Angeles area, or (iii) if Employer elects to not actually use your services and continues to pay your base salary pursuant to Paragraph 2(c) above for a period of one hundred eighty (180) consecutive days.

(c) In the event of the termination of your employment under this agreement pursuant to Paragraph 10(a) or 10(b), all obligations of Employer to you under this agreement shall immediately terminate.

(d) In the event of your death during the term of this agreement, this agreement shall terminate and Employer only shall be obligated to pay your estate or legal representative the salary provided for above to the extent earned by your prior to such event. Except as otherwise prohibited by applicable law (including, without limitation, pursuant to the Family Medical Leave Act), in the event you are unable to perform the services required of you under this agreement as a result of any disability, and such disability continues for a period of 60 or more consecutive days or an aggregate of 90 or more days during any 12-month period during the term of this agreement, then Employer shall have the right, at its option, to terminate your employment under this agreement. Unless and until so terminated, during any period of disability during which you are unable to perform the services

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required of you under this agreement, your base salary shall be payable to the extent of, and subject to, Employer's policies and practices then in effect with regard to sick leave and disability benefits.

**11. Use of Employee's Name**

Employer shall have the right, but not the obligation, to use your name or likeness for any publicity or advertising purpose.

**12. Assignment**

Employer may assign this agreement or all or any part of its rights under this agreement to any entity which succeeds to all or substantially all of Employer's assets (whether by merger, acquisition, consolidation, reorganization or otherwise) or which Employer may own substantially, and this agreement shall inure to the benefit of such assignee.

**13. No Conflict with Prior Agreements**

You represent to Employer that neither your commencement of employment under this agreement nor the performance of your duties under this agreement conflicts or will conflict with any contractual commitment on your part to any third party, nor does it or will it violate or interfere with any rights of any third party.

**14. Post-Termination Obligations**

After the expiration or earlier termination of your employment under this agreement for any reason whatsoever, you shall not, either alone or jointly, with or on behalf of others, directly or indirectly, whether as principal, partner, agent, shareholder, director, employee, consultant or otherwise, at any time during a period of one (1) year following such expiration or termination, offer employment to, or solicit the employment or engagement of, or otherwise entice away from the employment of Employer or any affiliated entity, either for your own account or for any other person firm or company, any person who was employed by Employer or any such affiliated entity during the term of your employment, whether or not such person would commit any breach of his or her contract of employment by reason of his or her leaving the service of Employer or any affiliated entity.

**15. Entire Agreement; Amendments; Waiver, Etc.**

(a) This agreement supersedes all prior or contemporaneous agreements and statements, whether written or oral, concerning the terms of your employment with Employer, and no amendment or modification of this agreement shall be binding against Employer unless set forth in a writing signed by Employer and delivered to you. Without limiting the generality of the foregoing, you acknowledge that this agreement supersedes your prior written agreement with Employer dated July 18, 2000, and such agreement is hereby declared terminated and of no further force and effect.

(b) You have given no indication, representation or commitment of any nature to any broker, finder, agent or other third party to the effect that any fees or commissions of any nature are, or under any circumstances might be, payable by Employer or any affiliate of Employer in connection with your employment under this agreement.

(c) No waiver by either party of any breach by the other party of any provision or condition of this agreement shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time.

(d) Nothing contained in this agreement shall be construed so as to require the commission of any act contrary to law and wherever there is any conflict between any provision of this agreement and any present or future statute, law, ordinance or regulation, the latter shall prevail, but in such event the provision of this agreement affected shall be curtailed and limited only to the extent necessary to bring it within legal requirements.

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(e) This agreement does not constitute a commitment of Employer with regard to your employment, express or implied, other than to the extent expressly provided for herein. Upon termination of this agreement, it is the contemplation of both parties that your employment with Employer shall cease, and that neither Employer nor you shall have any obligation to the other with respect to continued employment. In the event that your employment continues for a period of time following the stated expiration date of this contract, unless and until agreed to in a new subscribed written document, such employment or any continuation thereof is "at will," and may be terminated without obligation at any time by either party giving notice to the other.

(f) This agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflict of law principles.

(g) In accordance with the Immigration Reform and Control Act of 1986, employment under this agreement is conditioned upon satisfactory proof of your identity and legal ability to work in the United States.

(h) To the extent permitted by law, you will keep the terms of this agreement confidential, and you will not disclose any information concerning this agreement to anyone other than your immediate family and professional representatives (provided they also agree to keep the terms of this agreement confidential).

**16. Notices**

All notices which either party is required or may desire to give the other shall be in writing and given either personally or by depositing the same in the United States mail addressed to the party to be given notice as follows:

To Employer:	3100 Ocean Park Boulevard Santa Monica, California 90405 Attention: Executive Vice President and General Counsel
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**Service Agreement**

- (1) Combined Distribution (Holdings) Limited
- (2) **Richard Andrew Steele**

March 1, 2002

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**This Agreement** is made the 1<sup>st</sup> day of March 2002.

**Between:**

- (1) **Combined Distribution (Holdings) Limited** (company number: 3136477) whose registered office is at Unit 4/5 Holford Way Holford Birmingham B6 7AX ("**the Company**"); and
- (2) **Richard Andrew Steele** of 213 Station Road, Knowle, Solihull, B93 0PU ("**the Executive**")

**It is agreed** as follows:

1. **Definitions and interpretation**

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

" <b>Activision Inc.</b> "	Activision Inc., a Delaware corporation and the holding company of the Company;
" <b>Agreement</b> "	this Agreement (including any schedule or annexure to it and any document referred to in it or in agreed form);
" <b>the Board</b> "	the board of directors of the Company from time to time and includes any committee of the Board duly appointed by it;
" <b>Businesses</b> "	any trade or other commercial activity of any Group Company: <ul style="list-style-type: none"><li>(a) with which the Executive is concerned or involved to any material extent at any time during his Employment; or</li><li>(b) which any Group Company shall at the Termination Date have determined to carry on with a view to profit</li></ul>

in the immediate or foreseeable future and in relation to which the Executive, at the Termination Date, possesses any Confidential Information;

- (c) to whom or which any Group Company shall at any time during the period of 12 months prior to the Termination Date have supplied any Restricted Products or Restricted Services;

**"Company Invention"**

any invention which is the property of the Company under Section 39(1), Patents Act 1977;

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**"Confidential Information"**

any trade secrets or other information which is confidential, commercially sensitive and is not in the public domain relating or belonging to the Company including but not limited to information relating to the business methods, corporate plans, management systems, finances, new business opportunities, research and development projects, marketing or sales of any past, present or future product or service, secret formulae, processes, inventions, designs, know-how discoveries, technical specifications and other technical information relating to the creation, production or supply of any past, present or future product or service of the Company, lists or details of clients, potential clients or suppliers or the arrangements made with any client or supplier and any information in respect of which the Company owes an obligation of confidentiality to any third party.

**"Copyright Work"**

Any work (including software) protected under Part 1, Chapter 1 of the Copyright Design and Patents Act 1988 created, originated, written or developed by you alone or with others during the term of your Employment;

**"Customer"**

Any person

- a) with whom or which you have dealt or of whom or of which you have knowledge by virtue of your duties in the 6 months preceding the Termination Date; and
- b) either:
- (i) who or which shall at the Termination Date be negotiating with the Company for the supply of any Restricted Products; or
  - (ii) to whom or which the Company shall at any time during the period of 6 months prior to the Termination Date have supplied any Restricted Products;

**"Developer"**

any person or company with whom you have dealt by virtue of your duties in the months preceding the Termination Date and who has during that period provided software development services and products to the Company;

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**"Design"**

any design for an article or part of an article created, originated or developed by you alone or with others during the term of your Employment protected under Section 213 of the Copyright Design and Patent Act 1988 and/or which is capable of protection as a registered design:

**"Duties"**

the duties of the Executive as set out in clause 4;

**"Employment"**

the period of the Executive's employment under this

Agreement which for the purposes of this Agreement shall be deemed to include any period of garden leave imposed under clause 12.5

"ERA 96"	Employment Rights Act 1996;
"Group Companies"	the Company, its subsidiaries or subsidiary undertakings, any holding company or parent undertaking and any subsidiary or subsidiary undertaking of any holding company or parent undertaking and "Group Company" means any of them;
"Invention"	any invention, know-how, technique, process, improvement or discovery which you (whether alone or with any other person) creates, originates, develops, writes or devises at any time during the term of your Employment and which relates or which could relate, directly or indirectly, to the Businesses;
"Material Interest"	(a) the holding of any position (whether employed or engaged) or provision of services as director, officer, employee, consultant, adviser, partner, principal, agent or volunteer;  (b) the direct or indirect control or ownership (whether jointly or alone) of any shares (or any voting rights attached to them) or debentures save for the ownership for investment purposes only of not more than 5 per cent of the issued ordinary shares of any company whose shares are listed on any Recognised Investment Exchange; or  (c) the direct or indirect provision of any financial assistance;
"notice"	includes any notice, demand, consent or other communication
"Recognised Investment Exchange"	as defined in Section 207, Financial Services Act, 1986;
"Restricted Area"	the United Kingdom of Great Britain and Northern Ireland.

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"Restricted Products"	any computer entertainment products in hardware format similar to those developed and published by the Company or any Group Company products of a kind which have been dealt in, produced, marketed or sold by the Company in the ordinary course of the Business at any time during the 6 months preceding the Termination Date;
"Restricted Proposed Products"	any computer entertainment products in hardware format similar to those developed and published by the Company or any Group Company which are, at the Termination Date, proposed to be dealt in, produced, marketed or sold by the Company at any time during the 6 months following the Termination Date and in respect of which or the marketing of which you have been involved;
"Termination Date"	the date on which the Employment terminates.

1.2 In this Agreement, unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) a reference to a statute or statutory provision includes:
  - (i) any subordinate legislation (as defined in Section 21(1), Interpretation Act 1978) made under it; and
  - (ii) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it;

- (c) a reference to:
  - (i) a "**person**" includes any individual, firm, body corporate, association or partnership, government or state (whether or not having a separate legal personality);
  - (ii) clauses and schedules are to clauses and schedules of this Agreement and references to sub-clauses and paragraphs are references to sub-clauses and paragraphs of the clause or schedule in which they appear;
- (d) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement and
- (e) words and phrases defined in the City Code on Take-Overs and Mergers or in the Companies Act 1985 have the same meaning in this Agreement.

## 2. **Appointment**

- 2.1 The Company appoints the Executive and the Executive agrees to serve as President, ATVI Distribution/Executive Vice President Activision and Managing Director of the Company on the terms set out in his agreement.
- 2.2 The Executive warrants that he is not bound by, nor subject to any court order, arrangement, restriction or undertaking, which prohibits or restricts him from entering into this Agreement or performing his Duties.

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## 3. **Term**

- 3.1 The Employment shall commence on 1 March 2002 and, unless terminated in accordance with clause [12] (Termination of and suspension from Employment), shall continue for a fixed period, to terminate on 28 February 2005. The Company shall have the option, at its absolute discretion, and with the Executive's consent, to extend the fixed term for an additional one-year period by giving the Executive not less than four months prior notice before the expiration of the initial fixed term. If the Company and/or the Executive do not exercise the option to extend the fixed term, the Executive's employment under the provisions of this agreement will terminate without additional notice by expiry of the fixed term. Nothing in this agreement precludes the Executive from pursuing statutory termination or redundancy benefits, if available, in the event that the Company does not exercise the option to extend the fixed term or otherwise terminates the Executive without cause as defined in clause 12.
- 3.2 The Executive's previous employment with Combined Distribution (Holdings) Limited shall be treated as part of his continuous period of employment, which accordingly began on 1 July 1985.

## 4. **Duties of the Executive**

### 4.1 **Relating to the Company**

The Executive shall at all times during his Employment:

- (a) Unless prevented by ill health and except during holidays taken in accordance with clause [10] (Holidays), devote the whole of his working time and attention to the service of the Company;
- (b) Faithfully and diligently perform the duties attaching to his office or which are from time to time assigned to or vested in him and exercise the powers consistent with them;
- (c) obey all lawful and reasonable directions of the Board and implement and abide by any relevant Company policy which may be promulgated or operated in practice from time to time;
- (d) use all reasonable endeavours to promote the interests of each Group Company, and not do or willingly permit to be done anything which is harmful to those interests; and
- (e) keep the Board and the Board of Directors and management of Activision, Inc. fully informed (in writing if so requested) of his conduct of the business or affairs of each Group Company and provide such explanations as the Board and Activision, Inc. may require.

### 4.2 **Relating to the Group Companies**

The Executive shall (without further remuneration and in addition to his duties to the Company) if and for so long as the Company requires during his Employment:

- (a) carry out any duties as may from time to time be assigned to him in relation to any Group Company; and
- (b) act as an officer of any Group Company or hold any other appointment or office as nominee or representative of any Group Company;

in each case as if they were to be performed or held by him for or in relation to the Company.

## 5. **Hours of work**

- 5.1 The normal business hours of the Company are 9.00am to 5.30pm with one hour break for lunch Monday to Friday. The executive shall work such further hours as may be necessary for the proper discharge of his Duties and he shall not be entitled to receive any additional remuneration for

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work outside normal business hours. Lunch breaks and other breaks provided to you will not constitute working time.

- 5.2 By the Executive's signature to this statement the Executive confirms that he does not undertake any other work for any employer and undertakes to seek the consent of the Company before undertaking work for any other employer.
- 5.3 The Executive agrees to fully co-operate in assisting the Company to maintain accurate records of working hours if requested by the Company.

## 6. **Principal place of work**

- 6.1 The Executive's principal place of work shall be at Holford Way, Holford, Birmingham, or such other location in the U.K. as constitutes the Company's principal place of business from time to time.
- 6.2 The company may require the Executive to work at a location other than the principal place of work for a period not exceeding 2 weeks as the Company may determine. The Executive shall travel in the UK and abroad as the Board may reasonably require for the performance of his Duties.
- 6.3 There is no current requirement as at the date of this agreement for the Executive to work outside of the UK for any consecutive period of one month or more.

## 7. **Salary**

- 7.1 During his employment the Company shall pay to the Executive:
- (a) a basic salary at the rate of £190,000 per annum. This salary shall accrue from day to day, be payable by equal monthly instalments in arrears on or about the last Friday of each month and shall include any fees to which the Executive is entitled as a director of any Group Company; and
  - (b) a bonus calculated in accordance with the provisions of the International Distribution Incentive Plan or the Executive Bonus Plan as appropriate. The Company reserves the right to review and potentially modify its incentive plans on an annual basis as business needs warrant. The Executive will not be eligible for such bonus if he leaves the Company voluntarily at any point during the Company's financial year prior to end of the Executive's term as defined in clause 3.1 or if the Executive is terminated in accordance with clause 12. The Company reserves the right to review and potentially modify its bonus plans at anytime.
- 7.2 The Executive's basic salary shall be reviewed with effect from 1 April in each year. The review shall be at the discretion of Activision, provided that the annual basic salary increase shall not be less than 7% of the immediately preceding basic salary.
- 7.3 The Company is entitled to deduct from the Executive's salary or any other payment due to the Executive including any payment due to the Executive upon termination of his Employment any sums properly due from the Executive to the Company. Such forms include, without limitation, repayment or any loans or advances (including advances on expenses), repayment of any overpaid holiday pay, salary or benefits and the cost of any damage to or loan of the Company's property.

## 8. **Expenses**

- 8.1 Subject to clause 8.2 below, the Company shall reimburse to the Executive all hotel, travelling, entertainment and other out of pocket expenses reasonably and properly incurred by him in the performance of his Duties subject to him producing to the Company any vouchers or other evidence of actual payment of the expenses as the Company may reasonably require.

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- 8.2 The Company shall reimburse the Executive in respect of his home telephone bill and private and business petrol expenses, provided that such reimbursements shall not be made at a level materially greater than that at which they were made in the six months prior to the date of this Agreement.

- 8.3 Any credit card or charge card supplied to the Executive by the Company shall be used solely for expenses incurred by him in carrying out his Duties and for private petrol.

## 9. **Other Benefits**

### 9.1 **Motor car**

- (a) The Company shall provide and maintain for the sole use of the Executive a Motor Car and all expenses and petrol in connection with its private and business use shall be paid or reimbursed to the Executive by the Company on presentation of appropriate receipts if required, subject to the

provisions of clause 8.2 above.

- (b) A new Motor Car will be supplied to the Executive after 3 years or 75,000 miles, whichever occurs first.
- (c) The Motor Car may be used by persons other than the Executive with the Executive's permission and provided that such use is in compliance with the Company's motor insurance policy covering the Motor Car.
- (d) The Executive shall not authorise any person to use the Motor Car who is not in possession of a valid driving licence
- (e) The Company reserves the right to vary the terms and/or rules regarding Company Vehicles
- (f) The Executive shall abide by the Company's Car Scheme Rules in force from time to time.

## 9.2 **Mobile telephone**

The Company shall provide to the Executive a mobile telephone and will pay all running expenses except the cost of non-business calls made by him in connection with it.

## 9.3 **Pension**

- (a) Subject to the terms of its deed and rules from time to time, the Executive shall be eligible to join the Stanplan A Pension Scheme details of which are available from the Company Secretary.
- (b) The Company shall pay into the Scheme or a pension scheme of the Executive's choice an annual sum not less than 10% of the Executive's annual basic salary.
- (c) On the Executive's election to cease to be a member of the Scheme or on termination of this Agreement, benefits accrued under the Scheme shall be capable of transfer to alternative pension arrangements of the Executive's direction subject to the rules of the Scheme.
- (d) The Company's contributions shall be calculated and paid on a monthly basis so that in the year of joining or leaving, the amount of such contribution shall be reduced pro rata for each complete calendar month worked.
- (e) No contracting-out certificate pursuant to the Pension Schemes Act 1993 is in force in respect of the Employment.

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## 9.4 **Stock Options**

The Executive shall be granted, under Activision Inc.'s existing or modified stock option plan, a non-qualified stock option ("NQSO") to purchase 100,000 shares of Activision's common stock. The option to purchase 100,000 shares referred to above will be issued on February 20, 2002 (the date this offer was approved) and will vest as follows: 25,000 shares will vest on March 1, 2003; 25,000 shares will vest on March 1, 2004; 25,000 shares will vest on March 1, 2005; and 25,000 shares will vest on March 1, 2006. Such option will have an exercise price that will be the market low of such common stock on the date the options are issued and will be governed in all other respects by Activision's stock option plan in effect at the time of grant. The Executive also shall be eligible to receive additional options, under Activision's existing or modified stock option plan, if Activision's Board of Directors (or the Compensation Committee of such Board of Directors), in its sole and absolute discretion, determines that the grant to you of additional options is appropriate.

The terms of Employment shall not be affected in any way by the grant of stock options to the Executive, and the rights deriving from such grant shall not form part of such terms (either expressly or implied) nor in any way entitle the Executive to take into account such participation in calculating any compensation or damages on the termination of Employment for whatever reason (whether lawful or unlawful) which might otherwise be payable to the Executive.

## 9.5 **Life Assurance**

The Executive shall be entitled to participate during his employment in the Company's group life assurance scheme from time to time whereby the Executive's life is insured for the benefit of his estate for four times his salary referred to in clause 7.1(a).

## 10. **Holidays**

10.1 The Company's holiday year runs from 1 January to 31 December.

10.2 In addition to public holidays and other holidays observed by the Company, the Executive is entitled to 30 working days' paid holiday in each holiday year, to be taken at such time or times as are agreed with the Board.

10.3 The Executive may not, without the consent of the Board;

- (a) carry forward any unused part of his holiday entitlement to a subsequent holiday year; or
- (b) be entitled to payment in lieu for any unused holiday entitlement.

- 10.4 For the holiday year during which the Employment commences or terminates, the Executive's entitlement to holiday shall accrue on a pro rata basis for each complete month of his Employment during that holiday year.
- 10.5 On termination of his Employment the Executive shall be entitled to pay in lieu of any outstanding holiday entitlement and shall be required to repay to the Company any salary received for holiday taken in excess of his actual entitlement.
- 10.6 Other than at the request of, or with the permission of, the Company, the Executive may not take holiday during a period of notice to terminate his Employment.

**11. Sickness or injury**

- 11.1 If the Executive is unable to perform his Duties due to sickness or injury he shall report this fact as soon as possible and, if practicable, by 10 am on the first working day of incapacity to the Company Secretary, and provide, so far as practicable, an expected date of return to work.

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11.2 The Executive shall:

- (a) if absent for under 7 days, on his return to work complete a self-certification form detailing the reason for his absence; and
- (b) if absent for 7 or more consecutive days and for shorter absence if so required, produce a doctor's certificate on the eighth day and weekly after that so that the whole period of absence is covered by these certificates.

- 11.3 Except as set out in sub-clause 11.4, if the Executive is absent due to sickness or injury duly certified in accordance with the provisions of sub-clause 11.2, he shall be paid his full salary for up to 6 months absence in any period of 12 consecutive months and after that such remuneration, if any, as the Board shall determine from time to time.

11.4 Any remuneration paid under sub-clause 11.3 shall:

- (a) not be less than any proceeds received by the Company in respect of the Executive under the Company's permanent health insurance scheme; and
- (b) be inclusive of any Statutory Sick Pay to which the Executive is entitled under the provisions of the Social Security and Housing Benefits Act 1982 and any Social Security Sickness Benefit or other benefits recoverable by the Executive (whether or not recovered) which may be deducted from it.

- 11.5 For Statutory Sick Pay purposes, the Executive's qualifying days are his normal workings days.

- 11.6 At any time during the period of his Employment, (but not normally more often than once every second year) the Executive shall, at the request and expense of the Company:

- (a) consent to an examination by a doctor to be selected by the Company; and
- (b) authorise this doctor to disclose to and discuss with the Company's medical adviser, or other nominated officer of the Company, the results of or any matter arising out from this examination.

- 11.7 The Company shall provide and maintain on behalf of the Executive permanent health insurance subject to the rules of the Scheme.

- 11.8 The Company shall provide and maintain on behalf of the Executive, his wife or partner and any dependent children membership in a BUPA Scheme or any other scheme providing equivalent benefits subject to the rules of the Scheme.

**12. Termination of and suspension from Employment**

**12.1 Automatic termination**

The Employment shall automatically terminate:

- (a) when the Executive reaches the age of 60; or
- (b) if the Executive becomes prohibited by law from being a director.



## 12.2 **Suspension**

In order to investigate a complaint against the Executive of misconduct the Company may suspend the Executive on full pay for so long as may be necessary to carry out a proper investigation and hold a disciplinary hearing.

## 12.3 **Immediate dismissal**

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The Company may by notice terminate the Employment without notice or pay in lieu of notice if the Executive:

- (a) fails or neglects efficiently, diligently and competently to carry out his Duties or repeats or continues (after a written warning) any other material breach of his obligations under this Agreement;
- (b) commits any act of gross misconduct or is guilty of any conduct which in the reasonable opinion of the Board brings him or any Group Company into disrepute or is calculated or likely prejudicially to affect the interests of any Group Company, whether or not the conduct occurs during or in the context of his Employment;
- (c) is convicted of any criminal offence punishable with imprisonment (other than an offence under road traffic legislation in the United Kingdom or elsewhere for which he is not sentenced to any term of imprisonment whether immediate or suspended);
- (d) commits any act of dishonesty relating to any Group Company, any of its employees or otherwise;
- (e) becomes of unsound mind or a patient within the meaning of the Mental Health Act 1983; so that in the opinion of the Board he is unable to perform his duties;
- (f) becomes bankrupt or makes any arrangement or composition with his creditors generally.

## 12.4 **Pay in lieu**

- (a) on serving notice for any reason to terminate the Employment or at any time during the currency of the notice the Company may elect (but shall not be obliged) to terminate the Employment forthwith and to pay to the Executive his basic salary (at the rate then payable under sub-clause 7.1(a) for the unexpired portion of the duration of his Employment or entitlement to notice as the case may be during this period. The Company will pay the salary due and payable under this sub-clause (subject to deduction of tax and national insurance contributions at source) in 4 equal instalments at equally spaced intervals in advance during the period.
- (b) In the event that the Company shall elect to terminate the Employment with immediate effect pursuant to clause 12.4 (a), the Executive undertakes to inform the Company in writing as soon as he receives an offer of employment and to commence that employment as soon as is reasonably practicable. The Executive agrees that no further monies will become due under sub-clause (a) with effect from the first day of paid alternative employment and undertakes to repay any monies paid in advance which relate to any period of paid alternative employment.

## 12.5 **Garden leave**

- (a) At any time during the Executive's Employment or after notice to terminate the Employment has been given by the Executive or the Company, the Company may in its absolute discretion:
  - (i) require the Executive to perform only such duties (including without limitation research projects) as it may allocate to him;
  - (ii) require the Executive not to perform any of his Duties;
  - (iii) require the Executive not to have any contact with clients of the Company;
  - (iv) require the Executive not to have any contact with such employees or suppliers or Developers of the Company as the Company shall determine;
  - (v) exclude the Executive from any Company premises

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provided always that throughout the period of any such action referred to in this clause 12.6 (a), the Executive's salary and contractual benefits shall not cease to accrue or be paid or provided subject to the other provisions of this Agreement.

- (b) The Executive acknowledges that such action taken on the part of the Company shall not constitute a breach of this Agreement of any kind whatsoever nor shall the Executive have any claim against the Company in respect of any such action.

- (c) The Executive shall during any such period of garden leave be under a duty of the utmost good faith, must not work for any other person or on his own account and shall remain readily contactable and available for work and, should he fail to make himself available for work having been requested by the Company to attend, he shall, notwithstanding any other provision of this Agreement, forfeit his right to salary and contractual benefits in respect of such period of non-availability.

## 12.6 *Effect of termination*

On the Termination Date:

- (a) The Executive shall at the request of the Company resign (without prejudice to any claims which he may have against any Group Company arising out of the Employment or its termination) from all and any offices which he may hold as a director of any Group Company and from all other appointments or offices which he holds as nominee or representative of any Group Company and if he should fail to do so within 7 days the company is irrevocably authorised to appoint some person in his name and on his behalf to sign any documents or do any things necessary or requisite to effect such resignation(s) and/or transfer(s);
- (b) The Executive shall:
- (i) Return to the Company all documents, computer disks and tapes and other tangible items in his possession or under his control which belongs to any Group Company or which contain or refer to any Confidential Information; and
  - (ii) Delete all Confidential Information from any computer disks, tapes or other re-usable material in his possession or under his control or destroy all other documents and tangible items in his possession or under his control which contain or refer to any Confidential Information.

## 13. **Acknowledgement by the Executive**

The Executive acknowledges that:

- (a) each Group Company possesses a valuable body of Confidential Information;
- (b) each Group Company will give him access to Confidential Information to enable him to carry out his Duties;
- (c) his duties include, amongst other things, a duty of trust and confidence and a duty to act at all times in the best interests of each Group Company;
- (d) the Company requires all its senior employees to accept restrictions which are similar to those set out in clause 14 (Obligations during Employment) and clause 15 (Obligations after Employment) for the mutual protection of its Businesses and employees;
- (e) the following would be likely to place that company at a serious competitive disadvantage and cause immeasurable (financial and other) damage to the Businesses:
  - (i) the disclosure of Confidential Information to any customer or actual or potential competitor of any Group Company; and

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- (ii) if, on leaving the Employment, the Executive was to hold any Material Interest in a Customer or any actual or potential competitor of any Group Company;

- (f) the Confidential Information known by the Executive enables him to perform his management duties;
- (g) the success of the Businesses depends, in part, on the Executive's successor and/or fellow employees establishing business relationships with the customers of and suppliers to the Businesses with are similar to those established and maintained by the Executive during his Employment for the purposes of ensuring an orderly hand over to a successor.

## 14. **Obligations during Employment**

### 14.1 *Inventions*

- (a) The Executive shall promptly disclose to the Company (which disclosure shall be treated in strictest confidence) full details, of any improvement, Invention or discovery including without limitation any and all computer programmes, photographs, plans, records, drawings and models whatsoever which he (whether alone or with any other person) makes at any time during his Employment an which relates or could relate, directly or indirectly, to the Businesses.

- (b) If the improvement, Invention or discovery is a Company Invention, the Executive shall (to the extent that it does not automatically vest in the Company by operation of law) hold it in trust for the Company and, at the request and expense of the Company, do all things necessary or desirable to enable the Company or its nominee to obtain for itself the full benefit of and to secure patent or other appropriate forms of protection for the Company Invention throughout the world.
- (c) [If the improvement, invention or discovery is not a Company Invention, the Company shall treat all information disclosed to it by the Executive as confidential property of the Executive.]
- (d) The patenting obtaining of any registered intellectual property right protection and exploitation of any Company Invention shall be at the sole discretion of the Company and prior to disclosure of any improvement, Invention or discovery as set out in clause 14(a) above, you shall not make any application for registered intellectual property protection.

#### 14.2 **Copyright etc**

- (a) The Executive shall promptly disclose to the Company all Copyright Works or Designs originated, conceived, written or made by him alone or with other during his Employment which relate, or could relate, directly or indirectly, to the Businesses and shall (to the extent that they do not automatically vest in the Company by operation of law) hold them in trust for the Company until such rights have been fully and absolutely vested in the Company.
- (b) The Executive assigns to the Company by way of present and future assignment (to the extent not already vested in the Company by operation of law) all copyright, design rights, registered and unregistered and other proprietary rights (if any) for their full terms throughout the world in respect of Copyright Works and Designs and registered and unregistered trademarks originated, conceived, written or made by him alone or with others during his Employment which relate, or could relate directly or indirectly to the Businesses.
- (c) The Executive irrevocably and unconditionally waives in favour of the Company and all moral rights conferred on him by Chapter IV, Part I, Copyright Designs and Patents Act 1988 and any other moral rights provided for under the laws, now or in future in force in any part of the world for any work the rights in which are vested in the Company whether by sub-clause (b) or otherwise.

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- (d) The Executive shall, at the request and expense of the Company, do all things necessary or desirable to substantiate the rights of the Company under sub-clauses (b) and (c).

#### 14.3 **Share Dealings etc**

- (a) The Executive shall comply, where relevant with very rule of law, every requirement of the London Stock Exchange Limited, the United States Security and Exchange Commission or any other recognised Investment Exchange and every regulation of any Group Company from time to time in force relating to dealings in shares, debentures or other securities of any Group Company and, in relation to overseas dealings, the Executive shall also comply with all laws of the state and all regulations of the stock exchange, market or dealing system in which such dealings take place.
- (b) The Executive shall not (and shall procure so far as he is able that his spouse and children shall not) deal or become or cease to be interested (within the meaning of Part 1 Schedule 13, Companies Act 1985) in any securities of Group Company without complying with such Group Company rules or guidelines from time to time relating to Securities transactions by directors.

#### 14.4 **Conflict of interest**

The Executive agrees that during his Employment:

- (a) he shall not:
  - (i) directly or indirectly disclose to any person or use other than for any legitimate purposes of any Group Company any Confidential Information;
  - (ii) without the Board's prior written permission hold any Material Interest in any person which:
    - (A) is or shall be wholly a party in competition with any of the Businesses;
    - (B) impairs or might reasonably be thought by the Company to require him to disclose or make use of any Confidential Information in order properly to discharge his duties to or to further his interest in that person;
  - (iii)

at any time make any untrue or misleading statement in relation to any Group Company.

- (iv) directly or indirectly receive or obtain in respect of any goods or services sold or purchased or other business transacted (whether or not by him) by or on behalf of any Group Company any discount, rebate, commission or other inducement (whether in cash or in kind) which is not authorised by any company rules or guidelines from time to time and if he or any person in which he holds any Material Interest shall obtain any such discount, rebate, commission or inducement, he shall immediately account to the Company for the amount so received;
  - (v) other than to carry out his Duties, without the prior authority of the Company remove from the premises of any Group Company or copy or allow others to copy the contents of any document, computer disk, tape or other tangible item which contains or refers to any Confidential Information or which belongs to any Group Company;
  - (vi) at any time (whether during or outside normal working hours) take any preparatory steps to become engaged or interested in any capacity whatsoever in any business or venture which is in or is intended to enter into competition with any of the Businesses.
- (b) he shall, at the request of the Company;

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- (i) return to the Company all documents, computer disks and tapes and other tangible items in his possession or under his control which belongs to any Group Company or which contain or refer to any Confidential Information and;
  - (ii) delete all Confidential Information from any computer disks, tapes or other re-usable material in his possession or under his control and destroy all other documents and tangible items in his possession or under his control, which contain or refer to any Confidential Information.

#### 14.5 **Power of attorney**

The Executive irrevocably appoints the Company as his attorney in his name and on his behalf to execute documents, to use his name and to do all things which may be necessary or desirable for the Company to obtain for itself or its nominee the full benefit of the provision of sub-clause 14.1 (b) and 14.2 (b) and a certificate in writing signed by any director or the Company Secretary that any instrument or act falls within the authority conferred by this paragraph shall be conclusive evidence that such is the case so far as any third party is concerned.

#### 15. **Obligations after Employment**

15.1 The Executive shall not within the Restricted Area directly or indirectly for the period of 6 months after the Termination Date, hold any Material Interest in any person which:

- (a) is or shall be wholly or partly in competition with any of the Businesses; or
- (b) requires or might reasonably be thought by the Company to require him to disclose or make use of any Confidential Information in order properly to discharge his duties to or to further his interest in that person.

Provided that throughout the period of 6 months after the Termination Date the Company continues to pay the Executive's basic salary.

15.2 The Executive shall not directly or indirectly, whether on his own behalf or on the behalf of another person:

- (a) for the period of 6 months after the Termination Date:
  - (i) seek, canvass or solicit in any capacity whatsoever any business, order or custom for any Restricted Products or Restricted Proposed Products from any Customer;
  - (ii) accept in any capacity whatsoever order for any Restricted Products or Restricted Proposed Products from any Customer.

Provided that throughout the period of 6 months after the Termination Date the Company continues to pay the Executive's basic salary.

- (b) at any time after the Termination Date:
  - (i) induce or seek to induce by any means involving the disclosure or use of Confidential Information any Customer or Developer to cease dealing with any Group Company or to restrict or vary the terms upon which it deals with any Group Company;
  - (ii) represent himself or permit himself to be held out by any person, as being in any way connected with or interested in any Group Company; and
  - (iii) disclose to any person, or make use of any Confidential Information.

- (iv) for a period of 12 months following the Termination Date solicit or entice away or seek to entice away from any Group Company any person who is and was at the Termination Date or during the period of 12 months preceding the Termination Date employed or

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engaged by the Company or by any Group Company in any of the Businesses in a senior managerial, technical, supervisory, sales, marketing or senior financial capacity; and was a person with whom the Executive dealt in the course of the Duties or who be reason of such employment or engagement is likely to have knowledge of any trade secrets or Confidential Information of the Company or any Group Company.

16. **Grievance procedure**

16.1 The Executive is subject to the Company's disciplinary rules and procedures for the time being in force (a copy of which is available from the Company Secretary) and such other procedures of this nature as may from time to time be adopted.

16.2 Application of the disciplinary procedure is discretionary and is not a contractual entitlement. Any appeal against any disciplinary decision should be made in the first instance in writing to the person who took the decision.

16.3 If the Executive has any grievance relating to his Employment (other than one relating to a disciplinary decision) he should refer such grievance to the Chairman of the Board and if the grievance is not resolved by discussion with him it will be referred to the Board for resolution.

17. **General**

17.1 **Prior agreements**

This Agreement is in substitution for any previous contracts of employment and such prior agreements are hereby terminated.

17.2 **Accrued rights**

The expiration or termination of the Employment or this Agreement however arising shall not operate to affect such of the provisions of this Agreement as are expressed to operate or have effect after that date and shall be without prejudice to any accrued rights or remedies of the parties.

17.3 **Variation**

No purported variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each of the parties.

17.4 **Invalidity**

To the extent that any provision of this Agreement is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

17.5 **Assignment**

The rights and obligations of the Company under this Agreement shall be transferred to its successors and assignors. The Executive may not, however, transfer or assign his rights or obligations under this Agreement.

17.6 **Undertakings**

The Executive has given the undertakings contained in clause 15 (Obligations after Employment) to the Company as trustee for itself and for each Group Company and will at the request and cost of the Company enter into direct undertakings with any Group Company which correspond to the undertakings in clause 15, (Obligations after Employment) or which are less onerous only to the

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extent necessary (in the opinion of the Company or its legal advisors) to ensure that such undertakings are valid and enforceable.

17.7 **Indemnity**

The Executive will indemnify each Group Company from and against all actions, claims, costs, proceedings, expenses, loss or damage (including, without limitation legal costs) which may arise directly or indirectly from the unauthorised disclosure or use of the Confidential Information by the Executive or directly from any other breach of the terms of this Agreement by the Executive.

17.8 **Release and waivers**

(a) The rights, powers and remedies conferred on any party by this Agreement and remedies available to the Company are cumulative and are additional to any right, power or remedy which it may have under general law or otherwise.

(b) The Company may, in whole or in part, release, compound, compromise, waive or postpone, in its absolute discretion, any liability owed to it or right granted to it in this Agreement by the Executive without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.

(c) No single or partial exercise or failure or delay in exercising any right, power or remedy by the Company shall constitute a waiver by it of, or impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.

18. **Collective Agreements**

There are no collective agreements which affect the terms and conditions of the Employment.

19. **Third Parties**

Unless expressly provided in this Agreement, no term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not party to it.

20. **Data Protection**

The Executive consents to the holding and processing by the Company or any Group Company of personal data (including where appropriate, sensitive personal data) relating to the Executive for the purposes of personnel or pensions administration, employee management or compliance with any laws or regulations applicable to the Company, any Group Company or its or their business.

21. **Governing law and jurisdiction**

21.1 This Agreement shall be governed by and construed in accordance with English law.

21.2 Each of the parties irrevocably submits for all purposes in connection with this Agreement to the exclusive jurisdiction of the courts of England.

**This Agreement** has been signed on the date appearing at the head of page 1.

**Executed as a Deed** )  
(but not delivered until the date )  
appearing at the head of page 1 by )

**Combined Distribution (Holdings)** )  
**Limited** acting by )

Director

**Executed as a Deed** )  
by **Richard Andrew Steele** )  
in the presence of: )

/s/ Richard Andrew Steele

Signature of witness: /s/ Phyliss Allen

Name: Phyliss Allen

Address: 18 Grebe Close, Brookvale Village, Erdington Birmingham, B23 7RW

Occupation Secretary

QuickLinks

[Exhibit 10.14](#)

[Service Agreement](#)

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Mr. Michael Rowe  
3100 Walnut Avenue  
Manhattan Beach, CA 90266

Dear Mr. Rowe:

This letter confirms the terms of your employment by Activision Publishing, Inc. ("Employer").

**1. Term**

The term of your employment under this agreement shall commence on April 1, 2002 and expire on March 31, 2005, unless earlier terminated as provided below.

**2. Salary**

(a) In full consideration for all rights and services provided by you under this agreement, you shall receive an annual base salary of \$285,000 during the first year of the term, an annual base salary of \$305,000 during the second year of the term and an annual base salary of \$325,000 during the third year of the term.

(b) Base salary payments shall be made in accordance with Employer's then prevailing payroll policy. Each base salary referred to in Paragraph 2(a) shall constitute your minimum base salary during the applicable period, and your base salary may be increased above the minimum at any time if Employer's Board of Directors (or the Compensation Committee of such Board of Directors), in its sole and absolute discretion, elects to do so. In the event of an increase in your base salary beyond the applicable minimum base salary for a particular period, such increased base salary shall then constitute your minimum base salary for all subsequent periods under this agreement, but only to the extent such increased base salary is in excess of the minimum base salary referred to in Paragraph 2(a) for the corresponding period.

(c) Notwithstanding anything to the contrary set forth above but subject to the right of termination granted to you pursuant to Paragraph 10(b), Employer shall not be required to actually use your services, and payment of your base salary during the applicable period of your employment under this agreement will discharge Employer's obligations to you hereunder. Such payment, however, will not discharge your obligations to Employer hereunder.

(d) In addition to your base salary, you shall be eligible to receive an annual performance based bonus targeted at sixty percent (60%) of your annual base salary, in compliance with Employer's standard bonus plan which is established on a yearly basis by Employer's senior management and Board of Directors (or the Compensation Committee of such Board of Directors) and is based on a number of factors that may include, without limitation, the achievement of corporate earning and operating margin goals.

(e) You also are being granted, under Employer's existing or modified Board-approved stock option plan, a non-qualified stock option ("NQSO") to purchase 80,000 shares of the company's common stock. Such option is in addition to the stock options of Employer previously granted to you. The option will be issued on the commencement date of your contract. The option to purchase 80,000 shares referred to above will vest ratably over four years, with one fourth of the amount granted vesting at the end of each year. The option will have an exercise price that will be the market low of such common stock in effect at the time of the grant. You also shall be eligible to receive annual stock options, under Employer's existing or modified stock option plan, if Employer's Board of Directors (or

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the Compensation Committee of such Board of Directors), in its sole and absolute discretion, determines that the grant to you of additional options is appropriate.

**3. Title**

You are being employed under this agreement in the position of Executive Vice President, Global Human Resources.

**4. Duties**

You shall personally and diligently perform, on a full-time and exclusive basis, such services as Employer or any of its divisions may reasonably require, provided that such services are consistent with your position with Employer. You shall observe all reasonable rules and regulations adopted by Employer in connection with the operation of its business and carry out all instructions of Employer. You will at all times perform all of the duties and obligations required by you under this agreement in a loyal and conscientious manner and to the best of your ability and experience.

**5. Expenses**

To the extent you incur necessary and reasonable business expenses in the course of your employment, you shall be reimbursed for such expenses, subject to Employer's then current policies regarding reimbursement of such business expenses.

**6. Other Benefits**

You shall be entitled to those benefits which are standard for persons in similar positions with Employer, including coverage under Employer's health, life insurance and disability plans, and eligibility to participate in Employer's 401(k) plan. Nothing paid to you under any such plans and arrangements (nor any bonus

or stock options which Employer's Board of Directors (or the Compensation Committee of such Board of Directors), in its sole and absolute discretion, shall provide to you) shall be deemed in lieu, or paid on account, of your base salary. You expressly agree and acknowledge that after expiration or early termination of the term of your employment under this agreement, you are entitled to no additional benefits not expressly set forth in this agreement, except as specifically provided under the benefit plans referred to above and those benefit plans in which you subsequently may become a participant, and subject in each case to the terms and conditions of each such plan. Notwithstanding anything to the contrary set forth above, you shall be entitled to receive those benefits provided by COBRA upon the expiration or early termination of the term of your employment under this agreement.

## **7. *Vacation and Paid Holidays***

(a) You will be entitled to paid vacation days in accordance with the normal vacation policies of Employer in effect from time to time, provided that in no event shall you be entitled to less than fifteen (15) days of paid vacation per year.

(b) You shall be entitled to all paid holidays given by Employer to its full-time employees.

## **8. *Protection of Employer's Interests***

(a) During the term of your employment by Employer, you will not compete in any manner, whether directly or indirectly, as a principal, employee, agent or owner, with Employer, or any affiliate of Employer, except that the foregoing will not prevent you from holding at any time less than five percent (5%) of the outstanding capital stock of any company whose stock is publicly traded.

(b) All rights worldwide with respect to any and all intellectual or other property of any nature produced, created or suggested by you during the term of your employment or resulting from your services which (i) relate in any manner at the time of conception or reduction to practice to the actual or demonstrably anticipated business of Employer, (ii) result from or are suggested by any task

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assigned to you or any work performed by you on behalf of Employer, or (iii) are based on any property owned or idea conceived by Employer, shall be deemed to be a work made for hire and shall be the sole and exclusive property of Employer. You agree to execute, acknowledge and deliver to Employer, at Employer's request, such further documents, including copyright and patent assignments, as Employer finds appropriate to evidence Employer's rights in such property.

(c) Any confidential and/or proprietary information of Employer or any affiliate of Employer shall not be used by you or disclosed or made available by you to any person except as required in the course of your employment, and upon expiration or earlier termination of the term of your employment, you shall return to Employer all such information which exists in written or other physical form (and all copies thereof) under your control. Without limiting the generality of the foregoing, you acknowledge signing and delivering to Employer the Activision Employee Proprietary Information Agreement and you agree that all terms and conditions contained in such agreement, and all of your obligations and commitments provided for in such agreement, shall be deemed, and hereby are, incorporated into this agreement as if set forth in full herein. The provisions of the immediately preceding four sentences of this paragraph shall survive the expiration or earlier termination of this agreement.

## **9. *Services Unique***

You recognize that the services being performed by you under this agreement are of a special, unique, unusual, extraordinary and intellectual character giving them a peculiar value, the loss of which cannot be reasonably or adequately compensated for in damages, and in the event of a breach of this agreement by you (particularly, but without limitation, with respect to the provisions hereof relating to the exclusivity of your services and the provisions of paragraph 8 of this agreement), Employer shall, in addition to all other remedies available to it, be entitled to equitable relief by way of injunction and any other legal or equitable remedies.

## **10. *Termination***

(a) At any time during the term of this Agreement, Employer may terminate your employment under this Agreement for your (i) willful, reckless or gross misconduct, (ii) negligent performance of job responsibilities, (iii) conviction of a felony or crime involving dishonesty or moral turpitude, or (iv) commitment of any of the terminable offenses listed in Section 7.2 of Employer's Employee Handbook

(b) You may terminate your employment under this agreement (i) upon Employer's material breach under this agreement, (ii) upon any relocation of the place at which you primarily are performing your services to Employer to a location which is outside the metropolitan Los Angeles area, or (iii) if Employer elects to not actually use your services and continues to pay your base salary pursuant to Paragraph 2(c) above for a period of one hundred twenty (120) consecutive days.

(c) In the event of the termination of your employment under this agreement pursuant to Paragraph 10(a) or 10(b), all obligations of Employer to you under this agreement shall immediately terminate.

(d) In the event of your death during the term of this agreement, this agreement shall terminate and Employer only shall be obligated to pay your estate or legal representative the salary provided for above to the extent earned by your prior to such event. Except as otherwise prohibited by applicable law (including, without limitation, pursuant to the Family Medical Leave Act), in the event you are unable to perform the services required of you under this agreement as a result of any disability, and such disability continues for a period of 60 or more consecutive days or an aggregate of 90 or more days during any 12-month period during the term of this agreement, then Employer shall have the right, at its option, to terminate your employment under this agreement. Unless and until so terminated, during any period of disability during which you are unable to perform the services

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required of you under this agreement, your base salary shall be payable to the extent of, and subject to, Employer's policies and practices then in effect with regard to sick leave and disability benefits.

**11. Use of Employee's Name**

Employer shall have the right, but not the obligation, to use your name or likeness for any publicity or advertising purpose.

**12. Assignment**

Employer may assign this agreement or all or any part of its rights under this agreement to any entity which succeeds to all or substantially all of Employer's assets (whether by merger, acquisition, consolidation, reorganization or otherwise) or which Employer may own substantially, and this agreement shall inure to the benefit of such assignee.

**13. No Conflict with Prior Agreements**

You represent to Employer that neither your commencement of employment under this agreement nor the performance of your duties under this agreement conflicts or will conflict with any contractual commitment on your part to any third party, nor does it or will it violate or interfere with any rights of any third party.

**14. Post-Termination Obligations**

After the expiration or earlier termination of your employment under this agreement for any reason whatsoever, you shall not, either alone or jointly, with or on behalf of others, directly or indirectly, whether as principal, partner, agent, shareholder, director, employee, consultant or otherwise, at any time during a period of one (1) year following such expiration or termination, offer employment to, or solicit the employment or engagement of, or otherwise entice away from the employment of Employer or any affiliated entity, either for your own account or for any other person firm or company, any person who was employed by Employer or any such affiliated entity during the term of your employment, whether or not such person would commit any breach of his or her contract of employment by reason of his or her leaving the service of Employer or any affiliated entity.

**15. Entire Agreement; Amendments; Waiver, Etc.**

(a) This agreement supersedes all prior or contemporaneous agreements and statements, whether written or oral, concerning the terms of your employment with Employer, and no amendment or modification of this agreement shall be binding against Employer unless set forth in a writing signed by Employer and delivered to you. Without limiting the generality of the foregoing, you acknowledge that this agreement supersedes your prior written agreement with Employer dated July 12, 1999, and such agreement is hereby declared terminated and of no further force and effect.

(b) You have given no indication, representation or commitment of any nature to any broker, finder, agent or other third party to the effect that any fees or commissions of any nature are, or under any circumstances might be, payable by Employer or any affiliate of Employer in connection with your employment under this agreement.

(c) No waiver by either party of any breach by the other party of any provision or condition of this agreement shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time.

(d) Nothing contained in this agreement shall be construed so as to require the commission of any act contrary to law and wherever there is any conflict between any provision of this agreement and any present or future statute, law, ordinance or regulation, the latter shall prevail, but in such event the provision of this agreement affected shall be curtailed and limited only to the extent necessary to bring it within legal requirements.

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(e) This agreement does not constitute a commitment of Employer with regard to your employment, express or implied, other than to the extent expressly provided for herein. Upon termination of this agreement, it is the contemplation of both parties that your employment with Employer shall cease, and that neither Employer nor you shall have any obligation to the other with respect to continued employment. In the event that your employment continues for a period of time following the stated expiration date of this contract, unless and until agreed to in a new subscribed written document, such employment or any continuation thereof is "at will," and may be terminated without obligation at any time by either party giving notice to the other.

(f) This agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflict of law principles.

(g) In accordance with the Immigration Reform and Control Act of 1986, employment under this agreement is conditioned upon satisfactory proof of your identity and legal ability to work in the United States.

(h) To the extent permitted by law, you will keep the terms of this agreement confidential, and you will not disclose any information concerning this agreement to anyone other than your immediate family and professional representatives (provided they also agree to keep the terms of this agreement confidential).

**16. Notices**

All notices which either party is required or may desire to give the other shall be in writing and given either personally or by depositing the same in the United States mail addressed to the party to be given notice as follows:

To Employer:

3100 Ocean Park Boulevard  
Santa Monica, California 90405  
Attention: Executive Vice President  
and General Counsel



## AMENDMENT AGREEMENT

This AMENDMENT AGREEMENT (this "Amendment") dated as of June 21, 2002 is being entered into by and among ACTIVISION PUBLISHING, INC., a Delaware corporation ("Activision"), ACTIVISION, INC., a Delaware corporation ("Activision Holdings"), ACTIVISION VALUE PUBLISHING, INC., a Minnesota corporation (formerly Head Games Publishing, Inc.) ("Value") and EXPERT SOFTWARE, INC. a Delaware corporation ("Expert"; each of Activision, Activision Holdings, Value and Expert, a "Borrower" and collectively, "Borrowers"), PNC BANK, NATIONAL ASSOCIATION, a national banking association, COMERICA BANK, LASALLE BANK NATIONAL ASSOCIATION and U.S. BANK NATIONAL ASSOCIATION (each of the foregoing in its capacity as a lender being referred to individually as a "Lender" and collectively as the "Lenders"), PNC BANK, NATIONAL ASSOCIATION, a national banking association, as issuing bank (in such capacity, the "Issuing Bank"), and as administrative agent (in such capacity, the "Administrative Agent") and collateral agent (in such capacity, the "Collateral Agent") for the Lenders.

### *Recitals*

A. Borrowers, Lenders, Issuing Bank, Administrative Agent and Collateral Agent are parties to, among other agreements, that certain Amended and Restated Credit Agreement dated as of May 7, 2001 (as such agreement is amended, supplemented or otherwise modified from time to time being referred to herein as the "Loan Agreement") and various other and related documents (which, together with the Loan Agreement are collectively referred to in the Loan Agreement as the "Loan Documents"). Capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the Loan Agreement.

B. Borrower has requested an interim extension of the Revolving Credit Maturity Date from June 21, 2002 to August 21, 2002.

C. Further, immediately prior to the effectiveness of this Amendment, Guaranty Business Credit Corporation has executed in favor of PNC Bank, National Association, an assignment and acceptance of its rights and duties as a lender hereunder.

D. The parties intend by this Amendment to amend the Loan Agreement, among other things, to provide for the interim extension and to reflect the change in the composition of the Lenders, each as noted above.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND MUTUAL COVENANTS HEREIN CONTAINED AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

### *Agreement*

1. *Modification of Schedule 2.01 of Loan Agreement.* Schedule 2.01 of the Loan Agreement is hereby amended to read as such schedule is set forth on Exhibit A attached hereto.

2. *Modification of Maturity Date.* The defined term "Revolving Credit Maturity Date" as set forth in Section 1.01 of the Loan Agreement is hereby amended to read as follows:

"'Revolving Credit Maturity Date' shall mean August 21, 2002."

3. *Modification to Notice Address.* Section 9.01(b) is hereby amended to read as follows:

"(b) if to the Administrative Agent, to PNC Bank, National Association, 2 North Lake Ave., Suite 440, Pasadena, California 91101, Attention of Mr. Pete Martinez (Telecopy No. 626-432-4589), with a copy to PNC Bank, National Association, 2 North Lake Ave., Suite 440, Pasadena, California 91101, Attention of Ms. Sunnie Kim (Telecopy No. 626-432-4589); and"

4. *Representations and Warranties.* Each Borrower represents and warrants to Lenders that, except as set forth in Schedule 1 attached hereto: (i) all representations and warranties set forth in the

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Loan Agreement, as amended hereby, and the other Loan Documents are true and correct; (ii) at the date hereof no Event of Default and no event which, with notice or time or both, would constitute an Event of Default, has occurred and is continuing under any of the Loan Documents; and (iv) all information provided to Lenders by or on behalf of Borrowers on or prior to the date of this Amendment is true and correct in all material respects, and no representation or other statement made by any Borrower to any Lender contains any untrue statement of a material fact or omits to state a material fact necessary to make any statements made to any Lender not misleading at the time made.

5. *General Provisions.* This Amendment, the Loan Agreement, and the other Loan Documents set forth in full all of the representations and agreements of the parties with respect to the subject matter hereof and supersede all prior discussions, representations, agreements and understandings between the parties with respect to the subject hereof. Except as expressly amended herein and in other documents being amended and executed concurrently herewith, all of the terms and provisions of the Loan Agreement and the other Loan Documents shall remain in full force and effect and the same are hereby ratified and confirmed. If any provision of this Amendment is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect. This Agreement may be executed in any number of counterparts, which together shall constitute one and the same agreement.

6. *Conditions to Effectiveness.* Without limitation of the terms and conditions of the Loan Agreement, the following shall be deemed conditions precedent to the effectiveness of this Amendment:

6.1 *Executed Counterparts; Certified Resolutions.* Borrowers shall deliver to Lenders fully executed and authorized counterparts of this Amendment Agreement to Lenders together with certified corporate resolutions relating thereto that fully authorize the execution and delivery of this Amendment;

6.2 *Satisfactory Assignment and Acceptance.* Prior to the date hereof, Guaranty Business Credit Corporation shall have assigned its interests, rights and obligations under the Loan Documents to PNC Bank, National Association and shall have executed and delivered to PNC Bank, National Association an Assignment and Acceptance with respect thereto, all pursuant to Section 9.04 of the Loan Agreement and otherwise in accordance with the terms and provisions thereof;

6.3 *Delivery of Borrower Reaffirmation.* The borrower reaffirmation, in the form of Exhibit B attached hereto, shall be fully executed and delivered to the Lenders together with certified corporate resolutions for each party signatory thereto relating to the authorized execution and delivery of the foregoing agreement; and

6.4 *Delivery of Consent and Reaffirmation.* The parties to the consent and reaffirmation, in the form of Exhibit C attached hereto, shall be fully executed and delivered to the Lenders.

7. *WAIVER OF JURY TRIAL; CONSEQUENTIAL DAMAGES.* EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7. Neither the Administrative Agent, the Collateral Agent nor any Lender, nor any agent or attorney for any of them, shall be liable to any Borrowers or any other Loan Party for consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the Obligations.

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective authorized officers as of the day and year first above written.

ACTIVISION, INC.,  
a Delaware corporation

By: \_\_\_\_\_ /s/ GEORGE ROSE

Name: George Rose  
Title: *Sr. Vice President & General Counsel*

ACTIVISION PUBLISHING INC.,  
a Delaware corporation

By: \_\_\_\_\_ /s/ GEORGE ROSE

Name: George Rose  
Title: *Sr. Vice President & General Counsel*

EXPERT SOFTWARE, INC.,  
a Delaware corporation

By: \_\_\_\_\_ /s/ GEORGE ROSE

Name: George Rose  
Title: *Sr. Vice President*

ACTIVISION VALUE PUBLISHING, INC.,  
a Delaware corporation

By: \_\_\_\_\_ /s/ GEORGE ROSE

Name: George Rose  
Title: *Sr. Vice President*

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective authorized officers as of the day and year first above written.

PNC BANK, NATIONAL ASSOCIATION  
Individually and as Administrative Agent,  
Collateral Agent and Issuing Bank,

By: \_\_\_\_\_ /s/ SUNNIE M. KIM

Name: Sunnie M. Kim  
Title: *Asst. Vice President*

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PRINCIPAL SUBSIDIARIES OF THE REGISTRANT

Name of subsidiary	State or Other Jurisdiction of Incorporation or Organization
Activision Publishing, Inc.	Delaware
Kaboom.com, Inc.	Delaware
Activision Pty Ltd.	Australia
Activision International B.V.	The Netherlands
Activision Deutschland GmbH	Germany
Activision GmbH	Germany
Activision Productions, Inc.	Delaware
Activision Publishing International, Inc.	California
Activision Texas, Inc.	Texas
Activision Canada, Inc.	Canada
Activision Value Publishing, Inc.	Minnesota
Elsinore Multimedia, Inc.	Florida
Neversoft Entertainment, Inc.	California
Activision U.K. Ltd.	United Kingdom
CD Contact Data GmbH	Germany
CD Contact Data BV	The Netherlands
CentreSoft Ltd.	United Kingdom
ATVI France SARL	France
Combined Distribution Holdings Limited	United Kingdom
Contact Data Belgium N.V.	Belgium
Expert Software, Inc.	Delaware
Activision Vermögensverwaltungs GmbH	Germany
Activision Beteiligungs GmbH	Germany
NBG EDV Handels & Verlags GmbH & Co. KG	Germany
PDQ Distribution Ltd.	United Kingdom
Electric Dreams Ltd.	United Kingdom
Target Software Vertriebs	Germany
Treyarch Corporation	Delaware
Gray Matter Interactive Studios, Inc.	California
Shaba Games, Inc.	Delaware
Z-Axis, Ltd.	Nevada

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[EXHIBIT 21.1](#)

[PRINCIPAL SUBSIDIARIES OF THE REGISTRANT](#)

**CONSENT OF INDEPENDENT ACCOUNTANTS**

We hereby consent to the incorporation by reference in the registration statements Nos. 333-30303, 333-36949, 333-43961, 333-46425, 333-56879, 333-61571, 333-67707, 033-75878, 333-85385, 333-96079, 333-94509, 333-66280, 333-71682, 333-74460, 333-76840, 333-86166, 333-89550 and 333-89880 on Form S-3 and Nos. 333-06130, 333-12621, 333-06054, 333-40727, 333-61573, 333-81239, 033-48411, 033-63638, 033-68144, 033-91074, 333-85383, 333-36272, 333-58922, 333-72014 and 333-87810 on Form S-8 of Activision, Inc. of our report dated May 6, 2002, relating to the consolidated financial statements and financial statement schedule as of March 31, 2002 and 2001 and for the two years in the period ended March 31, 2002 which appears in this Form 10-K.

PricewaterhouseCoopers LLP  
Los Angeles, California  
June 27, 2002

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[EXHIBIT 23.1](#)

[CONSENT OF INDEPENDENT ACCOUNTANTS](#)



**CONSENT OF INDEPENDENT ACCOUNTANTS**

We consent to the incorporation by reference in the registration statements Nos. 333-30303, 333-36949, 333-43961, 333-46425, 333-56879, 333-61571, 333-67707, 033-75878, 333-85385, 333-96079, 333-94509, 333-66280, 333-71682, 333-74460, 333-76840, 333-86166, 333-89550 and 333-89880 on Form S-3 and Nos. 333-06130, 333-12621, 333-06054, 333-40727, 333-61573, 333-81239, 033-48411, 033-63638, 033-68144, 033-91074, 333-85383, 333-36272, 333-58922, 333-72014 and 333-87810 on Form S-8 of Activision, Inc. of our report dated May 5, 2000, except as to Note 6 which is as of April 1, 2001, and the first paragraph of Note 14, which is as of November 6, 2001, relating to the consolidated statements of operations, changes in shareholders' equity, and cash flows of Activision, Inc. for the year ended March 31, 2000, and the related financial statement schedule for the year ended March 31, 2000, which report appears in the March 31, 2002 annual report on Form 10-K of Activision, Inc.

KPMG LLP

Los Angeles, California  
June 27, 2002

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[EXHIBIT 23.2](#)

[CONSENT OF INDEPENDENT ACCOUNTANTS](#)