

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Advanced Polymer Systems, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware 94-2875566

(State or Other Jurisdiction of (I.R.S. Employer
Incorporation or Organization) Identification No.)

123 Saginaw Drive, Redwood City, California 94063

(Address of Principal Executive Offices)

1992 Stock Plan

(Full Title of the Plan)

Michael O'Connell
Chief Financial Officer
Advanced Polymer Systems, Inc.
123 Saginaw Drive
Redwood City, California 94063

(Name and Address of Agent for Service)

(650) 366-2626

(Telephone Number, Including Area Code, of Agent for Service)

Copy to:
Richard A. Peers, Esq.
Heller Ehrman White & McAuliffe
525 University Avenue
Palo Alto, California 94301-1908
(650) 324-7000

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price per Share (1)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, par value \$0.01	750,000	\$5.69	\$4,267,500.00	\$1,259.00

(1) Estimated solely for the purpose of computing the amount of registration fee pursuant to Rule 457(c) under the Securities Act, as amended, based on the average of the high and low prices of the Registrant's Common Stock reported on the Nasdaq National Market on August 3, 1998.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents filed or to be filed with the Securities and Exchange Commission (the "Commission") by the Registrant are incorporated by reference in this Registration Statement:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 1997;
- (b) The Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 1998;
- (c) The description of the Registrant's Common Stock contained in the registration statement on Form 8-A filed with the Commission on August 7, 1987 pursuant to Section 12 of the Exchange Act of 1934, as amended (the "Exchange Act"); and
- (d) All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold.

Item 5. Interests of Named Experts and Counsel

Heller Ehrman White and McAuliffe, counsel to the Company, has rendered an opinion with respect to the legality of the Common Stock issuable under the 1992 Stock Plan. Julian N. Stern, the sole employee of a professional corporation that is a partner of Heller Ehrman White and McAuliffe, is the Secretary of the Company. Mr. Stern owns beneficially 179,635 shares and options to purchase 20,000 shares of the Company's Common Stock.

Item 6. Indemnification of Directors and Officers

The Registrant has the power to indemnify its officers and directors against liability for certain acts pursuant to Section 145 of the General Corporation Law of the State of Delaware. Section B of Article VI of the Registrant's Certificate of Incorporation provides:

"(1) Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer, of the Corporation or is or was serving at the request of the Corporation, as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors of the Corporation. The right to indemnification conferred in this Section B shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the General Corporation Law of the State of Delaware requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Section or otherwise. The Corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the Corporation with

the same scope and effect as the foregoing indemnification of directors and officers.

(2) Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Section B shall not be exclusive of any other rights which any person may have or hereafter acquire under any statute, provisions of this Certificate of Incorporation, Bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

(3) Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under Delaware General Corporation Law."

Registrant maintains directors' and officers' liability insurance in the amount of \$5,000,000 which covers civil liabilities. Such insurance helps the Registrant to attract qualified officers and directors, by providing a means for the Company to pay the costs and expenses involved in the event civil litigation is brought against one of the Registrant's officers or directors.

Item 8. Exhibits

- 5 Opinion of Heller Ehrman White & McAuliffe
- 23.1 Consent of KPMG Peat Marwick LLP
- 23.2 Consent of Heller Ehrman White & McAuliffe
(filed as part of Exhibit 5)
- 24.1 Power of Attorney (see signature page)
- 99.1 1992 Stock Plan

Item 9. Undertakings

A. The undersigned Registrant hereby undertakes:

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

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the "Securities Act");

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

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

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

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

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

that time shall be deemed to be the initial bona fide offering thereof.

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

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Redwood City, State of California, on this 31st day of July, 1998.

ADVANCED POLYMER SYSTEMS, INC.

By: /s/ Michael O'Connell

Michael O'Connell
Chief Financial Officer

POWER OF ATTORNEY TO SIGN AMENDMENTS

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below does hereby constitute and appoint John J. Meakem, Jr. and Michael P.J. O'Connell, or either of them, with full power of substitution, such person's true and lawful attorneys-in-fact and agents for such person in such person's name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this Registration Statement on Form S-8 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises in order to effectuate the same as fully, to all intents and purposes, as he or such person might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement on Form S-8 has been signed by the following persons in the capacities and on the dates indicated.

/s/ John J. Meakem, Jr. ----- John J. Meakem, Jr.	Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer)	July 31, 1998
/s/ Michael O'Connell ----- Michael O'Connell	Executive Vice President, Chief Financial and Administrative Officer (Principal Financial and Accounting Officer)	July 31, 1998
/s/ Carl Ehmann ----- Carl Ehmann	Director	July 31, 1998
/s/ Jorge Heller ----- Jorge Heller	Director	July 31, 1998
/s/ Peter Riepenhausen ----- Peter Riepenhausen	Director	July 31, 1998
/s/ Toby Rosenblatt ----- Toby Rosenblatt	Director	July 31, 1998
/s/ Gregory H. Turnbull ----- Gregory H. Turnbull	Director	July 31, 1998
/s/ C. Anthony Wainwright -----	Director	July 31, 1998

C. Anthony Wainwright

/s/ Dennis Winger

Director

July 31, 1998

Dennis Winger

INDEX TO EXHIBITS

Item No.	Description of Item
5	Opinion of Heller Ehrman White & McAuliffe
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24.1	Power of Attorney (see signature page)
99.1	1992 Stock Plan

Advanced Polymer Systems, Inc.
123 Saginaw Drive
Redwood City, California 94063

Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Advanced Polymer Systems, Inc., a Delaware corporation (the "Company"), in connection with the Registration Statement on Form S-8 (the "Registration Statement") which the Company proposes to file with the Securities and Exchange Commission on August 4, 1998 for the purpose of registering under the Securities Act of 1933, as amended, an additional 750,000 shares of its Common Stock, par value \$.01 (the "Shares"). The Shares are issuable under the Company's 1992 Stock Plan (the "Plan").

We have assumed the authenticity of all records, documents and instruments submitted to us as originals, the genuineness of all signatures, the legal capacity of natural persons and the conformity to the originals of all records, documents and instruments submitted to us as copies.

In rendering our opinion, we have examined the following records, documents and instruments:

(a) The Certificate of Incorporation of the Company, certified by the Delaware Secretary of State as of July 6, 1998, and certified to us by an officer of the Company as being complete and in full force as of the date of this opinion;

(b) The Bylaws of the Company certified to us by an officer of the Company as being complete and in full force and effect as of the date of this opinion;

(c) A certificate of an officer of the Company (i) attaching records certified to us as constituting all records of proceedings and actions of the Board of Directors, including any committee thereof, and stockholders of the Company relating to the Shares, and the Registration Statement, and (ii) certifying as to certain factual matters;

(d) The Registration Statement;

(e) The Plan; and

(f) A letter from Boston EquiServe, LP, the Company's transfer agent, dated August 3, 1998, as to the number of shares of the Company's Common Stock that were outstanding on July 30, 1998.

This opinion is limited to the federal law of the United States of America and the General Corporation Law of the State of Delaware, and we disclaim any opinion as to the laws of any other jurisdiction. We further disclaim any opinion as to any other statute, rule, regulation, ordinance, order or other promulgation of any other jurisdiction or any regional or local governmental body or as to any related judicial or administrative opinion.

Based upon the foregoing and our examination of such questions of law as we have deemed necessary or appropriate for the purpose of this opinion, and assuming that (i) the Registration Statement becomes and remains effective during the period when the Shares are offered and issued, (ii) the full consideration stated in the Plan is paid for each Share and that such consideration in respect of each Share includes payment of cash or other lawful consideration at least equal to the par value thereof, (iii) appropriate certificates evidencing the Shares are executed and delivered by the Company, and (iv) all applicable securities laws are complied with, it is our opinion that when issued and sold by the Company, after payment therefore in the manner provided in the Plan and the Registration Statement, the Shares will be legally issued, fully paid and nonassessable.

This opinion is rendered to you in connection with the Registration Statement and is solely for your benefit. This opinion may not be relied upon by you for any other purpose, or relied upon by any other person, firm, corporation or other entity for any purpose, without our prior written consent. We disclaim any obligation to advise you of any change of law that occurs, or any facts of which we may become aware, after the

date of this opinion.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement.

Very truly yours,

/s/ HELLER EHRMAN WHITE & MCAULIFFE

The Board of Directors
Advanced Polymer Systems, Inc.:

We consent to the use of our report incorporated herein by reference.

/s/ KPMG Peat Marwick LLP

San Francisco, California
August 4, 1998

ADVANCED POLYMER SYSTEMS, INC.
1992 STOCK PLAN

1. Purpose. The purpose of the Advanced Polymer Systems, Inc., 1992 Stock Plan (the "Plan") is to attract, retain and motivate directors, officers, key employees and consultants of Advanced Polymer Systems, Inc. (the "Company"), and its subsidiaries by giving them the opportunity to acquire stock ownership in the Company. Option grants under this Plan may be either incentive stock options ("ISOs") intended to satisfy the requirements of Section 422 of the Internal Revenue Code of 1986, as amended (the "Code"), or nonstatutory stock options ("NSOs"), and this Plan and any options granted hereunder shall be appropriately construed to conform to such requirements. This Plan also provides for the direct sale of shares to eligible participants, and for the award of shares of restricted stock.

2. Effective Date and Term of Plan. This Plan was adopted by the Company's Board of Directors (the "Board") and became effective on March 24, 1992. This Plan shall terminate automatically ten (10) years after its effective date unless terminated earlier by the Board under Section 12. No options, purchase rights or restricted stock awards shall be granted after termination of this Plan but all options, purchase rights or restricted stock awards granted prior to termination shall remain in effect in accordance with their terms.

3. Number and Source of Shares Subject to the Plan. Subject to the provisions of Section 10, the total number of shares of stock with respect to which options, purchase rights or restricted stock awards may be granted under this Plan is 4,000,000 shares of Common Stock, \$.01 par value, of the Company (the "Stock"). The shares covered by any terminated or expired option or purchase right or the unexercised portion thereof or any grant of restricted stock forfeited pursuant to Section 9(f) shall become available again for grant under this Plan. The shares to be issued hereunder upon exercise of an option or purchase right or the grant of a restricted stock award may consist of authorized and unissued shares or treasury shares.

4. Administration of the Plan. The Plan shall be administered by the Board, or upon delegation by the Board, by a committee consisting of not less than two directors (in either case, the "Administrator"). So long as not otherwise required for the Plan to comply with Rule 16b-3 under the Securities Exchange Act of 1934, as amended, the Administrator may delegate nondiscretionary administrative duties to such employees of the Company or a subsidiary as it deems proper. The Administrator may also make rules and regulations which it deems useful to administer this Plan. Any decision or action of the Administrator in connection with this Plan or any options, purchase rights or restricted stock awards granted or shares purchased under this Plan shall be final and binding. No member of the Board shall be liable for any decision, action or omission respecting this Plan, or any options or purchase rights granted or shares issued under this Plan.

5. Persons Eligible to Participate in this Plan.

(a) ISOs may be granted under this Plan only to employees of the Company or any subsidiary of the Company, including employees who may also be officers or directors of the Company or any subsidiary. NSOs, purchase rights and restricted stock awards may be granted to employees, including employees who may also be officers or directors, directors, consultants and potential employees (in contemplation of employment) of the Company or any subsidiary. All grants shall be made by the Administrator. Determination by the Administrator as to eligibility shall be conclusive.

(b) Notwithstanding any other provision of this Plan, Nonemployee Directors shall automatically receive grants under this Plan in accordance with this Section 5(b).

(i) Subject to the terms and conditions of this Plan, when any Nonemployee Director who has not previously been a member of the Board is first elected or appointed as a member of the Board, then on the effective date of such appointment or election the Company shall grant to such new Non-employee Director an NSO to purchase 25,000 shares at an exercise price equal to the fair market value of such shares on the date of such option grant.

(ii) Subject to the terms and conditions of this Plan, on the date of the first meeting of the Board immediately following the annual meeting of stockholders of the Company (even if held on the same day as the meeting of stockholders) which is held more than twelve (12) months after a Non-employee Director is first elected or appointed to the Board, commencing with the annual meeting of stockholders held in May 1992 (or,

if no annual meeting is held that month or, in the case of any year after 1992, if no annual meeting is held before the last business day of July of that year, then on the last business day of July 1992 or of such other July, as the case may be), the Company shall grant to each Nonemployee Director then in office an NSO to purchase 10,000 shares at an exercise price equal to the fair market value of such shares on the date of such option grant.

(iii) Subject to the other provisions of this Plan, each option granted pursuant to this Section 5(b) shall be for a term of ten (10) years. Each option granted under Section 5(b)(i) shall become exercisable with respect to one-fourth of the number of shares covered by such option on the first, second, third and fourth anniversary of the date such option was granted, so that such option shall be fully exercisable beginning on such fourth anniversary of the date such option was granted. Each option granted under Section 5(b)(ii) shall be fully exercisable beginning on the first anniversary of the date such option was granted.

6. Grant of Options. The Administrator may, in its discretion, grant options under this Plan at any time and from time to time before the expiration of ten (10) years from the effective date of this Plan. The Administrator shall specify the date of grant or, if it fails to, the date of grant shall be the date of the action taken by the Administrator to grant the option (in either case, the "Grant Date"). If an ISO is approved in anticipation of employment of any employee, the Grant Date shall be the date the intended optionee is first treated as an employee of the Company or any subsidiary for payroll purposes. As soon as practicable after the Grant Date, the Company will provide the optionee a written stock option agreement in the form approved by the Administrator (the "Option Agreement"), which designates the option as an ISO or an NSO, and identifies the Grant Date, the number of shares of Stock covered by the option, the option price and the other terms and conditions of the option.

7. Terms and Conditions of Options. Options granted under this Plan shall be subject to the following terms and conditions and such other terms and conditions not inconsistent with this Plan as the Administrator may impose:

(a) Exercise of Option. In order to exercise all or a portion of any option granted under this Plan, an optionee must remain as an employee (in the case of an ISO), or as an employee, officer, director or consultant (in the case of an NSO) of the Company or a subsidiary of the Company until the date on which the option or portion thereof, becomes exercisable (the "Vesting Date"). The option shall be partially exercisable on or after each Vesting Date with respect to the percentage of total shares covered by the option as set out in the Option Agreement.

If an option (or portion thereof) is not exercised on the earliest Vesting Date on which it becomes exercisable, it may be exercised, in whole or in part, prior to its expiration date; provided, however, that no option granted under this Plan may be exercised more than ten (10) years from the Grant Date. If, at the time the Company grants an ISO, the optionee directly or by attribution owns stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or any subsidiary, the ISO shall not be exercisable more than five (5) years after the Grant Date.

Notwithstanding any other provisions of this Plan, to the extent required by Section 422 of the Code, the aggregate fair market value of Common Stock first becoming exercisable by an optionee in any calendar year under all ISOs granted to the optionee together with all other incentive stock options granted to such optionee covering stock of the Company (or any company which, at the time of grant, was a parent or subsidiary of the Company) shall not exceed \$100,000 (or such other amount as may be in effect from time to time). If, by their terms such ISOs and other incentive stock options, when taken together, would first become exercisable at a rate which would exceed such limit then, unless otherwise provided in the Option Agreement, the portion thereof which exceeds such limit shall be NSOs. For this purpose, value shall be the fair market value of the Common Stock when the options were granted and options shall be taken into account in the order in which they were granted.

(b) Option Price. The option price shall be at least 100% of the fair market value of the shares covered by the option on the Grant Date, as determined in good faith by the Administrator. If, at the time the Company grants an ISO, the optionee directly or by attribution owns stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or any subsidiary, the option price shall be at least 110% of the fair market value of the shares covered by the ISO on the Grant Date determined in the same manner.

(c) Method of Exercise. To the extent the right to purchase shares has accrued, an option (or portion thereof) may be exercised from time to

time in accordance with its terms by written notice from the optionee to the Company stating the number of shares with respect to which the option is being exercised and accompanied by payment in full of the exercise price of the shares. Payment may be made in cash, by check or, at the absolute discretion of the Administrator, by delivery of an interest-bearing, full recourse promissory note or shares of Common Stock of the Company, endorsed in favor of the Company or accompanied by an appropriate stock power, or by a combination of the above, or any other form of consideration approved by the Administrator (including payment in accordance with any cashless exercise program permitted by applicable law, including, without limitation Regulation T promulgated by the Federal Reserve Board, as amended from time to time). Any share delivered to the Company as payment upon exercise of an option shall be valued at the fair market value on the date of exercise of the option determined in good faith by the Administrator.

(d) Nonassignability of Option Rights. Except as determined by the Administrator in its absolute discretion, no option shall be transferable other than by will or by the laws of descent and distribution and, during the lifetime of an optionee, only the optionee may exercise an option.

(e) Exercise After Termination or Death. If, for any reason other than permanent and total disability or death, an optionee ceases to be employed by or to serve as a consultant to or a director of the Company or a subsidiary (if such relationship forms the sole basis for the option grant), options held at the date of such termination (to the extent then exercisable) may be exercised in whole or in part at any time within thirty (30) days after the date of such termination (but in no event after the expiration date of the option as set forth in the Option Agreement). Notwithstanding, if an optionee becomes permanently and totally disabled (within the meaning of Section 22(e)(3) of the Code) or dies while employed by or serving as a consultant to or director of the Company or a subsidiary (or, if the optionee dies within the period that the option remains exercisable after termination of employment, consultancy or directorship), options then held (to the extent then exercisable) may be exercised by the optionee, the optionee's personal representative, or by the person to whom the option is transferred by will or the laws of descent and distribution in whole or in part, at any time within one year after the disability or death or any lesser period specified in the Option Agreement (but in no event after the expiration date of the option as set forth in the Option Agreement).

(f) Compliance with Securities Laws. The Company shall not be obligated to issue any shares upon exercise of an option unless the shares are at that time effectively registered or exempt from registration under the federal securities laws and the offer and sale of the shares are otherwise in compliance with all applicable securities laws. The Company shall have no obligation to register the shares under the federal securities laws or to take any other steps necessary to enable the shares to be offered and sold under federal or other securities laws. Upon exercising all or any portion of an option, an optionee may be required to furnish representations or undertakings deemed appropriate by the Company to enable the offer and sale of the option shares or subsequent transfers of any interest in the shares to comply with applicable securities laws. Stock certificates evidencing shares acquired upon exercise of options shall bear any legend required by, or useful for purposes of compliance with, applicable securities laws, this Plan or the Option Agreement evidencing the option.

8. Purchase Rights.

(a) Grant. The Administrator may, in its discretion, permit direct sales of Common Stock under this Plan at any time before expiration of ten (10) years from the effective date of this Plan. Shares may be issued at a price not less than the fair market value on the date of sale, payable at the option of the Administrator in cash or other lawful consideration. As soon as practicable after the grant of a purchase right, the Administrator shall advise the grantee in writing of the terms, conditions and restrictions relating to the grant, including the number of shares, the purchase price, the method of payment (which may include, in the absolute discretion of the Administrator, delivery of an interest-bearing, full recourse promissory note), the time within which the purchase right must be exercised, and the repurchase right, if any, available to the Company.

(b) Purchase Agreement. Each sale of shares pursuant to a purchase right shall be evidenced by an agreement between the purchaser and the Company in such form and containing such terms, conditions and restrictions as are approved by the Administrator, which agreement need not be identical for different purchasers. Stock certificates evidencing shares acquired pursuant to a purchase right shall bear any legend required by, or useful for purposes of compliance with, applicable securities laws, this Plan or the agreement evidencing the purchase right.

9. Restricted Stock.

(a) Grant. The Administrator may, in its discretion, grant restricted stock awards under this Plan at any time and from time to time before the expiration of ten (10) years from the effective date of this Plan.

(b) Restricted Stock Agreement. As soon as practicable after the grant of restricted stock, which in no event shall be later than thirty (30) days after the Grant Date of the restricted stock, the Company will provide the participant with a written restricted stock agreement in the form approved by the Administrator (the "Restricted Stock Agreement"), setting forth the terms and conditions of the grant.

(c) Price. Participants awarded restricted stock, within fifteen (15) days of receipt of the Restricted Stock Agreement, shall pay to the Company an amount equal to the purchase price determined by the Administrator, which shall be no less than the par value of the Stock subject to the award. If such payment is not made and received by the Company by such date, the grant of restricted stock shall lapse.

(d) Restrictions. Subject to the provisions of the Plan and the Restricted Stock Agreement, during a period set by the Administrator, commencing with, and not less than three (3) years and not exceeding ten (10) years from, the Grant Date of the restricted stock (the "Restriction Period"), the participant shall not be permitted to sell, assign, transfer, pledge or otherwise encumber shares of restricted stock. Within these limits, the Administrator may provide for the lapse of such restrictions in installments, but, subject to Section 12(e), may not accelerate or waive such restrictions.

(e) Dividends. Unless otherwise determined by the Administrator, cash dividends with respect to shares of restricted stock shall be automatically reinvested in additional shares of restricted stock, and dividends payable in Stock shall be paid in the form of restricted stock.

(f) Termination. Except to the extent otherwise provided in the Restricted Stock Agreement and pursuant to Section 12(e), upon termination of a participant's employment for any reason during the Restriction Period, all shares still subject to restriction shall be forfeited by the participant and shall be repurchased by the Company for an amount equal to the original purchase price.

10. Payment of Taxes. Regardless of the form of payment, exercise of an option or the lapse of restrictions on a restricted stock award may be conditioned on payment in cash, or provision satisfactory to the Administrator for payment to the Company, of all local, state and federal withholding taxes which, in the Administrator's judgment, are payable in connection therewith.

If and to the extent consented to by the Administrator, in its sole discretion, an eligible participant in the Plan who has exercised an option or received a restricted stock award may make an election to: (a) tender previously-owned shares of Stock; or (b) have shares of Stock to be obtained upon exercise of an option or lapse of restrictions applicable to restricted stock withheld by the Company on behalf of the optionee, to pay the amount of tax that the Administrator, in its discretion, determines is required to be withheld by the Company as a result of such exercise or lapse of restrictions.

11. Adjustment for Changes in Capitalization. The existence of outstanding options and restricted stock awards shall not affect the Company's right to effect adjustments, recapitalizations, reorganizations or other changes in its or any other corporation's capital structure or business, any merger or consolidation, any issuance of bonds, debentures, preferred or prior preference stock ahead of or affecting the Stock, the dissolution or liquidation of the Company's or any other corporation's assets or business or any other corporate act whether similar to the events described above or otherwise. Subject to Section 12, if the outstanding shares of the Stock are increased or decreased in number or changed into or exchanged for a different number or kind of securities of the Company or any other corporation by reason of a recapitalization, reclassification, stock split, combination of shares, stock dividend or other event, the number and kind of securities with respect to which options or shares of restricted stock may be granted under this Plan, the number and kind of securities as to which outstanding options may be exercised and shares of restricted stock may be received, and the option price at which outstanding options may be exercised, may be adjusted in the sole discretion of the Administrator and without regard to any resulting tax consequences to the optionee.

12. Dissolution, Liquidation, Merger. In the event of a dissolution or liquidation of the Company, a merger or consolidation in which the Company is not the surviving corporation, a reverse merger in which the Company is the surviving corporation but in which more than 50% of the shares of its Common Stock outstanding before the merger are held, after the merger, by holders different from those immediately prior to the merger, or a sale of over 80% of the assets of the Company, the Administrator may, in its discretion, do one or more of the following

with respect to each outstanding option or each share of restricted stock upon not less than ten (10) days prior written notice to the optionee:

(a) accelerate the vesting of such option (subject, in the case of ISOs, to the limitation set forth in Section 7(a) of this Plan);

(b) cancel such option to the extent then exercisable upon payment in cash to the optionee of the amount by which any cash and the fair market value of any other property which the optionee would have received as consideration for the shares issuable on exercise of the option, if such option had been exercised before such liquidation, dissolution, merger, consolidation, reverse merger or sale, exceeds the exercise price thereof;

(c) shorten the period during which such option is exercisable, provided such option shall remain exercisable, to the extent otherwise exercisable, for at least ten (10) days after the date the notice is given;

(d) arrange for new option rights or shares of restricted stock to be substituted for such option or restricted stock award, or for the Company's obligations as to such option or restricted stock award to be assumed by an employer corporation other than the Company or by a parent or subsidiary of such employer corporation. The action described in this Section 11 may be taken without regard to any resulting tax consequences to the optionee and may differ with respect to different options; or

(e) waive the restrictions on the shares of restricted stock.

13. Rights as Shareholder; Employee. An optionee shall have no rights as a shareholder with respect to any shares covered by an option until the stock certificates representing the shares are actually delivered to the optionee. Subject to Sections 11 and 12, no adjustment shall be made for dividends or other rights for which the record date is prior to the date the certificates are delivered. The grant of any option or shares of restricted stock shall not, by itself, confer on any person any right or inference of continued employment by, consultancy to or membership on the Board of Directors of the Company.

14. Disqualifying Dispositions. If Stock acquired upon exercise of an Incentive Stock Option is disposed of in a disqualifying disposition within the meaning of Section 422 of the Code, the holder of the Stock immediately prior to the disposition shall notify the Company in writing of the date and the terms of such disposition and comply with any other requirements imposed by the Company in order to enable the Company to secure the related income tax deduction to which it is entitled.

15. Termination or Amendment. The Board may amend, alter or discontinue the Plan or any option grant or any restriction on restricted stock awards, but no amendment, alteration or discontinuance shall be made which would impair the rights of a participant under an outstanding option grant or restricted stock award without the participant's consent. No amendment, alteration or discontinuance shall require stockholder approval, except: (a) an increase in the total number of shares reserved for issuance under the Plan; (b) with respect to provisions solely as they relate to Incentive Stock Options, to the extent required for the Plan to comply with Section 422 of the Code; (c) to the extent required by other applicable laws, regulations or rules; or (d) to the extent the Board otherwise concludes that stockholder approval is advisable.

16. Parent and Subsidiary. As used in this Plan, "parent" and "subsidiary" mean any corporation in an unbroken chain of corporations which includes the Company if, at the relevant time, each of the corporations other than the last corporation in the chain owns stock possessing more than 50% of the total combined voting power of all classes of stock of one of the other corporations in the chain.

17. Rule 16b-3. Notwithstanding any provision of the Plan, it is intended that option grants shall always be granted and exercised in such a manner as to conform to the provisions of Rule 16b-3. Notwithstanding the foregoing, it shall be the responsibility of persons subject to Section 16 of the Exchange Act, not of the Company or the Administrator, to comply with the requirements of Section 16 of the Exchange Act; and neither the Company nor the Administrator shall be liable if this Plan or any transaction under this Plan fails to comply with the applicable conditions of Rule 16b-3, or if any such person incurs any liability under Section 16 of the Exchange Act.

18. Governing Law. This Plan and the rights of all persons under this Plan shall be construed in accordance with and under applicable provisions of the Internal Revenue Code of 1986, as amended, and the laws of the State of California.