

LSI LOGIC CORP  
Form DEFR14A  
April 11, 2003

**Table of Contents**

**SCHEDULE 14A INFORMATION**

**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**(AMENDMENT NO. 1)**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement  
 Definitive  
Proxy  
Statement   
Confidential, for  
Use of the  
Commission Only  
(as permitted by  
Rule 14a-6(e)(2))   
Definitive  
Additional  
Materials   
Soliciting  
Material Pursuant  
to sec.  
240.14a-11(c) or  
sec. 240.14a-12

**LSI LOGIC CORPORATION**

---

(Name of Registrant as Specified In Its Charter)

---

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

Fee not required.  
 Fee  
computed on  
table below per  
Exchange Act  
Rules 14a-6(i)(1)  
and 0-11.  
(1) Title of each  
class of securities  
to which

transaction  
applies:

---

(2) Aggregate  
number of  
securities to  
which transaction  
applies:

---

(3) Per unit  
price or other  
underlying value  
of transaction  
computed  
pursuant to  
Exchange Act  
Rule 0-11 (set  
forth the amount  
on which the  
filing fee is  
calculated and  
state how it was  
determined):

---

(4) Proposed  
maximum  
aggregate value  
of transaction:

---

(5) Total fee  
paid:

---

Fee paid  
previously with  
preliminary  
materials.  Check  
box if any part of  
the fee is offset as  
provided by  
Exchange Act  
Rule 0-11(a)(2)  
and identify the  
filing for which  
the offsetting fee  
was paid  
previously.  
Identify the  
previous filing by  
registration  
statement  
number, or the  
Form or Schedule  
and the date of its  
filing.

(1) Amount  
Previously Paid:

---

(2) Form,  
Schedule or  
Registration  
Statement No.:

---

(3) Filing Party:

---

(4) Date Filed:

---

**Table of Contents**

**\*This exhibit is solely being refiled to correct a typographical error in Section 4.1 of the 2003 Equity Incentive Plan. The correct number of shares authorized by the Board of Directors under the 2003 Equity Incentive Plan is 11,000,000 shares. The Company's definitive proxy statement was filed with the Securities and Exchange Commission on March 24, 2003, and remains unchanged.**

**LSI LOGIC CORPORATION**

**2003 EQUITY INCENTIVE PLAN**

**(Effective March 20, 2003)**

---

**TABLE OF CONTENTS**

**SECTION 1 BACKGROUND AND PURPOSE**

1.1 Background and Effective Date.

1.2 Purpose of the Plan.

**SECTION 2 DEFINITIONS**

2.1 1934 Act

2.2 Affiliate

2.3 Award

2.4 Award Agreement

2.5 Board or Board of Directors

2.6 Cash Flow

2.7 Code

2.8 Committee

2.9 Company

2.10 Director

2.11 Disability

2.12 Earnings Per Share

2.13 Employee

2.14 Exchange Program

2.15 Exercise Price

2.16 Fair Market Value

2.17 Fiscal Year

2.18 Grant Date

2.19 Incentive Stock Option

2.20 Nonemployee Director

2.21 Nonqualified Stock Option

2.22 Option

2.23 Participant

2.24 Performance Goals

2.25 Period of Restriction

2.26 Plan

2.27 Profit After Tax

2.28 Profit Before Tax

2.29 Restricted Stock

2.30 Retirement

2.31 Return on Capital

2.32 Return on Equity

2.33 Return on Sales

2.34 Revenue

2.35 Rule 16b-3

2.36 Section 16 Person

2.37 Shares

2.38 Subsidiary

2.39 Termination of Service

2.40 Total Shareholder Return

**SECTION 3 ADMINISTRATION**

3.1 The Committee

3.2 Authority of the Committee

3.3 Delegation by the Committee

3.4 Decisions Binding

SECTION 4 SHARES SUBJECT TO THE PLAN

4.1 Number of Shares

4.2 Lapsed Awards

4.3 Adjustments in Awards and Authorized Shares

SECTION 5 STOCK OPTIONS

5.1 Grant of Options

5.2 Award Agreement

5.3 Exercise Price

5.4 Expiration of Options

5.5 Exercisability of Options

5.6 Payment

5.7 Restrictions on Share Transferability

5.8 Certain Additional Provisions for Incentive Stock Options

SECTION 6 RESTRICTED STOCK

6.1 Grant of Restricted Stock

6.2 Restricted Stock Agreement

6.3 Transferability

6.4 Other Restrictions

6.5 Removal of Restrictions

6.6 Voting Rights

6.7 Dividends and Other Distributions

6.8 Return of Restricted Stock to Company

SECTION 7 MISCELLANEOUS

7.1 Deferrals

7.2 No Effect on Employment or Service

7.3 Participation

7.4 Indemnification

7.5 Successors

7.6 Limited Transferability of Awards

7.7 Beneficiary Designations

7.8 No Rights as Stockholder

SECTION 8 AMENDMENT, TERMINATION, AND DURATION

8.1 Amendment, Suspension, or Termination

8.2 Duration of the Plan

SECTION 9 TAX WITHHOLDING

9.1 Withholding Requirements

9.2 Withholding Arrangements

SECTION 10 LEGAL CONSTRUCTION

10.1 Gender and Number

10.2 Severability

10.3 Requirements of Law

10.4 Securities Law Compliance

10.5 Governing Law

10.6 Captions

---

**Table of Contents****TABLE OF CONTENTS**

	Page
<b>SECTION 1 BACKGROUND AND PURPOSE</b>	<b>1</b>
1.1 Background and Effective Date	1
1.2 Purpose of the Plan	1
<b>SECTION 2 DEFINITIONS</b>	<b>1</b>
2.1 1934 Act	1
2.2 Affiliate	1
2.3 Award	1
2.4 Award Agreement	1
2.5 Board or Board of Directors	1
2.6 Cash Flow	1
2.7 Code	2
2.8 Committee	2
2.9 Company	2
2.10 Director	2
2.11 Disability	2
2.12 Earnings Per Share	2
2.13 Employee	2
2.14 Exchange Program	2
2.15 Exercise Price	2
2.16 Fair Market Value	2
2.17 Fiscal Year	2
2.18 Grant Date	3
2.19 Incentive Stock Option	3
2.20 Nonemployee Director	3
2.21 Nonqualified Stock Option	3
2.22 Option	3
2.23 Participant	3
2.24 Performance Goals	3
2.25 Period of Restriction	3
2.26 Plan	3
2.27 Profit After Tax	3
2.28 Profit Before Tax	3
2.29 Restricted Stock	3
2.30 Retirement	4
2.31 Return on Capital	4
2.32	4



	<b>Return on Equity</b>	
<b>2.33</b>	<b>Return on Sales</b>	<b>4</b>
<b>2.34</b>	<b>Revenue</b>	<b>4</b>
<b>2.35</b>	<b>Rule 16b-3</b>	<b>4</b>
<b>2.36</b>	<b>Section 16 Person</b>	<b>4</b>
<b>2.37</b>	<b>Shares</b>	<b>4</b>
<b>2.38</b>	<b>Subsidiary</b>	<b>4</b>

**Table of Contents****TABLE OF CONTENTS  
(continued)**

		<u>Page</u>
2.39	Termination of Service	4
2.40	Total Shareholder Return	4
<b>SECTION 3 ADMINISTRATION</b>		<b>5</b>
3.1	The Committee	5
3.2	Authority of the Committee	5
3.3	Delegation by the Committee	5
3.4	Decisions Binding	5
<b>SECTION 4 SHARES SUBJECT TO THE PLAN</b>		<b>5</b>
4.1	Number of Shares	5
4.2	Lapsed Awards	5
4.3	Adjustments in Awards and Authorized Shares	6
<b>SECTION 5 STOCK OPTIONS</b>		<b>6</b>
5.1	Grant of Options	6
5.2	Award Agreement	6
5.3	Exercise Price	6
5.4	Expiration of Options	7
5.5	Exercisability of Options	7
5.6	Payment	7
5.7	Restrictions on Share Transferability	8
5.8	Certain Additional Provisions for Incentive Stock Options	8
<b>SECTION 6 RESTRICTED STOCK</b>		<b>8</b>
6.1	Grant of Restricted Stock	8
6.2	Restricted Stock Agreement	9
6.3	Transferability	9
6.4	Other Restrictions	9
6.5	Removal of Restrictions	9

<b>6.6</b>	<b>Voting Rights</b>	<b>9</b>
<b>6.7</b>	<b>Dividends and Other Distributions</b>	<b>10</b>
<b>6.8</b>	<b>Return of Restricted Stock to Company</b>	<b>10</b>
<b>SECTION 7 MISCELLANEOUS</b>		<b>10</b>
<b>7.1</b>	<b>Deferrals</b>	<b>10</b>
<b>7.2</b>	<b>No Effect on Employment or Service</b>	<b>10</b>
<b>7.3</b>	<b>Participation</b>	<b>10</b>
<b>7.4</b>	<b>Indemnification</b>	<b>10</b>
<b>7.5</b>	<b>Successors</b>	<b>10</b>
<b>7.6</b>	<b>Beneficiary Designations</b>	<b>11</b>
<b>7.7</b>	<b>Limited Transferability of Awards</b>	<b>11</b>
<b>7.8</b>	<b>No Rights as Stockholder</b>	<b>11</b>

**Table of Contents****TABLE OF CONTENTS  
(continued)**

	<b>Page</b>
	<b><u>        </u></b>
<b>SECTION 8 AMENDMENT, TERMINATION, AND DURATION</b>	<b>11</b>
<b>8.1    Amendment,             Suspension, or             Termination</b>	<b>11</b>
<b>8.2    Duration of             the Plan</b>	<b>12</b>
<b>SECTION 9 TAX WITHHOLDING</b>	<b>12</b>
<b>9.1    Withholding             Requirements</b>	<b>12</b>
<b>9.2    Withholding             Arrangements</b>	<b>12</b>
<b>SECTION 10 LEGAL CONSTRUCTION</b>	<b>12</b>
<b>10.1   Gender and             Number</b>	<b>12</b>
<b>10.2   Severability</b>	<b>12</b>
<b>10.3   Requirements             of Law</b>	<b>12</b>
<b>10.4   Securities Law             Compliance</b>	<b>12</b>
<b>10.5   Governing             Law</b>	<b>13</b>
<b>10.6   Captions</b>	<b>13</b>

**Table of Contents**

**LSI LOGIC CORPORATION  
2003 EQUITY INCENTIVE PLAN**

**SECTION 1  
BACKGROUND AND PURPOSE**

1.1 Background and Effective Date. The Plan permits the grant of Nonqualified Stock Options, Incentive Stock Options, and Restricted Stock. The Plan is effective as of March 20, 2003, subject to ratification by an affirmative vote of the holders of a majority of the Shares that are present in person or by proxy and entitled to vote at the 2003 Annual Meeting of Stockholders of the Company.

1.2 Purpose of the Plan. The Plan is intended to attract, motivate, and retain employees of the Company and its Affiliates. The Plan also is designed to encourage stock ownership by Participants, thereby aligning their interests with those of the Company's shareholders and to permit the payment of compensation that qualifies as performance-based compensation under section 162(m) of the Code.

**SECTION 2  
DEFINITIONS**

The following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

2.1 1934 Act means the Securities Exchange Act of 1934, as amended. Reference to a specific section of the 1934 Act or regulation thereunder shall include such section or regulation, any valid regulation promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

2.2 Affiliate means any corporation or any other entity (including, but not limited to, partnerships and joint ventures) controlling, controlled by, or under common control with the Company.

2.3 Award means, individually or collectively, a grant under the Plan of Nonqualified Stock Options, Incentive Stock Options, and/or Restricted Stock.

2.4 Award Agreement means the written agreement setting forth the terms and provisions applicable to each Award granted under the Plan.

2.5 Board or Board of Directors means the Board of Directors of the Company.

2.6 Cash Flow means the Company's or a business unit's sum of Profit After Tax plus depreciation and amortization less capital expenditures plus changes in working capital comprised of accounts receivable, inventories, other current assets, trade accounts payable, accrued expenses,

**Table of Contents**

product warranty, advance payments from customers and long-term accrued expenses, determined in accordance with generally acceptable accounting principles.

2.7 Code means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code or regulation thereunder shall include such section or regulation, any valid regulation promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

2.8 Committee means the committee appointed by the Board (pursuant to Section 3.1) to administer the Plan.

2.9 Company means LSI Logic Corporation, a Delaware corporation, or any successor thereto.

2.10 Director means any individual who is a member of the Board of Directors of the Company.

2.11 Disability means a permanent and total disability determined in accordance with uniform and nondiscriminatory standards adopted by the Committee from time to time.

2.12 Earnings Per Share means the Company's or a business unit's Profit After Tax, divided by a weighted average number of common shares outstanding and dilutive common equivalent shares deemed outstanding, determined in accordance with generally accepted accounting principles.

2.13 Employee means any employee of the Company or of an Affiliate, whether such employee is so employed at the time the Plan is adopted or becomes so employed subsequent to the adoption of the Plan.

2.14 Exchange Program means a program established by the Committee under which outstanding Awards are amended to provide for a lower Exercise Price or surrendered or cancelled in exchange for (a) Awards with a different Exercise Price, (b) a different type of Award, (c) cash, or (d) a combination of (a), (b) and/or (c).

2.15 Exercise Price means the price at which a Share may be purchased by a Participant pursuant to the exercise of an Option.

2.16 Fair Market Value means the closing price per Share on the New York Stock Exchange on the relevant date, or if there were no sales on such date, the arithmetic mean of the closing price per Share on the nearest day before and the nearest day after the relevant date, as determined by the Committee. Notwithstanding the preceding, for federal, state, and local income tax reporting purposes, fair market value shall be determined by the Committee (or its delegate) in accordance with uniform and nondiscriminatory standards adopted by it from time to time.

2.17 Fiscal Year means the fiscal year of the Company.

**Table of Contents**

- 2.18 Grant Date means, with respect to an Award, the date that the Award was granted.
- 2.19 Incentive Stock Option means an Option to purchase Shares that is designated as an Incentive Stock Option and is intended to meet the requirements of Section 422 of the Code.
- 2.20 Nonemployee Director means a Director who is an employee of neither the Company nor of any Affiliate.
- 2.21 Nonqualified Stock Option means an option to purchase Shares that is not intended to be an Incentive Stock Option.
- 2.22 Option means an Incentive Stock Option or a Nonqualified Stock Option.
- 2.23 Participant means an Employee or Nonemployee Director who has an outstanding Award.
- 2.24 Performance Goals means the goal(s) (or combined goal(s)) determined by the Committee (in its discretion) to be applicable to a Participant with respect to an Award. As determined by the Committee, the Performance Goals applicable to an Award may provide for a targeted level or levels of achievement using one or more of the following measures: (a) Cash Flow, (b) Earnings per Share, (c) Profit After Tax, and (d) Profit Before Tax, (e) Return on Capital, (f) Return on Equity, (g) Return on Sales, (h) Revenue, (i) Total Shareholder Return. The Performance Goals may differ from Participant to Participant and from Award to Award. Prior to the Determination Date, the Committee shall determine whether any significant element(s) shall be included in or excluded from the calculation of any Performance Goal with respect to any Participants.
- 2.25 Period of Restriction means the period during which the transfer of Shares of Restricted Stock are subject to restrictions and therefore, the Shares are subject to a substantial risk of forfeiture. As provided in Section 6, such restrictions may be based on the passage of time, the achievement of target levels of performance, or the occurrence of other events or conditions, as determined by the Committee, in its discretion.
- 2.26 Plan means the LSI Logic Corporation 2003 Equity Incentive Plan, as set forth in this instrument and as hereafter amended from time to time.
- 2.27 Profit After Tax means the Company's or a business unit's income after taxes, determined in accordance with generally accepted accounting principles.
- 2.28 Profit Before Tax means the Company's or a business unit's income before taxes, determined in accordance with generally accepted accounting principles.
- 2.29 Restricted Stock means an Award granted to a Participant pursuant to Section 6.

**Table of Contents**

2.30 Retirement means a Termination of Service occurring on or after the earlier of (a) age sixty-five (65), or (b) age fifty-five (55) and the completion of ten (10) years of service with the Company or an Affiliate.

2.31 Return on Capital means the Company's or a business unit's Profit After Tax divided by Company's or business unit's, as applicable, average invested capital, determined in accordance with generally accepted accounting principles.

2.32 Return on Equity means the percentage equal to the Company's Profit After Tax divided by average stockholder's equity, determined in accordance with generally accepted accounting principles.

2.33 Return on Sales means the percentage equal to the Company's or a business unit's Profit After Tax, divided by the Company's or the business unit's, as applicable, Revenue, determined in accordance with generally accepted accounting principles.

2.34 Revenue means the Company's or business unit's net sales, determined in accordance with generally accepted accounting principles.

2.35 Rule 16b-3 means Rule 16b-3 promulgated under the 1934 Act, and any future regulation amending, supplementing or superseding such regulation.

2.36 Section 16 Person means a person who, with respect to the Shares, is subject to Section 16 of the 1934 Act.

2.37 Shares means the shares of common stock of the Company.

2.38 Subsidiary means any corporation in an unbroken chain of corporations beginning with the Company if each of the corporations other than the last corporation in the unbroken chain then owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

2.39 Termination of Service means (a) in the case of an Employee, a cessation of the employee-employer relationship between the Employee and the Company or an Affiliate for any reason, including, but not by way of limitation, a termination by resignation, discharge, death, Disability, Retirement, or the disaffiliation of an Affiliate, but excluding any such termination where there is a simultaneous reemployment by the Company or an Affiliate; and (b) in the case of a Nonemployee Director, a cessation of the Director's service on the Board for any reason, including, but not by way of limitation, a termination by resignation, death, Disability, Retirement or non-reelection to the Board.

2.40 Total Shareholder Return means the total return (change in share price plus reinvestment of any dividends) of a Share.



**Table of Contents**

SECTION 3  
ADMINISTRATION

3.1 The Committee. The Plan shall be administered by the Committee. The Committee shall consist of not less than two (2) Directors who shall be appointed from time to time by, and shall serve at the pleasure of, the Board of Directors. The Committee shall be comprised solely of Directors who both are (a) non-employee directors under Rule 16b-3, and (b) outside directors under Section 162(m) of the Code.

3.2 Authority of the Committee. It shall be the duty of the Committee to administer the Plan in accordance with the Plan's provisions. The Committee shall have all powers and discretion necessary or appropriate to administer the Plan and to control its operation, including, but not limited to, the power to (a) determine which Employees (including Employees who also are Directors) shall be granted Awards, (b) prescribe the terms and conditions of the Awards, (c) interpret the Plan and the Awards, (d) adopt such procedures and subplans as are necessary or appropriate to permit participation in the Plan by Employees (including Employees who also are Directors) who are foreign nationals or employed outside of the United States, (e) adopt rules for the administration, interpretation and application of the Plan as are consistent therewith and (f) interpret, amend or revoke any such rules. Notwithstanding any contrary provision of the Plan, the Committee shall not have the authority to implement an Exchange Program without the approval of the Company's stockholders.

3.3 Delegation by the Committee. The Committee, in its sole discretion and on such terms and conditions as it may provide, may delegate all or any part of its authority and powers under the Plan to one or more Directors or officers of the Company; provided, however, that the Committee may not delegate its authority and powers (a) with respect to Section 16 Persons, or (b) in any way which would jeopardize the Plan's qualification under Section 162(m) of the Code or Rule 16b-3.

3.4 Decisions Binding. All determinations and decisions made by the Committee, the Board, and any delegate of the Committee pursuant to the provisions of the Plan shall be final, conclusive, and binding on all persons, and shall be given the maximum deference permitted by law.

SECTION 4  
SHARES SUBJECT TO THE PLAN

4.1 Number of Shares. Subject to adjustment as provided in Section 4.3, the total number of Shares available for grant under the Plan shall not exceed 11,000,000. Shares granted under the Plan may be either authorized but unissued Shares or treasury Shares.

4.2 Lapsed Awards. If an Award is cancelled, terminates, expires, or lapses for any reason, any Shares subject to such Award again shall be available to be the subject of an Award, except as determined by the Committee.

**Table of Contents**

4.3 Adjustments in Awards and Authorized Shares. In the event 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 of the Company, or other change in the corporate structure of the Company affecting the Shares such that an adjustment is determined by the Committee (in its sole discretion) 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 it may deem equitable, adjust the number and class of Shares that may be delivered under the Plan, the number, class, and price of Shares subject to outstanding Awards, and the numerical limits of Sections 5.1 and 6.1. Notwithstanding the preceding, the number of Shares subject to any Award always shall be a whole number.

SECTION 5  
STOCK OPTIONS

5.1 Grant of Options. Subject to the terms and provisions of the Plan, Options may be granted to Employees at any time and from time to time as determined by the Committee in its sole discretion. The Committee, in its sole discretion, shall determine the number of Shares subject to each Option, provided that during any Fiscal Year, no Participant shall be granted Options covering more than 2,000,000 Shares. The Committee may grant Incentive Stock Options, Nonqualified Stock Options, or a combination thereof.

5.2 Award Agreement. Each Option shall be evidenced by an Award Agreement that shall specify the Exercise Price, the expiration date of the Option, the number of Shares to which the Option pertains, any conditions to exercise of the Option, and such other terms and conditions as the Committee, in its discretion, shall determine. The Award Agreement shall also specify whether the Option is intended to be an Incentive Stock Option or a Nonqualified Stock Option.

5.3 Exercise Price. Subject to the provisions of this Section 5.3, the Exercise Price for each Option shall be determined by the Committee in its sole discretion.

5.3.1 Nonqualified Stock Options. In the case of a Nonqualified Stock Option, the Exercise Price shall be not less than one hundred percent (100%) of the Fair Market Value of a Share on the Grant Date.

5.3.2 Incentive Stock Options. In the case of an Incentive Stock Option, the Exercise Price shall be not less than one hundred percent (100%) of the Fair Market Value of a Share on the Grant Date; provided, however, that if on the Grant Date, the Employee (together with persons whose stock ownership is attributed to the Employee pursuant to Section 424(d) of the Code) owns stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or any of its Subsidiaries, the Exercise Price shall be not less than one hundred and ten percent (110%) of the Fair Market Value of a Share on the Grant Date.

**Table of Contents**

5.3.3 Substitute Options. Notwithstanding the provisions of Sections 5.3.1 and 5.3.2, in the event that the Company or an Affiliate consummates a transaction described in Section 424(a) of the Code (e.g., the acquisition of property or stock from an unrelated corporation), persons who become Employees or Nonemployee Directors on account of such transaction may be granted Options in substitution for options granted by their former employer. If such substitute Options are granted, the Committee, in its sole discretion and consistent with Section 424(a) of the Code, may determine that such substitute Options shall have an exercise price less than one hundred percent (100%) of the Fair Market Value of the Shares on the Grant Date.

5.4 Expiration of Options.

5.4.1 Expiration Dates. Each Option shall terminate no later than the first to occur of the following events:

- (a) The date for termination of the Option set forth in the written Award Agreement; or
- (b) The expiration of ten (10) years from the Grant Date.

5.4.2 Death of Participant. Notwithstanding Section 5.4.1, if a Participant dies prior to the expiration of his or her Options, the Committee, in its discretion, may provide that his or her Options shall be exercisable for up to three (3) years after the date of death.

5.4.3 Committee Discretion. Subject to the limits of Sections 5.4.1 and 5.4.2, the Committee, in its sole discretion, (a) shall provide in each Award Agreement when each Option expires and becomes unexercisable, and (b) may, after an Option is granted, extend the maximum term of the Option (subject to Section 5.8.4 regarding Incentive Stock Options).

5.5 Exercisability of Options. Options granted under the Plan shall be exercisable at such times and be subject to such restrictions and conditions as the Committee shall determine in its sole discretion. After an Option is granted, the Committee, in its sole discretion, may accelerate the exercisability of the Option.

5.6 Payment. Options shall be exercised by the Participant's delivery of a notice of exercise to the Corporate Secretary of the Company (or its designee), setting forth the number of Shares with respect to which the Option is to be exercised, accompanied by full payment for the Shares. The notice shall be given in the form and manner specified by the Company from time to time.

Upon the exercise of any Option, the Exercise Price shall be payable to the Company in full in cash or its equivalent. The Committee, in its sole discretion, also may permit exercise (a) by tendering previously acquired Shares having an aggregate Fair Market Value at the time of exercise equal to the total Exercise Price, or (b) by any other means which the Committee, in its sole discretion, determines to both provide legal consideration for the Shares, and to be consistent with the purposes of the Plan. As soon as practicable after receipt of a written notification of exercise and

**Table of Contents**

full payment for the Shares purchased, the Company shall deliver to the Participant (or the Participant's designated broker), Share certificates (which may be in book entry form) representing such Shares.

5.7 Restrictions on Share Transferability. The Committee may impose such restrictions on any Shares acquired pursuant to the exercise of an Option as it may deem advisable, including, but not limited to, restrictions related to applicable federal securities laws, the requirements of any national securities exchange or system upon which Shares are then listed or traded, or any blue sky or state securities laws.

5.8 Certain Additional Provisions for Incentive Stock Options.

5.8.1 Exercisability. The aggregate Fair Market Value (determined on the Grant Date(s)) of the Shares with respect to which Incentive Stock Options are exercisable for the first time by any Employee during any calendar year (under all plans of the Company and its Subsidiaries) shall not exceed \$100,000.

5.8.2 Termination of Service. No Incentive Stock Option may be exercised more than three (3) months after the Participant's Termination of Service for any reason other than Disability or death, unless (a) the Participant dies during such three-month period, and (b) the Award Agreement or the Committee permits later exercise. No Incentive Stock Option may be exercised more than one (1) year after the Participant's Termination of Service on account of Disability, unless (a) the Participant dies during such one-year period, and (b) the Award Agreement or the Committee permit later exercise.

5.8.3 Company and Subsidiaries Only. Incentive Stock Options may be granted only to persons who are employees of the Company or a Subsidiary on the Grant Date.

5.8.4 Expiration. No Incentive Stock Option may be exercised after the expiration of ten (10) years from the Grant Date; provided, however, that if the Option is granted to an Employee who, together with persons whose stock ownership is attributed to the Employee pursuant to Section 424(d) of the Code, owns stock possessing more than 10% of the total combined voting power of all classes of the stock of the Company or any of its Subsidiaries, the Option may not be exercised after the expiration of five (5) years from the Grant Date.

SECTION 6  
RESTRICTED STOCK

6.1 Grant of Restricted Stock. Subject to the terms and provisions of the Plan, the Committee, at any time and from time to time, may grant shares of Restricted Stock to Employees in such amounts as the Committee, in its sole discretion, shall determine. The Committee, in its sole discretion, shall determine the number of Shares to be granted to each Participant as Restricted Stock, provided that during any Fiscal Year, no Participant shall receive more than 500,000 shares of Restricted Stock.

**Table of Contents**

6.2 Restricted Stock Agreement. Each Award of Restricted Stock shall be evidenced by an Award Agreement that shall specify the Period of Restriction, the number of Shares granted, and such other terms and conditions as the Committee, in its sole discretion, shall determine. Unless the Committee determines otherwise, shares of Restricted Stock shall be held by the Company as escrow agent until the restrictions on such Shares have lapsed.

6.3 Transferability. Except as provided in this Section 6, shares of Restricted Stock may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated until the end of the applicable Period of Restriction.

6.4 Other Restrictions. The Committee, in its sole discretion, may impose such other restrictions on shares of Restricted Stock as it may deem advisable or appropriate, in accordance with this Section 6.4.

6.4.1 General Restrictions. The Committee may set restrictions based upon the achievement of specific performance objectives (Company-wide, divisional, or individual), applicable federal or state securities laws, or any other basis determined by the Committee in its discretion.

6.4.2 Section 162(m) Performance Restrictions. For purposes of qualifying grants of Restricted Stock as performance-based compensation under Section 162(m) of the Code, the Committee, in its discretion, may set restrictions based upon the achievement of Performance Goals. The Performance Goals shall be set by the Committee on or before the latest date permissible to enable the Restricted Stock to qualify as performance-based compensation under Section 162(m) of the Code. In granting Restricted Stock that is intended to qualify under Section 162(m) of the Code, the Committee shall follow any procedures determined by it from time to time to be necessary or appropriate to ensure qualification of the Restricted Stock under Section 162(m) of the Code (e.g., in determining the Performance Goals).

6.4.3 Legend on Certificates. The Committee, in its discretion, may legend the certificates representing Restricted Stock to give appropriate notice of such restrictions.

6.5 Removal of Restrictions. Except as otherwise provided in this Section 6, Shares of Restricted Stock covered by each Restricted Stock grant made under the Plan shall be released from escrow as soon as practicable after the last day of the Period of Restriction. The Committee, in its discretion, may accelerate the time at which any restrictions shall lapse or be removed. After the restrictions have lapsed, the Participant shall be entitled to have any legend or legends under Section 6.4.3 removed from his or her Share certificate, and the Shares shall be freely transferable by the Participant.

6.6 Voting Rights. During the Period of Restriction, Participants holding Shares of Restricted Stock granted hereunder may exercise full voting rights with respect to those Shares, unless the Committee determines otherwise.

**Table of Contents**

6.7 Dividends and Other Distributions. During the Period of Restriction, Participants holding Shares of Restricted Stock shall be entitled to receive all dividends and other distributions paid with respect to such Shares unless otherwise provided in the Award Agreement. If any such dividends or distributions are paid in Shares, the Shares shall be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid.

6.8 Return of Restricted Stock to Company. On the date set forth in the Award Agreement, the Restricted Stock for which restrictions have not lapsed shall revert to the Company and again shall become available for grant under the Plan.

SECTION 7  
MISCELLANEOUS

7.1 Deferrals. The Committee, in its sole discretion, may permit a Participant to defer receipt of the payment of cash or the delivery of Shares that would otherwise be due to such Participant under an Award. Any such deferral elections shall be subject to such rules and procedures as shall be determined by the Committee in its sole discretion.

7.2 No Effect on Employment or Service. Nothing in the Plan shall interfere with or limit in any way the right of the Company to terminate any Participant's employment or service at any time, with or without cause. For purposes of the Plan, transfer of employment of a Participant between the Company and any one of its Affiliates (or between Affiliates) shall not be deemed a Termination of Service. Employment with the Company and its Affiliates is on an at-will basis only.

7.3 Participation. No Employee shall have the right to be selected to receive an Award under this Plan, or, having been so selected, to be selected to receive a future Award.

7.4 Indemnification. Each person who is or shall have been a member of the Committee, or of the Board, shall be indemnified and held harmless by the Company against and from (a) any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under the Plan or any Award Agreement, and (b) from any and all amounts paid by him or her in settlement thereof, with the Company's approval, or paid by him or her in satisfaction of any judgment in any such claim, action, suit, or proceeding against him or her, provided he or she shall give the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled under the Company's Certificate of Incorporation or Bylaws, by contract, as a matter of law, or otherwise, or under any power that the Company may have to indemnify them or hold them harmless.

7.5 Successors. All obligations of the Company under the Plan, with respect to Awards granted hereunder, shall be binding on any successor to the Company, whether the existence of such

**Table of Contents**

successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business or assets of the Company.

7.6 Limited Transferability of Awards. No Award granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will, by the laws of descent and distribution. All rights with respect to an Award granted to a Participant shall be available during his or her lifetime only to the Participant. Notwithstanding the foregoing, after the Plan becomes effective, the Committee (in its sole discretion) may determine that a Participant may, in a manner specified by the Committee, (a) transfer a Nonqualified Stock Option to a Participant's spouse, former spouse or dependent pursuant to a court-approved domestic relations order which relates to the provision of child support, alimony payments or marital property rights, and (b) transfer a Nonqualified Stock Option by bona fide gift and not for any consideration, to (i) a member or members of the Participant's immediate family, (ii) a trust established for the exclusive benefit of the Participant and/or member(s) of the Participant's immediate family, (iii) a partnership, limited liability company of other entity whose only partners or members are the Participant and/or member(s) of the Participant's immediate family, or (iv) a foundation in which the Participant an/or member(s) of the Participant's immediate family control the management of the foundation's assets. The transferability provisions provided in the preceding sentence shall be effective only if expressly determined by the Committee after the effective date of the Plan.

7.7 Beneficiary Designations. Notwithstanding any contrary provisions of Section 7.6, after the Plan becomes effective, the Committee (in its sole discretion) may determine that a Participant under the Plan may name a beneficiary or beneficiaries to whom any vested but unpaid Award shall be paid in the event of the Participant's death. Each such designation shall revoke all prior designations by the Participant and shall be effective only if given in a form and manner acceptable to the Committee. In the absence of any such designation, any vested benefits remaining unpaid at the Participant's death shall be paid to the Participant's estate and, subject to the terms of the Plan and of the applicable Award Agreement, any unexercised vested Award may be exercised by the administrator or executor of the Participant's estate. The provisions of this Section 7.7 shall be effective only if expressly determined by the Committee after the effective date of the Plan.

7.8 No Rights as Stockholder. Except to the limited extent provided in Sections 6.6 and 6.7, no Participant (nor any beneficiary) shall have any of the rights or privileges of a stockholder of the Company with respect to any Shares issuable pursuant to an Award (or exercise thereof), unless and until certificates representing such Shares shall have been issued, recorded on the records of the Company or its transfer agents or registrars, and delivered to the Participant (or beneficiary).

SECTION 8  
AMENDMENT, TERMINATION, AND DURATION

8.1 Amendment, Suspension, or Termination. The Board, in its sole discretion, may amend, suspend or terminate the Plan, or any part thereof, at any time and for any reason. The amendment, suspension, or termination of the Plan shall not, without the consent of the Participant,

**Table of Contents**

alter or impair any rights or obligations under any Award theretofore granted to such Participant. No Award may be granted during any period of suspension or after termination of the Plan.

8.2 Duration of the Plan. The Plan shall be effective as of March 20, 2003, and subject to Section 8.1 (regarding the Board's right to amend or terminate the Plan), shall remain in effect thereafter. However, without further stockholder approval, no Incentive Stock Option may be granted under the Plan after March 19, 2013.

SECTION 9  
TAX WITHHOLDING

9.1 Withholding Requirements. Prior to the delivery of any Shares or cash pursuant to an Award (or exercise thereof), the Company shall have the power and the right to deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy federal, state, and local taxes (including the Participant's FICA obligation) required to be withheld with respect to such Award (or exercise thereof).

9.2 Withholding Arrangements. The Committee, in its sole discretion and pursuant to such procedures as it may specify from time to time, may permit a Participant to satisfy such tax withholding obligation, in whole or in part by (a) electing to have the Company withhold otherwise deliverable Shares, or (b) delivering to the Company already-owned Shares having a Fair Market Value equal to the minimum amount required to be withheld.

SECTION 10  
LEGAL CONSTRUCTION

10.1 Gender and Number. Except where otherwise indicated by the context, any masculine term used herein also shall include the feminine; the plural shall include the singular and the singular shall include the plural.

10.2 Severability. In the event any provision of the Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

10.3 Requirements of Law. The granting of Awards and the issuance of Shares under the Plan shall be subject to all applicable laws, rules, and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

10.4 Securities Law Compliance. With respect to Section 16 Persons, transactions under this Plan are intended to comply with all applicable conditions of Rule 16b-3. To the extent any provision of the Plan, Award Agreement or action by the Committee fails to so comply, it shall be deemed null and void, to the extent permitted by law and deemed advisable by the Committee.



**Table of Contents**

10.5 Governing Law. The Plan and all Award Agreements shall be construed in accordance with and governed by the laws of the State of California.

10.6 Captions. Captions are provided herein for convenience only, and shall not serve as a basis for interpretation or construction of the Plan.